

[COMMITTEE PRINT]

A COMPENDIUM OF  
LAWS AND RULES OF THE  
CONGRESSIONAL BUDGET PROCESS

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COMMITTEE ON THE BUDGET  
U.S. HOUSE OF REPRESENTATIVES



AUGUST 2015

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## INTRODUCTION

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This compendium includes the Congressional procedures, statutes, rules, scorekeeping guidelines and other matter related to the budgetmaking process of the United States Congress.

While budgeting is often associated with the basic elements of taxes and spending, it extends far beyond those elements to the very basic concepts of policy making. The gathering and distribution of resources are fundamental to the operation of the Federal Government.

Congress estimates the spending, revenue, deficit and debt levels of the budget of the United States for a fiscal year. Each year, Congress is required by law to adopt a budget. This takes the form as a “Concurrent Resolution on the Budget” for a fiscal year. This budget resolution, though its terms are set in law in the *Congressional Budget Act of 1974*, is tantamount, in application, to the Rules of both the House of Representatives and the Senate. Moreover, where provisions in the concurrent resolution on the budget conflict with or are inconsistent with the House Rules, they take precedence.

Though simple resolutions expire at the end of each Congress, those beginning with the term “House Resolution” before the number; “House Concurrent Resolutions”, such as concurrent resolutions on the budget, do not necessarily expire in the same fashion. In each new Congress an “organizing resolution” must be adopted, usually, though not always, this is numbered as “H. Res. 5”. As a matter of its introduction, it deems all laws and concurrent resolutions in force on the date of the end of that Congress shall continue to have force and effect in the new Congress. Provisions in a concurrent resolution on the budget are often time limited because they are dependent on a fiscal year, but this is not always the case.

The year for which a budget resolution is adopted is naturally the “budget resolution year” and is updated each year as a new budget resolution is agreed to. While the requirement a budget must be adopted is set in law, this has not always been followed. The House and the Senate have been unable to come to agreement on a common set of budgetary rules and policy assumptions reflected in resolution text and levels nine times since the enactment of the Congressional Budget Act of 1974.

## COMPENDIUM OF LAWS AND RULES ON THE BUDGET

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The term “budget year” is closely associated with the budget resolution year, though it is defined in law as the fiscal year beginning in the calendar year in which a session of Congress first meets. The Constitution (Article I, Section 4, Part 2 and Amendment XX) stipulates that Congress must meet beginning at noon of on January 3 of each year or at a time otherwise set in law. If it doesn’t convene at this time, Congress generally meets several days thereafter. While the term is useful, it may indicate a fiscal year different than the one for which a budget resolution is adopted. The budget resolution year does not change depending on the date on which a Congress first meets, but rather moves forward a year when a new budget resolution is adopted, or deemed in force, for a particular fiscal year.

Statutory controls in law are enforcement procedures that uphold spending, revenue, the deficit, and debt levels after legislation has been adopted. If that legislation causes those levels to be exceeded, certain changes automatically take effect, a procedure known as sequestration. Currently, automatic direct spending sequestration cuts are in law, but otherwise such reductions are only caused by the enactment of newly enacted legislation.

The Congressional Budget Act of 1974 requires the President to submit a budget by the first Monday in February of each calendar year. Chapter 11 of Title 31 of the United States Code sets out the specific items that the President must include in the budget submission.

The Congressional Budget Office, the Office of Management and Budget, and the House and Senate Budget Committees follow specific rules for determining the budgetary effects of legislation known as scorekeeping guidelines. These guidelines are reviewed regularly but are only changed if Congress and the Administration agree on proposed changes.

Since 2001, the annual concurrent resolution on the budget has included limits on the amounts and uses of advance appropriations. This includes an overall spending level and a set number of accounts allowed to receive advance budget authority. Each amount and account is set out in the report or joint statement of managers of the budget resolution, as applicable.

**A COMPENDIUM  
OF  
LAWS AND RULES  
OF THE  
CONGRESSIONAL BUDGET PROCESS**



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# **PART I**

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UNFUNDED MANDATES REFORM ACT OF 1995

STATUTORY PAY-AS-YOU-GO ACT OF 2010

BUDGET CONTROL ACT OF 2011

BIPARTISAN BUDGET ACT OF 2013



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**CONGRESSIONAL BUDGET AND  
IMPOUNDMENT CONTROL ACT OF 1974**

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CONGRESSIONAL BUDGET AND  
IMPOUNDMENT CONTROL ACT OF 1974

H.R. 7130, PUBLIC LAW 93-344

Sponsor:	Rep Al Ullman
April 18, 1973	Introduced in House
November 20, 1973	Reported to House from the Committee on Rules with amendment, H. Rept. 93-658.
December 5, 1973	Passed/agreed to in House: Measure passed House, amended, roll call #631 (386-23).
March 22, 1974	Passed/agreed to in Senate: Measure passed Senate, amended, in lieu of S. 1541, roll call #87 (80-0).
June 11, 1974	Conference report filed in House, H. Rept. 93-1101.
June 12, 1974	Conference report filed in Senate, S. Rept. 93-924.
June 18, 1974	Conference report agreed to in House: House agreed to conference report, roll call #300 (401-6).
June 21, 1974	Conference report agreed to in Senate: Senate agreed to conference report, roll call #261 (75-0).
June 21, 1974	Cleared for White House
July 9, 1974	Measure presented to President.
July 12, 1974	Signed by President.
July 12, 1974	Public law 93-344.

**CONGRESSIONAL BUDGET  
AND IMPOUNDMENT CONTROL ACT OF 1974**

PUBLIC LAW 93-344; JULY 12, 1974; 88 STAT 297

AMENDMENTS

A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance"; Public Law 97-258; September 13, 1982; 96 Stat. 877

Balanced Budget and Emergency Deficit Control Act of 1985; Public Law 99-177, Title II, Part A; December 12, 1985; 99 Stat. 1037, 1039.

Balanced Budget and Emergency Deficit Reaffirmation Act of 1987; Public Law 100-119, Title I, September 28, 1987; 101 Stat. 754.

Budget Enforcement Act of 1990; Public Law 101-508, Title XIII, Subtitle A, Part II, and Subtitle B; November 5, 1990; 104 Stat. 1388-573, 1388-602, 1388-609.

Omnibus Budget Reconciliation Act of 1993; Public Law 103-66, Title XIV; August 10, 1993; 107 Stat. 312, 683.

Violent Crime Control and Law Enforcement Act of 1994; Public Law 103-322, Title XXXI; September 13, 1994; 108 Stat. 1796, 2102.

Unfunded Mandates Reform Act of 1995; Public Law 104-4, Title I; March 22, 1995; 109 Stat. 50.

Contract with America Advancement Act of 1996; Public Law 104-121, 110 Stat. 847.

Balanced Budget Act of 1997; Public Law 105-33; August 5, 1997; 111 Stat. 251.

Transportation Equity Act for the 21st Century; Public Law 105-178; June 9, 1998; 112 Stat. 488.

TEA 21 Restoration Act; Public Law 105–206; July 22, 1998; 115 Stat. 865.

Statutory Pay-As-You-Go Act of 2010; Public Law 111–139; February 12, 2010; 124 Stat. 8.

Budget Control Act of 2011; Public Law 112–25; August 2, 2011; 125 Stat. 240.

Bipartisan Budget Act of 2013; Public Law 113-67; December 26, 2013.

# CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

[PUBLIC LAW 93-344, 88 STAT. 297; JULY 12, 1974, H.R. 7130]

## AN ACT

To establish a new congressional budget process; to establish Committees on the Budget in each House; to establish a Congressional Budget Office; to establish a procedure providing congressional control over the impoundment of funds by the executive branch; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLES; TABLES OF CONTENTS

SECTION 1. [2 U.S.C. 621 note] (a) SHORT TITLE.—This Act may be cited as the “Congressional Budget and Impoundment Control Act of 1974”. Titles I through IX may be cited as the “Congressional Budget Act of 1974”. Parts A and B of title X may be cited as the “Impoundment Control Act of 1974”. Part C of title X may be cited as the “Line Item Veto Act of 1996”.<sup>1</sup>

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- Sec. 201. Establishment of Office.
- Sec. 202. Duties and functions.
- Sec. 203. Public access to budget data.

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<sup>1</sup>The United States Supreme Court declared Part C of title X, the “Line Item Veto Act of 1996” unconstitutional (*Clinton, President of the United States, et al. v. City of New York et al.*, 524 U.S. 417 (1998)).

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<sup>2</sup> The “General Accounting Office” was renamed the “Government Accountability Office” by the GAO Human Capital Reform Act of 2004 (Public Law 108–271, 118 Stat. 811, enacted July 7, 2004).

## TITLE V—CREDIT REFORM

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## TITLE VI— BUDGET AGREEMENT ENFORCEMENT PROVISIONS

[Repealed<sup>3</sup>]

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- Sec. 604. Reconciliation directives regarding pay-as-you-go requirements.
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- Sec. 905. Effective dates. [Repealed<sup>4</sup>]
- Sec. 906. Application of congressional budget process to fiscal year 1976. [Repealed<sup>5</sup>]

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<sup>3</sup> Section 10118(a) of The Balanced Budget Act of 1997, (H.R. 2015 (105th Congress); Public Law 105—33; 111 Stat. 695), repealed Title VI of the Congressional Budget Act of 1974 in its entirety. The short title of title X of that Act is the Budget Enforcement Act of 1997.

<sup>4</sup> Section 10119(a) of the Balanced Budget Act of 1997, (H.R. 2015); P.L.105-33; 111 Stat. 695), repealed section 905, Congressional Budget Act of 1974.

<sup>5</sup> Section 10119(a) of the BBA of 1997, (H.R. 2015; P.L. 105-33; 111 Stat. 695), repealed section 906, Congressional Budget Act of 1974.

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Sec. 1003. Repeal of existing impoundment reporting provision. [Repealed]

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RESCISSIONS, RESERVATIONS, AND DEFERRALS  
OF BUDGET AUTHORITY

- Sec. 1011. Definitions.  
Sec. 1012. Rescission of budget authority.  
Sec. 1013. Proposed deferrals of budget authority.  
Sec. 1014. Transmission of messages; publication.  
Sec. 1015. Reports by Comptroller General.  
Sec. 1016. Suits by Comptroller General.  
Sec. 1017. Procedure in House and Senate.

PART C—LINE ITEM VETO<sup>6</sup>

- Sec. 1021. Line item veto authority.  
Sec. 1022. Special messages.  
Sec. 1023. Cancellation effective unless disapproved.  
Sec. 1024. Deficit reduction.  
Sec. 1025. Expedited congressional consideration of disapproval bills.  
Sec. 1026. Definitions.  
Sec. 1027. Identification of limited tax benefits.

## DECLARATION OF PURPOSES

SEC. 2. [2 U.S.C. 621] The Congress declares that it is essential—

- (1) to assure effective congressional control over the budgetary process;
- (2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;
- (3) to provide a system of impoundment control;
- (4) to establish national budget priorities; and
- (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

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<sup>6</sup> The Supreme Court held this Part unconstitutional. The full text of the Line Item Veto Act of 1996, may be found *infra*. Though it is not in force in law it has not been repealed and so it remains in the U.S. Code and is also set forth in this Compendium.

## DEFINITIONS

SEC. 3. [2 U.S.C. 622] IN GENERAL.— For purposes of this Act—

(1) The terms “budget outlays” and “outlays” mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

(A) IN GENERAL.—The term “budget authority”<sup>7</sup> means the authority provided by Federal law to incur financial obligations, as follows:

(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

(B) LIMITATIONS ON BUDGET AUTHORITY.—With respect to the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account, any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(C) NEW BUDGET AUTHORITY.—The term “new budget authority” means, with respect to a fiscal year—

(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

<sup>7</sup> Prior to the Congressional Budget Act, the term “obligational authority” was frequently used instead of budget authority. (Principles of Federal Appropriations Law; Third Edition; Volume I; p. 2-4)



(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(3) The term “tax expenditures” means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability, and the term “tax expenditures budget” means an enumeration of such tax expenditures.

(4) The term “concurrent resolution on the budget” means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

(B) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.

(5) The term “appropriation Act” means an Act referred to in section 105 of title 1, United States Code.<sup>8</sup>

(6) The term “deficit” means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.<sup>9</sup>

(7) The term “surplus” means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

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<sup>8</sup> Section 105 of title 1, United States Code reads as follows:

“§105. TITLE OF APPROPRIATION ACTS”

“The style and title of all Acts making appropriations for the support of Government shall be as follows: “An Act making appropriations (here insert the object) for the year ending September 30 (here insert the calendar year).”

“(July 30, 1947, ch. 388, 61 Stat. 634; Pub. L. 93-344, title V, §506(a), July 12, 1974, 88 Stat. 322.)”

“1974-Pub. L. 93-344 substituted “September 30” for “June 30”.

“Effective Date of 1974 Amendment

“Pub. L. 93-344, title V, §506(b), July 12, 1974, 88 Stat. 322, which provided that the amendment of this section by Pub. L. 93-344 was effective with respect to Acts making appropriations for the support of the Government for any fiscal year commencing on or after Oct. 1, 1976, was omitted in the complete revision of title V of Pub. L. 93-344 by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609.”

<sup>9</sup> Term deficit is not defined using “budget authority” rather when the term “receipts” are used as a form of offset to direct spending, negative outlays are used for deficits (and surpluses), not negative budget authority.

(8) The term “government-sponsored enterprise” means a corporate entity created by a law of the United States that—

- (A)(i) has a Federal charter authorized by law;
- (ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;
- (iii) is under the direction of a board of directors, a majority of which is elected by private owners;
- (iv) is a financial institution with power to—
  - (I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and
  - (II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and
- (B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);
- (ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and
- (iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.

(9) The term “entitlement authority”<sup>10</sup> means—

- (A) the authority to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing that authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by that law; and
- (B) the food stamp program.<sup>11</sup>

(10) The term “credit authority” means authority to incur direct loan obligations or to incur primary loan guarantee commitments.

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<sup>10</sup> This is similar to the definition of “direct spending.” Further, whereas “budget authority” in these definitions includes “new budget authority”, entitlement authority does not include a variation of “new entitlement authority” though it appears in places like sections 303(a) and 401 as a term. See §§113 and 131, *infra*.

<sup>11</sup> The “food stamp program” is now the “Supplemental Nutrition Assistance Program.”

(11) The terms “emergency”<sup>12</sup> and “unanticipated” have the meanings given to such terms in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.<sup>13</sup>

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<sup>12</sup> Provisions designated as an emergency in legislation considered by Congress and in enacted law as interpreted by the Office of Management and Budget are treated differently. In Congress, under the terms of section 314 of the Budget Act, the amounts carrying the designation (pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985) are not counted for purposes of enforcement. Under BBEDCA though, the amounts designated under that section, adjustments are made to the statutory spending caps (which are found in section 251(c) of that Act). For other provisions designated under that section of BBEDCA, adjustments are made, emergencies are unique in that they are not counted.

<sup>13</sup> The relevant parts of Section 250(c) of BBEDCA are as follows:

“(20) The term “emergency” means a situation that—

“(A) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and

“(B) is unanticipated.

“(21) The term “unanticipated” means that the underlying situation is—

“(A) sudden, which means quickly coming into being or not building up over time;

“(B) urgent, which means a pressing and compelling need requiring immediate action;

“(C) unforeseen, which means not predicted or anticipated as an emerging need; and

“(D) temporary, which means not of a permanent duration.”

# TITLE I—ESTABLISHMENT OF HOUSE AND SENATE BUDGET COMMITTEES

## BUDGET COMMITTEE OF THE HOUSE OF REPRESENTATIVES<sup>13</sup>

SEC. 101. (a) Clause 1 of Rule X of the Rules of the House of Representatives is amended by redesignating paragraph (e) through (u) as paragraphs (f) through (v), respectively, and by inserting the following new paragraph:

“(e) Committee on the Budget, to consist of twenty-three Members as follows:<sup>14</sup>

“(1) five Members who are members of the Committee on Appropriations;

“(2) five Members who are members of the Committee on Ways and Means;

“(3) eleven Members who are members of other standing committees;

“(4) one Member from the leadership of the majority party; and

“(5) one Member from the leadership of the minority party.

No Member shall serve as a member of the Committee on the Budget during more than two Congresses in any period of five successive Congresses beginning after 1974 (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress). All selections of Members to serve on the committee shall be made without regard to seniority.”<sup>15</sup>

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<sup>13</sup> This section established the Committee on the Budget of the House of Representatives. Included among its responsibilities is the study of the coordination of tax policies with outlays. Rule X still lists House Committees.

<sup>14</sup> According to this title, and repeated and amended through the Rules of the House, the Committee must include a total of five Members from the Committee on Appropriations, five from the Committee on Ways and Means (divided by tradition of three each for majority and minority). Representatives from the respective Leadership of the Majority and the Minority are required. Though not in law, House Rules, requires a Member from Rules Committee.

<sup>15</sup> Committee Members are limited serving four of six successive Con-

(b) Rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

“6. For carrying out the purposes set forth in clause 5 of Rule XI, the Committee on the Budget or any subcommittee thereof is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books or papers or documents or vouchers by subpoena or otherwise, and to take such testimony and records, as it deems necessary. Subpoenas may be issued over the signature of the chairman of the committee or of any member of the committee designated by him; and may be served by any person designated by such chairman or member. The chairman of the committee, or any member thereof, may administer oaths to witnesses.<sup>16</sup>

(c) Rule XI of the Rules of the House of Representatives is amended by redesignating clauses 5 through 33 as clauses 6 through 34, respectively, and by inserting after clause 4 the following new clause:

“5. Committee on the Budget

“(a) All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters to be referred to the Committee under titles III and IV of that Act.

“(b) The committee shall have the duty—

“(1) to report matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

“(2) to make continuing studies of the effect on outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;

“(3) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and

“(4) to review on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.”

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gresses. An extra Congress is allowed for Chairmen and Ranking Members.

<sup>16</sup> The subpoena authority conferred here was superseded by authority given to committees by clause 2(m) of Rule XI (H. Res. 988), 93d Congress.

## BUDGET COMMITTEE OF THE SENATE

SEC. 102. (a) Paragraph 1 of Rule XXV<sup>17</sup> of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

“(r)(1) Committee on the Budget, to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974 and all other matters required to be referred to that committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

“(2) Such committee shall have the duty—

“(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

“(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

“(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

“(D) to review on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.”

(b) The table contained in paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by inserting after—

“Banking, Housing and Urban Affairs.....15”

the following:

“Budget.....15”

(c) Paragraph 6 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

“(h) For purposes of the sentence of subparagraph (a), membership of the Committee on the Budget shall not be taken into account until that date occurring during the first session of the Ninety-fifth Congress, upon which the appointment of the majority and minority party members of the standing committees of the Senate is initially completed.

<sup>17</sup> Rule XXV sets out the Standing Committees of the Senate. This rule has been amended since the enactment of the Budget Act. Currently the Committee on the Budget of the Senate is listed in that rule under paragraph 1 as (e)(1) and (e)(2) which detail its jurisdiction.

(d) Each meeting of the Committee on the Budget of the Senate, or any subcommittee thereof, including meetings to conduct hearings shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(e) Paragraph 7(b) of rule XXV of the Standing Rules of the Senate and section 133A (b)<sup>18</sup> of the Legislative Reorganization Act of 1946 shall not apply to the Committee on the Budget of the Senate.

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<sup>18</sup> Subsection (b) provides that each hearing by a committee “shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation.”

## TITLE II—CONGRESSIONAL BUDGET OFFICE

### ESTABLISHMENT OF OFFICE

SEC. 201. [2 U.S.C. 601] (a) IN GENERAL.—

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this title referred to as the “Office”). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director shall be 4 years and shall expire on January 3 of the year preceding each Presidential election. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5)(A) The Director shall receive compensation at an annual rate of pay that is equal to the lower of—

(i) the highest annual rate of compensation of any officer of the Senate; or

(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) The Deputy Director shall receive compensation at an annual rate of pay that is \$1,000 less than the annual rate of pay received by the Director, as determined under subparagraph (A).



(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.<sup>19</sup>

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or

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<sup>19</sup> Section 5332 of the U.S. Code reads as follows:

“§5332. The General Schedule.

“(a)(1) The General Schedule, the symbol for which is “GS”, is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies is entitled to basic pay in accordance with the General Schedule.”

“(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated “GS-1” through “GS-15”, consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.”

“(b) When payment is made on the basis of an hourly, daily, weekly, or biweekly rate, the rate is computed from the appropriate annual rate of basic pay named by subsection (a) of this section in accordance with the rules prescribed by section 5504(b) of this title.”.

commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office,<sup>20</sup> and the Library of Congress, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, and the Librarian of Congress are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

(f) REVENUE ESTIMATES.<sup>21</sup>—For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation.<sup>22</sup> During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.<sup>23</sup>

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<sup>20</sup> The “General Accounting Office” became the “Government Accountability Office” under the terms of the GAO Human Capital Reform Act of 2004.

<sup>21</sup> This subsection is the same as section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985, as originally enacted. It was transferred to this title by the Budget Enforcement Act of 1990.

<sup>22</sup> The Joint Committee on Taxation is established under 26 U.S.C. 8001.

<sup>23</sup> For the authority of the Committees on the Budget to provide guidance to the presiding officer for legislation, see section 312 of the Budget Act (*infra* at §122). Clause 4 of rule XXIX, affirms the Budget Chair’s authority to advise the Presiding Officer. See *infra* at §379. Clause 8 of rule XIII requires macroeconomic estimates when designated by Joint Tax Committee, and based on the definition of “revenue legislation” found here. See *infra* at §363.

(g) APPROPRIATIONS.—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions.<sup>24</sup> Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading “UNDER LEGISLATIVE” in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68)<sup>25</sup>, and upon vouchers approved by the Director.

#### DUTIES AND FUNCTIONS

SEC. 202. [2 U.S.C. 602] (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the primary duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing new budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committees may request.

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<sup>24</sup> H.R. 83 (P.L. 113-235), the Consolidated and Further Continuing Appropriations Act, 2015 provided CBO with the following appropriation for fiscal year 2015 (House Report 113-655 (accompanying H. Res. 776), Rules Committee Print 113-59, and the explanatory statement printed in the December 11, 2014, Congressional Record provide additional details related to the bill as agreed to by the House of Representatives on December 11, 2014).

“For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than \$6,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$45,700,000.”

<sup>25</sup> This section is based on the provisions of the last paragraph of 25 Stat. 546, Act of Oct. 2, 1888. It related to payments from the contingent fund of Senate. Those provisions relating to payments from the contingent fund of House of Representatives were repealed by Pub. L. 104-186.

2 U.S.C. 6868 was editorially reclassified as 2 U.S.C. 6503:

“§6503. Payments from Senate contingent fund.

“No payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee on Rules and Administration of the Senate. Payments made upon vouchers or abstracts of disbursements of salaries approved by said Committee shall be deemed, held, and taken, and are declared to be conclusive upon all the departments and officers of the Government: Provided, That no payment shall be made from said contingent fund as additional salary or compensation to any officer or employee of the Senate.”

(b) ASSISTANCE TO COMMITTEES ON APPROPRIATIONS, WAYS AND MEANS, AND FINANCE.—At the request of the Committee on Appropriations of either House, the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate, the Office shall provide to such Committee any information which will assist it in the discharge of matters within its jurisdiction, including information described in clauses (1) and (2) of subsection (a) and such related information as the Committee may request.

(c) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—

(1) At the request of any other committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out clauses (1) and (2) of subsection (a), and, to the extent practicable, such additional information related to the foregoing as may be requested.

(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

(A) a significant budgetary impact on State, local, or tribal governments;

(B) a significant financial impact on the private sector; or

(C) a significant employment impact on the private sector.

(3) At the request of any Member of the House or Senate, the Office shall provide to such member any information compiled in carrying out clauses (1) and (2) of subsection (a), and, to the extent available, such additional information related to the foregoing as may be requested.

(d) ASSIGNMENT OF OFFICE PERSONNEL TO COMMITTEES AND JOINT COMMITTEES.—At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee. At the request of any other committee of either House or any joint committee of the Congress, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the applicable provisions of subsection (b) or (c).

(e) REPORTS TO BUDGET COMMITTEES.—

(1) On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate, a report for the fiscal year commencing on October 1 of that year, with respect to

fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year, and (C) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline, as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating new budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

(3) On or before January 15 of each year, the Director, after consultation with the appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing (A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year, but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.

(f) USE OF COMPUTERS AND OTHER TECHNIQUES.—The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate), obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements.

(g) STUDIES.—

(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to en-

hance comparisons of budget outlays, credit authority, and tax expenditures.

(2) FEDERAL MANDATE STUDIES.<sup>26</sup>—

(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal fi-

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<sup>26</sup> CBO reviews legislation to identify private sector mandates: new mandates, expansions or extensions of existing ones. It indicates if legislation contains private-sector mandates and if the total annual cost of the mandates exceed a legal threshold for private-sector mandates of \$150 million for 2013.

nancial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

#### PUBLIC ACCESS TO DATA

Sec. 203. [2 U.S.C. 603] (a) RIGHT TO COPY.—Except as provided in subsections (c), (d), and (e), the Director shall make all information, data, estimates, and statistics obtained under sections 201(d) and 201(e) available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

(b) INDEX.—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) EXCEPTIONS.—Subsection (a) shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by law; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

(d) INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS.— Subsection (a) shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

(e) LEVEL OF CONFIDENTIALITY.—With respect to information, data, estimates, and statistics obtained under sections 201(d) and 201(e), the Director shall maintain the same level of confidentiality as is required by law of the department, agency, establishment, or regulatory agency or commission from which it is obtained. Officers and employees of the Congressional Budget Office shall be subject or use as officers or employees of the department, agency, establishment, or regulatory agency or commission from which it is obtained.



## THE HISTORY OF THE CONGRESSIONAL BUDGET OFFICE<sup>27</sup>

Beginning in the early 1920s, the President began to assume more prominence in setting the federal budget. The Budget and Accounting Act of 1921 gave the President overall responsibility for budget planning by requiring him to submit an annual, comprehensive budget proposal to the Congress; that act also expanded the President's control over budgetary information by establishing the Bureau of the Budget (renamed the Office of Management and Budget in 1971). By contrast, the Congress lacked institutional capacity to establish and enforce budgetary priorities, coordinate actions on spending and revenue legislation, or develop budgetary and economic information independently of the executive branch.

Conflict between the legislative and executive branches reached a high point during the summer of 1974, when Members of Congress objected to President Richard Nixon's threats to withhold Congressional appropriations for programs that were inconsistent with his policies (a process known as impoundment). The dispute led to the enactment of the Congressional Budget and Impoundment Control Act of 1974 in July of that year.

That act reasserted the Congress's constitutional control over the budget by establishing new procedures for controlling impoundments and by instituting a formal process through which the Congress could develop, coordinate, and enforce its own budgetary priorities independently of the President. In addition, the law created new legislative institutions to implement the new Congressional budget process: the House and Senate Budget Committees to oversee execution of the budget process and the Congressional Budget Office to provide the Budget Committees and the Congress with objective, impartial information about budgetary and economic issues. The agency began operating on February 24, 1975, when Alice Rivlin was appointed its first Director.

Since its founding, CBO has had nine Directors. Their names and terms of office are as follows:

<i>Director</i>	<i>From:</i>	<i>To:</i>
Alice M. Rivlin	February 24, 1975	August 31, 1983
Rudolph G. Penner	September 1, 1983	April 28, 1987
Robert D. Reischauer	March 6, 1989	February 28, 1995
June E. O'Neill	March 1, 1995	January 29, 1999
Dan L. Crippen	February 3, 1999	January 3, 2003
Douglas Holtz-Eakin	February 5, 2003	December 29, 2005
Peter R. Orszag	January 18, 2007	November 25, 2008
Douglas W. Elmendorf	January 22, 2009	March 31, 2015
Keith Hall	April 1, 2015	

During gaps between Directors, the agency has been led by Acting Directors. CBO's Acting Directors have been Edward M. Gramlich, James L. Blum, Barry Anderson, Donald B. Marron, and Robert A. Sunshine.

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<sup>27</sup> From the chapter "What Is CBO's History?" from the CBO staff prepared resource document: *Introduction to the Congressional Budget Office*, Congressional Budget Office (July 2015); pp. 12-13.

# TITLE III—CONGRESSIONAL BUDGET PROCESS

## TIMETABLE

SEC. 300. [2 U.S.C. 631] The timetable with respect to the congressional budget process for any fiscal year is as follows:

<b>On or before:</b>	<b>Action to be Completed:</b>
First Monday in February.....	President submits his budget. <sup>28</sup>
February 15.....	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after President submits budget.....	Committees submit views and estimates to Budget Committees
April 1 .....	Senate Budget Committee reports concurrent resolution on the budget.
April 15 .....	Congress completes action on concurrent resolution on the budget. <sup>29</sup>
May 15.....	Annual appropriation bills may be considered in the House. <sup>30</sup>
June 10.....	House Appropriations Committee reports last annual appropriation bill. <sup>31</sup>
June 15.....	Congress completes action on reconciliation legislation.
June 30.....	House completes action on annual appropriation bills.
October 1.....	Fiscal year begins.

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<sup>28</sup> 2 U.S.C. 1105(a) requires the President to submit a budget by this date and include all the required matter listed in that section. See §305, *infra*.

<sup>29</sup> Failing to adopt a budget resolution by April 15 does not give rise to a point of order under the Congressional Budget Act of 1974. Before the Balanced Budget and Emergency Deficit Control Act of 1985, the date for completing the budget resolution was May 15. Congress timely adopted a concurrent resolution on the budget twice, in fiscal years 1976 and 1977, prior to this date change. Subsequent to moving the date to April 15, when Congress adopted a concurrent resolution on the budget, it was as follows: For fiscal years 1976 through 2015, the budget resolution was completed once before April 15. For fiscal year 1994, H. Con. Res. 64 was adopted on April 1, 1993. H. Con. Res. 68, the budget resolution for fiscal year 2000 was adopted on April 15, 1999. For fiscal years 1999, 2003, 2005, 2007, 2011, 2012, 2013, 2014, 2015, no conference report on a budget resolution was adopted.

<sup>30</sup> Section 303(b) of the Budget Act sets out this exception. See §113, *infra*.

<sup>31</sup> Section 309 of the Budget Act sets this as a requirement. See §119, *infra*.

ANNUAL ADOPTION OF CONCURRENT  
RESOLUTION ON THE BUDGET

Sec. 301. [2 U.S.C. 632] (a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year and for at least each of the 4 ensuing fiscal years<sup>30</sup> for the following—

- (1) totals of new budget authority and outlays;
- (2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;
- (3) the surplus or deficit in the budget;
- (4) new budget authority and outlays for each major functional category, based on allocations<sup>31</sup> of the total levels set forth pursuant to paragraph (1);
- (5) the public debt;<sup>32</sup>
- (6) For purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and
- (7) For purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

The concurrent resolution shall not include the outlays and revenue totals of the old-age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

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<sup>30</sup> Fiscal years after the fiscal year for which a budget resolution is adopted are termed “outyears”. The total fiscal years comprising the period is referred to as the budget “window”. The minimum five-year period has varied: The fiscal year 1996 budget resolution was seven years. Ten years is used often, as in fiscal year 2016.

<sup>31</sup> “Allocations”, as used here, is not usual. “Aggregates” is commonly used.

<sup>32</sup> Though not required, budget resolutions typically include both the recommended levels of “debt held by the public” and levels “subject to limit”.

(b) ADDITIONAL MATTERS IN THE CONCURRENT RESOLUTION.—The concurrent resolution on the budget may.—

(1) set forth, if required by subsection (f), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved;

(2) include reconciliation directives described in section 310;

(3) require a procedure under which all or certain bills or resolutions providing new budget authority or new entitlement authority for such fiscal year shall not be enrolled until the Congress has completed action on any reconciliation bill or reconciliation resolution or both required by such concurrent resolution to be reported in accordance with section 310(b);

(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act;<sup>33</sup>

(5) include a heading entitled “Debt Increase as Measure of Deficit” in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years;

(6) include a heading entitled “Display of Federal Retirement Trust Fund Balances” in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds;

(7) set forth procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if that legislation would not increase the deficit, or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution, for the first fiscal year or the total period of fiscal years covered by the resolution;

(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives;<sup>34</sup> and

(9) set forth direct loan obligation and primary loan guarantee commitment levels.

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<sup>33</sup> This paragraph is known as “the elastic clause” and allows broad authority to the Congress to include additional matter in the budget resolution, such as modified or new points of order, scoring rules, and directives to other committees to study or recommend budgetary matters.

<sup>34</sup> Section 302(g) of this Title sets forth terms by which “pay-as-you-go” procedures apply in the House. It refers to this paragraph for possible methods by which revenue may be increased or outlays decreased. See §112, *infra*.

(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE THE EFFECT OF CHANGING ANY RULE OF THE HOUSE OF REPRESENTATIVES.—If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.<sup>35</sup>

(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.<sup>36</sup>—Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code,<sup>37</sup> or at such time as may be requested by the Committee on the Budget, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee.<sup>38</sup> The Joint Economic Committee<sup>39</sup> shall submit to

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<sup>35</sup> Notwithstanding this subsection, the concurrent resolution on the budget is considered a rulemaking document tantamount to the rules of the House of Representatives, and supersedes them when they are in conflict. Budget resolutions include this language: “The House adopts the provisions of this title ... as an exercise of the rulemaking power of the House of Representatives and as such they shall be considered as part of the rules of the House of Representatives, and these rules shall supersede other rules only to the extent that they are inconsistent with other such rules”.

<sup>36</sup> Clauses 4(f) and 11(c)(3) of rule X of the Rules of the House (see §360, *infra*) stipulates the “Views and Estimates” submitted by committees to the Committees on the Budget be open for amendment and voted on before their transmittal to the Committee on the Budget. These Views and Estimates must also allow for Minority, dissenting, additional and supplemental views from the Minority and other Members of the Committee.

<sup>37</sup> Under 31 U.S.C. 1105 (see §305, *infra*), the President must submit his budget by “not later than the first Monday in February of each year.” That section sets out the criteria required to be included in the submission.

<sup>38</sup> Under clause 4(f) of rule X, the Ways and Means Committee “shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.”

<sup>39</sup> Congress created the Joint Economic Committee when it enacting the Employment Act of 1946. Its primary task is to review economic conditions and to recommend improvements in economic policy.

the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) which relate to matters within its jurisdiction or functions. Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.

(e) HEARINGS AND REPORT.—

(1) In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress<sup>40</sup> and such appropriate representatives of Federal departments and agencies,<sup>41</sup> the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goal set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending.

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<sup>40</sup> The hearing at which any Member of Congress may provide testimony to the Committee on the Budget is commonly referred to as "Members' Day".

<sup>41</sup> Generally, the Director of the Office of Management and Budget, or his designee, gives testimony first among Executive Branch agencies. The first to hear the Director's testimony on the President's Budget submission, by common practice, alternates each year between House and Senate Budget Committees.

(2) REQUIRED CONTENTS OF REPORT.—The report accompanying the resolution shall include—

(A) a comparison of the levels of total new budget authority, total outlays, total revenues, and the surplus or deficit for each fiscal year set forth in the resolution with those requested in the budget submitted by the President;

(B) with respect to each major functional category, an estimate of total new budget authority and total outlays, with the estimates divided between discretionary and mandatory amounts;

(C) the economic assumptions that underlie each of the matters set forth in the resolution and any alternative economic assumptions and objectives the committee considered;

(D) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the resolution;

(E) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the resolution; and

(F) allocations described in section 302(a).

(3) ADDITIONAL CONTENTS OF REPORT.—The report accompanying the resolution may include—

(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

(B) an allocation of the level of Federal revenues recommended in the resolution among the major sources of such revenues;

(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the resolution;

(D) the assumed levels of budget authority and outlays for public buildings, with a division between amounts for construction and repair and for rental payments; and

(E) other matters, relating to the budget and to fiscal policy, that the committee deems appropriate.<sup>42</sup>

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<sup>42</sup> Like the elastic clause found in section 301(b)(4) on the resolution text, this allows a wide variety of additional material to be included in the report on the budget.

(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946,<sup>43</sup> the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in subsection (a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and (4)(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

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<sup>43</sup> The Employment Act of 1946 is included herein, see Part IV, *infra*. The Act established, as part of the White House, the Council of Economic Advisors. The Council analyzes economic conditions and recommends policies to the President. The Act also created the Joint Economic Committee in Congress to study economic issues and make recommendations for consideration in the preparation of legislation.

Paragraph (1) of this subsection authorizes a budget resolution to specifically include a year by which unemployment levels recommended by the President under the Act may be achieved. Recent budget resolutions have not included a year by which Congress determines employment goals will be met, as provided for under this subsection.



(g) ECONOMIC ASSUMPTIONS.—

(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.<sup>44</sup>

(3) Subject to periodic reestimation based on changed economic conditions or technical estimates,<sup>45</sup> determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

(h) BUDGET COMMITTEES CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees.

(i) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

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<sup>44</sup> The common “economic and technical assumptions” may be from any source, but the baseline prepared by the Congressional Budget Office, which includes this information, is used as the basis for the determinations

<sup>45</sup> Though a common set of economic and technical assumptions is used to base the levels provided by the concurrent resolution on the budget, this subsection allows these estimates to be updated by the Committees on the Budget to take into account new information that may arise subsequent to the adoption of a budget resolution. The baseline prepared by the CBO may take these into account, but the final determination as to any updates implemented is made by the Committees on the Budget of the Houses of Congress.

## COMMITTEE ALLOCATIONS

SEC. 302. [2 U.S.C. 633] (a) COMMITTEE SPENDING ALLOCATIONS.—

(1) ALLOCATIONS AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an allocation, consistent with the resolution recommended in the conference report, of the levels for the first fiscal year of the resolution, for at least each of the ensuing 4 fiscal years, and a total for that period of fiscal years (except in the case of the Committee on Appropriations only for the fiscal year of that resolution) of—

- (A) total new budget authority; and
- (B) total outlays;

among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

(2) NO DOUBLE COUNTING.—In the House of Representatives, any item allocated to one committee may not be allocated to another committee.

(3) FURTHER DIVISION OF AMOUNTS.—

(A) IN THE SENATE.—In the Senate, the amount allocated to the Committee on Appropriations shall be further divided among the categories specified in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985<sup>46</sup> and shall not exceed the limits for each category set forth in section 251(c) of that Act.<sup>47</sup>

(B) IN THE HOUSE.—In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations shall be further divided—

- (i) between discretionary and mandatory amounts or programs, as appropriate; and

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<sup>46</sup> Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (see §201, *infra*), sets out these categories: “nonsecurity category”, “security category”, “discretionary category”, “revised security category” and “category” generally. After the passage of the Bipartisan Budget Act of 2013, only the “revised security” and “revised nonsecurity” categories are in use.

<sup>47</sup> For section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, see §202, *infra*.

(ii) consistent with the categories specified in section 250(c)(4)<sup>48</sup> of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) AMOUNTS NOT ALLOCATED.—In the House of Representatives or the Senate, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

(5) ADJUSTING ALLOCATION OF DISCRETIONARY SPENDING IN THE HOUSE OF REPRESENTATIVES.—(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending levels in the most recently agreed to concurrent resolution on the budget for the appropriate fiscal year covered by that resolution.<sup>49</sup>

(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and report those suballocations to the House of Representatives.

(b) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection. The Committee on Appropriations of the House of Representatives shall further divide among its subcommittees the divisions made under subsection (a)(3)(B) and promptly report those divisions to the House.

(c) POINT OF ORDER.—After the Committee on Appropriations has received an allocation pursuant to subsection (a) for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report within the jurisdiction of that committee providing new budget authority for that fiscal year, until that committee makes the suballocations required by subsection (b).

<sup>48</sup> See §201, *infra*. Section 250(c)(4) of BBEDCA defines the revised defense and nondefense categories currently in use for purposes of this allocation.

<sup>49</sup> The amount submitted by the Budget Committee chair is advisory only since it is not transmitted pursuant to a concurrent resolution on the budget.

(d) **SUBSEQUENT CONCURRENT RESOLUTIONS.**—In the case of a concurrent resolution on the budget referred to in section 304, the allocations under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

(e) **ALTERATION OF ALLOCATIONS.**—At any time after a committee reports the allocations required to be made under subsection (b), such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

(f) **LEGISLATION SUBJECT TO POINT OF ORDER.**—

(1) **IN THE HOUSE OF REPRESENTATIVES.**—After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, or amendment providing new budget authority for any fiscal year, or any conference report on any such bill or joint resolution, if—

(A) the enactment of such bill or resolution as reported;<sup>50</sup>

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report, would cause the applicable allocation of new budget authority made under subsection (a) or (b) for the first fiscal year or the total of fiscal years to be exceeded.

(2) **IN THE SENATE.**—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

(A) in the case of any committee except the Committee on Appropriations, the applicable allocation of new budget authority or outlays under subsection (a) for the first fiscal year or the total of fiscal years to be exceeded; or

(B) in the case of the Committee on Appropriations, the applicable suballocation of new budget authority or outlays under subsection (b) to be exceeded.

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<sup>50</sup> In the House, clause 8 of rule XXI, applies all points of order under title III of the Budget Act to bills or joint resolutions not reported by a committee. See §371, *infra*. This clause does not apply to points of order such as section 401, related to contract authority and new entitlement authority, or those found in subtitle B of title IV, which limits unfunded Federal mandates.

(g) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE.—

(1) IN GENERAL.—(A)<sup>51</sup> Subsection (f)(1) and, after April 15, section 303(a) shall not apply to any bill or joint resolution, as reported, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

(i) the enactment of that bill or resolution as reported;

(ii) the adoption and enactment of that amendment;

or

(iii) the enactment of that bill or resolution in the form recommended in that conference report, would not increase the deficit, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 301(b)(8), if included in that concurrent resolution.

(B)<sup>52</sup> Section 311(a), as that section applies to revenues, shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

(i) the enactment of that bill or resolution as reported;

(ii) the adoption and enactment of that amendment;

or

(iii) the enactment of that bill or resolution in the form recommended in that conference report, would not increase the deficit, and, if the sum of any outlay reductions provided in legislation already enacted during the current session (when added to outlay reductions, if any, in excess of any revenue reduction provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate

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<sup>51</sup> Subparagraph (A) of this subsection is commonly referred to as “the Rosty Exception #1”. Named for Rep. Dan Rostenkowski, (D-IL), long the Chairman of the Ways and Means Committee, it allows spending to be increased if offsetting revenue increases above the budget resolution levels are included.

<sup>52</sup> Subparagraph (B) was added by the Budget Enforcement Act of 1997 to parallel subparagraph (A). “The Rosty Exception #2” allows revenues to be reduced below the budget resolution levels if spending is reduced to offset it.

level of Federal outlays should be reduced as required by that concurrent resolution and the amount, if any, by which outlays are to be reduced pursuant to pay-as-you-go procedures under section 301(b)(8), if included in that concurrent resolution.

(2) REVISED ALLOCATIONS.—(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under subsection (f)(1) but for the exception provided in paragraph (1)(A) or would have been subject to a point of order under section 311(a) but for the exception provided in paragraph (1)(B), the chairman of the Committee on the Budget of the House of Representatives shall file with the House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

(B) Such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.

CONCURRENT RESOLUTION ON THE BUDGET  
MUST BE ADOPTED BEFORE BUDGET-RELATED LEGISLATION IS  
CONSIDERED

SEC. 303. [2 U.S.C. 634] (a) IN GENERAL.—Until the concurrent resolution on the budget for a fiscal year has been agreed to, it shall not be in order in the House of Representatives,<sup>53</sup> with respect to the first fiscal year covered by that resolution, or the Senate, with respect to any fiscal year covered by that resolution, to consider any bill or joint resolution, amendment or motion thereto, or conference report thereon that—

(1) first provides new budget authority for that fiscal year;

(2) first provides an increase or decrease in revenues during that fiscal year

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<sup>53</sup> The Joint Explanatory Statement of Managers for the Balanced Budget Act of 1997 included the following statement: “The conferees intend to clarify that section 303(a) is a gross test which looks at whether any provision within the measure provides new budget authority, increases revenue, etc. It is not a net test that looks at the sum of changes in budget authority, increases in revenue, etc. as is the case with sections 302(f) and 311(a).” Despite this, the House Parliamentarian employs a “net” test which looks at the sum of changes in budget authority and revenues instead of applying it to “any provision”. The House Parliamentarian made this change during the 111<sup>th</sup> Congress.

(3) provides an increase or decrease in the public debt limit to become effective during that fiscal year;

(4) in the Senate only, first provides new entitlement authority for that fiscal year; or

(5) in the Senate only, first provides for an increase or decrease in outlays for that fiscal year.

(b) EXCEPTIONS IN THE HOUSE.—In the House of Representatives, subsection (a) does not apply—

(1)(A) to any bill or joint resolution, as reported, providing advance discretionary new budget authority that first becomes available for the first or second fiscal year after the budget year; or

(B) to any bill or joint resolution, as reported, first increasing or decreasing revenues in a fiscal year following the fiscal year to which the concurrent resolution applies;

(2) after May 15, to any general appropriation bill or amendment thereto; or

(3) to any bill or joint resolution unless it is reported by a committee.<sup>54</sup>

(c) APPLICATION TO APPROPRIATION MEASURES IN THE SENATE.—

(1) IN GENERAL.—Until the concurrent resolution on the budget for a fiscal year has been agreed to and an allocation has been made to the Committee on Appropriations of the Senate under section 302(a) for that year, it shall not be in order in the Senate to consider any appropriation bill or joint resolution, amendment or motion thereto, or conference report thereon for that year or any subsequent year.

(2) EXCEPTION.—Paragraph (1) does not apply to appropriations legislation making advance appropriations for the first or second fiscal year after the year the allocation referred to in that paragraph is made.

#### PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304. [2 U.S.C. 635] At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.

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<sup>54</sup> See also section 315 of the Budget Act, *infra* at §125. It allows a “rule” to use self-executing language to bring a bill or joint resolution into compliance with points of order under the Act.

PROVISIONS RELATING TO THE CONSIDERATION OF  
CONCURRENT RESOLUTIONS ON THE BUDGETSEC. 305. [2 U.S.C. 636] (a) PROCEDURE IN THE HOUSE OF  
REPRESENTATIVES; DEBATE.—

(1) When a concurrent resolution on the budget has been reported by the Committee on the Budget of the House of Representatives and has been referred to the appropriate calendar of the House, it shall be in order on any day thereafter, subject to clause 4 of rule XIII of the Rules of the House of Representatives,<sup>55</sup> to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged<sup>56</sup> and is not debatable. An amendment to the motion is not in order and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives<sup>57</sup> shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.<sup>58</sup>

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<sup>55</sup> Clause 4 of rule XIII requires a report on a bill be available for three calendar days before it is considered. See §363, *infra*. In calculating availability, the day it is made public is considered the first day, and the day on which it is considered is the third day, with one full day separating these two days.

<sup>56</sup> The more highly privileged a motion, the higher it is on the list of precedence: They are as follows: (1) motion to adjourn; (2) move to lay on the table; (3) move the previous question; (4) motion to postpone to a day certain; (5) motion to refer; (6) a motion to amend; (7) a motion to postpone indefinitely.

<sup>57</sup> Clause 10(a) of rule XVIII (*House Rules and Manual* (113<sup>th</sup> Congress)) includes: "At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment." See §368, *infra*.

<sup>58</sup> A Special Order of Business (known as a "rule") generally is adopted by the House and supersedes these Budget Act requirements for the consideration of the concurrent resolution on the budget. From the *House Rules and Manual* (113<sup>th</sup> Congress) (p. 1058): "In the 96th Congress, for the first time, the Rules Committee reported and the House adopted a special order permitting only certain designated amendments to be offered to a concurrent resolution on the budget (H. Res. 642, Apr. 23, 1980, p. 8789). The House has adopted similar 'modified-closed rules' for the consideration of concurrent resolutions on the budget in each subsequent Congress."



(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.<sup>59</sup>

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and (4)(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole,<sup>60</sup> and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XVIII of the Rules of the House of Representatives.<sup>61</sup> After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

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<sup>59</sup> Colloquially known as the “Humphrey-Hawkins debate”, the chair and ranking member (or their designees) of the Joint Economic Committee typically control this time for debate. Under the structured rule often adopted by the House, this time is considered to be part of “general” debate. Additional time is usually provided for consideration of amendments. Amendments, normally, are full substitutes. Section 301(b)(1) allows the budget resolution to set economic and unemployment goals. See §111, *supra*.

<sup>60</sup> Under clause 10 of rule XVIII of the House Rules, a concurrent resolution on the budget is considered as read and open to amendment at any point. Amendments are not in order if they cause the concurrent resolution to be mathematically inconsistent, not to contain the matter required by section 301 of the Budget Act, or change its amount of public debt. See §368, *infra*.

<sup>61</sup> Rule XVIII of the House provides for consideration of measures in “the Committee of the Whole House on the state of the Union.” See §368, *infra*.

(6) Debate in the House of Representatives on the conference report on any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) PROCEDURE IN THE SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.<sup>62</sup>—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 304 all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution

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<sup>62</sup> Section 310 of the Budget Act sets out the procedures regarding the reconciliation process. See §120, *infra*. Subsection (e) of that section (“Procedure in the Senate”) refers to this section to set out by reference the procedures for consideration of reconciliation bills and reconciliation resolutions. This set of procedures is the same except reconciliation measures are limited in the Senate to 20 hours of debate rather than the fifty hours provided for in this subsection. During this twenty hours all amendments to the reconciliation bill, “debatable motions and appeals” are to be considered by the Senate. The provision does not make specific provision for the consideration of conference reports on reconciliation bills or resolutions.

shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

LEGISLATION DEALING WITH THE CONGRESSIONAL BUDGET  
MUST BE HANDLED BY THE BUDGET COMMITTEES

SEC. 306.<sup>63</sup> [2 U.S.C. 637] (a) IN THE SENATE.<sup>64</sup>—In the Senate, no bill, resolution, amendment, motion, or conference report, dealing with any matter which is within the jurisdiction of the Committee on the Budget shall be considered unless it is a bill or resolution which has been reported by the Committee on the Budget (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

(b) IN THE HOUSE OF REPRESENTATIVES.<sup>65</sup>—In the House of Representatives, no bill or joint resolution, or amendment thereto, or conference report thereon, dealing with any matter which is within the jurisdiction of the Committee on the Budget shall be considered unless it is a bill or joint resolution which has been reported by the Committee on the Budget (or from the consideration of which such committee has been discharged)<sup>66</sup> or unless it is an amendment to such a bill or joint resolution.<sup>67</sup>

HOUSE COMMITTEE ACTION ON ALL APPROPRIATION  
BILLS TO BE COMPLETED BY JUNE 10

SEC. 307. [2 U.S.C. 638] On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.<sup>68</sup>

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<sup>63</sup> Section 4(a)(4) of the Statutory Pay-As-You-Act of 2010 exempts language required to be added to “PAYGO Legislation” related to certain estimates from Congressional Budget Office from this section. See §284, *infra*.

<sup>64</sup> See clause 1(e)(1) of Rule XXV of the Standing Rules of the Senate.

<sup>65</sup> See clause 1(d) of rule X of the House Rules. See also a general discussion of the jurisdiction of the House Budget Committee *infra* at §380.

<sup>66</sup> In the House, if the Committee on the Budget receives a referral of a bill or joint resolution because it includes matter within its jurisdiction, when such a special order of business reported by the Committee on Rules provides for its consideration, the Budget Committee is discharged from its consideration and this point of order does not lie against such measure.

<sup>67</sup> The Bipartisan Budget Act of 2013 applied section 306 in the House to “joint resolutions”. See section 122 of the Bipartisan Budget Act of 2013, generally. See §268, *infra*.

<sup>68</sup> This is a reference to the fiscal year for which a concurrent resolution on the budget is adopted, the budget resolution year, as is described in sections 301, 303, and 308. While this is a directive for the House Appropriations Committee to follow, it does not give rise to points of order under appropriation Acts which have not been reported by the Committee by this date. A bill not reported by the Appropriations Committee of the House is not subject to a point of order under this section if considered on the House floor.

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL  
BUDGET ACTIONS

SEC. 308. [2 U.S.C. 639] (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

(1) Whenever a committee of either House reports to its House a bill or joint resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations) or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or joint resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office<sup>69</sup>—

(A) comparing the levels in such measure to the appropriate allocations in the reports submitted under section 302(b) for the most recently agreed to concurrent resolution on the budget for such fiscal year (or fiscal years);

(B) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, revenues, or tax expenditures under existing law for such fiscal year (or fiscal years) and each of the four ensuing fiscal years, if timely submitted before such report is filed; and

(C) containing an estimate by the Congressional Budget Office of the level of new budget authority for assistance to State and local governments provided by such measure, if timely submitted before such report is filed.

(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or joint resolution provides new budget authority (other than continuing appropriations) or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the

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<sup>69</sup> Section 402 of the Budget Act requires CBO to prepare estimates of the costs of legislation for committee reports if “practicable”. See §132, *infra*.

statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

(3) CBO PAYGO ESTIMATES.—

(A) The Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request from the Director of the Congressional Budget Office an estimate of the budgetary effects of PAYGO legislation.

(B) Estimates shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(C) The Director shall not count timing shifts, as that term is defined at section 3(8) of the Statutory Pay-As-You-Go Act of 2010, in estimates of the budgetary effects of PAYGO Legislation.

(b) UP-TO-DATE TABULATIONS OF CONGRESSIONAL BUDGET ACTION.—

(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and joint resolutions providing new budget authority or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and joint resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of the budget;

(B) shall include, but are not limited to summaries of tabulations provided under subsection (b)(1); and

(C) shall be based on information provided under subsection (b)(1) without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker

(c) FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACT.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period;

(3) tax expenditures for each fiscal year in such period; and entitlement authority for each fiscal year in such period.

(d) SCOREKEEPING GUIDELINES.—Estimates under this section shall be provided in accordance with the scorekeeping guidelines determined under section 252(d)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985.<sup>70</sup>

#### HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

SEC. 309. [2 U.S.C. 640] It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall periodically advise the Speaker as to changes in jurisdiction among its various subcommittees.

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<sup>70</sup> Section 252(d)(5) of BBEDCA specifies the method by which scorekeeping guidelines are to be established or modified. It requires consultation among the budget principles: The House and Senate Budget Committees, the Congressional Budget Office and the Office of Management and Budget. Guidelines were published in the Joint Statement of Managers on the BEA in 1990 and the BBA in 1997. This latter serves as the basis from which the current scorekeeping guidelines are derived. OMB's A-11 Circular updates these, as needed, and included in the President's annual budget submission. The most up to date "Scorekeeping Guidelines" may be found in Part IV herein.



## RECONCILIATION

SEC. 310. [2 U.S.C. 641] (a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTION ON THE BUDGET.<sup>71</sup>—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution shall—

(1) specify the total amount by which—

(A) new budget authority for such fiscal year;

(B) budget authority initially provided for prior fiscal years;

(C) new entitlement authority which is to become effective during such fiscal year; and

(D) credit authority for such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amounts by which the statutory limit on the public debt is to be changed<sup>72</sup> and direct the committee having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a), and—

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<sup>71</sup> A point of order now lays against a reconciliation bill that has the net effect of increasing direct spending. Clause 7 of Rule XXI of the Rules of the House of Representatives for the 112th Congress provides as follows:

“7. It shall not be in order to consider a concurrent resolution on the budget, or an amendment thereto, or a conference report thereon that contains reconciliation directives under section 310 of the Congressional Budget Act of 1974 that specify changes in law such that the reconciliation legislation reported pursuant to such directives would cause an increase in net direct spending (as such term is defined in clause 10) for the period covered by such concurrent resolution.”

<sup>72</sup> The Senate Parliamentarian has advised that concurrent resolutions on the budget may include directives to change the level of the public debt at any stage of the legislative process: Hence they may be included in a conference report even if the House-passed or Senate-passed concurrent resolutions do not have such directives in their text.

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(c) COMPLIANCE WITH RECONCILIATION DIRECTIONS.—(1) Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) with respect to laws within its jurisdiction, shall be deemed to have complied with such directions—

(A)<sup>73</sup> if—

(i) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than—

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

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<sup>73</sup> Subparagraph (A) is colloquially known as the “fungibility rule”. It is used in a Committee’s compliance with its reconciliation instructions.

(ii) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than—

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

(B) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

(2)<sup>74</sup>(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.

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<sup>74</sup> Senate-only; it applied to the House by H. Con. Res. 95 (108<sup>th</sup> Congress). The fiscal year 2016 House-passed budget, H. Con. Res. 27 (114<sup>th</sup> Congress) applied it in the House, but it was inexplicably changed for S. Con. Res. 11.

(d) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in

a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.<sup>75</sup>

(e) PROCEDURE IN THE SENATE.—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

(f) COMPLETION OF RECONCILIATION PROCESS.—It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

(g) LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a joint resolution pursuant to section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

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<sup>75</sup> This is a procedure by which a committee in the House may be made to come into compliance with the reconciliation instructions in a concurrent resolution on the budget. It was used for the House's Seven-Year Balanced Budget Reconciliation Act of 1995 when the Committee on Agriculture was unable to comply. The Chairman of the Budget Committee, Rep. John Kasich, had legislative text included (by the Rules Committee) in order to bring the committee into compliance. The Senate does not have a corresponding procedure. It allows for "motions to recommit forthwith" when a reconciliation bill is on the floor by which a committee may be brought into compliance. This may also be achieved through the adoption of floor amendments.

BUDGET-RELATED LEGISLATION MUST BE  
WITHIN APPROPRIATE LEVELS

SEC. 311. [2 U.S.C. 642] (a) ENFORCEMENT OF BUDGET AGGREGATES.—

(1) IN THE HOUSE OF REPRESENTATIVES.—Except as provided by subsection (c), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority or reducing revenues, if—

(A) the enactment of that bill or resolution as reported;<sup>76</sup>

(B) the adoption and enactment of that amendment;

or

(C) the enactment of that bill or resolution in the form recommended in that conference report; would cause the level of total new budget authority or total outlays set forth in the applicable concurrent resolution on the budget for the first fiscal year to be exceeded, or would cause revenues to be less than the level of total revenues set forth in that concurrent resolution for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a), except when a declaration of war by the Congress is in effect.

(2) IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that—

(A) would cause the level of total new budget authority or total outlays set forth for the first fiscal year in the applicable resolution to be exceeded; or

(B) would cause revenues to be less than the level of total revenues set forth for that first fiscal year or for the total of that first fiscal year and the ensuing fiscal years in the applicable resolution for which allocations are provided under section 302(a).

(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or con-

<sup>76</sup> Clause 8 of rule XXI of the House Rules applies this point of order to unreported measures.

ference report that would cause a decrease in social security surpluses or an increase in social security deficits relative to the levels set forth in the applicable resolution for the first fiscal year or for the total of that fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a).

(b) SOCIAL SECURITY LEVELS.—

(1) IN GENERAL.—For purposes of subsection (a)(3), social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

(2) TAX TREATMENT.—For purposes of subsection (a)(3), no provision of any legislation involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless that provision changes the income tax treatment of social security benefits.

(c) EXCEPTION IN THE HOUSE OF REPRESENTATIVES.—Subsection (a)(1) shall not apply in the House of Representatives to any bill, joint resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

(1) the enactment of that bill or resolution as reported;<sup>77</sup>

(2) the adoption and enactment of that amendment;  
or

(3) the enactment of that bill or resolution in the form recommended in that conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for that fiscal year to be exceeded.<sup>78</sup>

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<sup>77</sup> Under House Rules, clause 8 of rule XXI applies this point of order to unreported measures.

<sup>78</sup> In the House, section 311(c) of the Congressional Budget Act of 1974, known as the “Fazio Exception,” allows the aggregate spending level of budget authority or outlays to be breached if a committee’s 302(a) allocation is not breached. A measure providing budget authority within the allocation is exempt from the section 311 point of order. Though not originally intended, the Fazio Exception includes a Fazio Exception Anomaly in that it also provides an exception to revenue decreases that otherwise would cause a point of order under this section to be violated. Even if there are effects on budget authority, this does not necessitate the result that the bill “provides new budget authority”. A bill may reduce budget authority and not trigger the exception.

## DETERMINATIONS AND POINTS OF ORDER

SEC. 312. [2 U.S.C. 643] (a) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this title and title IV, the levels of new budget authority, outlays, direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.

(b) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) EXCEPTIONS.—This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985<sup>79</sup> has been enacted.

(c) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution, if—

(1) the level of total outlays for the first fiscal year set forth in that concurrent resolution or conference report exceeds; or

(2) the adoption of that amendment would result in a level of total outlays for that fiscal year that exceeds; the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year.

(d) TIMING OF POINTS OF ORDER IN THE SENATE.—A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

<sup>79</sup> This refers to a joint resolution suspending budget enforcement due to a low-growth report prepared by CBO. It is not required to prepare this under section 258 pursuant to section 104(b) of the Budget Control Act of 2011.



(e) POINT OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

(f) EFFECT OF A POINT OF ORDER IN THE SENATE.—In the Senate, if a point of order under this Act against a bill or resolution is sustained, the Presiding Officer shall then recommit the bill or resolution to the committee of appropriate jurisdiction for further consideration.

#### EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION

SEC. 313. [2 U.S.C. 644] (a) IN GENERAL.—When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 (whether that bill or resolution originated in the Senate or the House) or section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (b) shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

(b) EXTRANEOUS PROVISIONS.—(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 shall be considered extraneous if such provision does not produce a change in outlays or revenue, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph); (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be

considered extraneous;<sup>80</sup> (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision; (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and (F) a provision shall be considered extraneous if it violates section 310(g).<sup>81</sup>

(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that: (A) the provision mitigates direct effects clearly attributable to a provision changing outlays or revenue and both provisions together produce a net reduction in the deficit; (B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

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<sup>80</sup> Subparagraph (C) does not apply against reconciliation conference report. Under subsection (d), all other tests of extraneousness in subsection (b)(1) this one as it applies to provisions outside a Committee's jurisdiction. The exception set out in paragraph (3) for subparagraph (C) under certain conditions, is not relevant to conference reports on reconciliation measures.

<sup>81</sup> Section 310(g) of the Budget Act prohibits changes to Social Security. Subparagraph (F) of section 313 may be distinguished from that prohibition insofar as it allows a Senator to raise a point of order against a provision recommending such changes and cause it to be stricken. Under section 310(g) the point of order may be raised against consideration of the entire measure. If it is raised and upheld under that subsection, the entire measure is prohibited from consideration by the Senate.

(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

(c) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

(d) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 310, upon—

(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)<sup>82</sup>, and

(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate

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<sup>82</sup> Of the six definitions of “extraneous” provisions, five are listed here. Subparagraph (C) in subsection (b) is not included: That subparagraph states a “provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous”. As of 2015, the Senate Parliamentarian has advised that any provision in a reconciliation bill not within the jurisdiction of a Senate Committee given reconciliation directives, may cause a measure to not qualify for reconciliation privilege.

shall be debatable for two hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(e) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

#### ADJUSTMENTS

SEC. 314. [2 U.S.C. 645] (a) ADJUSTMENTS.—After the reporting of a bill or joint resolution or the offering of an amendment thereto or the submission of a conference report thereon, the chairman of the Committee on the Budget of the House of Representatives or the Senate may make appropriate budgetary adjustments of new budget authority and the outlays flowing therefrom in the same amount as required by section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) APPLICATION OF ADJUSTMENTS.—The adjustments made pursuant to subsection (a) for legislation shall—

- (1) apply while that legislation is under consideration;
  - (2) take effect upon the enactment of that legislation;
- and
- (3) be published in the Congressional Record as soon as practicable.

(c) REPORTING REVISED SUBALLOCATIONS.—Following any adjustment made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations under section 302(b) to carry out this section.

(d) EMERGENCIES IN THE HOUSE OF REPRESENTATIVES.—(1) In the House of Representatives, if a reported bill or joint resolution, or amendment thereto or conference report thereon, contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985,<sup>83</sup> the chair of the Committee on the Budget of the House of Representatives shall not count the budgetary effects of such provision for purposes of title III and title IV of the Congressional Budget Act of 1974 and the Rules of the House of Representatives.

(2)(A) In the House of Representatives, if a reported bill or joint resolution, or amendment thereto or conference report thereon, contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as an emergency pursuant to paragraph (1), the chair of the Committee on the Budget shall not count the budgetary effects of such provision for purposes of this title and title IV and the Rules of the House of Representatives.

(B) In the House of Representatives, a proposal to strike a designation under subparagraph (A) shall be excluded from an evaluation of budgetary effects for purposes of this title and title IV and the Rules of the House of Representatives.

(C) An amendment offered under subparagraph (B) that also proposes to reduce each amount appropriated or otherwise made available by the pending measure that is not required to be appropriated or otherwise made available shall be in order at any point in the reading of the pending measure.

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<sup>83</sup> Section 251(b)(2)(A) of BBEDCA. See §§103, 201, and 202, *infra*.

“(A) EMERGENCY APPROPRIATIONS; OVERSEAS CONTINGENCY OPERATIONS/GLOBAL WAR ON TERRORISM.—If, for any fiscal year, appropriations for discretionary accounts are enacted that—

“(i) the Congress designates as emergency requirements in statute on an account by account basis and the President subsequently so designates, or

“(ii) the Congress designates for Overseas Contingency Operations/Global War on Terrorism in statute on an account by account basis and the President subsequently so designates, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements or for Overseas Contingency Operations/Global War on Terrorism, as applicable.”

(e) SENATE POINT OF ORDER AGAINST AN EMERGENCY DESIGNATION.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, amendment between the Houses, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) SUPERMAJORITY WAIVER AND APPEALS.

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(3) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.<sup>84</sup>

(4) FORM OF THE POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may

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<sup>84</sup> Section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) sets out the emergency designation. Section 250(c) of that Act sets forth a definition of the term. See at §201 and §202, *infra*. Section 3(11) defines the terms “unanticipated” and “emergency” (see §103, *supra*) by referring to section 250(c) of BBEDCA.

be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) ENFORCEMENT OF DISCRETIONARY SPENDING CAPS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause the discretionary spending limits as set forth in section 251 of the Balanced Budget and Emergency Deficit Control Act to be exceeded.<sup>85</sup>

EFFECT OF ADOPTION OF A SPECIAL ORDER OF BUSINESS IN THE HOUSE OF REPRESENTATIVES

SEC. 315. [2 U.S.C. 645a] For purposes of a reported bill or joint resolution considered in the House of Representatives pursuant to a special order of business, the term “as reported” in this title or title IV shall be considered to refer to the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be. In the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.<sup>86</sup>

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<sup>85</sup> This point of order prohibits the consideration of any measure causing budget authority for any year to exceed the discretionary spending limits set forth in section 251 of BBEDCA. Section 312(b)(1) includes a similar point of order that applies in the Senate against any measure that would “exceed any of the discretionary spending limits” in section 251(c) of BBEDCA. These discretionary spending limits are divided into defense and nondefense amounts under the headings “revised security” and “revised nonsecurity” categories. See §122, *supra*, and §202, *infra*.

<sup>86</sup> The second sentence of section 315 was added by section 122(11) of the Bipartisan Budget Act of 2013 to make a technical correction related to section 303 as it pertains to amending measures in order to change a bill reported by Committee to bring it into compliance prior to its consideration on the floor of the House. Prior to this change, since the 106<sup>th</sup> Congress, this language was included in the “Separate Orders” of the organizing resolutions from that Congress through the 113<sup>th</sup> Congress. For the Bipartisan Budget Act of 2013 generally, see §251, *infra*.

# TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

## PART A—GENERAL PROVISIONS

### BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS

SEC. 401. [2 U.S.C. 651] (a) CONTROLS ON CERTAIN BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides—

(1) new authority to enter into contracts under which the United States is obligated to make outlays;

(2) new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code<sup>87</sup>) for the repayment of which the United States is liable; or

(3) new credit authority;

unless that bill, joint resolution, amendment, motion, or conference report also provides that the new authority is to be effective for any fiscal year only to the extent or in the amounts provided in advance in appropriation Acts.

(b) LEGISLATION PROVIDING NEW ENTITLEMENT AUTHORITY.—(1) POINT OF ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides new entitlement authority that is to become effective during the current fiscal year.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new entitlement authority which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(a) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations

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<sup>87</sup> Chapter 31 of Title 31 of the U.S. Code applies to the Public Debt.



of the Senate or may then be referred to the Committee on Appropriations of the House, as the case may be, with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new authority described in those subsections to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act)<sup>88</sup> which is specifically exempted by law from compliance with any or all of the provisions

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<sup>88</sup> The Government Corporation Control Act of 1945 (31 U.S.C.9101-10) states the term "government corporation" means "a mixed-ownership Government corporation and a wholly-owned government corporation." 25 entities are listed as government corporations (31 U.S.C. 9101). Examples: include: "Federal Deposit Insurance Corporation", "Federal Home Loan Banks", "Commodity Credit Corporation", and the "Export-Import Bank".

of that Act, as of the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

(3) In the House of Representatives, subsections (a) and (b) shall not apply to new authority described in those subsections to the extent that a provision in a bill or joint resolution, or an amendment thereto or a conference report thereon, establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations.

#### ANALYSIS BY THE CONGRESSIONAL BUDGET OFFICE

SEC. 402.<sup>89</sup> [2 U.S.C. 653] The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(2) a comparison of the estimates of costs described in paragraph (1), with any available estimates of costs made by such committee or by any Federal agency; and

(3) a description of each method for establishing a Federal financial commitment contained in such bill or resolution.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.<sup>90</sup>

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<sup>89</sup> Clause 3(c)(3) of Rule XIII of the House Rules requires committee reports include certain elements (see *infra* at §353):

“(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.”

<sup>90</sup> House Rule XIII requires committee reports include an estimate of the cost of legislation and may be met with a CBO estimate prepared under this section. S. Con. Res. 11 (114<sup>th</sup> Congress) requires CBO to prepare a macroeconomic cost estimate, similar to a requirement in clause 8 of rule XIII. For House rule XIII, see §363, *infra*. For S. Con. Res. 11, see Part IV, *infra*.

## JURISDICTION OF THE APPROPRIATIONS COMMITTEES

SEC. 403.<sup>91</sup> (a) AMENDMENT OF HOUSE RULES.<sup>92</sup>—Clause 2 of rule XI of the Rules of the House of Representatives is amended by redesignating paragraph (b) as paragraph (e) and by inserting after paragraph (a) the following new paragraphs:

“(b) Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).

“(c) The amount of new spending authority described in section 401(c)(2) (A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.

“(d) New spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b) (2) of that Act (but subject to the provisions of section 401(b) (3) of that Act).”

(b) AMENDMENT OF SENATE RULES.<sup>93</sup>—Subparagraph (c) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended to read as follows:

“(c) Committee on Appropriations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

“1. Except as provided in subparagraph (r), appropriation of the revenue for the support of the Government.

“2. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).<sup>94</sup>

“3. The amount of new spending authority described in section 401(c) (2) (A) and (B) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b) (2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).

“4. New advance spending authority described in section 401(c)(2) (C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b) (2) of that Act (but subject to the provisions of section 401(b) (3) of that Act).”

<sup>91</sup> Formerly section 404, this was later redesignated section 403, amending the jurisdiction of the Appropriations Committees. See §350 and §365, *infra*.

<sup>92</sup> The jurisdiction of the House Appropriations Committee is in clause 1(b) of rule X of the Rules of the House, see *infra* at §350.

<sup>93</sup> For the Senate Appropriations Committee's jurisdiction, see clause 1(b) of Rule XXV of the Senate's Standing Rules. See also §365, *infra*.

<sup>94</sup> 1 U.S.C. 105: “The style and title of all Acts making appropriations for the support of Government shall be as follows: ‘An Act making appropriations (here insert the object) for the year ending September 30 (here insert the calendar year).’” These are distinct from “permanent indefinite” appropriations.

STUDY BY THE GENERAL ACCOUNTING OFFICE OF FORMS OF  
FEDERAL FINANCIAL COMMITMENT THAT ARE NOT REVIEWED  
BY CONGRESS

SEC. 404. [2 U.S.C. 654] The General Accounting Office shall study those provisions of law which provide mandatory spending<sup>95</sup> and report to the Congress its recommendations for the appropriate form of financing for activities or programs financed by such provisions not later than eighteen months after the effective date of this section. Such report shall be revised from time to time.

OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

SEC. 405. [2 U.S.C. 655] (a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to the date of enactment of this section, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, shall be included in a budget submitted pursuant to section 1105 of title 31, United States Code, and in a concurrent resolution on the budget reported pursuant to section 301 or section 304 of this Act and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.<sup>96</sup>

(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31, United States Code, and for purposes of this Act.

MEMBER USER GROUP

SEC. 406.<sup>97</sup> [2 U.S.C. 656] The Speaker of the House of Representatives, after consulting with the Minority Leader of the House, may appoint a Member User Group for the purpose of reviewing budgetary scorekeeping rules and practices of the House and advising the Speaker from time to time on the effect and impact of such rules and practices.

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<sup>95</sup> "Mandatory spending" is not defined in law, but it is the same as "direct spending" which is defined at section 250(a)(8) of BBEDCA. See §201, *infra*.

<sup>96</sup> The U.S. Postal Service is classified as an "off-budget" Federal agency. While the Federal Reserve is a part of the Federal Government, its operations are not classified as part of the Federal Budget and is considered to be a "non-budget" entity for budgetary purposes. Transfers from the Federal Reserve are recorded as "revenues" and payments to it as budget authority and outlays. Its operations are paid for by investing in Federal securities. Fannie Mae and Freddie Mac (GSEs) are treated as on-budget by CBO but not OMB.

<sup>97</sup> This Member User Group has never been convened or employed.

**PART B—FEDERAL MANDATES<sup>98</sup>****SEC. 421. [2 U.S.C. 658] DEFINITIONS.**

For purposes of this part:

(1) AGENCY.—The term “agency” has the same meaning as defined in section 551(1) of title 5, United States Code,<sup>99</sup> but does not include independent regulatory agencies.

(2) AMOUNT.—The term “amount”, with respect to an authorization of appropriations for Federal financial assistance, means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

(3) DIRECT COSTS.—The term “direct costs”—

(A)(i) in the case of a Federal intergovernmental mandate, means the aggregate estimated amounts that all State, local, and tribal governments would be required to spend or would be prohibited from raising in revenues in order to comply with the Federal intergovernmental mandate; or

(ii) in the case of a provision referred to in paragraph (5)(A)(ii), means the amount of Federal financial assistance eliminated or reduced;

(B) in the case of a Federal private sector mandate, means the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

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<sup>98</sup> See the Unfunded Mandates Reform Act of 1995. (Pub. L. 104– 4). See §251 et seq., *infra*.

<sup>99</sup> 5 U.S.C. 551(1): “§551. Definitions. For the purpose of this subchapter—  
“ (1) ‘agency’ means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—  
“ (A) the Congress;  
“ (B) the courts of the United States;  
“ (C) the governments of the territories or possessions of the United States;  
“ (D) the government of the District of Columbia; or except as to the requirements of section 552 of this title—  
“ (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;  
“ (F) courts martial and military commissions;  
“ (G) military authority exercised in the field in time of war or in occupied territory; or  
“ (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; subchapter II of chapter 471 of title 49; or sections 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix.”

(C) shall be determined on the assumption that—

(i) State, local, and tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations; and

(ii) reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees; and

(D) shall not include—

(i) estimated amounts that the State, local, and tribal governments (in the case of a Federal intergovernmental mandate) or the private sector (in the case of a Federal private sector mandate) would spend—

(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that Federal mandate; or

(II) to comply with or carry out State, local, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that mandate; or

(ii) expenditures to the extent that such expenditures will be offset by any direct savings to the State, local, and tribal governments, or by the private sector, as a result of—

(I) compliance with the Federal mandate; or

(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

(4) DIRECT SAVINGS.—The term “direct savings”, when used with respect to the result of compliance with the Federal mandate—

(A) in the case of a Federal intergovernmental mandate, means the aggregate estimated reduction in costs to any State, local, or tribal government as a result of compliance with the Federal intergovernmental mandate; and

(B) in the case of a Federal private sector mandate, means the aggregate estimated reduction in costs to the private sector as a result of compliance with the Federal private sector mandate.

(5) FEDERAL INTERGOVERNMENTAL MANDATE.—The term “Federal intergovernmental mandate” means—

(A) any provision in legislation, statute, or regulation that—

(i) would impose an enforceable duty upon State, local, or tribal governments, except—

(I) a condition of Federal assistance; or

(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

(ii) would reduce or eliminate the amount of authorization of appropriations for—

(I) Federal financial assistance that would be provided to State, local, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

(II) the control of borders by the Federal Government; or reimbursement to State, local, or tribal governments for the net cost associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education or criminal justice; when such a reduction or elimination would result in increased net costs to State, local, or tribal governments in providing education or emergency health care to, or incarceration of, illegal aliens; except that this subclause shall not be in effect with respect to a State, local, or tribal government, to the extent that such government has not fully cooperated in the efforts of the Federal Government to locate, apprehend, and deport illegal aliens;

(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority, if the provision—

(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to State, local, or tribal governments under the program; and

(ii) the State, local, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

(6) FEDERAL MANDATE.—The term “Federal mandate” means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (5) and (7).

(7) FEDERAL PRIVATE SECTOR MANDATE.—The term “Federal private sector mandate” means any provision in legislation, statute, or regulation that—

(A) would impose an enforceable duty upon the private sector except—

(i) a condition of Federal assistance; or

(ii) a duty arising from participation in a voluntary Federal program; or

(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purposes of ensuring compliance with such duty.

(8) LOCAL GOVERNMENT.—The term “local government” has the same meaning as defined in section 6501(6) of title 31, United States Code.<sup>100</sup>

(9) PRIVATE SECTOR.—The term “private sector” means all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments.

(10) REGULATION; RULE.—The term “regulation” or “rule” (except with respect to a rule of either House of the Congress) has the meaning of “rule” as defined in section 601(2) of title 5, United States Code.<sup>101</sup>

<sup>100</sup> 31 U.S.C. 6501: Definitions

“(6) ‘local government’ means a unit of general local government, a school district, or other special district established under State law.”

<sup>101</sup> 31 U.S.C. 601. Definitions (from “Chapter 6. The Analysis of Regulatory Functions”):

“(2) the term ‘rule’ means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an op-



(11) SMALL GOVERNMENT.—The term “small government” means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code,<sup>102</sup> and any tribal government.

(12) STATE.—The term “State” has the same meaning as defined in section 6501(9) of title 31, United States Code.<sup>103</sup>

(13) TRIBAL GOVERNMENT.—The term “tribal government” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.

**SEC. 422. [2 U.S.C. 658a] EXCLUSIONS.**

This part shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress that—

- (1) enforces constitutional rights of individuals;
- (2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;
- (3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;
- (4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

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portunity for notice and public comment, except that the term ‘rule’ does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.”

<sup>102</sup> 31 U.S.C. 601. Definitions:

“(5) the term ‘small governmental jurisdiction’ means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction ...”

<sup>103</sup> 31 U.S.C. 6501. Definitions. (from “Chapter 65. Intergovernmental Cooperation”):

“(9) ‘State’ means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.”

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) relates to the old-age, survivors, and disability insurance program under title II of the Social Security Act (including taxes imposed by sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986 (relating to old-age, survivors, and disability insurance)).<sup>104</sup>

**SEC. 423. [2 U.S.C. 658b] DUTIES OF CONGRESSIONAL COMMITTEES.**

(a) **IN GENERAL.**—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by subsections (c) and (d).

(b) **SUBMISSION OF BILLS TO THE DIRECTOR.**—When a committee of authorization of the Senate or the House of Representatives orders reported a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director of the Congressional Budget Office and shall identify to the Director any Federal mandates contained in the bill or resolution.

(c) **REPORTS ON FEDERAL MANDATES.**—Each report described under subsection (a) shall contain—

(1) an identification and description of any Federal mandates in the bill or joint resolution, including the direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;

(2) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the effects on health and safety and the protection of the natural environment); and

(3) a statement of the degree to which a Federal mandate affects both the public and private sectors and the extent to which Federal payment of public sector costs or the modification or termination of the Federal mandate as provided under section 425(a)(2) would affect the competitive balance between State, local, or tribal governments and the private sector including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.

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<sup>104</sup> Section 3101 sets the employee tax “equal to 6.2 percent” of wages. Section 3111(a) sets the employer tax the same (“equal to 6.2 percent” of wages).

(d) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required under subsection (a) shall also contain—

(1)(A) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of State, local, or tribal governments subject to the Federal intergovernmental mandates;

(B) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention; and

(C) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs among and between the respective levels of State, local, and tribal government;

(2) any existing sources of Federal assistance in addition to those identified in paragraph (1) that may assist State, local, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates; and

(3) if the bill or joint resolution would make the reduction specified in section 421(5)(B)(i)(II), a statement of how the committee specifically intends the States to implement the reduction and to what extent the legislation provides additional flexibility, if any, to offset the reduction.

(e) PREEMPTION CLARIFICATION AND INFORMATION.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution is intended to preempt any State, local, or tribal law, and, if so, an explanation of the effect of such preemption.

(f) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

(1) IN GENERAL.—Upon receiving a statement from the Director under section 424, a committee of the Senate or the House of Representatives shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available at the time the report is printed.

(2) OTHER PUBLICATION OF STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the Senate or the House of Representatives before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

**SEC. 424. [2 U.S.C. 658c] DUTIES OF THE DIRECTOR; STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.**

(a) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

(1) CONTENTS.—If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed \$50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(2) ESTIMATES.—Estimates required under paragraph (1) shall include estimates (and brief explanations of the basis of the estimates) of—

(A) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution;

(B) if the bill or resolution contains an authorization of appropriations under section 425(a)(2)(B), the amount of new budget authority for each fiscal year for a period not to exceed 10 years beyond the effective date necessary for the direct cost of the intergovernmental mandate; and

(C) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by State, local, or tribal governments for activities subject to the Federal intergovernmental mandates.

(3) ADDITIONAL FLEXIBILITY INFORMATION.—The Director shall include in the statement submitted under this subsection, in the case of legislation that makes changes as described in section 421(5)(B)(i)(II)<sup>105</sup>—

(A) if no additional flexibility is provided in the legislation, a description of whether and how the States can offset the reduction under existing law; or

(B) if additional flexibility is provided in the legislation, whether the resulting savings would offset the reductions in that program assuming the States fully implement that additional flexibility.

(4) ESTIMATE NOT FEASIBLE.—If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order under this part shall lie only under section 425(a)(1) and as if the requirement of section 425(a)(1) had not been met.<sup>106</sup>

(b) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

(1) CONTENTS.—If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed \$100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

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<sup>105</sup> Section 421(5) defines the terms used in this subtitle. This subclause refers to a Federal intergovernmental mandate's provision placing a limit on the Federal Government's responsibility to provide funding to State, local, or tribal governments for a required program.

<sup>106</sup> Section 425 of the Congressional Budget Act of 1974 establishes a point of order against consideration of a bill or joint resolution, an amendment to such, a motion, or a conference report that includes an unfunded intergovernmental mandate, but it does not apply to private sector mandates. Section 426(a) of that Act sets forth a point of order against consideration of any special order of business (a "rule") or other order waiving the point of order under section 425.

(2) ESTIMATES.—Estimates required under paragraph (1) shall include estimates (and a brief explanation of the basis of the estimates) of—

(A) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

(B) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

(3) ESTIMATES NOT FEASIBLE.—If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.<sup>107</sup>

(c) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in subsections (a) and (b), the Director shall so state and shall briefly explain the basis of the estimate.

(d) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a Federal mandate not previously considered by either House or which contains an increase in the direct cost of a previously considered Federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in this subsection or a supplemental statement for the bill or joint resolution in that amended form.

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<sup>107</sup> While section 424 of the Budget Act does require estimates by the Congressional Budget Office of unfunded mandates, it does not establish a point of order against a measure to enforce the requirement that an estimate must be included under the section's terms. If the CBO estimate is not available prior to the filing of the report, section 423(f) directs the committee to publish an estimate fulfilling the requirement in the Congressional Record as soon as it becomes available. See 152 CONG. REC. 10453, 10454, 10457, 10458, 109<sup>th</sup> CONG. 2d Sess. And also Deschler-Brown Precedents Ch. 41 § 30.1

**SEC. 425. [2 U.S.C. 658d] LEGISLATION SUBJECT TO POINT OF ORDER.**

(a) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider<sup>108</sup>—

(1) any bill or joint resolution<sup>109</sup> that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with section 423(f) before such consideration, except this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(d); and

(2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in section 424(a)(1) to be exceeded, unless—

(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for such mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to or exceeding the direct costs of such mandate; or

(B) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to or exceeding the direct costs of such mandate, and—

(i) identifies a specific dollar amount of the direct costs of such mandate for each year up to 10 years during which such mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under subsection (e) for each fiscal year;

(ii) identifies any appropriation bill that is expected to provide for Federal funding of the direct cost referred to under clause (i); and

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<sup>108</sup> This section sets forth a point of order in the House and Senate against unfunded intergovernmental mandates, not private sector mandates.

<sup>109</sup> Repealed in the 112<sup>th</sup> Congress (H. Res. 5, Jan. 5, 2011). Clause 11 of rule XVIII provided an amendment proposing to specifically strike an unfunded mandate could be prohibited only by the terms of a rule.

“(a) In the Committee of the Whole on the state of the Union, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.”

(iii)(I) provides that for any fiscal year the responsible Federal agency shall determine whether there are insufficient appropriations for that fiscal year to provide for the direct costs under clause (i) of such mandate, and shall (no later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

(aa) a statement that the agency has determined, based on a re-estimate of the direct costs of such mandate, after consultation with State, local, and tribal governments, that the amount appropriated is sufficient to pay for the direct costs of such mandate; or

(bb) legislative recommendations for either implementing a less costly mandate or making such mandate ineffective for the fiscal year;

(II) provides for expedited procedures for the consideration of the statement or legislative recommendations referred to in subclause (I) by Congress no later than 30 days after the statement or recommendations are submitted to Congress; and

(III) provides that such mandate shall—

(aa) in the case of a statement referred to in subclause (I)(aa), cease to be effective 60 days after the statement is submitted unless Congress has approved the agency's determination by joint resolution during the 60-day period;

(bb) cease to be effective 60 days after the date the legislative recommendations of the responsible Federal agency are submitted to Congress under subclause (I)(bb) unless Congress provides otherwise by law; or

(cc) in the case that such mandate that has not yet taken effect, continue not to be effective unless Congress provides otherwise by law.

(b) RULE OF CONSTRUCTION.—The provisions of subsection (a)(2)(B)(iii) shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.



(c) COMMITTEE ON APPROPRIATIONS.—

(1) APPLICATION.—The provisions of subsection (a)—

(A) shall not apply to any bill or resolution reported by the Committee on Appropriations of the Senate or the House of Representatives; except

(B) shall apply to—

(i) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives;

(ii) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendment offered to a bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives;

(iii) any legislative provision increasing direct costs of a Federal intergovernmental mandate in a conference report accompanying a bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives; and

(iv) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendments in disagreement between the two Houses to any bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives.

(2) CERTAIN PROVISIONS STRICKEN IN SENATE.—Upon a point of order being made by any Senator against any provision listed in paragraph (1)(B), and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report and may not be offered as an amendment from the floor.

(d) DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this section, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this part to a pending bill, joint resolution, amendment, motion, or conference report.

(e) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For purposes of this section, in the Senate, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget.<sup>110</sup>

<sup>110</sup> Similar to section 312 of the Budget Act, under this section the determination of the levels of spending and revenue of a point of order is the respon-

**SEC. 426. [2 U.S.C. 658e] PROVISIONS RELATING TO THE HOUSE OF REPRESENTATIVES.<sup>111</sup>**

(a) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425.

(b) DISPOSITION OF POINTS OF ORDER.—

(1) APPLICATION TO THE HOUSE OF REPRESENTATIVES.—This subsection shall apply only to the House of Representatives.

(2) THRESHOLD BURDEN.—In order to be cognizable by the Chair, a point of order under section 425 or subsection (a) of this section must specify the precise language on which it is premised.<sup>112</sup>

(3) QUESTION OF CONSIDERATION.—As disposition of points of order under section 425 or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

(4) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

(5) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

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sibility of Committee on the Budget of the Senate but the Parliamentarian of the Senate provides advice to the Presiding Officer who makes the final decision, subject to the call for a vote through an appeal of the Ruling.

<sup>111</sup> Section 426(a) establishes a point of order against the consideration of any rule, formally known as a “special order of business”, waiving the application of section 425. The rule may provide for the consideration of a measure and may waive a violation of that section of the Budget Act. This automatically triggers twenty minutes of debate on the question as to whether the point of order should be waived. Time is evenly divided between a proponent and an opponent of the question. In the House, this is commonly known as “the unfunded mandates point-of-order.” It refers to any proposed procedure where a point of order can be raised against a rule waiving a point of order.

<sup>112</sup> Under section 426(b)(2), a proponent must identify the specific language in the Rule waiving section 425. It is subject to the question of consideration. The House disposes of points of order under sections 425 or 426 through the question of consideration. The Member raising the point of order and a Member opposed each have 10 minutes: “Will the House now consider the [measure]?” A point of order does not lay against private sector mandates.

**SEC. 427. [2 U.S.C. 658f] REQUESTS TO THE CONGRESSIONAL BUDGET OFFICE FROM SENATORS.**

At the written request of a Senator, the Director shall, to the extent practicable, prepare an estimate of the direct costs of a Federal intergovernmental mandate contained in an amendment of such Senator.

**SEC. 428. [2 U.S.C. 658g] CLARIFICATION OF APPLICATION.**

(a) **IN GENERAL.**—This part applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

(1) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to State, local, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

(2) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates other than as described in paragraph (1).

(b) **DIRECT COSTS.**—

(1) **IN GENERAL.**—For purposes of this part, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise amends any statute, means the net increase, resulting from enactment of the bill, joint resolution, amendment, motion, or conference report, in the amount described under paragraph (2)(A) over the amount described under paragraph (2)(B).

(2) **AMOUNTS.**—The amounts referred to under paragraph are—

(A) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted; and

(B) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report were not enacted.

(3) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, in the case of legislation to extend authorization of appropriations, the authorization level that would be provided by the extension shall be compared to the authorization level for the last year in which authorization of appropriations is already provided.



## TITLE V—CREDIT REFORM

### SEC. 500. SHORT TITLE.

This title may be cited as the “Federal Credit Reform Act of 1990”.<sup>113</sup>

### SEC. 501. [2 U.S.C. 661] PURPOSES.

The purposes of this title are to—

- (1) measure more accurately the costs of Federal credit programs;
- (2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;
- (3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and
- (4) improve the allocation of resources among credit programs and between credit and other spending programs.

### SEC. 502. [2 U.S.C. 661a] DEFINITIONS.

For purposes of this title—

- (1) The term “direct loan” means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.
- (2) The term “direct loan obligation” means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

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<sup>113</sup> The Federal Credit Reform Act of 1990 (FCRA), enacted by Congress as part of the Omnibus Reconciliation Act of 1990 (which included the BEA of 1990), added a new title V to the Congressional Budget Act of 1974. FCRA made several changes in how Congress measures the cost of credit programs. See §§150 et seq., *infra*. The most important change was to move from a cash accounting basis for the evaluation of the budgetary effects of credit programs to an accrual accounting method to more accurately reflect the cost of such programs to the government. Legislation has been introduced proposing reforms to the accounting methodology for loan and loan guarantee programs to incrementally, or completely, change the evaluation of credit risk. “Fair value accounting” is required in limited application in S. Con. Res. 11 (114<sup>th</sup> Congress), the concurrent resolution on the budget for fiscal year 2016.

(3) The term “loan guarantee” means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term “loan guarantee commitment” means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(5)(A) The term “cost” means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) loan disbursements;

(ii) repayments of principal; and

(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

(ii) payments to the Government including origination and other fees, penalties and recoveries;

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(6) The term “credit program account” means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term “financing account” means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term “liquidating account” means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

(9) The term “modification” means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(10) The term “current” has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(11) The term “Director” means the Director of the Office of Management and Budget.



**SEC. 503. [2 U.S.C. 661b] OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.**

(a) **IN GENERAL.**—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

(b) **DELEGATION.**—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

(c) **COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.**—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

(d) **IMPROVING COST ESTIMATES.**—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

(e) **HISTORICAL CREDIT PROGRAM COSTS.**—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

(f) **ADMINISTRATIVE COSTS.**—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

**SEC. 504. [2 U.S.C. 661c] BUDGETARY TREATMENT.**

(a) **PRESIDENT'S BUDGET.**—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

(b) **APPROPRIATIONS REQUIRED.**—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

(1) new budget authority to cover their costs is provided in advance in an appropriations Act;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or

(3) authority is otherwise provided in appropriation Acts.

(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsections (b) and (e) shall not apply to a direct loan or loan guarantee program that—

(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

(d) BUDGET ACCOUNTING.—

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.<sup>114</sup>

(3) All collections and payments of the financing accounts shall be a means of financing.<sup>115</sup>

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<sup>114</sup> Because financing accounts are nonbudget, the cash flows into and out of these accounts are not reflected in total outlays, receipts, or surplus/deficit.

<sup>115</sup> "Means of Financing" are ways in which a budget deficit is financed or a budget surplus is used. A budget deficit may be financed by the Department of the Treasury (Treasury) (or agency) borrowing, by reducing Treasury cash balances, by the sale of gold, by seigniorage, by net cash flows resulting from transactions in credit financing accounts, by allowing certain unpaid liabilities to increase, or by other similar transactions. It is customary to separate total means of financing into "change in debt held by the public" (the government's debt, which is the primary means of financing) and "other means of financing" (seigniorage, change in cash balances, transactions of credit financing accounts, etc.).

(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

**SEC. 505. [2 U.S.C. 661d] AUTHORIZATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank<sup>116</sup> (hereinafter in this subsection referred to as the

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<sup>116</sup> Congress created the Federal Financing Bank as a government corporation in 1973. Part of the Department of the Treasury, Congress established it to centralize and reduce the cost of federal borrowing, as well as federally-assisted borrowing from the public. It addresses the Federal budget management issues arising when off-budget financing enters the government securities market with offers of government-backed securities that compete

“Bank”) pursuant to section 405(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 405(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

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with Treasury securities. It has the authority to purchase obligations issued, sold, or guaranteed by a Federal agency to ensure fully guaranteed obligations are financed efficiently.

(F) payments to financing accounts when required for modifications;

(G) administrative expenses, if—

(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

**SEC. 506. [2 U.S.C. 661e] TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.**

(a) **IN GENERAL.**—This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

(b) **STUDY.**—The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

(c) **ACCESS TO DATA.**—For the purposes of subsection (b), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

**SEC. 507. [2 U.S.C. 661f] EFFECT ON OTHER LAWS.**

(a) **EFFECT ON OTHER LAWS.**—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

(b) **CREDITING OF COLLECTIONS.**—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.



# TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

[Repealed:<sup>117</sup>]

## SUMMARY AND SHORT HISTORY OF TITLE VI

### SEC. 601. DEFINITIONS AND POINT OF ORDER. (2 U.S.C. 665)<sup>118</sup>

Subsection (a) set forth the maximum deficit amounts, enforced through section 253 of BBEDC, through 1995. These were not an effective enforcement procedure subsequent to the enactment of the Budget Enforcement Act of 1990, though that section of BBEDCA is permanent law (subsequent to the enactment of the Budget Control Act of 2011, which repealed the sunset date).

Subsection (b) set out a Senate point of order against breaching the maximum deficit amounts included in the title VI. That point of order no longer exists in the Senate.

### SEC. 602. COMMITTEE ALLOCATIONS AND ENFORCEMENT. (2 U.S.C. 665a)<sup>119</sup>

Subsections (a) and (b) had a similar function to section 302(a) and (b) of the Budget Act. Upon the repeal of this title in 1997, the allocations to Committees and the suballocations among the subcommittees of the Ap-

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<sup>117</sup> The Balanced Budget Act of 1997, sec. 10118(a) (H.R. 2015; Public Law 105—33; 111 Stat. 695; 2 USC §§665 to 665e) repealed Title VI of the Budget Act. This title provided for changes in Congressional budget procedures that were expected to last only for the duration of previous budget agreements. Title VI temporarily extended the coverage and enforcement of budget resolutions from three to five fiscal years. This fiscal-year time period was later made permanent such that concurrent resolutions on the budget must currently cover a budget resolution year which is the year for which a budget resolution is adopted, and at least the following four fiscal years. Title VI also provided for adjustments in the budget resolution for such factors as emergencies, estimating differences, and tax compliance.

<sup>118</sup> Codified as 2 U.S.C. 665. The Budget Enforcement Act of 1990 added section 601 (BEA of 1990) (Pub. L. 101—508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388—602). It was amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993; Pub. L. 103—66, title XIV, §14002(a), (b), Aug. 10, 1993, 107 Stat. 683) which defined terms and provided for points of order in cases where measures would exceed discretionary spending limits.

A prior section 601 of the Budget Act was classified to section 11 of former Title 31, prior to repeal and reenactment as sections 1105(a)(15), 1106(b), and 1108(d) of Title 31, Money and Finance, by Pub. L. 97—258 (no short title), §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.

<sup>119</sup> Codified as 2 U.S.C. 665a. The BEA of 1990 added section 602 of the Budget Act (Pub. L. 101—508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388—603). It was amended by OBRA 1993 (Pub. L. 103—322, title XXXI, §310001(f)(1), Sept. 13, 1994, 108 Stat. 2103) with provisions related to committee allocations and enforcement.

A prior section 602 of the Budget Act was classified to section 11 of former Title 31, prior to repeal and reenactment as section 1106(a) of Title 31, Money and Finance, by Pub. L. 97—258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.



appropriations Committees were consolidated in title III of the Budget Act. The Budget Enforcement Act of 1997 codified subsection (e) of Title IV, the Pay-As-You-Go Exception in the House, as section 302(g).

SEC. 603. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR (2 U.S.C. 665b)<sup>120</sup>

The Budget Enforcement Act of 1997 repealed this section and transferred its application by adding section 302(a)(5) to title III of the Budget Act. Though the BEA of 1997 rewrote subsections (a) and (b) of section 302, the text of (a)(5) largely followed that found in section 603 in title VI. See §112, *infra*. This section should not be confused with section 303 of the Budget Act which sets forth a point of order against budget-related measures, first increasing direct spending, and appropriations with certain exceptions, or making changes to revenue, in a year for which a budget resolution has not been adopted. For section 303, see §113, *infra*.

SEC. 604. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS. (2 U.S.C. 665c)<sup>121</sup>

Section 604, before its repeal, provided for a specialized reconciliation procedure in addition to that included in section 310 of the Budget Act. (See §120, *infra*.) The House Committee on the Budget was authorized to report out a concurrent resolution on the budget providing for a reconciliation instruction to House committees to raise revenue to address deficits that might have been caused by the enactment of spending or tax legislation.

This authorization to establish or revise reconciliation was considered in the Senate as an addition to authority provided under section 304 of the Budget Act.

Senator Jim Sasser (TN), Chairman of the Senate Budget Committee at the time noted the Budget Act allowed for additional reconciliation instructions because it includes “procedures already under section 304 of the Congressional Budget Act whereby Congress may revise budget resolutions and create new reconciliation instructions calling for additional deficit reduction.”<sup>122</sup> Though it made clear that reconciliation directives could be revised or additional directives created, Senator Sasser, in the same floor statement, expressed doubt that this section would have the benefit of full reconciliation privilege. Even though this section provided the authority, it was never used.

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<sup>120</sup> Codified as 2 U.S.C. 665b. The BEA of 1990 added section 603 of the Budget Act (Pub. L. 101–508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388–605). It related to consideration of legislation before adoption of budget resolution for that fiscal year.

A prior section 603 of the Budget Act was classified to section 11 of former Title 31, prior to repeal and reenactment in section 1105(a)(1)–(14) of Title 31, Money and Finance, by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.

<sup>121</sup> Codified as 2 U.S.C. 665c. The BEA of 1990 added section 604 of the Budget Act (Pub. L. 101–508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388–605). It related to reconciliation directives regarding pay-as-you-go requirements.

A prior section 604 of the Budget Act was classified to section 11 of former Title 31, prior to repeal and reenactment in section 1105(a)(1)–(14) of Title 31, Money and Finance, by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.

<sup>122</sup> See 130 Cong. Record S17, 539, (daily edition, October 27, 1990).

SEC. 605. APPLICATION OF SECTION 311; POINT OF ORDER. (2 U.S.C. 665d)<sup>123</sup>

The Budget Enforcement Act of 1990 amended section 311 of the Budget Act and revised the method of enforcement by placing the point of order in this section. Also, in the Senate, section 605 set forth a point of order prohibiting measures from breaching the maximum deficit amounts. After its repeal by the Budget Enforcement Act of 1997, section 311 now is self-contained in terms of the point of order, which enforces it, and maximum deficit amounts are no longer an applicable form of budget enforcement.

SEC. 606. 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985. (2 U.S.C. 665e)<sup>124</sup>

Before being repealed by the Budget Enforcement Act of 1997, section 606 of title VI did two major things:

Subsection (a) required 5-year budget resolutions for each of years 1992 through 1995. This was an error in drafting insofar as OBRA 1993 extended the temporary provisions of title VI through fiscal year 1998.

Subsection (b) through (d) of the section generally applied provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 to the budget resolution, such as requiring concurrent resolutions on the budget to adhere to the levels provided for in BBEDCA and for adjustments to be made to reflect adjustments made under that Act.

SEC. 607. EFFECTIVE DATE.<sup>125</sup>

Before the Budget Enforcement Act of 1997 repealed section 607, it read: “This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1998.”

<sup>123</sup> Codified as 2 U.S.C. 665d. The BEA of 1990 added section 605 of the Budget Act. L. 101–508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388–606, related to application of section 642 of this title and points of order in Senate for measures exceeding specified maximum deficit amount.

A prior section 605 of the Budget Act was classified to section 11a of former Title 31, prior to repeal and reenactment in section 1109 of Title 31, Money and Finance, by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31.

<sup>124</sup> Codified as 2 U.S.C. 665e. The BEA of 1990 added section 606 of the Budget Act (Pub. L. 101–508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388–606). It was amended by Pub. L. 104–121, title I, §103(c), Mar. 29, 1996, 110 Stat. 849; Pub. L. 104–193, title II, §211(d)(5)(C), Aug. 22, 1996, 110 Stat. 2192, related to 5-year budget resolutions and the requirement that budget resolutions conform to Balanced Budget and Emergency Deficit Control Act of 1985.

A prior section 606 of the Budget Act was classified to section 661 of this title, prior to repeal by Pub. L. 99–177, title II, §223, Dec. 12, 1985, 99 Stat. 1060.

<sup>125</sup> Pub. L. 93–344, title VI, §607, as added by Pub. L. 101–508, title XIII, §13111, Nov. 5, 1990, 104 Stat. 1388–607, and amended by Pub. L. 103–66, title XIV, §14002(c)(3)(B), Aug. 10, 1993, 107 Stat. 684, provided that title VI of Pub. L. 93–344, enacting this subchapter, was effective Nov. 5, 1990, and was applicable to fiscal years 1991 to 1998, prior to repeal by Pub. L. 105–33, title X, §10118(a), Aug. 5, 1997, 111 Stat. 695.

*Conference Report on the Balanced Budget Act of 1997 (P.L. 105-33)*<sup>126</sup>

“The House bill repeals title VI, which provided changes in Congressional budget procedures that were expected to last only for the duration of previous budget agreements. Title VI temporarily extended the coverage and enforcement of budget resolutions from three to five fiscal years. It also provided for adjustments in the budget resolution for such factors as emergencies, estimating differences, and tax compliance.

“The five-year scope of the resolution is permanently extended in sections 11105 and 11106.<sup>127</sup> The new adjustments are set forth in section 11113.<sup>128</sup> The House bill repeals an unused provision in section 604 of the Budget Act, which provided the House Budget Committee with the authority to report a reconciliation directive providing for tax increases to offset legislation cutting taxes.”

*“The Budget Enforcement Act of 1997: A Fact Sheet” (CRS)*<sup>129</sup>

“The BEA of 1997 made permanent many of the temporary changes in Title VI of the 1974 Congressional Budget Act (by repealing Title VI, but incorporating its components into other sections of the 1974 act or the 1985 Balanced Budget Act). In particular, budget resolutions must cover five fiscal years at a minimum and are enforced for the full 5-year period, and the modified procedures for making committee allocations and suballocations of spending under a budget resolution were retained (and revised further).”

Once upon a fiscal yearly, while I drafted, bleak and bleary,  
Over many a stained and spurious section of ill-gotten score—  
While I nodded, nearly napping, suddenly there came a slapping,  
As of someone gamely lapping, lapping at the Congress door.  
“‘Tis some lawyer,” I sputtered, “grappling at the Congress door—  
Sold for grist or funds galore.”

“So what is all this spending for?”

Quoth the Craven: “Ever More.”

<sup>126</sup> House Report 105-217; Joint Explanatory Statement of Managers of the Conference Report on H.R. 2015, the Balanced Budget Act of 1997 (Public Law 105-33), 1997; p. 997-998.

<sup>127</sup> Section 11105 and 11106 are references to the House-passed version of H.R. 2015 (Budget Enforcement Act of 1997). They refer to amendments those sections made to sections 301 and 302 of the Budget Act, respectively. They revised required contents of the budget resolution (section 301) and the allocations of budget authority to Congressional Committees (section 302) and made them permanent. By doing so, the amendments rendered parts of title VI inapplicable due to the temporary aspects of the title.

<sup>128</sup> This is a reference to the House-passed version of H.R. 2015. Section 1113 of that version added section 314 to the Budget Act, which remains, though amended. It applies the authority and provides parameters for various adjustments to the budget resolution, as required by budget resolutions and budget law.

<sup>129</sup> Keith, Robert; “The Budget Enforcement Act of 1997: A Fact Sheet”; Congressional Research Service (97-930 GOV, January 23, 2004).

# TITLE VII—PROGRAM REVIEW AND EVALUATION

## REVIEW AND EVALUATION OF STANDING COMMITTEES

SEC. 701. Section 136(a) of the Legislative Reorganization Act of 1946 (2 U.S.C 190d) is amended by adding at the end thereof the following new sentences: “Such committees may carry out the required analysis, appraisal, and evaluation themselves or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provisions for evaluation after a defined period of time.”<sup>130</sup>

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<sup>130</sup> 2 U.S.C. 190d currently reads as follows:

“§190d. LEGISLATIVE REVIEW BY STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

“(a) SCOPE OF ASSISTANCE

“In order to assist the Congress in-

“(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

“(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

“each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time.

“(b) REPORTS TO THE SENATE AND THE HOUSE OF REPRESENTATIVES

“In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

“(c) EXCEPTIONS

“The preceding provisions of this section do not apply to the Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget, House Oversight, Rules, and Standards of Official Conduct of the House.”

REVIEW AND EVALUATION<sup>131</sup>

## SEC. 702 [Repealed by Public Law 97-258]

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<sup>131</sup> Public Law 97-258 repealed sec. 702 in 1982. See “A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, ‘Money and Finance’”. Before its repeal, this section read as follows:

Sec. 702.—Section 204 of the Legislative Reorganization Act of 1946 [31 U.S.C. 1154] is amended to read as follows:

“Sec. 204. (a) The Comptroller General shall review and evaluate the results of Government programs and activities carried on under existing law when ordered by either House of Congress or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities.

“(b) The Comptroller General, upon request of any committee of either House of Congress or any joint committee of the two Houses shall—

“(1) assist such committee or joint committee in developing a statement of legislative objectives and goals and methods for assessing and reporting actual program performance in relation to such legislative objectives and goals. Such statements shall include, but are not limited to, recommendations as to methods of assessment, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

“(2) assist such committee or joint committee in analyzing or assessing program reviews or evaluation studies prepared by and for any Federal agency.

Upon the request of any Member of either House, the Comptroller General shall furnish to such Member a copy of any such statement other material compiled in carrying out paragraph (1) or (2) which has been released by the committee or joint committee for which it was compiled.

“(c) The Comptroller General shall develop and recommend to the Congress methods for review and evaluation of Government programs and activities carried under existing laws.

“(d) In carrying out his responsibilities under this section the Comptroller General is authorized to establish an Office of Program Review and Evaluation within the General Accounting Office.

“(e) The Comptroller General shall include in his annual report to the Congress a review of activities under this section, including his recommendations of methods for review and evaluation of Government programs and activities under subsection (c).”

CONTINUING STUDY OF ADDITIONAL BUDGET  
REFORM PROPOSALS

SEC. 703. [2 U.S.C. 623] (a) The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a), together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.



## **TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS**

[AMENDMENT TO LEGISLATIVE REORGANIZATION ACT OF 1970<sup>132</sup>]

[SEC. 801. (a) So much of title II of the Legislative Reorganization Act of 1970 (31 U.S.C. chapter 22) as precedes section 204 thereof is amended to read as follows:]

### **[“TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS]**

#### **[“PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION]**

##### **[“FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION SYSTEMS]**

[“SEC. 201. The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, for use by all Federal agencies, standardized data processing and information systems for fiscal, budgetary, and program-related data and information. The development, establishment, and maintenance of such systems shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level.]

##### **[“STANDARDIZATION OF TERMINOLOGY, DEFINITIONS, CLASSIFICATIONS, AND CODES FOR FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION]**

[“SEC. 202. (a)(1) The Comptroller General of the United States, in cooperation with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall develop, establish, maintain, and publish standard terminology, definitions, classifications, and codes for Federal fiscal, budgetary, and program-related data and information. The authority contained in this section shall include, but not be limited to, data and information pertaining to Federal fiscal policy, revenues, re-

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<sup>132</sup> Section 801 and section 801 of Title VIII were repealed by Public Law 97-258: “A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, ‘Money and Finance’”. This law was enacted on September 13, 1982. Sections 801 and 802 were codified in sections 1104, 1112, and 1113 of title 31 of the United States Code. See §§304, 312, and 313, *infra*.



ceipts, expenditures, functions, programs, projects, and activities. Such standard terms, definitions, classifications, and codes shall be used by all Federal agencies in supplying to the Congress fiscal, budgetary, and program-related data and information.]

[(2) The Comptroller General shall submit to the Congress, on or before June 30, 1975, a report containing the initial standard terminology, definitions, classifications, and codes referred to in paragraph (1), and shall recommend any legislation necessary to implement them. After June 30, 1975, the Comptroller General shall submit to the Congress additional reports as he may think advisable, including any recommendations for any legislation he may deem necessary to further the development, establishment, and maintenance, modification, and executive implementation of such standard terminology, definitions, classifications, and codes.]

[(b) In carrying out this responsibility, the Comptroller General of the United States shall give particular consideration to the needs of the Committees on the Budget of the House and Senate, the Committees on Appropriations of the House and Senate, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.]

[(c) The Comptroller General of the United States shall conduct a continuing program to identify and specify the needs of the committees and Members of the Congress for fiscal, budgetary, and program-related information to support the objectives of this part.]

[(d) The Comptroller General shall assist committees in developing their information needs, including such needs expressed in legislative requirements, and shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in their reporting requirements to meet congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users and to eliminate duplicative or unneeded reporting.]

[(e) On or before September 1, 1974, and each year thereafter, the Comptroller General shall report to the Congress on needs identified and specified under subsection (c); the relationship of these needs to the existing reporting requirements; the extent to which the executive branch reporting presently meets the identified needs; the specification of changes to standard classifications needed to meet congressional needs; the activities, progress and results of his activities under subsection]

[(d) ; and the progress that the executive branch has made during the past year.]

[(f) On or before March 1, 1975, and each year thereafter, the Director of the Office of Management and Budget and the Secretary of the Treasury shall report to the Congress on their plans for addressing the needs identified and specified under subsection (c), including plans for implementing changes to classifications and codes to meet the information needs of the Congress as well as the status of prior year system and classification implementations.]

**[“AVAILABILITY TO AND USE BY THE CONGRESS AND STATE  
AND LOCAL GOVERNMENTS OF FEDERAL FISCAL, BUDGETARY,  
AND PROGRAM-RELATED DATA AND INFORMATION]**

[“SEC. 203. (a) Upon request of any committee of either House, of any joint committee of the two Houses, of the Comptroller General, or of the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the heads of the various executive agencies shall—

[“(1) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office information as to the location and nature of available fiscal, budgetary, and program-related data and information;

[“(2) to the extent practicable, prepare summary tables of such data and information and any related information deemed necessary by such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office; and

[“(3) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office any program evaluations conducted or commissioned by any executive agency.]

[“(b) The Comptroller General, in cooperation with the Director of the Congressional Budget Office, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall—]

[“(1) develop, establish, and maintain an up-to-date inventory and directory of sources and information systems containing fiscal, budgetary, and program-related data and information and a brief description of their content;]

[“(2) provide, upon request, assistance to committees, joint committees, and Members of Congress in securing Federal fiscal, budgetary, and program-related data and information from the sources identified in such inventory and

directory; and]

[(3) furnish, upon request, assistance to committees and joint committees of Congress and, to the extent practicable, to Members of Congress in appraising and analyzing fiscal, budgetary, and program-related data and information secured from the sources identified in such inventory and directory.]

[(c) The Comptroller General and the Director of the Congressional Budget Office shall, to the extent they deem necessary, develop, establish, and maintain a central file or files of the data and information required to carry out the purposes of this title. Such a file or files shall be established to meet recurring requirements of the Congress for fiscal, budgetary, and program-related data and information and shall include, but not be limited to, data and information pertaining to budget requests, congressional authorizations to obligate and spend, apportionment and reserve actions, and obligations and expenditures. Such file or files and their indexes shall be maintained in such a manner as to facilitate their use by the committees of both Houses, joint committees, and other congressional agencies through modern data processing and communications techniques.]

[(d) The Director of the Office of Management and Budget, in cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, shall provide, to the extent practicable, State and local governments such fiscal, budgetary, and program-related data and information as may be necessary for the accurate and timely determination by these governments of the impact of Federal assistance upon their budgets.”]

[(b) The table of contents of the Legislative Reorganization Act of 1970 is amended by striking out—

**[“TITLE II—FISCAL CONTROLS]**

**[“PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA]**

“Sec. 201. Budgetary and fiscal data processing system.

“Sec. 202. Budget standard classifications.

“Sec. 203. Availability to Congress of budgetary, fiscal, and related data.”  
and inserting in lieu thereof—

**[“TITLE II—FISCAL AND BUDGETARY INFORMATION  
AND CONTROLS]**

**[“PART 1—FISCAL, BUDGET, AND PROGRAM-RELATED DATA AND INFORMATION]**

“Sec. 201. Federal fiscal, budgetary, and program-related data and in-

formation systems.

“Sec. 202. Standardization of terminology, definitions, classifications, and codes for fiscal, budgetary, and program-related data and information.

“Sec. 203. Availability to and use by the Congress and State and local governments of Federal fiscal, budget, and program-related data and information.”

[CHANGES IN FUNCTIONAL CATEGORIES]

[SEC. 802. Any change in the functional categories set forth in the Budget of the United States Government transmitted pursuant to section 201 of the Budget and Accounting Act, 1921, shall be made only in consultation with the Committees on Appropriations and the Budget of the House of Representatives and Senate.]<sup>133</sup>

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<sup>133</sup> Functional Categories have been created for budget resolutions, in addition to the ones included in first budget resolution in fiscal year 1976:

H. Con. Res. 393, House-passed budget resolution (fiscal year 2005): “Homeland Security (100)”.

S. Con. Res. 21 (fiscal year 2008): “Overseas Deployments and Other Activities (970)”.

S. Con. Res. 70 (fiscal year 2009): “Overseas Deployments and Other Activities (970)”.

S. Con. Res. 13 (fiscal year 2010): “Overseas Deployments and Other Activities (970)”.

H. Con. Res. 34, House-passed budget resolution (fiscal year 2012): “Global War on Terrorism and related activities (970)”.

H. Con. Res. 112, House-passed budget resolution (fiscal year 2013): “Global War on Terrorism” but did not include the function number in its text.

H. Con. Res. 25, House-passed budget resolution (fiscal year 2014):

H. Con. Res. 96, House-passed budget resolution (fiscal year 2015): “Government-wide savings (930)” and “Overseas Contingency Operations/Global War on Terrorism (970)”.

H. Con. Res. 27, House-passed budget resolution (fiscal year 2016): “Government-wide savings (930)” and “Overseas Contingency Operations/Global War on Terrorism (970)”.



# TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

## AMENDMENT TO THE RULES OF THE HOUSE

SEC. 901.<sup>134</sup> (a) Rule XI of the Rules of the House of Representatives (as amended by section 101(c) of this Act) is amended by inserting immediately after clause 22 the following new clause:

“22A. The respective areas of legislative jurisdiction under this rule are modified by title I of the Congressional Budget Act of 1974.”

(b) Paragraph (c) of clause 29 of Rule XI of the Rules of the House of Representatives (as redesignated by section 101(c) of this Act) is amended by inserting “the Committee on the Budget,” immediately after “the Committee on Appropriations,”.

(c) Subparagraph (5) of paragraph (a) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting “and the Committee on the Budget” immediately before the period of the end thereof.

(d) Subparagraph (4) of paragraph (a) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting “and the Committee on the Budget” immediately before the period at end hereof.

(e) Paragraph (d) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by striking out “the Committee on Appropriations may appoint” and inserting in lieu thereof “the Committee on Appropriations and the Committee on the Budget may each appoint”.

(f) Clause 32 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting “the Committee on the Budget,” immediately after “the Committee on the Appropriations,”.

(g) Paragraph (a) of clause 33 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting “the Committee on the Budget,” immediately after “the Committee on the Appropriations,”.

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<sup>134</sup> This section conforms the Rules of the House to the establishment of the Committee on the Budget of the House under section 101 of the Budget Act. The references in this section are to the House Rules before their recodification by H. Res. 5, adopted on January 6, 1999, as the organizing resolution of the 106<sup>th</sup> Congress. See House Rules and Manual, page xv, for a conversion chart indicating the sections as recodified.

CONFORMING AMENDMENTS  
TO STANDING RULES OF THE SENATE<sup>135</sup>

SEC. 902. Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out “Revenue” in subparagraph (h)1 and inserting in lieu thereof “Except as provided in the Congressional Budget Act of 1974, revenue”;

(2) by striking out “The” in subparagraph (h)(2) and inserting in lieu thereof “Except as provided in the Congressional Budget Act of 1974, the”; and

(3) by striking out “Budget” in subparagraph (j)(1)(A) and inserting in lieu thereof “Except as provided in the Congressional Budget Act of 1974, budget.”

AMENDMENTS TO LEGISLATIVE REORGANIZATION ACT 1946

SEC. 903. (a) Section 134(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190b(b))<sup>136</sup> is amended by inserting “or the Committee on the Budget” after “Appropriations”.

(b) Section 136(c) of such Act (2 U.S.C. 190d(c)) is amended by striking out “Committee on Appropriations of the Senate and the Committees on Appropriations,” and inserting in lieu thereof “Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget,”.

EXERCISE OF RULEMAKING POWERS

SEC. 904. [2 U.S.C. 621 note] (a) The provisions of this title and of titles I, III, IV, and V and the provisions of sections 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

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<sup>135</sup> Paragraph 1 of Rule XXV, Senate Standing Rules sets jurisdiction of Senate Committees, including the Senate Committees on Budget, Finance, and Governmental Affairs. Section 902 made conforming amendments.

<sup>136</sup> S. Res. 274, 96th Congress, 1st Session, Section 2(a), 125 Congressional Record, S16,588, S16,602 (November 14, 1979), repealed 2 U.S.C. 190b.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) WAIVERS.—

(1) PERMANENT.—Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) TEMPORARY.—Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), 312(c), and 314(e) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(i), 258B(f)(1), 258B(h)(1), 258B(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—

(1) PROCEDURE.—Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

(2) PERMANENT.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

(3) TEMPORARY.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(D), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.<sup>137</sup>

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<sup>137</sup> Section 3201 of S. Con. Res. 11 (114<sup>th</sup> Cong.) extended the date to September 30, 2025. “Notwithstanding any provision of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.), subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) shall remain in effect for purposes of Senate enforcement through September 30, 2025.”



*[SECTION 905 REPEALED]*[EFFECTIVE DATES]<sup>138</sup>

[SEC. 905. (a) Except as provided in this section, the provisions of this Act shall take effect on the date of its enactment.

[(b) Title II (except section 201(a), section 403, and section 502(c) shall take effect on the day on which the first Director of the Congressional Budget Office is appointed under 201(a).<sup>139</sup>

[(c) Except as provided in section 906, title III and section 402 shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years, and section 401 shall take effect on the first day of the second regular session of the Ninety-fourth Congress.

[(d) The amendments to the Budget and Accounting Act, 1921, made by sections 601, 603, and 604 shall apply with respect to the fiscal year beginning on July 1, 1975, and succeeding fiscal years, except that section 201(g) of such Act (as added by section 601) shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years and section 201(i) of such Act (as added by section 601) shall apply with respect to the fiscal year beginning on October 1, 1978, and succeeding years. The amendment to such Act made by section 602 shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years.]

*[SECTION 906 REPEALED]*[APPLICATION OF CONGRESSIONAL BUDGET PROCESS  
TO FISCAL YEAR 1976]

[SEC. 906. If the Committee on the Budget of the House of Representatives and the Senate both agree that it is feasible to report and act on a concurrent resolution on the budget referred to in section 301(a), or to apply any provision of title III or section 401 or 402, for the fiscal year beginning on July 1, 1975, and submit reports of such agreement to their respective Houses, then to the extent and in the manner specified in such reports, the provisions so specified in section 202(f) shall apply with respect to such fiscal year. If any provision so specified contains a date, such reports shall also specify a substitute date.]

<sup>138</sup> Sec. 10120 of Budget Enforcement Act of 1997 (105<sup>th</sup> Cong.) repealed sections 905 and 906. The BEA 1997 “repeals two obsolete sections in the Budget Act: the original effective dates for the Budget Act in section 905 and a special rule relating to the applicability of the Act for Fiscal Year 1976.” (Joint Explanatory Statement of the Managers of the Conference Committee; H. Rept. 105-217. July 29, 1997.) The BEA of 1997 is the short title X of the Balanced Budget Act of 1997 (Public Law 105-33), the reconciliation bill enacted pursuant to the Bipartisan Budget Agreement of that year between the Leadership of Congress (the Speaker of the House, Rep. Newt Gingrich, Majority Leader of the Senate, Senator Robert Dole, and Minority Leader of the Senate, Senator Thomas Daschle) and President William Clinton.

<sup>139</sup> Speaker of the House, Rep. Carl Albert and the President Pro Tem, Senator James Eastland, appointed Alice Rivlin the first CBO Director on February 25, 1975 (93<sup>rd</sup> Cong., Cong. Rec., p. 4151).

# TITLE X—IMPOUNDMENT CONTROL

## PART A—GENERAL PROVISIONS<sup>140</sup>

### DISCLAIMER

SEC. 1001. [2 U.S.C. 681] Nothing contained in this Act,<sup>141</sup> or in any amendments made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or

(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder.

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<sup>140</sup> Title X of the Congressional Budget and Impoundment Control Act of 1974 addressed the issue of impoundment. The term “impoundment” means the refusal of the President to spend Congressionally-appropriated, and legally enacted, budget authority. Funds were first impounded by President Thomas Jefferson, a practice followed by subsequent Presidents. Congress has granted the president the authority not to spend funds if it has appropriated more funds than necessary to accomplish its purposes.

The Impoundment Act of 1974 notwithstanding, the power to impound is limited by the U.S. Constitution. Even had Congress not enacted the Impoundment Control Act of 1974, the U.S. Supreme Court found in *Train v. City of New York*, 420 U.S. 35, 95 S. Ct. 839, 43 L. Ed. 2d 1 (1975), that President Richard M. Nixon could not order the impoundment of certain amounts of environmental protection funds for the Federal Water Pollution Control Act Amendments of 1972, a program with which he disagreed and which was enacted by Congress over his veto. The court held that the president does not have the power to override the will of Congress by refusing to expend amounts on a program with which he disagrees under the terms of the Constitution as well as this title of the Impoundment Control Act of 1974.

<sup>141</sup> Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 provides that “Parts A and B of title X may be cited as the ‘Impoundment Control Act of 1974’”. See *supra* at §101.

## AMENDMENT TO ANTIDEFICIENCY ACT

SEC. 1002.<sup>142</sup>

[Repealed]

## REPEAL OF EXISTING IMPOUNDMENT REPORTING PROVISION

SEC. 1003.<sup>143</sup>

[Repealed]

**PART B—CONGRESSIONAL CONSIDERATION OF  
PROPOSED RESCISSIONS, RESERVATIONS, AND  
DEFERRALS OF BUDGET AUTHORITY**

## DEFINITIONS

SEC. 1011. [2 U.S.C. 682] For purposes of this part—

(1) “deferral of budget authority” includes—

(A) withholding or delaying the obligations or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) “Comptroller General” means the Comptroller General of the United States;

(3) “rescission bill” means a bill or joint resolution which only rescinds in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President’s message is received by the Congress;

(4) “impoundment resolution” means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and

<sup>142</sup> Section 1002 was repealed by Public Law 97-258. The Antideficiency Act was codified in the 19<sup>th</sup> Century. 31 U.S.C. 1512. et seq. P.L. 97-258 (no short title) reorganized budget-related provisions of law. US Code, Title 31.

<sup>143</sup> This was repealed at the same time as section 1002. See §181, *supra*.

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 1012, and the 25-day periods referred to in sections 1016 and 1017(b)(1). If a special message is transmitted under section 1012 during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and section 1012 (with respect to such message) shall commence on the day after such first day.

#### RESCISSION OF BUDGET AUTHORITY

SEC. 1012. [2 U.S.C. 683] (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the determination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable,

the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.— Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

#### PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. 1013. [2 U.S.C. 684] (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the period of time during which the budget authority is proposed to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) CONSISTENCY WITH LEGISLATIVE POLICY<sup>144</sup>.—Deferrals shall be permissible only—

(1) to provide for contingencies;

(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.<sup>145</sup>

(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.

#### TRANSMISSION OF MESSAGES; PUBLICATION

SEC. 1014. [2 U.S.C. 685] (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 1012 or 1013 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 1012 or 1013 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 1012 and 1013, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

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<sup>144</sup> This text is used in the Antideficiency Act (31 USC Sec. 1512(c)(1)). (See *infra* at §330) to preclude Presidents from implementing “policy” impoundments, but to allow “programmatically” impoundments.

<sup>145</sup> In *City of New Haven v. United States*, 809 F.2d 900 (D.C. Cir. 1987), this section was held unconstitutional since it included a Legislative Veto (*INS v. Chadha*, 462 U.S. 919 (1983)). The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 amended it with the instant text.

(1) in the case of a special message transmitted under section 1012, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and

(2) in the case of a special message transmitted under section 1013, (A) the facts surrounding each proposed deferral of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.

(c) TRANSMISSION OF SUPPLEMENTARY MESSAGES.—If any information contained in a special message transmitted under section 1012 or 1013 is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a). The Comptroller General shall promptly notify the House of Representatives and the Senate of any change in the information submitted by him under subsection (b) which may be necessitated by such revision.

(d) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 1012 or 1013, and any supplementary message transmitted under subsection (c), shall be printed in the first issue of the Federal Register published after such transmittal.

(e) CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.—

(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

(A) he has transmitted a special message under section 1012 with respect to a proposed rescission or a reservation; and

(B) he has transmitted a special message under section 1013 proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 1012 or 1013.

(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission.

## REPORTS BY COMPTROLLER GENERAL

SEC. 1015. [2 U.S.C. 686] (a) FAILURE TO TRANSMIT SPECIAL MESSAGE.—If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 1012 or 1013; or

(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority; and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of this part shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by the President under section 1012 or 1013, and, for purposes of this part, such report shall be considered a special message transmitted under section 1012 or 1013.

(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.—If the President has transmitted a special message to both Houses of Congress in accordance with section 1012 or 1013, and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.<sup>146</sup>

## SUITS BY COMPTROLLER GENERAL

SEC. 1016. [2 U.S.C. 687] If, under this title, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency,

<sup>146</sup> The Comptroller General has not made a report under this subsection.



officer, or employee of the United States, any decree, judgment, or order, which may be necessary or appropriate to make such budget authority available for obligation. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

PROCEDURE IN HOUSE AND SENATE

SEC. 1017. [2 U.S.C. 688] (a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) DISCHARGE OF COMMITTEE.—

(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.<sup>147</sup>—

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate

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<sup>147</sup> Under the Impoundment Control Act, the President may propose to rescind all or part of the budget authority Congress has appropriated for a particular program. To propose a rescission, the President must send a special message to Congress detailing the amount of the proposed rescission, the reasons for it, and a summary of the effects the rescission would have on the programs involved. Sec. 1012(a) of the Impoundment Control Act. Under the Act, Congress then has 45 days within which to approve the proposed rescission by a “rescission bill” that must be passed by both Houses. Sec. 1012(b) of the Impoundment Control Act. If the rescission bill is not approved, the President must allow the full amount appropriated to be spent.

The 45-day period prescribed by the Act applies only to the initial consideration of the bill; the consideration of a conference report on such a bill is subject only to the general rules of the House relating to conference reports and is not prevented by the expiration of the 45-day period following the initial consideration of the bill. [See *House Manual*—Sec. 1130(6A)].

The Impoundment Control Act sets forth detailed procedures expediting and governing the consideration of a rescission bill introduced under its provisions. Sec. 1017(a)-(c) of the Impoundment Control Act. These procedures are rarely invoked in the modern practice, and the “rescission bill” referred to in the Act is not the only means by which the House may take action on such a matter. The House may address the question through other legislation without following the procedures set forth in section 1017 of the Impoundment Control Act of 1974 (from *House Practice*, 108<sup>th</sup> Congress, page 194).

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(d) FLOOR CONSIDERATION IN THE SENATE.—

(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor in any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit

shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided, between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be receive

**CONSTITUTIONALITY OF  
THE LINE ITEM VETO ACT OF 1996**

The United States Supreme Court, in *Clinton v. City of New York*, U.S. Dist. Col. 1998, 118 S.Ct. 2091, 141 L.Ed.2d 393, held the Line Item Veto Act of 1996, Pub. L. 104-130, April 9, 1996, 110 Stat. 1200, part C of title X of the Congressional Budget and Impoundment Control Act of 1974, to be unconstitutional as a violation of the Presentment Clause of the United States Constitution (Art. I, §7, cl. 2).

**PART C—LINE ITEM VETO**

LINE ITEM VETO AUTHORITY

SEC. 1021 [2 U.S.C. 691] (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

- (1) any dollar amount of discretionary budget authority;
- (2) any item of new direct spending; or
- (3) any limited tax benefit; if the President—
  - (A) determines that such cancellation will—
    - (i) reduce the Federal budget deficit;
    - (ii) not impair any essential Government functions; and not harm the national interest; and
    - (iii) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

- (1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;
- (2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and
- (3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

SPECIAL MESSAGES

SEC. 1022. [2 U.S.C. 691a] (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.<sup>148</sup>

(b) CONTENTS.—

(1) The special message shall specify—

(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

(B) the determinations required under section 1021(a), together with any supporting material;

(C) the reasons for the cancellation;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of

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<sup>148</sup> Joint Statement of Managers on the Line Item Veto Act of 1996: “Section 1022 provides that, if the President cancels provisions within a law, a special message must be submitted to Congress. A separate special message must be submitted for each law from which a cancellation is made. Similar to the requirements in section 1012 of the Impoundment Control Act of 1974, the conference report requires that the President’s special message include relevant supporting material about each cancellation and its budgetary impact. The conferees intend this requirement to ensure that the Congress and the public receive sufficient information with which to judge the President’s action.”

1985.

(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable—

(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

(B) the specific States and congressional districts, if any, affected by the cancellation; and

(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

#### CANCELLATION EFFECTIVE UNLESS DISAPPROVED

SEC. 1023. [2 U.S.C. 691b] (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit<sup>149</sup> shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

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<sup>149</sup> The definition of “limited tax benefit” is set forth in section 1026(9) of this Act. Clause 9 of rule XXI of the Rules of the House also defines this term for purposes of the point of order set forth in that clause.

(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

DEFICIT REDUCTION

SEC. 1024. [2 U.S.C. 691c] (a) IN GENERAL.—

(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—

(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.



(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) EXCEPTIONS.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

EXPEDITED CONGRESSIONAL CONSIDERATION  
OF DISAPPROVAL BILLS

SEC. 1025. [2 U.S.C. 691d] (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.<sup>150</sup>

(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

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<sup>150</sup> On November 13, 1997, President William J. Clinton vetoed H.R. 2631, the first disapproval bill to reach his desk under the provisions of the Line Item Veto Act of 1996. The House voted to override on Feb. 5, 1998 (347-69), and the Senate voted to do so on Feb. 25, 1998 (78-20). Hence the disapproval bill was enacted over the President's veto (P.L. 105-159).

(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without

intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(2) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

(3) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

(e) CONSIDERATION IN THE SENATE.—

(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

(4) AMENDMENTS.—

(A) AMENDMENT IN ORDER.—The only amendments in order to a disapproval bill are—

(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

(i) to waive or suspend this paragraph; or

(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) LIMIT ON CONSIDERATION.—(A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate

(except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(f) CONSIDERATION IN CONFERENCE.—

(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

## DEFINITIONS

SEC. 1026. [2 U.S.C. 691e] As used in this part:

(1) APPROPRIATIONS LAW.—The term “appropriation law” means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

(2) CALENDAR DAY.—The term “calendar day” means a standard 24-hour period beginning at midnight.

(3) CALENDAR DAYS OF SESSIONS.—The term “calendar days of session” shall mean only those days on which both Houses of Congress are in session.

(4) CANCEL.—The term “cancel” or “cancellation” means—

(A) with respect to any dollar amount of discretionary budget authority, to rescind;

(B) with respect to any item of new direct spending—

(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

(5) DIRECT SPENDING.—The term “direct spending” means—

(A) budget authority provided by law (other than an appropriation law);

(B) entitlement authority; and

(C) the food stamp program.

(6) DISAPPROVAL BILL.—The term “disapproval bill” means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

(A) the title of which is as follows: "A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_," the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

(B) which does not have a preamble; and

(C) which provides only the following after the enacting clause: "That Congress disapproves of cancellations \_\_\_\_\_", the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, "as transmitted by the President in a special message on \_\_\_\_\_", the blank space being filled in with the appropriate date, "regarding \_\_\_\_\_.", the blank space being filled in with the public law number to which the special message relates.

(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term "dollar amount of discretionary budget authority" means the entire dollar amount of budget authority—

(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.



(B) The term “dollar amount of discretionary budget authority” does not include—

- (i) direct spending;
- (ii) budget authority in an appropriation law which funds direct spending provided for in other law;
- (iii) any existing budget authority rescinded or canceled in an appropriation law; or
- (iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

(8) ITEM OF NEW DIRECT SPENDING.—The term “item of new direct spending” means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(9) LIMITED TAX BENEFIT.—(A) The term “limited tax benefit” means—

- (i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and
- (ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

- (i) all persons in the same industry or engaged in the same type of activity receive the same treatment;
- (ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or
- (iii) any difference in the treatment of persons is based solely on—

(I) in the case of businesses and associations, the size or form of the business or association involved;

(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

(III) the amount involved; or

(IV) a generally-available election under the Internal Revenue Code of 1986.

(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

(D) For purposes of subparagraph (A)—

(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

(ii) all qualified plans of an employer shall be treated as a single beneficiary;

(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

(E) For purposes of this paragraph, the term “revenue losing provision” means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

(i) the first fiscal year for which the provision is effective; or

(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

(10) OMB.—The term “OMB” means the Director of the Office of Management and Budget.

## IDENTIFICATION OF LIMITED TAX BENEFITS

SEC. 1027 [2 U.S.C. 691f] (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

(2) The separate section permitted under paragraph (1) shall read as follows: “Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall \_\_\_\_\_ apply to \_\_\_\_\_.”, with the blank spaces being filled in with—

(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word “only” in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word “not” in the first blank space and the phrase “any provision of this Act” in the second blank space.

(c) PRESIDENT’S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax bene-

fit in that law, if any, identified in such separate section;  
or

(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

(d) CONGRESSIONAL IDENTIFICATION OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.



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**BALANCED BUDGET AND EMERGENCY  
DEFICIT CONTROL ACT OF 1985**

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BALANCED BUDGET AND  
EMERGENCY DEFICIT CONTROL ACT OF 1985

H. J. RES. 372, PUBLIC LAW 99-177

Sponsor:	No Sponsor
August 1, 1985	Introduced in House
August 1, 1985	Passed/agreed to in House.
September 26, 1985	Committee on Finance. Reported to Senate by Senator Packwood without amendment. With written report No. 99-144. Additional views filed.
October 10, 1985	Passed Senate with amendments by Yea-Nay Vote. 51-37. Record Vote No: 222.
October 11, 1985	Resolving differences—House actions: House Disagreed to Senate Amendments by Unanimous Consent.
November 1, 1985	Conference Report 99-351 Filed in House.
November 1, 1985	House Receded and Concurred With an Amendment in Senate Amendments.
November 1, 1985	House Receded and Concurred in Senate Amendment 003.
November 2, 1985	Senate agreed to conference report by Unanimous Consent.
November 2, 1985	Senate agreed to the first House amendment to the first Senate amendment. By Unanimous Consent.
November 6, 1985	House Disagreed to Senate Amendments to House Amendments to Senate Amendments 001, 002 by Unanimous Consent.
December 10, 1985	Conference Report 99-433 Filed in House.
December 11, 1985	House Agreed to Conference Report: 271 - 154 (Record Vote: 454).
December 11, 1985	Senate Agreed to Conference: 61-31 (Record Vote 371).
December 11, 1985	Cleared for White House.
December 11, 1985	Presented to President.
December 12, 1985	Signed by President.
December 12, 1985	Became Public Law 99-177.

BALANCED BUDGET AND EMERGENCY DEFICIT  
CONTROL ACT OF 1985

Public Law 99-177, December 12, 1985, Title II, December 12, 1985, 99 Stat. 1038

*Amendments*

- Balanced Budget and Emergency Deficit Reaffirmation Act of 1987; Public Law 100-119, Title I, September 28, 1987; 101 Stat. 754.
- Budget Enforcement Act of 1990; Public Law 101-508, Title XIV, Subtitle A, Part I; November 5, 1990; 104 Stat. 1388-573, 1388-574.
- Omnibus Budget Reconciliation Act of 1993; Public Law 103-66, Title XIV; August 10, 1993; 107 Stat. 312, 683.
- Violent Crime Control and Law Enforcement Act of 1994; Public Law 103-322, Title XXXI; September 13, 1994; 108 Stat. 1796, 2102.
- The Balanced Budget Act of 1997; Public Law 105-33, August 5, 1997; 111 Stat. 251.
- Transportation Equity Act for the 21st Century; June 9, 1998; 112 Stat. 488.
- TEA 21 Restoration Act; Public Law 105-206; July 22, 1998; 115 Stat. 865.
- Statutory Pay-As-You-Go-Act of 2010; Public Law 111-139; February 12, 2010; 124 Stat. 8.
- Budget Control Act of 2011; Public Law 112-25; August 2, 2011; 125 Stat. 240.
- Bipartisan Budget Act of 2013; December 26, 2013; Public Law 113-67; 127 Stat. 1165, 1166, 1167, 1168, 1174, 1175.
- South Utah Valley Electric Conveyance Act; Public Law 113-82; February 15, 2014; 128 Stat. 1009.
- Protecting Access to Medicare Act of 2014; Public Law 113-93; April 1, 2014; 128 Stat. 1077.



NOTE ON THE CONSTITUTIONALITY OF THE BALANCED BUDGET  
AND EMERGENCY DEFICIT CONTROL ACT OF 1985

As originally enacted, the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) assigned the responsibility of implementing sequestration to the Government Accountability Office (GAO) (then known as the General Accounting Office). Representative Michael Lynn Synar (D-OK) brought suit against the law over the structure of this arrangement since GAO is a Congressional support agency. The head of the GAO, the Comptroller General, is ultimately answerable to Congress, and could be relieved from the position, by unilateral action by the Legislative Branch.

Comptroller General Charles Arthur Bowsher was named as the defendant in the case. The Supreme Court found this part of BBEDCA to be unconstitutional in the case of *Bowsher v. Synar*. It held, in part:

“Under the constitutional principle of separation of powers, Congress cannot reserve for itself the power of removal of an officer charged with the execution of the laws except by impeachment. To permit the execution of the laws to be vested in an officer answerable only to Congress would, in practical terms, reserve in Congress control of the execution of the laws. The structure of the Constitution does not permit Congress to execute the laws; it follows that Congress cannot grant to an officer under its control what it does not possess.” *Bowsher v. Synar*, 478 U. S. 714, 715; see also *Bowsher v. Synar*, 478 U. S. at 721-734 (1986) (explaining rationale behind holding); cf. *INS v. Chadha*, 462 U.S. 919.

Partially as a reaction to this case, Congress revised the law by enacting the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, which delegated the responsibility for implementing sequestration to the Office of Management and Budget (OMB).

<sup>151</sup> This responsibility has stayed with OMB through the lapse of the BBEDCA sequestration and its subsequent revision under the Statutory Pay-As-You-Go Act of 2010 and the Budget Control Act of 2011. The former law has a method to circumvent this ruling by allowing a process by which estimates, prepared by the Congressional Budget Office, of the cost of legislation may be incorporated by reference into the calculation of the levels of the S-Paygo Scorecards.<sup>152</sup>

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<sup>151</sup> See the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, Pub. L. No. 100-119, 101 Stat. 754.

<sup>152</sup> See section 4(b) of the Statutory Pay-As-You-Go Act of 2010, §284, *infra*.

# BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

[PUBLIC LAW 99-177; 99 STAT. 1037; H.J. Res. 372;<sup>153</sup> DECEMBER 12, 1985]

Increasing the statutory limit on the public debt.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof “\$1,847,800,000,000, or \$2,078,700,000,000 on and after October 1, 1985.”<sup>154</sup>

## SEC. 2. MINIMUM CORPORATE TAX BY CORPORATIONS.

(a) Notwithstanding any other provision of this joint resolution, the Senate Committee on Finance is directed to report to the Senate by July 1, 1986, legislation providing for payment of an alternative minimum corporate tax by corporations on the broadest feasible definition of income to assure that all of those with economic income pay their fair share of taxes: *Provided,* That said alternative minimum corporate tax shall take effect for corporate tax years commencing on or after October 1, 1986. The revenue raised by this tax shall be applied to reduce the Federal deficit.

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<sup>153</sup> The increase in the debt ceiling was set forth in H.J. Res 372. It was passed by the House by operation of the “Gephardt Rule”. This rule of the House required the Clerk to prepare a joint resolution and deem it passed by the House, engross the measure and send it on to the Senate. The rule provided that the language of this joint resolution was set forth in the Joint Explanatory Statement of Managers on a conference report on the concurrent resolution on the budget for a fiscal year. When the conference report on the budget was adopted in the House, an increase in the debt ceiling was enrolled by the clerk. This law, BBEDCA, was initially adopted by the House in this way and under the terms of the House Rule, known as “the Gephardt Rule” (since repealed), and later amended to its final form. Under the Gephardt Rule, because the debt increase legislation is a joint resolution enrolled automatically upon the adoption of a concurrent resolution on the budget setting out its text, it formally has no sponsor. The Balanced Budget and Emergency Deficit Control Act of 1985 is one of the few bills enacted never formally introduced and has no Member of Congress as its sponsor.

<sup>154</sup> From 31 U.S.C. 3101: “Subsec. (b). Pub. L. 99-177 substituted ‘\$1,847,800,000,000, or \$2,078,700,000,000 on and after October 1, 1985’ for ‘\$1,575,700,000,000, or \$1,823,800,000,000 on and after October 1, 1984.’” See *infra* at §342.

(b) Notwithstanding any other provision of this joint resolution, the Committee on Ways and Means is directed to report to the House of Representatives legislation providing for payment of an alternative minimum corporate tax by corporations based upon the broadest feasible definition of income to assure that all of those with economic income pay their fair share of taxes: *Provided, That*, the Committee on Ways and Means shall report such legislation prior to October 1, 1986.<sup>155</sup>

**SEC. 3. ACHILLE LAURO HIJACKING.**

(a) The Senate finds that—

(1) the four men identified as the hijackers of the Achille Lauro were responsible for brutally murdering an innocent American citizen, Leon Klinghoffer, and for terrorizing hundreds of innocent crew members and passengers for two days;

(2) the United States urges all countries to aid in the swift apprehension, prosecution, and punishment of the terrorists; and

(3) the United States should not tolerate any country providing safe harbor or safe passage to the terrorists.

(b) It is the sense of the Senate that—

(1) the United States demands that no country provide safe harbor or safe passage to these terrorists,

(2) the United States expects full cooperation of all countries in the apprehension, prosecution, and punishment of these terrorists,

(3) the United States cannot condone the release of terrorists or the making of concessions to terrorists; and

(4) the United States identify those individuals responsible for the seizure of the Achille Lauro and the cold-blooded murder of Leon Klinghoffer, as well as those countries and groups that aid and abet such terrorist activities, and take the strongest measures to ensure that those responsible for this brutal act against an American citizen are brought to justice.

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<sup>155</sup> The Ways and Means Committee did not report legislation pursuant to this section on this subject. The issue of the alternative minimum corporate tax was included in the Tax Reform Act of 1986 (TRA) (Pub. L. 99-514, 100 Stat. 2085, October 22, 1986).

## TITLE II—DEFICIT REDUCTION PROCEDURES

### SEC. 200. [2 U.S.C. 900 note] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the “Balanced Budget and Emergency Deficit Control Act of 1985”.

(b) TABLE OF CONTENTS.—

Sec. 200. Short title and table of contents.

#### PART A—CONGRESSIONAL BUDGET PROCESS

##### SUBPART I—CONGRESSIONAL BUDGET

Sec. 201. Congressional budget.

##### SUBPART II—AMENDMENTS TO TITLE IV OF THE CONGRESSIONAL BUDGET ACT OF 1974

Sec. 211. New spending authority.

Sec. 212. Credit authority.

Sec. 213. Description by Congressional Budget Office.

Sec. 214. General Accounting Office study; off-budget agencies; member user group.

##### SUBPART III—ADDITIONAL PROVISIONS TO IMPROVE BUDGET PROCEDURES

Sec. 221. Congressional Budget Office.

Sec. 222. Current services budget for congressional budget purposes.

Sec. 223. Study of off-budget agencies.

Sec. 224. Changes in functional categories.

Sec. 225. Jurisdiction of Committee on Government Operations.

Sec. 226. Continuing study of congressional budget process.

Sec. 227. Early election of committees of the House.

Sec. 228. Rescissions and transfers in appropriation bills.

##### SUBPART IV—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 231. Table of contents.

Sec. 232. Additional technical and conforming amendments.

#### PART B—BUDGET SUBMITTED BY THE PRESIDENT

Sec. 241. Submission of President's budget; maximum deficit amount may not be exceeded.

Sec. 242. Supplemental budget estimates and changes.

#### PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

Sec. 251. Reporting of excess deficits.

Sec. 252. Presidential order.

Sec. 253. Compliance report by Comptroller General.

Sec. 254. Congressional action.

Sec. 255. Exempt programs and activities.

Sec. 256. Exceptions, limitations, and special rules.

Sec. 257. Definitions.

## PART D—BUDGETARY TREATMENT OF SOCIAL SECURITY TRUST FUNDS

Sec. 261. Treatment of trust funds.

## PART E—MISCELLANEOUS AND RELATED PROVISIONS

Sec. 271. Waivers and suspensions; rulemaking powers.

Sec. 272. Restoration of trust fund investments.

Sec. 273. Revenue estimates.

Sec. 274. Judicial review.

Sec. 275. Effective dates.

## PART A—CONGRESSIONAL BUDGET PROCESS

## SUBPART I—CONGRESSIONAL BUDGET

## SEC. 201. CONGRESSIONAL BUDGET.

(1) Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:<sup>156</sup>

[...]

## SUBPART II—AMENDMENTS TO TITLE IV OF THE CONGRESSIONAL BUDGET ACT OF 1974

## SEC. 211. NEW SPENDING AUTHORITY.

[See *supra* at §131 (sec. 401 of the Budget Act on new entitlement authority and contract authority)]

## SEC. 212. CREDIT AUTHORITY.

[See *supra* at §132 (sec. 402 of the Budget Act setting forth requirements of estimates by CBO)]

## SEC. 213. DESCRIPTION BY CONGRESSIONAL BUDGET OFFICE.

[See *supra* at §132 (sec. 402 of the Budget Act setting forth requirements of estimates by CBO)]

## SEC. 214. GENERAL ACCOUNTING OFFICE STUDY; OFF-BUDGET AGENCIES; MEMBER USER GROUP.

[See *supra* at §134 and §135 (secs. 404 and 405 of the Budget Act)]

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<sup>156</sup> Section 201 amended section 3 of the Congressional Budget Act of 1974 by setting forth definitions for the terms “deficit”, “maximum deficit amount”, “off-budget entity”, “entitlement authority”, and “credit authority”. It also amended and revised significantly Title III of that Act, giving it largely the structure that it currently has, though it has been significantly revised since the enactment of BBEDCA in 1985 by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Pub. L. 100–119, title I, Sept. 29, 1987, 101 Stat. 754, 2 U.S.C. § 900), the Budget Enforcement Act of 1990, the Budget Enforcement Act of 1997, the Budget Control Act of 2011, and the Bipartisan Budget Act of 2013.

SUBPART III—ADDITIONAL PROVISIONS  
TO IMPROVE BUDGET PROCEDURES

**SEC. 221. CONGRESSIONAL BUDGET OFFICE.**<sup>157</sup>

[...]

**SEC. 222. CURRENT SERVICES BUDGET FOR CONGRESSIONAL BUDGET PURPOSES.**

[...]

**SEC. 223. STUDY OF OFF-BUDGET AGENCIES.**<sup>158</sup>

[...]

**SEC. 224. CHANGES IN FUNCTIONAL CATEGORIES.**

[...]

**SEC. 225. JURISDICTION OF COMMITTEE ON GOVERNMENT OPERATIONS.**<sup>159</sup>

[...]

**SEC. 226. CONTINUING STUDY OF CONGRESSIONAL BUDGET PROCESS.**<sup>160</sup>

[...]

**SEC. 227. EARLY ELECTION OF COMMITTEES OF THE HOUSE.**

[...]

**SEC. 228. RESCISSIONS AND TRANSFERS IN APPROPRIATION BILLS.**<sup>161</sup>

[...]

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<sup>157</sup> This section amended title II of the Congressional Budget Act of 1974 by inserting the requirement that the Congressional Budget Office, before January 15 of each year, submit a report listing all the programs and activities funded for a fiscal year but for which an authorization is not in effect.

<sup>158</sup> Section 223 repealed a provision in the original Congressional Budget Act of 1974 (section 606) that directed the Committees on the Budget to “study on a continuing basis those provisions of law which exempt agencies of the Federal Government, or any of their activities or outlays, from inclusion in the Budget.”

<sup>159</sup> Section 225 provided the Committee on Government Operations, in the 114<sup>th</sup> Congress the “Committee on Oversight and Government Reform,” with the jurisdiction over “measures providing for off-budget treatment of Federal agencies or programs.” This jurisdiction has since been shifted to the Committee on the Budget of the House.

<sup>160</sup> This section provided the Committee on Rules of the House the jurisdiction and responsibility to review the Congressional budget process and “report its findings and recommendations from time to time.” The Committee on the Budget of the House now has jurisdiction over the budget process “generally” supplanting this responsibility.

<sup>161</sup> This subsection (a) added language to the current clause 2(b) of rule XXI of the Rules of the House: “... except rescissions of appropriations contained in appropriation Acts”. Subsection (b) added this language to current clause 2 of rule XXI: “shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, reported by the Committee on Appropriations”. See §361, *infra*.

## SUBPART IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 231. TABLE OF CONTENTS.<sup>162</sup>

[...]

SEC. 232. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.<sup>163</sup>

[...]

**PART B — BUDGET SUBMITTED BY THE PRESIDENT**

## SEC. 241. SUBMISSION OF PRESIDENT'S BUDGET; MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.

(a) SUBMISSION OF PRESIDENT'S BUDGET.—The first sentence of section 1105(a) of title 31, United States Code, is amended by striking out “During the first 15 days of each regular session of Congress” and inserting in lieu thereof the following: “On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)”.<sup>164</sup>

(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.<sup>165</sup>—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

[...]

## SEC. 242. SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.

(a) CHANGE IN DATE OF SUBMISSION.—The first sentence of section 1106(b) of title 31, United States Code, is amended by striking out “April 11 and”.

(b) REVISIONS AND SUPPLEMENTAL SUMMARIES.—Section 1106 of title 31 of such Code is further amended by adding at the end thereof the following new subsection:

[...]

<sup>162</sup> This section amended the table of contents in section 1(b) of the Congressional Budget Act of 1974: “TITLE III—CONGRESSIONAL BUDGET PROCESS”.

<sup>163</sup> This section amended the table of contents set forth in section 1(b) of the Congressional Budget Act of 1974: “TITLE IV—CONGRESSIONAL BUDGET PROCESS”. This section also corrected date changes and typographical errors.

<sup>164</sup> This changed the required Presidential submission from “during the first 15 days of each regular session of Congress” to “on or before the first Monday after January 3 of each year.” The Budget Enforcement Act of 1990 later amended this to how it reads currently: “On or after the first Monday in January but not later than the first Monday in February of each year.”

<sup>165</sup> This required budgets transmitted to Congress under 31 U.S.C. §1105(a) use the “best estimates then available” of the levels of deficit in that budget. It also required those deficits be no higher than the permitted Maximum Deficit Amounts provided for in law. At that time paragraph (7) of Sec. 3 of the Congressional Budget Act of 1974 set these levels. Maximum Deficit Amounts were subsequently transferred to section 253 of BBEDCA. See §205, *infra*.

**PART C — EMERGENCY POWERS TO  
ELIMINATE DEFICITS IN EXCESS OF MAXIMUM  
DEFICIT AMOUNT**

**SEC. 250. [2 U.S.C. 900] TABLE OF CONTENTS; STATEMENT OF  
BUDGET ENFORCEMENT THROUGH SEQUESTRATION;  
DEFINITIONS.<sup>166</sup>**

(a) TABLE OF CONTENTS.—

- Sec. 250. Table of contents; budget enforcement statement; definitions.
- Sec. 251. Enforcing discretionary spending limits.
- Sec. 251A. Enforcement of budget goal.
- Sec. 252. Enforcing pay-as-you-go.
- Sec. 253. Enforcing deficit targets.
- Sec. 254. Reports and orders.
- Sec. 255. Exempt programs and activities.
- Sec. 256. General and special sequestration rules.
- Sec. 257. The baseline.
- Sec. 258. Suspension in the event of war or low growth.
- Sec. 258A. Modification of presidential order.
- Sec. 258B. Alternative defense sequestration.
- Sec. 258C. Special reconciliation process.

(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for budget enforcement as called for in House Concurrent Resolution 84<sup>167</sup> (105th Congress, 1st session).

(c) DEFINITIONS.— As used in this part:

(1) The terms “budget authority”, “new budget authority”, “outlays”, and “deficit” have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and “discretionary spending limit” shall mean the amounts specified in section 251 of this Act.

(2) The terms “sequester” and “sequestration” refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) The term “breach” means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary ap-

<sup>166</sup> For purposes of the Statutory Pay-As-You-Go Act of 2010 (title I of Public Law 111–139; February 12, 2010; 124 Stat. 8), sections 255, 256, 257, and 274 of BBEDCA also apply to the provisions of Title I of that Act.

<sup>167</sup> H. Con. Res. 84 was the conference report on the Concurrent Resolution on the Budget for Fiscal Year 1998. It provided for the Bipartisan Budget Agreement announced by the Congressional Leadership and President William J. Clinton on May 2, 1997, which was finalized May 15, 1997. Through the reconciliation process, this Agreement became the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997. Though these were two separate bills as enacted and filed, they stemmed from the same legislative procedure and only divided into the two laws at the end of the process.



propriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4)<sup>168</sup>(A) The term "nonsecurity category" means all discretionary appropriations not included in the security category defined in subparagraph (B).

(B) The term "security category" includes discretionary appropriations associated with agency budgets for the Department of Defense, the Department of Homeland Security, the Department of Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account (95-0401-0-1-054), and all budget accounts in budget function 150 (international affairs).

(C) The term "discretionary category" includes all discretionary appropriations.

(D) The term "revised security category" means discretionary appropriations in budget function 050.

(E) The term "revised nonsecurity category" means discretionary appropriations other than in budget function 050.

(F) The term "category" means the subsets of discretionary appropriations in section 251(c). Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.

(5) The term "baseline" means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(6) The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

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<sup>168</sup> Under current law, the terms "nonsecurity category" in (A), "security category" in (B), and "discretionary category" in (C) are no longer in use. Originally put in place by the Budget Control Act of 2011, they have been eliminated from statute by amendment and the terms of the BCA. The Bipartisan Budget Act of 2013 changed the use of the terms. See §296, *infra*.

(7) The term “discretionary appropriations” means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

(8) The term “direct spending” means—

(A) budget authority provided by law other than appropriation Acts;

(B) entitlement authority; and

(C) the Supplemental Nutrition Assistance Program.

(9) The term “current” means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget.

(10) The term “real economic growth”, with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(11) The term “account” means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President’s budget.

(12) The term “budget year” means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.<sup>169</sup>

(13) The term “current year” means, with respect to a budget year, the fiscal year that immediately precedes that budget year.<sup>170</sup>

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<sup>169</sup> The “budget year” as defined here and the first year of the budget resolution are not always the same fiscal year since they are defined differently. The first fiscal year of the period of fiscal years required under section 301(a) of the Budget Act covered by the concurrent resolution on the budget is often the same as the statutorily defined “budget year”, but not always. A resolution budget year may be in force for a fiscal year when a session of Congress first meets which means the “budget year” will be the fiscal year beginning October 1 of that session, hence following the budget resolution year.

<sup>170</sup> The “current year” does not meaningfully exist between October 1 of a calendar year and the beginning date of a session of Congress (session date). This occurs because the fiscal year preceding the “budget year” will end at the end of September 30 of each year, but the “budget year” will not begin until the following calendar year session date. Between October 1 and the session date, the “current year” is a reference to an expired fiscal year. This

(14) The term “outyear” means a fiscal year one or more years after the budget year.

(15) The term “OMB” means the Director of the Office of Management and Budget.

(16) The term “CBO” means the Director of the Congressional Budget Office.

(17) As used in this part, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1997.<sup>171</sup>

(18) The term “deposit insurance” refers to the expenses of the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

(19) The term “asset sale” means the sale to the public of any asset (except for those assets covered by title V of the Congressional Budget Act of 1974), whether physical or financial, owned in whole or in part by the United States.<sup>172</sup>

(20) The term “emergency”<sup>173</sup> means a situation that—

(A) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and

(B) is unanticipated.

(21) The term “unanticipated” means that the underlying situation is—

(A) sudden, which means quickly coming into being or not building up over time;

(B) urgent, which means a pressing and compelling need requiring immediate action;

(C) unforeseen, which means not predicted or anticipated as an emerging need; and

(D) temporary, which means not of a permanent duration.

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differs from a “resolution budget year” in that the preceding year is the one before a fiscal year for which a budget resolution has been adopted.

<sup>171</sup> Part IV of this Compendium includes a list of these appropriations.

<sup>172</sup> See Rule 15 from the Scorekeeping Guidelines, *infra* in Part IV.

<sup>173</sup> The report on H.R. 853, the Comprehensive Budget Process Reform Act of 1999 said this definition was “an objective yet broad definition” that drew “from a definition developed by [OMB] in 1991.” On May 16, 2000, it failed to pass, but includes invaluable information on budget concepts and definitions.

**SEC. 251. [2 U.S.C. 901] ENFORCING DISCRETIONARY SPENDING LIMITS.****(a) ENFORCEMENT.—**

(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

(2) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any personnel account from sequestration under section 255(f), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(f)<sup>174</sup> has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full year appropriation for that account.

(5) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category)

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<sup>174</sup> Section 255 of BBEDCA lists the accounts exempted from sequestration procedures, and includes the following: “(f) OPTION EXEMPTION OF MILITARY PERSONNEL”. This subsection includes a requirement that if the President exercises the exemption authority he must notify Congress of the manner by which it is exercised.

ry), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

(6) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category for that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

(7) ESTIMATES.—

(A) CBO ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by that legislation.

(B) OMB ESTIMATES AND EXPLANATION OF DIFFERENCES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by that legislation, and an explanation of any difference between the 2 estimates. If during the preparation of the report OMB determines that there is a significant difference between OMB and CBO, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation shall include, to the extent practicable, written communication to those committees that affords such committees the opportunity to comment before the issuance of the report.

(C) ASSUMPTIONS AND GUIDELINES.—OMB estimates under this paragraph shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph. OMB and CBO shall prepare

estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the Committees on the Budget of the House of Representatives and the Senate, CBO, and OMB.

(D) ANNUAL APPROPRIATIONS.—For purposes of this paragraph, amounts provided by annual appropriations shall include any discretionary appropriations for the current year, if any, and the budget year in accounts for which funding is provided in that legislation that result from previously enacted legislation.

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions, minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate, and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

(2) SEQUESTRATION REPORTS.—When OMB submits a sequestration report under section 254(e), (f), or (g) for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year, as follows:

(A) EMERGENCY APPROPRIATIONS; OVERSEAS CONTINGENCY OPERATIONS/GLOBAL WAR ON TERRORISM.—If, for any fiscal year, appropriations for discretionary accounts are enacted that—

(i) the Congress designates as emergency requirements in statute on an account by account basis and the President subsequently so designates, or

(ii) the Congress designates for Overseas Contingency Operations/Global War on Terrorism in statute on an account by account basis and the President subsequently so designates, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements or for Overseas Contingency Operations/Global War on Terrorism, as applicable.

(B) CONTINUING DISABILITY REVIEWS AND REDETERMINATIONS.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for continuing disability reviews under titles II and XVI of the Social Security Act<sup>175</sup> and for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act, then the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such expenses for that fiscal year, but shall not exceed—

(I) for fiscal year 2012, \$623,000,000 in additional new budget authority;

(II) for fiscal year 2013, \$751,000,000 in additional new budget authority;

(III) for fiscal year 2014, \$924,000,000 in additional new budget authority;

(IV) for fiscal year 2015, \$1,123,000,000 in additional new budget authority;

(V) for fiscal year 2016, \$1,166,000,000 in additional new budget authority;

(VI) for fiscal year 2017, \$1,309,000,000 in additional new budget authority;

(VII) for fiscal year 2018, \$1,309,000,000 in additional new budget authority;

(VIII) for fiscal year 2019, \$1,309,000,000 in additional new budget authority;

(IX) for fiscal year 2020, \$1,309,000,000 in additional new budget authority; and

(X) for fiscal year 2021, \$1,309,000,000 in additional new budget authority.

(ii) As used in this subparagraph—

(I) the term “continuing disability reviews” means continuing disability reviews under sections 221(i) and 1614(a)(4) of the Social Security Act;<sup>176</sup>

<sup>175</sup> 42 U.S.C. 401 et seq., 1381 et seq.

<sup>176</sup> 42 U.S.C. 421(i) and 1382c(a)(4)

(II) the term “redetermination” means redetermination of eligibility under sections 1611(c)(1) and 1614(a)(3)(H) of the Social Security Act; and

(III) the term “additional new budget authority” means the amount provided for a fiscal year, in excess of \$273,000,000, in an appropriation Act and specified to pay for the costs of continuing disability reviews and redeterminations under the heading “Limitation on Administrative Expenses” for the Social Security Administration.

(C) HEALTH CARE FRAUD AND ABUSE CONTROL.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for the health care fraud abuse control program at the Department of Health and Human Services (75–8393–0–7–571), then the adjustments for that fiscal year shall be the amount of additional new budget authority provided in that Act for such program for that fiscal year, but shall not exceed—

(I) for fiscal year 2012, \$270,000,000 in additional new budget authority;

(II) for fiscal year 2013, \$299,000,000 in additional new budget authority;

(III) for fiscal year 2014, \$329,000,000 in additional new budget authority;

(IV) for fiscal year 2015, \$361,000,000 in additional new budget authority;

(V) for fiscal year 2016, \$395,000,000 in additional new budget authority;

(VI) for fiscal year 2017, \$414,000,000 in additional new budget authority;

(VII) for fiscal year 2018, \$434,000,000 in additional new budget authority;

(VIII) for fiscal year 2019, \$454,000,000 in additional new budget authority;

(IX) for fiscal year 2020, \$475,000,000 in additional new budget authority; and

(X) for fiscal year 2021, \$496,000,000 in additional new budget authority.

(ii) As used in this subparagraph, the term “additional new budget authority” means the amount provided for a fiscal year, in excess of \$311,000,000, in an appropriation Act and specified to pay for the costs of the health care fraud and abuse control program



(D) DISASTER FUNDING.—

(i) If, for fiscal years 2012 through 2021, appropriations for discretionary accounts are enacted that Congress designates as being for disaster relief in statute, the adjustment for a fiscal year shall be the total of such appropriations for the fiscal year in discretionary accounts designated as being for disaster relief, but not to exceed the total of—

(I) the average funding provided for disaster relief over the previous 10 years, excluding the highest and lowest years; and

(II) the amount, for years when the enacted new discretionary budget authority designated as being for disaster relief for the preceding fiscal year was less than the average as calculated in subclause (I) for that fiscal year, that is the difference between the enacted amount and the allowable adjustment as calculated in such subclause for that fiscal year.

(ii) OMB shall report to the Committees on Appropriations and Budget in each House the average calculated pursuant to clause (i)(II), not later than 30 days after the date of the enactment of the Budget Control Act of 2011.

(iii) For the purposes of this subparagraph, the term “disaster relief” means activities carried out pursuant to a determination under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).<sup>177</sup>

(iv) Appropriations considered disaster relief under this subparagraph in a fiscal year shall not be eligible for adjustments under subparagraph (A) for the fiscal year.

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<sup>177</sup> This designation for “disaster finding” was added by the Budget Control Act of 2011, as an annual amount capped at the previous ten-year average. It also defined a “disaster” as referred to in clause iii. Section 102(2) of the Robert T. Stafford Disaster Relief Act (42 U.S.C. 5122(2)):

“(2) MAJOR DISASTER.—‘Major disaster’ means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.”

(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term “discretionary spending limit”<sup>178</sup> means—

(1) for fiscal year 2014—

(A) for the revised security category, \$520,464,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$491,773,000,000 in new budget authority;

(2) for fiscal year 2015—

(A) for the revised security category, \$521,272,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$492,356,000,000 in new budget authority;

(3) for fiscal year 2016—

(A) for the revised security category, \$577,000,000,000 in new budget authority;<sup>179</sup> and

(B) for the revised nonsecurity category, \$530,000,000,000 in new budget authority;<sup>180</sup>

(4) for fiscal year 2017—

(A) for the revised security category, \$590,000,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$541,000,000,000 in new budget authority;

(5) for fiscal year 2018—

(A) for the revised security category, \$603,000,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$553,000,000,000 in new budget authority;

(6) for fiscal year 2019—

(A) for the revised security category, \$616,000,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$566,000,000,000 in new budget authority;

(7) for fiscal year 2020—

(A) for the revised security category, \$630,000,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$578,000,000,000 in new budget authority; and

(8) for fiscal year 2021—

(A) for the revised security category, \$644,000,000,000 in new budget authority; and

(B) for the revised nonsecurity category, \$590,000,000,000 in new budget authority;

as adjusted in strict conformance with subsection (b).

<sup>178</sup> OMB annually adjusts the limits. The Fiscal Year 2016 limit in the sequestration preview report. Fiscal years 2017-2021 are set in future reports.

<sup>179</sup> As adjusted: “(A) for the revised security category, \$523,091,000,000 in new budget authority;” (Preview Report for Fiscal Year 2016).

<sup>180</sup> As adjusted: (B) for the revised nonsecurity category, \$493,491,000,000 in new budget authority.” (Preview Report for Fiscal Year 2016).

## SEC. 251A. [2 U.S.C. 901a] ENFORCEMENT OF BUDGET GOAL.

Discretionary appropriations<sup>181</sup> and direct spending accounts shall be reduced in accordance with this section as follows:

(1) CALCULATION OF TOTAL DEFICIT REDUCTION.—OMB shall calculate the amount of the deficit reduction required by this section for each of fiscal years 2013 through 2021 by—

(A) starting with \$1,200,000,000,000;

(B) subtracting the amount of deficit reduction achieved by the enactment of a joint committee bill, as provided in section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011;<sup>182</sup>

(C) reducing the difference by 18 percent to account for debt service;<sup>183</sup>

(D) dividing the result by 9;<sup>184</sup> and

(E) for fiscal year 2013, reducing the amount calculated under subparagraphs (A) through (D) by \$24,000,000,000.<sup>185</sup>

(2) ALLOCATION TO FUNCTIONS.—On March 1, 2013, for fiscal year 2013, and in its sequestration preview report for fiscal years 2014 through 2021 pursuant to section 254(c), OMB shall allocate half of the total reduction calculated pursuant to paragraph (1) for that year to discretionary appropriations and direct spending accounts within function 050 (defense function) and half to accounts in all other functions (nondefense functions).

(3) DEFENSE FUNCTION REDUCTION.—OMB shall calculate the reductions to discretionary appropriations and direct spending for each of fiscal years 2013 through 2021 for defense function spending as follows:

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<sup>181</sup> Under section 254 of BBEDCA, a sequestration preview report is required to be submitted each year. In this report, OMB annually adjusts the discretionary spending limits. Fiscal years 2017 through 2021 are set in reports for those years when they are submitted. The “OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2016”, sets fiscal year 2016 limits. These adjustments before subsequent adjustments that take place under section 251(b) of BBEDCA. See *supra* at §202.

<sup>182</sup> The Joint Select Committee on Deficit Reduction did not report a bill, and hence nothing was enacted: This amount is zero.

<sup>183</sup> Because the amount of \$1.2 trillion is not reduced under subparagraph (B), the 18 percent reduction is applied against the total amount: \$216 billion for a net amount of \$984 billion over the fiscal year 2013-2021 period.

<sup>184</sup> Dividing \$984 billion by nine equals \$109.3 billion per year. See the “OMB Report Pursuant to the Sequestration Transparency Act of 2012 (P. L. 112–155)”, page 5, Table 1.

<sup>185</sup> American Taxpayer Relief Act of 2012 (P.L. 112–240) added subparagraph (E) reducing the FY2013 sequestration by \$24 billion to \$85 billion.

(A) DISCRETIONARY.—OMB shall calculate the reduction to discretionary appropriations by—

(i) taking the total reduction for the defense function allocated for that year under paragraph (2);

(ii) multiplying by the discretionary spending limit for the revised security category for that year; and

(iii) dividing by the sum of the discretionary spending limit for the security category and OMB's baseline estimate of nonexempt outlays for direct spending programs within the defense function for that year.

(B) DIRECT SPENDING.—OMB shall calculate the reduction to direct spending by taking the total reduction for the defense function required for that year under paragraph (2) and subtracting the discretionary reduction calculated pursuant to subparagraph (A).

(4) NONDEFENSE FUNCTION REDUCTION.—OMB shall calculate the reduction to discretionary appropriations and to direct spending for each of fiscal years 2013 through 2021 for programs in nondefense functions as follows:

(A) DISCRETIONARY.—OMB shall calculate the reduction to discretionary appropriations by—

(i) taking the total reduction for nondefense functions allocated for that year under paragraph (2);

(ii) multiplying by the discretionary spending limit for the revised nonsecurity category for that year; and

(iii) dividing by the sum of the discretionary spending limit for the revised nonsecurity category and OMB's baseline estimate of nonexempt outlays for direct spending programs in nondefense functions for that year.

(B) DIRECT SPENDING.—OMB shall calculate the reduction to direct spending programs by taking the total reduction for nondefense functions required for that year under paragraph (2) and subtracting the discretionary reduction calculated pursuant to subparagraph (A).

(C) Notwithstanding the 2 percent limit specified in subparagraph (A) for payments for the Medicare programs specified in section 256(d), the sequestration order of the President under such subparagraph for fiscal year 2023 shall be applied to such payments so that—

(i) with respect to the first 6 months in which such order is effective for such fiscal year, the payment reduction shall be 2.90 percent; and

(ii) with respect to the second 6 months in which such order is so effective for such fiscal year, the payment reduction shall be 1.11 percent.

(5) IMPLEMENTING DISCRETIONARY REDUCTIONS.—

(A) FISCAL YEAR 2013.—On March 1, 2013, for fiscal year 2013, OMB shall calculate and the President shall order a sequestration, effective upon issuance and under the procedures set forth in section 253(f), to reduce each account within the security category or nonsecurity category by a dollar amount calculated by multiplying the baseline level of budgetary resources in that account at that time by a uniform percentage necessary to achieve—

(i) for the revised security category, an amount equal to the defense function discretionary reduction calculated pursuant to paragraph (3); and

(ii) for the revised nonsecurity category, an amount equal to the nondefense function discretionary reduction calculated pursuant to paragraph (4).

(B) FISCAL YEARS 2014-2021.—Except as provided by paragraph (10), on the date of the submission of its sequestration preview report for fiscal years 2014 through 2021 pursuant to section 254(c) for each of fiscal years 2014 through 2021, OMB shall reduce the discretionary spending limit—

(i) for the revised security category by the amount of the defense function discretionary reduction calculated pursuant to paragraph (3); and

(ii) for the revised nonsecurity category by the amount of the nondefense function discretionary reduction calculated pursuant to paragraph (4).

(6) IMPLEMENTING DIRECT SPENDING REDUCTIONS.—(A)

On the date specified in paragraph (2) during each applicable year, OMB shall prepare and the President shall order a sequestration, effective upon issuance, of nonexempt direct spending to achieve the direct spending reduction calculated pursuant to paragraphs (3) and (4). When implementing the sequestration of direct spending pursuant to this paragraph, OMB shall follow the procedures specified in section 6 of the Statutory Pay-As-You-Go Act of 2010,<sup>186</sup>

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<sup>186</sup> Section 6 of the Statutory Pay-As-You-Go Act of 2010 may be found *infra* at §258.

the exemptions specified in section 255, and the special rules specified in section 256, except that the percentage reduction for the Medicare programs specified in section 256(d) shall not be more than 2 percent for a fiscal year.<sup>187</sup>

(B) On the dates OMB issues its sequestration preview reports for fiscal year 2022, for fiscal year 2023, and for fiscal year 2024, pursuant to section 254(c), the President shall order a sequestration, effective upon issuance such that—

(i) the percentage reduction for nonexempt direct spending for the defense function is the same percent as the percentage reduction for nonexempt direct spending for the defense function for fiscal year 2021 calculated under paragraph (3)(B); and

(ii) the percentage reduction for nonexempt direct spending for nondefense functions is the same percent as the percentage reduction for nonexempt direct spending for nondefense functions for fiscal year 2021 calculated under paragraph (4)(B).

(C) Notwithstanding the 2 percent limit specified in subparagraph (A) for payments for the Medicare programs specified in section 256(d), the sequestration order of the President under such subparagraph for fiscal year 2023 shall be applied to such payments so that—

(i) with respect to the first 6 months in which such order is effective for such fiscal year, the payment reduction shall be 2.90 percent; and

(ii) with respect to the second 6 months in which such order is so effective for such fiscal year, the payment reduction shall be 1.11 percent.

(D) Notwithstanding the 2 percent limit specified in subparagraph (A) for payments for the Medicare programs

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<sup>187</sup> Section 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 (see *infra* at §208) specifies that, when implementing a direct spending sequestration pursuant to a Final Sequestration Report order required under section 254 of that Act (see *infra* at §206), there is a 4 percent reduction in the Medicare program. The direct spending sequestration ordered pursuant to section 251A as devised by the Budget Control Act of 2011 is included in the Sequestration Preview Report of section 254. This is distinct from most other sequesters which depend on the “Sequestration Final Report” which is transmitted by the Office of Management and Budget within fifteen days after the date of the end of the session of Congress. The direct spending sequestration implementation is distinct from the discretionary spending sequestration in that the latter occurred through the reduction in the spending limits in section 251 while the former occurs on an annual basis and will continue through fiscal year 2024. The last spending limit on discretionary spending is set for fiscal year 2021. See *supra* at §202.

specified in section 256(d), the sequestration order of the President under such subparagraph for fiscal year 2024 shall be applied to such payments so that—

(i) with respect to the first 6 months in which such order is effective for such fiscal year, the payment reduction shall be 4.0 percent; and

(ii) with respect to the second 6 months in which such order is so effective for such fiscal year, the payment reduction shall be 0.0 percent.<sup>188</sup>

(7) ADJUSTMENT FOR MEDICARE.—If the percentage reduction for the Medicare programs would exceed 2 percent for a fiscal year in the absence of paragraph (6), OMB shall increase the reduction for all other discretionary appropriations and direct spending under paragraph (4) by a uniform percentage to a level sufficient to achieve the reduction required by paragraph (4) in the non-defense function.

(8) IMPLEMENTATION OF REDUCTIONS.—Any reductions imposed under this section shall be implemented in accordance with section 256(k).

(9) REPORT.—On the dates specified in paragraph (2), OMB shall submit a report to Congress containing information about the calculations required under this section, the adjusted discretionary spending limits, a listing of the reductions required for each nonexempt direct spending account, and any other data and explanations that enhance public understanding of this title and actions taken under it.

(10) IMPLEMENTING DIRECT SPENDING REDUCTIONS FOR FISCAL YEARS 2014 AND 2015.—(A) OMB shall make the calculations necessary to implement the direct spending reductions calculated pursuant to paragraphs (3) and (4) without regard to the amendment made to section 251(c) revising the discretionary spending limits for fiscal years 2014 and 2015 by the Bipartisan Budget Act of 2013.

(B) Paragraph (5)(B) shall not be implemented for fiscal years 2014 and 2015.<sup>189</sup>

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<sup>188</sup> The Protecting Access to Medicare Act of 2014 (Pub. L. 113–93) added subpar. (D). This amendment changed how the automatic sequestration under this section is applied. In doing so, a greater amount of outlay reduction is generated in fiscal year 2024 instead of fiscal year 2025, as would occur without this language. This timing shift generated greater savings within the applicable budget window causing the appearance of compliance.

<sup>189</sup> Fiscal years 2014 and 2015 were exempted from sequestration under this paragraph. Included in the Bipartisan Budget Act of 2013 (P.L. 113–67), this paragraph preserved the calculation of the direct spending sequestration while providing the exemption for these two fiscal years.

**SEC. 252. [2 U.S.C. 902] ENFORCING PAY-AS-YOU-GO.**

(a) **PURPOSE.**—The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

(b) **SEQUESTRATION.**—

(1) **TIMING.**—Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 251 or 253, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

(2) **CALCULATION OF DEFICIT INCREASE.**—OMB shall calculate the amount of deficit increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d);

(B) the estimated amount of savings in direct spending programs applicable to budget year resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration

(c) **ELIMINATING A DEFICIT INCREASE.**—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) **FIRST.**—All reductions in automatic spending increases specified in section 256(a) shall be made.

(B) **SECOND.**—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed and direct student loans) and 256(c) (foster care and adoption assistance) shall be made.

(C) **THIRD.**—(i) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent



and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) ESTIMATES.—

(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB ESTIMATES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) SIGNIFICANT DIFFERENCES.—If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each outyear excluding any amounts resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

(B) emergency provisions as designated under subsection (e).

(5) SCOREKEEPING GUIDELINES.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

(A) determine common scorekeeping guidelines; and

(B) in conformance with such guidelines, prepare estimates under this section.

(e) EMERGENCY LEGISLATION.—If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d). This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.<sup>190</sup>

**SEC. 253. [2 U.S.C. 903] ENFORCING DEFICIT TARGETS.**

(a) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 252, but after any sequestration required by section 251 (enforcing discretionary spending limits) or section 252 (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

(1) the maximum deficit amount for that year;

(2) the amounts for that year designated as emergency direct spending or receipts legislation under section 252(e); and

(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reestimate for that year, if any, calculated under subsection (h).

The “margin” for fiscal year 1992 or 1993 is zero and for fiscal year 1994 or 1995 is \$15,000,000,000.

(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts

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<sup>190</sup> Statutory Pay-As-You-Go Act of 2010 includes a reference to this emergency. If a provision is designated as an emergency, then the effects are not reflected on the Statutory Pay-As-You-Go Scorecard. Similarly any provision so designated is exempt from the House Cutgo Rule and Senate Paygo Rule.

(accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c), except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 251(a)(3).

(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

(3) THIRD.—(A) If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, nondefense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c), except that—

(i) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

(ii) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 251), and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

(B) For purposes of determining reductions under subparagraph (A), outlay reduction (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

(1) BUDGET ASSUMPTIONS.—For purposes of subsections (b), (c), (d), and (e), accounts shall be assumed to be at the level in the baseline minus any reductions required to be made under sections 251 and 252.

(2) PART-YEAR APPROPRIATIONS.—If, on the date specified in subsection (a), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

(1) ADJUSTMENTS.—

(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then

those procedures for adjusting discretionary spending limits described in sections 251(b)(1)(C) and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

(C) When the budget for fiscal year 1994 or 1995 is submitted and the sequestration reports for those years under section 254 are made (as applicable), if the President does not choose to make the adjustments set forth in subparagraph (B), the maximum deficit amount for that fiscal year shall be adjusted by the amount of the adjustment to discretionary spending limits first applicable for that year (if any) under section 251(b).

(D) For each fiscal year the adjustments required to be made with the submission of the President's budget for that year shall also be made when OMB submits the sequestration update report and the final sequestration report for that year, but OMB shall continue to use the economic and technical assumptions in the President's budget for that year.

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974<sup>191</sup> as adjusted under section 251.

(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

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<sup>191</sup> Section 601 of the Congressional Budget Act of 1974 was repealed in 1997 by the Budget Enforcement Act of 1997. The discretionary spending limits are set forth in section 251(c) of BBEDCA. Before its repeal, section 601 set spending limits by reference to section 12(b)(1) of H. Con. Res. 64 (103<sup>rd</sup> Congress), which set limits through fiscal year 1998. Those limits were set in the Omnibus Budget Reconciliation Act of 1993, and the concurrent resolution was the budget resolution for fiscal year 1994.

(i) the estimates of direct spending and receipts legislation transmitted under section 252(d) applicable to each such fiscal year; and

(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as contained in OMB's final sequestration report for that year.

(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

(D) The maximum deficit amount set forth in section 601<sup>192</sup> of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

(h) TREATMENT OF DEPOSIT INSURANCE.—

(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance for fiscal year 1994 and fiscal year 1995 (assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of the submission of the budget for fiscal year 1993) shall be set forth in that budget.

(2) REESTIMATES.—For fiscal year 1994 and fiscal year 1995, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth under paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of submission of the budget for fiscal year 1993).<sup>193</sup>

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<sup>192</sup> All of Title VI, including section 601, of the Congressional Budget Act of 1974 was repealed in 1997 by the BEA of 1997. Maximum deficit amounts remain in section 253 of BBEDCA, but though in law, are not enforceable. They were not extended by the Omnibus Budget Reconciliation Act of 1993, the BEA of 1997, the BCA of 2011, or the BBA of 2013. Though section 253 is not operable for enforcing maximum deficit targets, it is referred to in section 251A of BBEDCA and the enforcement procedures it includes.

<sup>193</sup> President George H. W. Bush submitted his fiscal year 1993 budget, as required by 31 U.S.C. 1105, on January 29, 1992. See §305, *infra*.

**SEC. 254. [2 U.S.C. 904] REPORTS AND ORDERS.**

(a) **TIMETABLE.**—The timetable with respect to this part for any budget year is as follows:

<b>Date:</b>	<b>Action to be completed:</b>
January 21.....	Notification regarding optional adjustment of maximum deficit amount.
5 days before the President's budget submission.....	CBO sequestration preview report.
The President's budget submission...	OMB sequestration preview report.
August 10.....	Notification regarding military personnel.
August 15.....	CBO sequestration update report.
August 20.....	OMB sequestration update report.
10 days after end of session.....	CBO final sequestration report.
15 days after end of session.....	OMB final sequestration report; Presidential order.

(b) **SUBMISSION AND AVAILABILITY OF REPORTS.**—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

(c) **SEQUESTRATION PREVIEW REPORTS.**—

(1) **REPORTING REQUIREMENT.**—On the dates specified in subsection (a), OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

(2) **DISCRETIONARY SEQUESTRATION REPORT.**—The preview reports shall set forth estimates for the current year and each subsequent year through 2021 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

(3) **PAY-AS-YOU-GO SEQUESTRATION.**—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

(B) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

(B) The amount of reductions required under section 252, the excess deficit remaining after those reductions have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

(D) The reductions required under sections 253(e)(1) and 253(e)(2).

(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

(d) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(f).

(e) SEQUESTRATION UPDATE REPORTS.—On the dates specified in subsection (a), OMB and CBO shall issue a sequestration update report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports. This report shall also contain a preview estimate of the adjustment for disaster funding for the upcoming fiscal year.



(f) FINAL SEQUESTRATION REPORTS.—

(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 2021 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251, including a final estimate of the adjustment for disaster funding.

(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

(C) For each category for which a sequestration is required, the sequestration percentages necessary to achieve the required reduction.

(D) For the budget year, for each account to be sequestered, estimates of the baseline level of sequesterable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions.

(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.— The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of sequesterable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear for direct spending programs.

(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under subsection 252(b), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequesterable resources for any budget account to be reduced if such difference is greater than \$5,000,000.

(5) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(g) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph (f)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (f)(2) and (f)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(h) GAO COMPLIANCE REPORT.—Upon request of the Committee on the Budget of the House of Representatives or the Senate, the Comptroller General shall submit to the Congress and the President a report on—

(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

(i) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

(j) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

**SEC. 255. [2 U.S.C. 905] EXEMPT PROGRAMS AND ACTIVITIES.<sup>194</sup>**

(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.), and benefits payable under sections 3 and 4 of the Railroad Retirement Act of 1937 (45 U.S.C. 231 et seq.), shall be exempt from reduction under any order issued under this part.

(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

All programs administered by the Department of Veterans Affairs.

Special Benefits for Certain World War II Veterans (28–0401–0–1–701).

(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

(d) REFUNDABLE INCOME TAX CREDITS.—Payments to individuals made pursuant to provisions of the Internal Revenue Code of 1986 establishing refundable tax credits shall be exempt from reduction under any order issued under this part.

(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

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<sup>194</sup> See section 256(d)(7) of BBEDCA for three additional Medicare-related programs exempt from sequestration. See also section 6(a)(2) of the Statutory Pay-As-You-Go Act of 2010 that indicates the list of programs exempted from sequestration is to be found in section 11 of that law. Section 11 amended section 255 of BBEDCA and relisted it. The Bipartisan Budget Act of 2013 made changes to section 255, primarily technical, so there are small differences between the section 11 from the Statutory Pay-As-You-Go Act list and this one.

(f) OPTION EXEMPTION OF MILITARY PERSONNEL.—

(1) IN GENERAL.—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) LIMITATION.—The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.

(g) OTHER PROGRAMS AND ACTIVITIES.—

(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part: Activities resulting from private donations, bequests, or voluntary contributions to the Government.

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments.

Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-808).

Advances to the Unemployment Trust Fund and Other Funds (16-0327-0-1-600).

Black Lung Disability Trust Fund Refinancing (16-0329-0-1-601)

Bonneville Power Administration Fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271).

Claims, Judgments, and Relief Acts (20-1895-0-1-808).

Compact of Free Association (14-0415-0-1-808).  
Compensation of the President (11-0209-01-1-802).  
Comptroller of the Currency, Assessment Funds (20-8413-0-8-373).

Continuing Fund, Southeastern Power Administration (89-5653-0-2-271).

Continuing Fund, Southwestern Power Administration (89-5649-0-2-271).

Dual Benefits Payments Account (60-0111-0-1-601).

Emergency Fund, Western Area Power Administration (89-5069-0-2-271).

Exchange Stabilization Fund (20-4444-0-3-155).

Farm Credit Administration Operating Expenses Fund (78-4131-0-3-351).

Farm Credit System Insurance Corporation, Farm Credit Insurance Fund (78-4171-0-3-351).

Federal Deposit Insurance Corporation, Deposit Insurance Fund (51-4596-0-4-373).

Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51-4065-0-3-373).

Federal Deposit Insurance Corporation, Noninterest Bearing Transaction Account Guarantee (51-4458-0-3-373).

Federal Deposit Insurance Corporation, Senior Unsecured Debt Guarantee (51-4457-0-3-373).

Federal Home Loan Mortgage Corporation (Freddie Mac).<sup>195</sup>

Federal Housing Finance Agency, Administrative Expenses (95-5532-0-2-371).

Federal National Mortgage Corporation (Fannie Mae).<sup>196</sup>

Federal Payment to the District of Columbia Judicial Retirement and Survivors Annuity Fund (20-1713-0-1-752).

Federal Payment to the District of Columbia Pension Fund (20-1714-0-1-601).

Federal Payments to the Railroad Retirement Accounts (60-0113-0-1-601).

Federal Reserve Bank Reimbursement Fund (20-1884-0-1-803).

Financial Agent Services (20-1802-0-1-803).

Foreign Military Sales Trust Fund (11-8242-0-7-155).

Hazardous Waste Management, Conservation Reserve Program (12-4336-0-3-999).

Host Nation Support Fund for Relocation (97-8337-0-7-051).

Internal Revenue Collections for Puerto Rico (20-5737-0-2-806).

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect.

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<sup>195</sup> Freddie Mac is considered to be a non-budgetary entity. Though the law does not reflect it in section 255, it does have two account numbers associated with it: identification codes 39-4988-0-4-371 and 39-4989-0-4-371.

<sup>196</sup> Fannie Mae is considered to be a non-budgetary entity. Though the law does not reflect it in section 255, it does have two account numbers associated with it: identification codes 39-4986-0-4-371 and 39-4987-0-4-371.

Medical Facilities Guarantee and Loan Fund (75-9931-0-3-551).

National Credit Union Administration, Central Liquidity Facility (25-4470-0-3-373).

National Credit Union Administration, Corporate Credit Union Share Guarantee Program (25-4476-0-3-376).

National Credit Union Administration, Credit Union Homeowners Affordability Relief Program (25-4473-0-3-371).

National Credit Union Administration, Credit Union Share Insurance Fund (25-4468-0-3-373).

National Credit Union Administration, Credit Union System Investment Program (25-4474-0-3-376).

National Credit Union Administration, Operating fund (25-4056-0-3-373).

National Credit Union Administration, Share Insurance Fund Corporate Debt Guarantee Program (25-4469-0-3-376).

National Credit Union Administration, U.S. Central Federal Credit Union Capital Program (25-4475-0-3-376).

Office of Thrift Supervision (20-4108-0-3-373).

Panama Canal Commission Compensation Fund (16-5155-0-2-602).

Payment of Vietnam and USS Pueblo prisoner-of-war claims within the Salaries and Expenses, Foreign Claims Settlement account (15-0100-0-1-153).

Payment to Civil Service Retirement and Disability Fund (24-0200-0-1-805).

Payment to Department of Defense Medicare-Eligible Retiree Health Care Fund (97-0850-0-1-054).

Payment to Judiciary Trust Funds (10-0941-0-1-752).

Payment to Military Retirement Fund (97-0040-0-1-054).

Payment to the Foreign Service Retirement and Disability Fund (19-0540-0-1-153).

Payments to Copyright Owners (03-5175-0-2-376). Payments to Health Care Trust Funds (75-0580-0-1-571).

Payment to Radiation Exposure Compensation Trust Fund (15-0333-0-1-054).

Payments to Social Security Trust Funds (28-0404-0-1-651).

Payments to the United States Territories, Fiscal Assistance (14-0418-0-1-806).

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds.

Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801).

Postal Service Fund (18-4020-0-3-372).

Radiation Exposure Compensation Trust Fund (15-8116-0-1-054).

Reimbursement to Federal Reserve Banks (20-0562-0-1-803).

Salaries of Article III judges.

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705).

Tennessee Valley Authority Fund, except nonpower programs and activities (64-4110-0-3-999).

Tribal and Indian trust accounts within the Department of the Interior which fund prior legal obligations of the Government or which are established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities, including but not limited to Tribal Special Fund (14-5265-0-2-452),

Tribal Trust Fund (14-8030-0-7-452),

White Earth Settlement (14-2204-0-1-452), and

Indian Water Rights and Habitat Acquisition (14-5505-0-2-303).

United Mine Workers of America 1992 Benefit Plan (95-8260-0-7-551).

United Mine Workers of America 1993 Benefit Plan (95-8535-0-7-551).

United Mine Workers of America Combined Benefit Fund (95-8295-0-7-551).

United States Enrichment Corporation Fund (95-4054-0-3-271).

Universal Service Fund (27-5183-0-2-376).

Vaccine Injury Compensation (75-0320-0-1-551).

Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551).

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20-8144-0-7-601).

Central Intelligence Agency Retirement and Disability System Fund (56-3400-0-1-054).

Civil Service Retirement and Disability Fund (24-8135-0-7-602).

Comptrollers general retirement system (05-0107-0-1-801).

Contributions to U.S. Park Police annuity benefits, Other Permanent Appropriations (14-9924-0-2-303).

Court of Appeals for Veterans Claims Retirement Fund (95-8290-0-7-705).

Department of Defense Medicare-Eligible Retiree Health Care Fund (97-5472-0-2-551).

District of Columbia Federal Pension Fund (20-5511-0-2-601).

District of Columbia Judicial Retirement and Survivors Annuity Fund (20-8212-0-7-602).

Energy Employees Occupational Illness Compensation Fund (16-1523-0-1-053).

Foreign National Employees Separation Pay (97-8165-0-7-051).

Foreign Service National Defined Contributions Retirement Fund (19-5497-0-2-602).

Foreign Service National Separation Liability Trust Fund (19-8340-0-7-602).

Foreign Service Retirement and Disability Fund (19-8186-0-7-602).

Government Payment for Annuitants, Employees Health Benefits (24-0206-0-1-551).

Government Payment for Annuitants, Employee Life Insurance (24-0500-0-1-602).

Judicial Officers' Retirement Fund (10-8122-0-7-602).

Judicial Survivors' Annuities Fund (10-8110-0-7-602).

Military Retirement Fund (97-8097-0-7-602). National Railroad Retirement Investment Trust (60-8118-0-7-601).

National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306).

Pensions for former Presidents (47-0105-0-1-802). Postal Service Retiree Health Benefits Fund (24-5391-0-2-551).

Public Safety Officer Benefits (15-0403-0-1-754). Rail Industry Pension Fund (60-8011-0-7-601).

Retired Pay, Coast Guard (70-0602-0-1-403).

Retirement Pay and Medical Benefits for Commissioned Officers, Public Health Service (75-0379-0-1-551).



Special Benefits for Disabled Coal Miners (16-0169-0-1-601).

Special Benefits, Federal Employees' Compensation Act (16-1521-0-1-600).

Special Workers Compensation Expenses (16-9971-0-7-601).

Tax Court Judges Survivors Annuity Fund (23-8115-0-7-602).

United States Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602).

United States Secret Service, DC Annuity (70-0400-0-1-751).

Voluntary Separation Incentive Fund (97-8335-0-7-051).

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Biomass Energy Development (20-0114-0-1-271).

Check Forgery Insurance Fund (20-4109-0-3-803).

Credit liquidating accounts.

Credit reestimates.

Employees Life Insurance Fund (24-8424-0-8-602).

Federal Aviation Insurance Revolving Fund (69-4120-0-3-402).

Federal Crop Insurance Corporation Fund (12-4085-0-3-351).

Federal Emergency Management Agency, National Flood Insurance Fund (58-4236-0-3-453).

Geothermal resources development fund (89-0206-0-1-271).

Low-Rent Public Housing—Loans and Other Expenses (86-4098-0-3-604).

Maritime Administration, War Risk Insurance Revolving Fund (69-4302-0-3-403).

Natural Resource Damage Assessment Fund (14-1618-0-1-302).

Overseas Private Investment Corporation, Noncredit Account (71-4184-0-3-151).

Pension Benefit Guaranty Corporation Fund (16-4204-0-3-601).

San Joaquin Restoration Fund (14-5537-0-2-301).

Servicemembers' Group Life Insurance Fund (36-4009-0-3-701).

Terrorism Insurance Program (20-0123-0-1-376).

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Academic Competitiveness/Smart Grant Program (91-0205-0-1-502).

Child Care Entitlement to States (75-1550-0-1-609).

Child Enrollment Contingency Fund (75-5551-0-2-551).

Child Nutrition Programs (with the exception of special milk programs) (12-3539-0-1-605).

Children's Health Insurance Fund (75-0515-0-1-551).

Commodity Supplemental Food Program (12-3507-0-1-605).

Contingency Fund (75-1522-0-1-609).

Family Support Programs (75-1501-0-1-609).

Federal Pell Grants under section 401 Title IV of the Higher Education Act.<sup>197</sup>

Grants to States for Medicaid (75-0512-0-1-551).

Payments for Foster Care and Permanency (75-1545-0-1-609).

Supplemental Nutrition Assistance Program (12-3505-0-1-605).

Supplemental Security Income Program (28-0406-0-1-609).

Temporary Assistance for Needy Families (75-1552-0-1-609).

(i) ECONOMIC RECOVERY PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

GSE Preferred Stock Purchase Agreements (20-0125-0-1-371).

Office of Financial Stability (20-0128-0-1-376).

Special Inspector General for the Troubled Asset Relief Program (20-0133-0-1-376).

(j) SPLIT TREATMENT PROGRAMS.—Each of the following programs shall be exempt from any order under this part to the extent that the budgetary resources of such programs are subject to obligation limitations in appropriations bills:

Federal-Aid Highways (69-8083-0-7-401).

Highway Traffic Safety Grants (69-8020-0-7-401).

Operations and Research NHTSA<sup>198</sup> and National Driver Register (69-8016-0-7-401).

<sup>197</sup> Though the number itself is not included in this section, the identification code for Pell Grants direct spending component is 91-0200-0-1-502.

<sup>198</sup> NHTSA is the "National Highway Traffic Safety Administration".

Motor Carrier Safety Operations and Programs (69–8159–0–7–401). Motor Carrier Safety Grants (69–8158–0–7–401).

Formula and Bus Grants (69–8350–0–7–401).

Grants-In-Aid for Airports (69–8106–0–7–402).

(k) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 2010–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.

**SEC. 256. [2 U.S.C. 906] GENERAL AND SPECIAL SEQUESTRATION RULES.**

(b)<sup>199</sup> STUDENT LOANS.—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect as required by section 252 or 253, origination fees under sections 438(c)(2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.

(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

(1) CALCULATION OF REDUCTION IN PAYMENT AMOUNTS.—

To achieve the total percentage reduction in those programs required by section 252 or 253, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act—

(A) in the case of parts A and B of such title, to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and

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<sup>199</sup> Subsections (b) and (d), listed here, appear here as section 256 is established in statute. Section 10 of the Statutory Pay-As-You-Go Act of 2010 (P.L. 111–139) repealed subsections (a) and (c) without redesignating the remaining subsections.

(B) in the case of parts C and D, to monthly payments under contracts under such parts for the same one-year period; such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.

(2) UNIFORM REDUCTION RATE; MAXIMUM PERMISSIBLE REDUCTION.—Reductions in payments for programs and activities under such title XVIII pursuant to a sequestration order under section 254 shall be at a uniform rate, which shall not exceed 4 percent,<sup>200</sup> across all such programs and activities subject to such order.

(3) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

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<sup>200</sup> A sequestration ordered pursuant to the Statutory Pay-As-You-Go Act of 2010 limits the amount of reduction in direct spending in the Medicare program to two percent rather than the four percent found here. Similarly, direct spending reductions ordered pursuant to the sequestration required under the terms of the Budget Control Act of 2011 (which set forth a new calculation of sequestration and may be found in section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985) limits the Medicare amount to two percent of program reimbursements, not the four percent limit set here.

(4) TIMING OF SUBSEQUENT SEQUESTRATION ORDER.—A sequestration order required by section 252 or 253 with respect to programs under such title XVIII shall not take effect until the first month beginning after the end of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).

(5) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(6) SEQUESTRATION DISREGARDED IN COMPUTING PAYMENT AMOUNTS.—The Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part, for purposes of computing any adjustments to payment rates under such title XVIII, specifically including—

(A) the part C growth percentage under section 1853(c)(6);<sup>201</sup>

(B) the part D annual growth rate under section 1860D–2(b)(6); and

(C) application of risk corridors to part D payment rates under section 1860D–15(e).

(7) EXEMPTIONS FROM SEQUESTRATION.—In addition to the programs and activities specified in section 255, the following shall be exempt from sequestration under this part:

(A) PART D LOW-INCOME SUBSIDIES.—Premium and cost-sharing subsidies under section 1860D–14 of the Social Security Act.

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<sup>201</sup> Medicare Part C, also known as “Medicare Advantage”, was established by the Balanced Budget Act of 1997: These are offered by private companies approved by Medicare. Beneficiaries still receive health insurance benefits (Medicare Part A (Hospital Insurance) and Medicare Part B (Medical Insurance)) though coverage from comes from the Medicare Advantage Plan and not the original Medicare program.

(B) PART D CATASTROPHIC SUBSIDY.—Payments under section 1860D–15(b) and (e)(2)(B) of the Social Security Act.

(C) QUALIFIED INDIVIDUAL (QI) PREMIUMS.—Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act.

(e) COMMUNITY AND MIGRANT HEALTH CENTERS, INDIAN HEALTH SERVICE AND FACILITIES, AND VETERANS' MEDICAL CARE.—

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 254, shall be 2 percent.

(2) The accounts referred to in paragraph (1) are as follows:

(A) Community health centers (75–0350–0–1–550).

(B) Migrant health centers (75–0350–0–1–550).

(C) Indian health facilities (75–0391–0–1–551).

(D) Indian health services (75–0390–0–1–551).

(E) Veterans' medical care (36–0160–0–1–703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government—Appendix.

(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 254 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(g) FEDERAL PAY.—

(1) IN GENERAL.—For purposes of any order issued under section 254—

(A) Federal pay under a statutory pay system, and

(B) elements of military pay,

shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system (as increased by any amount payable under section 5304

of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term “statutory pay system” shall have the meaning given that term in section 5302(1) of title 5, United States Code.

(B) The term “elements of military pay” means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term “uniformed services” shall have the meaning given that term in section 101(3) of title 37, United States Code.

(h) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 254, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this part.

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only

to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

- (A) Comptroller of the Currency.
- (B) Federal Deposit Insurance Corporation.
- (C) Office of Thrift Supervision.
- (D) National Credit Union Administration.
- (E) National Credit Union Administration, central liquidity facility.
- (F) Federal Retirement Thrift Investment Board.
- (G) Resolution Trust Corporation.
- (H) Farm Credit Administration.

(i) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—(1) For purposes of section 254—

(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),<sup>202</sup>

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account, shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a per-

<sup>202</sup> Section 904(a) of the SSA establishes the "Unemployment Trust Fund."



centage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—  
(A) Loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments for loans or loan deficiencies made by the Commodity Credit Corporation shall be subject to reduction under the order.

(B) Each loan contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this title, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 254 with respect to a fiscal

year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order.

(5) DAIRY PROGRAM.—Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.

(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

(k) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (6).

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity,

the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.

**SEC. 257. [2 U.S.C. 907] THE BASELINE.**

(a) **IN GENERAL.**—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

(b) **DIRECT SPENDING AND RECEIPTS.**—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) **IN GENERAL.**—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

(2) **EXCEPTIONS.**—(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are differences between CBO and OMB.

(ii) On the expiration of the suspension of a provision of law that is suspended under section 171 of Public Law

104–127<sup>203</sup> and that authorizes a program with estimated fiscal year outlays that are greater than \$50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.

(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than \$50,000,000 that operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.

(3) HOSPITAL INSURANCE FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

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<sup>203</sup> Section 171 of P.L. 104-127, the Federal Agriculture Improvement and Reform Act of 1996, temporarily suspended parts of the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949. These Acts provided permanent price support of certain agricultural commodities. This section temporarily suspended agricultural price supports effective for the 1996 through 2002 crops of these commodities and from the date of enactment of the 1996 farm bill's Title I through December 31, 2002 for milk.

(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of the following trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year: the Federal Hospital Insurance Trust Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

(4) PAY ANNUALIZATION; OFFSET TO PAY.—Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption<sup>204</sup>) of any pay adjustment that occurred in that fiscal year.

(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (wages and salaries, private industry workers)<sup>205</sup> for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross domestic product chain-type price index for that fiscal year differs from the average of such estimated index for the current year.

(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

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<sup>204</sup> Rule 10 of the Scorekeeping Guidelines of 1997: "Appropriations bills or reports should contain language that clearly specifies the extent to which funds for pay raises are either provided or absorbed within the levels appropriated in the bill, or remain to be provided."

<sup>205</sup> The Bureau of Labor Statistics is an agency within the Department of Labor. Its "Employment Cost Index" measures the change in the cost of labor, without regard to employment shifts among occupations and industries.

(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be included in estimates under section 251, 252, or 253 if that sale would result in a financial cost to the Federal Government as determined pursuant to scorekeeping guidelines.

**SEC. 258. [2 U.S.C. 907a] SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.**

(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(j), the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(j) are met and suspending the relevant provisions of this title, titles III and VI<sup>206</sup> of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

(2) FORM OF JOINT RESOLUTION.—

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: “That the Congress declares that the conditions specified in section 254(j) 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.”

(B) The title of the joint resolution shall be “Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.”; and the joint resolution shall not contain any preamble.

(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives or

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<sup>206</sup> The Balanced Budget Act of 1997, sec. 10118(a) 29, Public Law 105-33; 111 Stat. 695), repealed Title VI of the Congressional Act of 1974.

the Committee on the Budget of the Senate, as the case may be; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

(4) CONSIDERATION OF JOINT RESOLUTION.—

(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

(B)(i) In the Senate, a joint resolution under this paragraph shall be privileged. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour,

to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

(b) **SUSPENSION OF SEQUESTRATION PROCEDURES.**—Upon the enactment of a declaration of war—

(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

(2) sections 302(f), 310(d), 311(a), and title VI<sup>207</sup> of the Congressional Budget Act of 1974 are suspended; and

(3) section 1103 of title 31, United States Code, is suspended.

(c) **RESTORATION OF SEQUESTRATION PROCEDURES.**—

(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 12 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

**SEC. 258A. [2 U.S.C. 907b] MODIFICATION OF PRESIDENTIAL ORDER.**

(a) **INTRODUCTION OF JOINT RESOLUTION**<sup>208</sup>.—At any time after the Director of OMB issues a final sequestration report under section 254 for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader

<sup>207</sup> The Balanced Budget Act of 1997, sec. 10118(a) 29 (H.R. 2015 (105th Cong.), Publ. L. 105—33), repealed title VI of the Congressional Act of 1974.

<sup>208</sup> The procedure set forth in this section has never been used and a joint resolution has never been introduced pursuant to its terms. This does not apply to sequestration stemming from the Budget Control Act of 2011 since it is ordered under section 251A of BBEDCA.



of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254 or provide an alternative to reduce the deficit for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(3) DEBATE IN THE SENATE.—

(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

(C)(i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

(5) APPEALS.—Appeals from the decisions of the Chair shall be decided without debate.

(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.

(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(8) SENATE ACTION ON THE HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

**SEC. 258B. [2 U.S.C. 907c] FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.**

(a) Subject to subsections (b), (c), and (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 254 for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 254.

(b) No actions taken by the President under subsection (a) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

(c) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

(1) the President submits a single report to Congress specifying, for each account, the detailed changes proposed to be made for such fiscal year pursuant to this section;

(2) that report is submitted within 5 calendar days of the start of the next session of Congress; and

(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

(d) Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) for a fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

(e)(1) The matter after the resolving clause in any joint resolution introduced pursuant to subsection (d) shall be as follows: "That the report of the President as submitted on [Insert Date] under section 258B is hereby approved."

(2) The title of the joint resolution shall be "Joint resolution approving the report of the President submitted under section 258B of the Balanced Budget and Emergency Deficit Control Act of 1985."

(3) Such joint resolution shall not contain any preamble.

(f)(1) A joint resolution introduced in the Senate under subsection (d) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment proposed in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 254. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense).

(2) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the Senate calendar, notwithstanding any

rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is not debatable. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(g)(1) In the Senate, debate on a joint resolution introduced under subsection (d), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(2) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order.

(h)(1) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense). In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(2) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended, so long as the amendment makes or maintains mathematical consistency. It shall not be in order in the Senate to vote on the question of agreeing to such a joint

resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(i) Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under subsection (h), the vote on final passage of the joint resolution shall occur.

(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) shall be decided without debate.

(k) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(l) If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d), the Senate receives from the House of Representatives a joint resolution introduced under subsection (d), then the following procedures shall apply:

(1) The joint resolution of the House of Representatives shall not be referred to a committee.

(2) With respect to a joint resolution introduced under subsection (d) in the Senate—

(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

(m) If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

**SEC. 258C. [2 U.S.C. 907d] SPECIAL RECONCILIATION PROCESS.**

(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS, IN THE SENATE<sup>209</sup>.—

(1) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.— After the submission of an OMB sequestration update report under section 254<sup>210</sup> that envisions a sequestration under section 252 or 253,<sup>211</sup> each standing committee of the Senate may, not later than October 10, submit to the Committee on the Budget of the Senate information of the type described in section 301(d) of the Congressional Budget Act of 1974 with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

(2) INITIAL BUDGET COMMITTEE ACTION.—After the submission of such a report, the Committee on the Budget of the Senate may, not later than October 15, report to the Senate a resolution. The resolution may affirm the impact of the order envisioned by such report, in whole or in

<sup>209</sup> Congress has used reconciliation procedure under section 310 of the Congressional Budget Act of 1974, this reconciliation process has not been used.

<sup>210</sup> Sequestration are ordered under section 251A of BBEDCA, as amended by the Budget Control Act of 2011, but are unrelated to sections 252 and 253.

<sup>211</sup> While Sequestration Update Reports are submitted under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, such reports do not envision a sequestration under the terms of section 252 (Enforcing Pay-As-You-Go) or 253 (Enforcing Deficit Amounts) of that Act since the terms of those sections no longer require automatic reductions in spending.

part. To the extent that any part is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

(3) RESPONSE OF COMMITTEES.—Committees instructed pursuant to paragraph (2), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in paragraph (2) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under paragraph (2) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

(4) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in paragraph (2), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in paragraph (2) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

(5) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under paragraph (4) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or



(C) the enactment of such bill or resolution in the form recommended in such conference report, would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless the low-growth report submitted under section 254 projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

(6) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under paragraph (2) an instruction of the type referred to in such paragraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

(7) DEFINITION.—For purposes of paragraphs (1), (2), and (3), the term “day” shall mean any calendar day on which the Senate is in session.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the Senate the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

(2) LIMITS ON DEBATE.—Debate in the Senate on any resolution reported pursuant to subsection (a)(2), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

(3) LIMITATION ON AMENDMENTS.—Section 310(d)(2) of the Congressional Budget Act shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

(4) BILLS AND RESOLUTIONS FROM THE HOUSE.— Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

(5) DEFINITION.—For purposes of this subsection, the term “resolution” means a simple, joint, or concurrent resolution.<sup>212</sup>

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<sup>212</sup> “Simple resolutions” apply in one House of Congress. “Concurrent resolutions” apply to both Houses. “Joint resolutions” are enacted into law.

**PART D—BUDGETARY TREATMENT OF  
SOCIAL SECURITY**

**SEC 261. TREATMENT OF TRUST FUNDS.** <sup>213</sup>

(a) FISCAL YEARS 1986 THROUGH 1992.—

(1) IN GENERAL.—Section 710 of the Social Security Act (as added by paragraph (1) of subsection (a) of section 346 of the Social Security Amendments of 1983) is amended—

(A) by striking out all beginning with “the” the first place it appears down through “Disability Insurance Trust Fund, the” and inserting in lieu thereof “the”;

(B) by striking out the comma after “Hospital Insurance Trust Fund”;

(C) by striking out “sections 1401, 3101, and 3111” and inserting in lieu thereof “sections 1401(b), 3101(b), and 3111(b)”;

(D) by redesignating all after the section designation as subsection (b);

(E) by inserting immediately after the section designation the following:

“(a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.”; and

(F) by adding at the end thereof the following new subsection:

“(c) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for

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<sup>213</sup> The Budget Enforcement Act of 1997 amended this section, its current form. Under this section, receipts and disbursements of Federal Old-Age and Survivors Insurance Trust Fund, Federal Disability Insurance Trust Fund, and Federal Hospital Insurance Trust Fund and taxes imposed under sections 1401, 3101, and 3111 of title 26 were not to be included in budget totals, that no law enacted after Dec. 12, 1985, except certain appropriations Act provisions, could provide for payments to or from the general fund to or from any such Trust Fund, and that disbursements of Federal Supplementary Medical Insurance Trust Fund were to be a separate functional budget category.

payments from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, or for payments from either such Trust Fund to the general fund of the Treasury.”.

(2) The amendments made by paragraph (1) shall apply with respect to fiscal years beginning after September 30, 1985, and ending before October 1, 1992.

(b) FISCAL YEAR 1993 AND THEREAFTER. <sup>214</sup>—Section 710(a) of the Social Security Act (42 U.S.C. 911 note), as amended by section 346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992) is amended—

(1) by inserting “(1)” after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

“(2) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.”.

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<sup>214</sup> Section 261 revised Section 710 of the Social Security Act. It was further amended by the Budget Enforcement Act of 1997. This section excludes spending and receipts of the Social Security program from budget totals, specifically the President’s annual budget submission. See section 13301 for an additional example of excluding Social Security from Federal budgeting such as from the President’s budget and the Congressional Budget Act of 1974.

It is codified in the U.S. Code at 42 US Code 911 and currently reads: “§911. BUDGETARY TREATMENT OF TRUST FUND OPERATIONS.

“(a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the taxes imposed under sections 1401 and 3101 of the Internal Revenue Code of 1986 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

“(b) No provision of law enacted after December 12, 1985 (other than a provision of an appropriation Act that appropriated funds authorized under this chapter as in effect on December 12, 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in subsection (a) of this section or for payments from any such Trust Fund to the general fund of the Treasury.”

**PART E—MISCELLANEOUS AND RELATED  
PROVISIONS**

**SEC. 271. WAIVERS AND SUSPENSIONS; RULEMAKING POWERS.**

(a) **BUDGET ACT WAIVER IN THE SENATE.**—Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

“(c) Sections 305(b)(2) and 306 of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.”.

(b) **OTHER WAIVERS AND SUSPENSIONS IN THE SENATE.**—Sections 301(i), 302(f), 304(b), 310(d), 310(g), and 311(a) of the Congressional Budget Act of 1974 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This subsection shall not apply to any joint resolution reported or discharged pursuant to section 254(a) of this joint resolution.

(c) **RULEMAKING POWERS.**—The provisions of this title, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

**SEC. 272. RESTORATION OF TRUST FUND INVESTMENTS.**

(a) **RESTORATION OF SOCIAL SECURITY TRUST FUNDS AND CERTAIN OTHER FUNDS.**—

(1) **REISSUANCE OF OBLIGATIONS.**—The Secretary of the Treasury shall immediately reissue to each fund listed in paragraph (3) obligations under chapter 31 of title 31, United States Code, which are identical, with respect to interest rate and maturity, to public debt obligations held by such fund which—

(A) were redeemed during the period beginning with September 1, 1985, and ending with September 29, 1985, and

(B) as determined by such Secretary on the basis of standard investment procedures for such fund in effect on September 1, 1985, would not have been redeemed if

H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985.

Such obligations shall be substituted for obligations which are held by such fund on the date of the enactment of this joint resolution in a manner which will ensure that, after such substitution, the holdings of such fund will replicate to the maximum extent practicable the holdings which would have been held by such fund on such date if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985.

(2) APPROPRIATION TO FUNDS OF INTEREST LOST ON OR AFTER SEPTEMBER 1, 1985.—The Secretary of the Treasury shall pay on the normal interest payment date to each fund listed in paragraph (3), from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by such Secretary to be equal to the excess of—

(A) the net amount of interest which would have been earned by such fund, during the period beginning with September 1, 1985, and ending with the date of the enactment of this joint resolution, if all noninvestments, redemptions, and disinvestments with respect to such fund which—

(i) occurred during such period, and

(ii) would not have occurred if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985,

had not occurred, over

(B) the net amount of interest actually earned by such fund during such period.

(3) FUNDS AFFECTED.—The funds referred to in paragraphs (1) and (2) are the following:

(A) the Federal Old-Age and Survivors Insurance Trust Fund,

(B) the Federal Disability Insurance Trust Fund,

(C) the Federal Hospital Insurance Trust Fund,

(D) the Federal Supplementary Medical Insurance Trust Fund,

(E) the Railroad Retirement Account,

(F) the Civil Service Retirement and Disability Fund, and

(G) all other funds (other than the funds referred to in subsection (b) or (c)) listed in Table III of the Monthly Statement of the Public Debt issued by the Department of the Treasury for November 30, 1985.

(b) RESTORATION OF DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND.—

(1) ISSUANCE OF OBLIGATIONS.—The Secretary of the Treasury shall immediately issue to the Department of Defense Military Retirement Fund obligations under chapter 31 of title 31, United States Code, which such Secretary, in consultation with the Secretary of Defense, determines would have been issued to such fund on October 1, 1985, if H.J. Res. 372 (99th Congress, 1st Session), as deemed passed by the House of Representatives on August 1, 1985, had been enacted into law on August 1, 1985.

Such obligations shall be market-based special obligations issued at prices, including accrued interest, prevailing for such obligations on October 1, 1985. Such obligations shall be substituted for all obligations which were purchased by such fund during the period beginning with October 1, 1985, and ending with November 14, 1985, with amounts which were transferred to such fund on October 1, 1985.

(2) APPROPRIATION TO FUND OF INTEREST LOST ON OR AFTER OCTOBER 1, 1985.—

(A) IN GENERAL.—The Secretary of the Treasury shall immediately pay to the Department of Defense Military Retirement Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by such Secretary, in consultation with the Secretary of Defense, to be equal to the excess of—

(i) the interest which would have been earned by such fund during the period beginning with October 1, 1985, and ending with November 14, 1985, if the obligations issued pursuant to paragraph (1) had been issued on October 1, 1985, over

(ii) the amount of interest actually collected by such fund during such period on obligations purchased by such fund with amounts which were transferred to such fund on October 1, 1985.

(B) INVESTMENT OF INTEREST RECEIPTS.—The Secretary of the Treasury shall immediately invest the amount paid to the Department of Defense Military Retirement Fund pursuant to subparagraph (A) in obligations designated by the Secretary of Defense. Such obligations shall be market based special obligations issued with an issue date of November 15, 1985, and at prices, including accrued interest, prevailing for such obligations on November 15, 1985.

(c) APPROPRIATION TO CERTAIN FUNDS WITH RESPECT TO UNINVESTED BALANCES AFTER DECEMBER 6, 1985.—

(1) IN GENERAL.—The Secretary of the Treasury shall immediately pay, from amounts in the general fund not otherwise appropriated, to each fund which is listed in Table III of the Monthly Statement of the Public Debt issued by the Department of the Treasury for November 30, 1985, and which invests in market-based special obligations under chapter 31 of title 31, United States Code, an amount equal to the interest which et seq. would have been earned by such fund during the period beginning with December 7, 1985, and ending with the date of the enactment of this joint resolution, if the daily balance in such fund which the Secretary of the Treasury was requested to invest during such period but was unable to invest, because of the expiration of the temporary debt limit, had been invested each day during such period, overnight, in obligations under such chapter 31 earning interest at a rate determined by the Secretary of the Treasury in accordance with the standard practice of the Department of the Treasury.

(2) EXPIRATION OF TEMPORARY DEBT LIMIT DEFINED.—For purposes of paragraph (1), the term “expiration of the temporary debt limit” means the expiration of the period described in section 1 of the Act entitled “An Act to temporarily increase the limit on the public debt and to restore the investments of the Social Security Trust Funds and other trust funds”, approved November 14, 1985 (Public Law 99-155).

(d) ADDITIONAL APPROPRIATION TO OASDI TRUST FUNDS OF INTEREST LOST FROM ACTIONS TAKEN IN SEPTEMBER AND OCTOBER 1984.—

(1) IN GENERAL.—On December 31, 1985, the Secretary of the Treasury shall pay to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, amounts determined under this subsection.

(2) AMOUNT PAID TO EACH TRUST FUND.—The amount paid to each such Trust Fund pursuant to paragraph (1) shall be an amount determined jointly by the Secretary of the Treasury and the Secretary of Health and Human Services to be sufficient to fully compensate such Trust Fund for interest losses arising from the premature redemption, during the period beginning with September 1, 1984, and ending with October 31, 1984, of securities maturing during the period beginning with calendar year 1987 and ending with calendar year 1991.

(3) LIMITATION.—The total amount paid from the general fund of the Treasury pursuant to paragraph (1) shall not exceed \$550,000,000.

(4) ADJUSTMENTS.—

(A) DETERMINATION OF SHORTFALLS AND EXCESS PAYMENTS TO TRUST FUNDS.—As soon as practicable after May 31, 1986, the Secretary of the Treasury and the Secretary of Health and Human Services shall jointly determine any shortfall or excess in the amount paid to each Trust Fund pursuant to paragraph (1) caused by—

(i) the difference between actual interest rates and interest rates assumed for purposes of paragraph (1), and

(ii) the difference between the actual amount of securities redeemed in January 1986 for purposes of compliance with section 201(l)(3)(B) of the Social Security Act and the amount of securities assumed for purposes of paragraph (1) to be redeemed in such month for purposes of compliance with such section.

(B) PAYMENT OF SHORTFALLS AND EXCESSES.—On June 30, 1986, the Secretary of the Treasury shall—

(i) in the case of a shortfall in the amount paid to either Trust Fund determined pursuant to subparagraph (A), pay to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, the amount of such shortfall, or

(ii) in the case of an excess in the amount paid to either Trust Fund determined pursuant to subparagraph (A), pay to the general fund of the Treasury, from such Trust Fund, the amount of such excess (but not to exceed the amount paid to such Trust Fund pursuant to paragraph (1)).

**SEC. 273. REVENUE ESTIMATES.**<sup>215</sup> [Transferred]

For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the

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<sup>215</sup> Section 13202(b) of the Budget Enforcement Act of 1990 transferred this section which relates to the Congressional Budget Office to section 201(f) of the Congressional Budget Act of 1974. The text here reflects section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 as enacted. The language in the Congressional Budget Act of 1974 is similar, but not verbatim.



Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this title and the Congressional Budget and Impoundment Control Act of 1974.

**SEC. 274. [2 U.S.C. 922] JUDICIAL REVIEW.**

(a) **EXPEDITED REVIEW.**—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 254 violates the Constitution.

(2) Any Member of Congress, or any other person adversely affected by any action taken under this title, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief concerning the constitutionality of this title.

(3) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory and injunctive relief on the ground that the terms of an order issued under section 254 do not comply with the requirements of this title.

(4) A copy of any complaint in an action brought under paragraph (1), (2), or (3) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(5) Any action brought under paragraph (1), (2), or (3) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1), (2), or (3) without the necessity of adopting a resolution to authorize such intervention.

(b) **APPEAL TO SUPREME COURT.**—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of

an order issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) NONCOMPLIANCE WITH SEQUESTRATION PROCEDURES.—

(1) If it is finally determined by a court of competent jurisdiction that an order issued by the President under section 254 for any fiscal year—

(A) does not reduce automatic spending increases under any program specified in section 256(a) if such increases are required to be reduced by part C of this title (or reduces such increases by a greater extent than is so required), or

(B) does not sequester the amount of budgetary resources which is required to be sequestered by such part (or sequesters more than that amount) with respect to any program, project, activity, or account, the President shall, within 20 days after such determination is made, revise the order in accordance with such determination.

(2) If the order issued by the President under section 254 for any fiscal year—

(A) does not reduce any automatic spending increase to the extent that such increase is required to be reduced by part C of this title,

(B) does not sequester any amount of new budget authority, new loan guarantee commitments, new direct loan obligations, or spending authority which is required to be sequestered by such part, or

(C) does not reduce any obligation limitation by the amount by which such limitation is required to be reduced under such part,

on the claim or defense that the constitutional powers of the President prevent such sequestration or reduction or permit the avoidance of such sequestration or reduction, and such claim or defense is finally determined by the Supreme Court of the United States to be valid, then the entire order issued pursuant to section 254 for such fiscal year shall be null and void.

(e) TIMING OF RELIEF.—No order of any court granting declaratory or injunctive relief from the order of the President issued under section 254, including but not limited to relief permitting or requiring the expenditure of funds sequestered by such order, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or, if appeal is taken, during the period before the court to which such appeal is taken has entered its final order disposing of such action.

(f) PRESERVATION OF OTHER RIGHTS.—The rights created by this section are in addition to the rights of any person under law, subject to subsection (e).

(g) ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.—The economic data and economic assumptions used by the Director of OMB in computing the figures specified in any report issued by the Director of OMB under section 254, shall not be subject to review in any judicial or administrative proceeding.

SEC. 275. [2 U.S.C. 900 note] EFFECTIVE DATES.<sup>216</sup>

[Repealed]

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<sup>216</sup> Section 104(a) of the Budget Control Act of 2011 (Public Law 112–25) repealed Section 275 of this Act . That section included the sunset date, and so in repealing it, the Budget Control Act of 2011 had the effect of making all provisions the Balanced Budget and Emergency Deficit Control Act of 1985 permanent. See §295, *infra*.

Even though the entire Act is now permanent, certain provisions, such as section 252, “Enforcing Pay-As-You-Go”, by the terms of their application, no longer have effect. That section, for example, only applies in its enforcement mechanism to bills or joint resolutions enacted during fiscal year 2002 or before. See §204, *supra*.

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PROVISIONS RELATED TO THE POSTAL SERVICE

**OMNIBUS BUDGET RECONCILIATION ACT OF 1989**

Public Law 101–239, Title IV, §4001(a)(1), Dec. 19, 1989 103  
STAT. 2133

**POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT**

Public Law 109–435, Title IV, Sec. 401(a)(1), Dec. 20, 2006,  
120 STAT. 3221

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POSTAL SERVICE

**OMNIBUS BUDGET  
RECONCILIATION ACT OF 1989**

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[Public Law 101-239; §4001(A)(1); 103 STAT. 2133; December 19, 1989]

**TITLE IV—CIVIL SERVICE AND  
POSTAL SERVICE PROGRAMS**

**SEC. 4001. BUDGETARY TREATMENT OF THE POSTAL SERVICE  
FUND.**

(a) TREATMENT OF THE POSTAL SERVICE FUND.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following:

“SEC. 2009a. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

“Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

“(1) shall not be included in the totals of—

“(A) the budget of the United States Government as submitted by the President, or

“(B) the congressional budget (including allocations of budget authority and outlays provided therein);

“(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

“(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for any fiscal year.”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

“2009a. Budgetary treatment of the Postal Service Fund.”

(b) CONSTRUCTION.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight responsibilities or authority of the Congress under law, rule, or regulation with respect to the budget and operations of the United States Postal Service.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

POSTAL SERVICE

**POSTAL ACCOUNTABILITY  
AND ENHANCEMENT ACT**

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[PUBLIC LAW 109–435; SEC. 401(a)(1); 120 STAT. 3221; DECEMBER 20, 2006]

**TITLE IV—PROVISIONS RELATING TO FAIR COMPE-  
TITION**

**SEC. 401. POSTAL SERVICE COMPETITIVE FUND.**

(a) PROVISIONS RELATING TO THE POSTAL SERVICE COM-  
PETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL. Chapter 20 of title 39, United  
States Code, is amended by adding at the end the following:

**“SEC. 2011. PROVISIONS RELATING TO THE COMPETITIVE  
PRODUCTS.**

\* \* \* \* \*

“(f) The receipts and disbursements of the Competitive  
Products Fund shall be accorded the same budgetary treat-  
ment as is accorded to receipts and disbursements of the  
Postal Service Fund under section 2009a.”



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**BUDGET ENFORCEMENT ACT OF 1990**

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## OMNIBUS BUDGET RECONCILIATION ACT OF 1990<sup>217</sup>

H.R.5835, PUBLIC LAW 101-508, 104 STAT. 1388

Sponsor:	Rep. Leon Panetta [D-CA]
October 15, 1990	Introduced in House.
October 16, 1990	The House Committee on The Budget reported an original measure, H. Rept. 101-881, by Mr. Panetta.
October 16, 1990	Passed in House: 227 - 203 (Roll no. 475).
October 19, 1990	Passed in Senate: 54-46. Record Vote 292.
October 27, 1990	Conference report H. Rept. 101-964 filed.
October 27, 1990	Conference report agreed to in House: 228 - 200 (Roll no. 528).
October 27, 1990	Cleared for White House.
October 27, 1990	Conference report agreed to in Senate: 54-45 (Record Vote: 326).
October 31, 1990	Presented to President.
November 5, 1990	Signed by President.
November 5, 1990	Became Public Law 101-508.

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<sup>217</sup> Title XIII of the Omnibus Budget Reconciliation Act of 1990 has the short title of the "Budget Enforcement Act of 1990" and is commonly referred to as such (or the BEA of 1990).

# **BUDGET ENFORCEMENT ACT OF 1990**

[PUBLIC LAW 101-508; 104 STAT. 1388-573; H.R. 5835, November 5, 1990<sup>218</sup>]

## **OMNIBUS BUDGET RECONCILIATION ACT OF 1990**

### **TITLE XIII—BUDGET ENFORCEMENT**

#### **SEC. 13001. SHORT TITLE; TABLE OF CONTENTS**

(a) **SHORT TITLE.**—This title may be cited as the “Budget Enforcement Act of 1990”.

(b) **TABLE OF CONTENTS.**—

#### **TITLE XIII—BUDGET ENFORCEMENT**

##### **SUBTITLE A—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 AND RELATED AMENDMENTS**

Sec. 13001. Short title; table of contents.

##### **Part I—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985**

Sec. 13101. Sequestration.

##### **Part II—Related Amendments**

Sec. 13111. Temporary amendments to the Congressional Budget Act of 1974.

Sec. 13112. Conforming amendments

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<sup>218</sup> The Omnibus Budget Reconciliation Act of 1990 (OBRA 1990), P.L. 101-508, was enacted on November 5, 1990. The short title of Title XIII is the Budget Enforcement Act of 1990. Titles I through XII of OBRA 1990 are omitted here.

SUBTITLE B—PERMANENT AMENDMENTS TO THE CONGRESSIONAL  
BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

- Sec. 13201. Credit accounting.
- Sec. 13202. Codification of provision regarding revenue estimates.
- Sec. 13203. Debt increase as measure of deficit; display of Federal Retirement Trust Fund balances.
- Sec. 13204. Pay-as-you-go procedures.
- Sec. 13205. Amendments to section 303.
- Sec. 13206. Amendments to section 308.
- Sec. 13207. Standardization of language regarding points of order.
- Sec. 13208. Standardization of additional deficit control provisions.
- Sec. 13209. Codification of precedent with regard to conference reports and amendments between Houses.
- Sec. 13210. Superseded deadlines and conforming changes.
- Sec. 13211. Definitions.
- Sec. 13212. Savings transfers between fiscal years.
- Sec. 13213. Conforming change to title 31.
- Sec. 13214. The Byrd Rule on extraneous matter in reconciliation.

SUBTITLE C—SOCIAL SECURITY

- Sec. 13301. Off-budget status of OASDI trust funds.
- Sec. 13302. Protection of OASDI trust funds in the House of Representatives.
- Sec. 13303. Social Security firewall and point of order in the Senate.
- Sec. 13304. Report to the Congress by the Board of Trustees of the OASDI trust funds regarding the actuarial balance of the trust funds.
- Sec. 13305. Exercise of rulemaking power.
- Sec. 13306. Effective date.

SUBTITLE D—TREATMENT OF FISCAL YEAR 1991 SEQUESTRATION

- Sec. 13401. Restoration of funds sequestered.

SUBTITLE E—GOVERNMENT-SPONSORED ENTERPRISES

- Sec. 13501. Financial safety and soundness of Government-sponsored enterprises.

## Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

### PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

#### SEC. 13101. SEQUESTRATION.

(a) SECTIONS 250 THROUGH 254.—Sections 251 (except for subsection (a)(6)(I)) through 254 of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) are amended to read as follows:<sup>219</sup>

#### “SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET EN- FORCEMENT 2 USC 900. THROUGH SEQUESTRA- TION; DEFINITIONS.

##### “(a) TABLE OF CONTENTS.—

“Sec. 250. Table of contents; budget enforcement statement; definitions.

“Sec. 251. Enforcing discretionary spending limits.

“Sec. 252. Enforcing pay-as-you-go.

“Sec. 253. Enforcing deficit targets.

“Sec. 254. Reports and orders.

“Sec. 255. Exempt programs and activities.

“Sec. 256. Special rules.

“Sec. 257. The baseline.

“Sec. 258. Suspension in the event of war or low growth.

“Sec. 258A. Modification of presidential order.

“Sec. 258B. Alternative defense sequestration.

“Sec. 258C. Special reconciliation process.”

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### PART II—RELATED AMENDMENTS

#### SEC. 13111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

[...]

#### SEC. 13112. CONFORMING AMENDMENTS.

[...] <sup>220</sup>

<sup>219</sup> This section amended the Balanced Budget and Emergency Deficit Control Act of 1985 by replacing sections 250 through 254 with revised and additional sections 250 through 258C. The Budget Enforcement Act of 1990 revised the BBEDCA procedures and supplemented them with additional statutory controls. The BEA 1990 limited new legislation increasing the deficit. Maximum deficit amounts were replaced by controls on increases in the deficit in a fiscal year and also put in place discretionary spending limits.

<sup>220</sup> Sections 13111 and 13112 revised Title VI of the Budget Act, which was then repealed by the Budget Enforcement Act of 1997. The BEA of 1997 was title X of the Balanced Budget Act of 1997. Section 10118 of the BBA of 1997

## Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

### SEC. 13201. CREDIT ACCOUNTING.

(a) CREDIT ACCOUNTING.—Title V of the Congressional Budget Act of 1974 is amended to read as follows:<sup>221</sup>

[...]

### SEC. 13202. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 276 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 as subsection (g).

(c) CONFORMING CHANGES.—Section 201(g) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by —

(1) striking “this title and the Congressional Budget and Impoundment Control Act of 1974” and inserting “this Act”; and

(2) inserting “Revenue Estimates.—” before the first sentence.

### SEC. 13203. DEBT INCREASE AS MEASURE OF DEFICIT; DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCE.

Section 301(b) of the Congressional Budget Act of 1974 is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following new paragraphs:

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repealed Title VI in its entirety. The Joint Statement of Managers on the BEA of 1997 stated:

“The [conference report] repeals title VI, which provided changes in Congressional budget procedures that were expected to last only for the duration of previous budget agreements. Title VI temporarily extended the coverage and enforcement of budget resolutions from three to five fiscal years. It also provided for adjustments in the budget resolution for such factors as emergencies, estimating differences, and tax compliance.

“... the [conference report] repeals an unused provision in section 604 of the Budget Act, which provided the House Budget Committee with the authority to report a reconciliation directive providing for tax increases to offset legislation cutting taxes.”

<sup>221</sup> Section 13201 added the Federal Credit Reform Act of 1990 as title V of the Congressional Budget Act of 1974. FCRA may be found as sections 500 through 507 of the Budget Act. See *supra* at §§150-157.

“(5) include a heading entitled ‘Debt Increase as Measure of Deficit’ in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years; and

“(6) include a heading entitled ‘Display of Federal Retirement Trust Fund Balances’ in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.”.

**SEC. 13204. PAY-AS-YOU-GO PROCEDURES.**<sup>222</sup>

[...]

**SEC. 13205. AMENDMENTS TO SECTION 303.**<sup>223</sup>

[...]

**SEC. 13206. AMENDMENTS TO SECTION 308.**<sup>224</sup>

[...]

**SEC. 13207. STANDARIZATION OF LANGUAGE REGARDING POINTS OF ORDER.**

[...]

**SEC. 13208. STANDARIZATION ADDITIONAL DEFICIT CONTROL PROVISIONS.**

[...]

**SEC. 13209. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN THE HOUSES.**

Section 305(c) of the (Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after “consideration of the conference report” the following: “on any concurrent resolution on the budget (or a reconciliation bill or resolution)”;

(2) in paragraph (2), by inserting “(or a message between Houses)” after “conference report” each place it appears.

**SEC. 13210. SUPERSEDED DEADLINES AND CONFORMING CHANGES.**

[...]

<sup>222</sup> See §111, *supra*. This added the following to section 301 of the Budget Act: Paragraph (7) set Senate pay-as-you-go procedures (which are different from the Senate Pay-As-You-Go Rule found in S. Con. Res. 21 (108<sup>th</sup> Congress); and paragraph (8) allowed House pay-as-you-go procedures to be set in a budget resolution. Though this last is distinct from the “pay-as-you-go” provision in section 302(g) of the Act, the two sections may work in concert.

<sup>223</sup> See §113, *supra*.

<sup>224</sup> See §118, *supra*.



SEC. 13211. DEFINITIONS.<sup>225</sup>

[...]

SEC. 13212. SAVINGS TRANSFERS BETWEEN FISCAL YEARS.

Section 202 of Public Law 100-119 is repealed.<sup>226</sup>

SEC. 13213. CONFORMING CHANGE TO TITLE 31.<sup>227</sup>

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31, United States Code, is amended—

- (1) in subparagraph (A), by striking the final word “or”;
- (2) in subparagraph (B), by striking the final period and inserting a semicolon; and
- (3) by adding at the end the following new subparagraphs:

“(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

“(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31, United States Code, is amended by inserting at the end the following:

“As used in this section, the term ‘emergencies involving the safety of human life or the protection of property’ does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.”<sup>228</sup>

SEC. 13214. THE BYRD RULE ON EXTRANEIOUS MATTER IN RECONCILIATION.<sup>229</sup>

\* \* \* \* \*

<sup>225</sup> Section 13211 revised “budget authority” and “new budget authority” for the Hospital Insurance Trust Fund, Supplementary Medical Insurance Trust Fund, Unemployment Trust Fund, and railroad retirement account.

<sup>226</sup> This section repealed 2 USC §909 (Pub. L. 100-119) which prohibited counting as savings transfer of Government actions from one year to another.

<sup>227</sup> This section made conforming amendments to the Antideficiency Act.

<sup>228</sup> Section 13213 added at the end of section 1342 of Title 31, United States Code: “As used in this section, the term ‘emergencies involving the safety of human life or the protection of property’ does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.”

<sup>229</sup> Section 13214 redesignated section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), adding it and the point of order in S. Res. 286, 99<sup>th</sup> Congress, Dec. 19, 1985 (as amended prior to codification), as section 313 of the Congressional Budget Act of 1974. Known as the “Byrd Rule” it prohibits “extraneous” matter from “Reconciliation Acts or Resolutions” under section 310. It is named for Sen. Robert C. Byrd (WV).

## Subtitle C—Social Security

### SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET ACT.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: “The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.”.

### SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period;

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, together with the net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal

years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds \$250,000,000, and (C) such legislation under consideration does not provide at least a net increase, for the 5-year estimating period for such legislation under consideration, in OASDI taxes which, together with net increases in OASDI taxes resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net increase derived under subparagraph (B) exceeds \$250,000,000;

(3)(A) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net decrease, for such 75-year period, in OASDI benefits of the amount by which the net decrease in such taxes exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period, or

(4)(A) such legislation under consideration would provide for a net decrease in OASDI taxes (for the 5-year estimating period for such legislation under consideration), (B) such net decrease, together with the net decreases in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds \$250,000,000, and (C) such legislation under consideration does not provide at least a net decrease, for the 5-year estimating period for such legislation under consideration, in OASDI benefits which, together with net decreases in OASDI benefits resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net decrease derived under subparagraph (B) exceeds \$250,000,000.

(b) APPLICATION.—In applying paragraph (3) or (4) of subsection (a), any provision of any bill or joint resolution, as reported, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in subsection (c)(2)(A) shall be disregarded if such bill, joint resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term “OASDI benefits” means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(2) The term “OASDI taxes” means—

(A) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(B) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(3) The term “medicare taxes” means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(4) The term “previous legislation” shall not include legislation enacted before fiscal year 1991.

(5) The term “5-year estimating period” means, with respect to any legislation, the fiscal year in which such legislation becomes or would become effective and the next 4 fiscal years.

No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in paragraph (2)(B) unless such provision changes the income tax treatment of OASDI benefits.

**SEC. 13303. SOCIAL SECURITY FIREWALL AND POINT OF ORDER IN THE SENATE.**

(a) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking “and” at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting a semicolon; and by adding after paragraph (5) the following new paragraphs:<sup>230</sup>

\* \* \* \* \*

<sup>230</sup> Paragraphs (6) and (7), placed in section 301 of the Budget Act, added Social Security requirements in the Senate to the budget resolution..

**SEC. 13304. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.**

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".<sup>231</sup>

**SEC. 13305. EXERCISE OF RULEMAKING POWER.**

This title and the amendments made by it are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

**SEC. 13306. EFFECTIVE DATE.**

Sections 13301, 13302, and 13303 and any amendments made by such sections shall apply with respect to fiscal years beginning on or after October 1, 1990. Section 13304 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

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<sup>231</sup> This full section currently reads as follows: "The report provided for in paragraph (2) of this subsection shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees). Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable. Such report shall also include an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries. Such report shall be printed as a House document of the session of the Congress to which the report is made."

## Subtitle D—Treatment of Fiscal Year 1991 Sequestration

### SEC. 13401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

(c) FURLOUGHED EMPLOYEES.—(1) Federal employees furloughed as a result of the lapse in appropriations from midnight October 5, 1990, until the enactment of House Joint Resolution 666<sup>232</sup> shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(2) All obligations incurred in anticipation of the appropriations made and authority granted by House Joint Resolution 666<sup>233</sup> for the purposes of maintaining the essential level of activity to protect life and property and bringing about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

## Subtitle E—Government-sponsored Enterprises

### SEC. 13501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms “Government-sponsored enterprise” and “GSE” mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, and Federal Agricultural Mortgage Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.<sup>234</sup>

<sup>232</sup> H.J. Res. 666, “Making further continuing appropriations for fiscal year 1991” was enacted on October 9, 1990. Public Law 101-412.

<sup>233</sup> See above note for information related to H.J. Res. 666.

<sup>234</sup> Originally, in 1972, the Student Loan Marketing Association was a government-sponsored enterprise (GSE). After its operations were privatized, its GSE charter was terminated in 2004.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(4) The Congressional Budget Office shall be exempt from section 203 of the Congressional Budget Act of 1974 with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under paragraph (1).

(f) REQUIREMENT TO REPORT LEGISLATION.—(1) The committees of jurisdiction in the House shall prepare and report to the House no later than September 15, 1991, legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(2) It is the sense of the Senate that the committees of jurisdiction in the Senate shall prepare and report to the Senate no later than September 15, 1991, legislation to ensure the financial safety and soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(f) PRESIDENT'S BUDGET.—The President's annual budget submission shall include an analysis of the financial condition of the GSEs and the financial exposure of the Government, if any, posed by GSEs.





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**UNFUNDED MANDATES REFORM ACT OF 1995**

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## UNFUNDED MANDATES REFORM ACT OF 1995

S. 1, PUBLIC LAW 104-4; 109 STAT. 48; MARCH 22, 1995

Sponsor:	Sen Dirk Kempthorne [ID]
January 4, 1995	Introduced in Senate
January 9, 1995	Committee on Governmental Affairs. Reported to Senate by Senator Roth with amendments. Without written report.
January 9, 1995	Committee on Budget. Reported to Senate by Senator Domenici with amendments. Without written report.
January 11, 1995	By Senator Roth from Committee on Governmental Affairs filed written report. Report No. 104-1. Additional and minority views filed.
January 12, 1995	Senator Domenici filed report, Committee on the Budget. Report 104-2.
January 27, 1995	Passed Senate with an amendment: 86-10 (Record Vote 61).
February 1, 1995	Passed House without objection.
February 3, 1995	Resolving differences – Senate actions: Senate disagreed to the amendments of the House by Voice Vote. Conference report H. Rept. 104-76 filed.
March 13, 1995	Conference report agreed to in Senate: Senate agreed to conference report by Yea-Nay Vote. 91-9. Record Vote No: 104.
March 15, 1995	
March 16, 1995	Conference report agreed to in House by the Yeas and Nays: 394 - 28 (Roll no. 252).
March 16, 1995	Cleared for White House.
March 21, 1995	Presented to President.
March 22, 1995	Signed by President.
March 22, 1995	Became Public Law No: 104-4

# UNFUNDED MANDATES REFORM ACT OF 1995

[PUBLIC LAW 104-4; 109 STAT. 48.§2; S. 1; MARCH 22, 1995]

## AN ACT

To curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SEC. 1. [2 U.S.C. 1501 note] SHORT TITLE.

This Act may be cited as the “Unfunded Mandates Reform Act of 1995”.

### SEC. 2. [2 U.S.C. 1501] PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and State, local, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local, and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

(6) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates;

(7) to assist Federal agencies in their consideration of proposed regulations affecting State, local, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of State, local, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and tribal governments and the private sector before adopting such regulations, and ensuring that small governments are given special consideration in that process; and

(8) to begin consideration of the effect of previously imposed Federal mandates, including the impact on State, local, and tribal governments of Federal court interpretations of Federal statutes and regulations that impose Federal intergovernmental mandates.

**SEC. 3. [2 U.S.C. 1502] DEFINITIONS.**

For purposes of this Act—

(1) except as provided in section 305 of this Act, the terms defined under section 421 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act)<sup>235</sup> shall have the meanings as so defined; and

(2) the term “Director” means the Director of the Congressional Budget Office.

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<sup>235</sup> See title IV of the Budget Act for Federal mandates, §141, *supra*.

**SEC. 4. [2 U.S.C. 1503] EXCLUSIONS.**

This Act shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress and any provision in a proposed or final Federal regulation that—

- (1) enforces constitutional rights of individuals;
- (2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;
- (3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;
- (4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;
- (5) is necessary for the national security or the ratification or implementation of international treaty obligations;
- (6) the President designates as emergency legislation and that the Congress so designates in statute; or
- (7) relates to the old-age, survivors, and disability insurance program under title II of the Social Security Act (including taxes imposed by sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986 (relating to old-age, survivors, and disability insurance)).

**SEC. 5. [2 U.S.C. 1504] AGENCY ASSISTANCE.**

Each agency shall provide to the Director such information and assistance as the Director may reasonably request to assist the Director in carrying out this Act.

## TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

**SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.**

- (a) **IN GENERAL.**—Title IV of the Congressional Budget and Impoundment Control Act of 1974 is amended by—
- (1) inserting before section 401 the following:  
“PART A—GENERAL PROVISIONS”; and
  - (2) adding at the end thereof the following new part:<sup>236</sup>  
[...]

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<sup>236</sup> Section 101 added Part B (sections 421 through 428) to the Congressional Budget Act of 1974. See §§141-148, *supra*.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by inserting “Part A—General Provisions” before the item relating to section 401; and

(2) by inserting after the item relating to section 407 the following:<sup>237</sup>

[...]

**SEC. 102. ASSISTANCE TO COMMITTEES AND STUDIES.**<sup>238</sup>

The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 202—

(A) in subsection (c)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

“(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

“(A) a significant budgetary impact on State, local, or tribal governments;

“(B) a significant financial impact on the private sector; or

“(C) a significant employment impact on the private sector.”; and

(B) by amending subsection (h) to read as follows:

“(h) STUDIES.—

“(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

“(2) FEDERAL MANDATE STUDIES.—

“(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

“(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

<sup>237</sup> This subsection added technical amendments and a table of contents.

<sup>238</sup> This section revised section 202 of the Congressional Budget Act of 1974 adding new requirements for CBO. It added a requirement to the budget resolution contents in section 301 of that Act.

“(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

“(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

“(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

“(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

“(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

“(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

“(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

“(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and “(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.”; and

(2) in section 301(d) by adding at the end thereof the following new sentence: “Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establish-



ing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.”.

**SEC. 103. [2 U.S.C. 1511] COST OF REGULATIONS.**

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the cost estimates provided by the Congressional Budget Office will be carefully considered as regulations are promulgated.

(b) STATEMENT OF COST.—At the request of a committee chairman or ranking minority member, the Director shall, to the extent practicable, prepare a comparison between—

(1) an estimate by the relevant agency, prepared under section 202 of this Act, of the costs of regulations implementing an Act containing a Federal mandate; and

(2) the cost estimate prepared by the Congressional Budget Office for such Act when it was enacted by the Congress.

(c) COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.—At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by part B of title IV of the Congressional Budget and Impoundment Control Act of 1974 [2. U.S.C. 658 et seq.].

**SEC. 104. REPEAL OF CERTAIN ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.**<sup>239</sup>

Section 403 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2);

(B) in paragraph (3) by striking out “paragraphs (1) and (2)” and inserting in lieu thereof “paragraph (1)”; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking out “(a)”; and

(3) by striking out subsections (b) and (c).

<sup>239</sup> This section amended section 402 of the Congressional Budget Act of 1974. See §132, *supra*. That section was numbered as section 403 in the Act, as enacted, but was renumbered §402 by the Budget Enforcement Act of 1997 (Public Law 105–33, title X, §10116(c)(1), 111 Stat. 692.).

**SEC. 105. [2 U.S.C. 1512] CONSIDERATION FOR FEDERAL FUNDING.**

Nothing in this Act shall preclude a State, local, or tribal government that already complies with all or part of the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report from consideration for Federal funding under section 425(a)(2) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act) for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the mandate.

**SEC. 106. [2 U.S.C. 1513] IMPACT ON LOCAL GOVERNMENTS.**

(a) **FINDINGS.**—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

**SEC. 107. [2 U.S.C. 1514] ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.**

(a) **MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.**— Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

“(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.”

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

**SEC. 108. [2 U.S.C. 1515] EXERCISE OF RULEMAKING POWERS.**

The provisions of sections 101 and 107 are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

**SEC. 109. [2 U.S.C. 1516] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Congressional Budget Office \$4,500,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to carry out the provisions of this title.<sup>240</sup>

**SEC. 110. [2 U.S.C. 1511 note] EFFECTIVE DATE.**

This title shall take effect on January 1, 1996 or on the date 90 days after appropriations are made available as authorized under section 109, whichever is earlier and shall apply to legislation considered on and after such date.

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<sup>240</sup> No additional authorization of appropriations have been made for this purpose. The Congressional Budget Office has fulfilled the requirements under this title in its annual appropriations. The requirement of CBO to fulfill the requirements under the Act, though, do not lapse upon the expiration of the authorization of appropriations.

## TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

### SEC. 201. [2 U.S.C. 1531] REGULATORY PROCESS.

Each agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).

### SEC. 202. [2 U.S.C. 1532] STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Unless otherwise prohibited by law, before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement containing—

(1) an identification of the provision of Federal law under which the rule is being promulgated;

(2) a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, including the costs and benefits to State, local, and tribal governments or the private sector, as well as the effect of the Federal mandate on health, safety, and the natural environment and such an assessment shall include—

(A) an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance (or otherwise paid for by the Federal Government); and

(B) the extent to which there are available Federal resources to carry out the intergovernmental mandate;

(3) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future compliance costs of the Federal mandate; and any disproportionate budgetary effects of the Federal mandate upon any particular regions of the nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(B) estimates by the agency of the effect on the national economy, such as the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services, if and to the extent that the agency in its sole discretion determines that accurate estimates are reasonably feasible and that such effect is relevant and material; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (under section 204) of the affected State, local, and tribal governments;

(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency; and

(C) a summary of the agency's evaluation of those comments and concerns.

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.— Any agency may prepare any statement required under subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).  
**SEC. 203. [2 U.S.C. 1533] SMALL GOVERNMENT AGENCY PLAN.**

(a) EFFECTS ON SMALL GOVERNMENTS.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(1) provide notice of the requirements to potentially affected small governments, if any;

(2) enable officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates; and

(3) inform, educate, and advise small governments on compliance with the requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to each agency to carry out the provisions of this section and for no other purpose, such sums as are necessary.

**SEC. 204. [2 U.S.C. 1534] STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.**

(a) **IN GENERAL.**—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(b) **MEETINGS BETWEEN STATE, LOCAL, TRIBAL AND FEDERAL OFFICERS.**—The Federal Advisory Committee Act (5 U.S.C. App.)<sup>241</sup> shall not apply to actions in support of intergovernmental communications where—

(1) meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

(2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

(c) **IMPLEMENTING GUIDELINES.**—No later than 6 months after the date of enactment of this Act, the President shall issue guidelines and instructions to Federal agencies for appropriate implementation of subsections (a) and (b) consistent with applicable laws and regulations.

**SEC. 205. [2 U.S.C. 1535] LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.**

(a) **IN GENERAL.**—Except as provided in subsection (b), before promulgating any rule for which a written statement is required under section 202, the agency shall identify and consider a reasonable number of regulatory alternatives and from those alternatives select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, for—

(1) State, local, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate; and

(2) the private sector, in the case of a rule containing a Federal private sector mandate.

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<sup>241</sup> From General Services Administration: “The Federal Advisory Committee Act (Pub. L. 92-463) became law in 1972 and is the legal foundation defining how federal advisory committees operate.”

(b) EXCEPTION.—The provisions of subsection (a) shall apply unless—

(1) the head of the affected agency publishes with the final rule an explanation of why the least costly, most cost-effective or least burdensome method of achieving the objectives of the rule was not adopted; or

(2) the provisions are inconsistent with law.

(c) OMB CERTIFICATION.—No later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall certify to Congress, with a written explanation, agency compliance with this section and include in that certification agencies and rulemakings that fail to adequately comply with this section.

**SEC. 206. [2 U.S.C. 1536] ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.**

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

**SEC. 207. [2 U.S.C. 1537] PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.**

(a) IN GENERAL<sup>242</sup>.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

**SEC. 208. [2 U.S.C. 1538] ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE.**

No later than 1 year after the effective date of this title and annually thereafter, the Director of the Office of Management and Budget shall submit to the Congress, including

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<sup>242</sup> OMB Report on Agency Compliance: OMB has designated “several ongoing EPA projects as small government pilot projects ... [of] cooperative regulatory enforcement agreements, the development of communications aids to reduce the burden of understanding and complying with agency regulations, and efforts to increase small community involvement in regulatory development.”

the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, a written report detailing compliance by each agency during the preceding reporting period with the requirements of this title.

**SEC. 209. [2 U.S.C. 1531 note] EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.<sup>243</sup>

### **TITLE III—REVIEW OF FEDERAL MANDATES**

**SEC. 301. [2 U.S.C. 1551] BASELINE STUDY OF COSTS AND BENEFITS.**

(a) **IN GENERAL.**—No later than 18 months after the date of enactment of this Act, the Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the “Advisory Commission”), in consultation with the Director, shall complete a study to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal law.

(b) **CONSIDERATIONS.**—The study required by this section shall consider—

(1) the feasibility of measuring indirect costs and benefits as well as direct costs and benefits of the Federal, State, local, and tribal relationship; and

(2) how to measure both the direct and indirect benefits of Federal financial assistance and tax benefits to State, local, and tribal governments.

**SEC. 302. [2 U.S.C. 1552] REPORT ON FEDERAL MANDATES BY  
ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.**

(a) **IN GENERAL.**—The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

(1) investigate and review the role of Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities, and their impact on the competitive balance between State, local, and tribal governments, and the private sector and consider views of and the impact on working men and women on those same matters;

(2) investigate and review the role of unfunded State mandates imposed on local governments;

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<sup>243</sup> Unfunded Mandates Reform Act of 1995 was enacted March 22, 1995.



(3) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with Federal mandates that use different definitions or standards for the same terms or principles; and

(G)(i) the mitigation of negative impacts on the private sector that may result from relieving State, local, and tribal governments from Federal mandates (if and to the extent that such negative impacts exist on the private sector); and

(ii) the feasibility of applying relief from Federal mandates in the same manner and to the same extent to private sector entities as such relief is applied to State, local, and tribal governments; and

(4) identify and consider in each recommendation made under paragraph (3), to the extent practicable—

(A) the specific Federal mandates to which the recommendation applies, including requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement; and

(B) any negative impact on the private sector that may result from implementation of the recommendation.

(b) CRITERIA.—

(1) IN GENERAL.—The Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA.—The Commission shall issue proposed criteria under this subsection no later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—No later than 45 days after the date of issuance of proposed criteria, the Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Commission determines will aid the Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

(1) IN GENERAL.—No later than 9 months after the date of the enactment of this Act, the Commission shall

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Commission under this subsection.

(d) FINAL REPORT.—No later than 3 months after the date of the publication of the preliminary report under subsection (c), the Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on the Budget of the Senate, and the Committee on the Budget of the House of Representatives, and to the President a final report on the findings, conclusions, and recommendations of the Commission under this section.

(e) PRIORITY TO MANDATES THAT ARE SUBJECT OF JUDICIAL PROCEEDINGS.—In carrying out this section, the Advisory Commission shall give the highest priority to immediate-

ly investigating, reviewing, and making recommendations regarding Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

(f) DEFINITION.—For purposes of this section the term “State mandate” means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program.

**SEC. 303. [2 U.S.C. 1553] SPECIAL AUTHORITIES OF ADVISORY COMMISSION.**

(a) EXPERTS AND CONSULTANTS.—For purposes of carrying out this title, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.<sup>244</sup>

(b) DETAIL OF STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this title.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this title.

(d) CONTRACT AUTHORITY.—The Advisory Commission may, subject to appropriations, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this title.

**SEC. 304. [2 U.S.C. 1554] ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.**

No later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives

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<sup>244</sup> Section 3109(b) reads that an agency enter into temporary services “without regard to—

“(1) the provisions of this title governing appointment in the competitive service;

“(2) chapter 51 and subchapter III of chapter 53 of this title; and

“(3) section 6101(b) to (d) of title 41, except in the case of stenographic reporting services by an organization.”

and the Committee on Governmental Affairs of the Senate, and to the President a report describing any Federal court case to which a State, local, or tribal government was a party in the preceding calendar year that required such State, local, or tribal government to undertake responsibilities or activities, beyond those such government would otherwise have undertaken, to comply with Federal statutes and regulations.

**SEC. 305. [2 U.S.C. 1555] DEFINITION.**

Notwithstanding section 3 of this Act, for purposes of this title the term “Federal mandate” means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

**SEC. 306. [2 U.S.C. 1556] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Advisory Commission to carry out section 301 and section 302, \$500,000 for each of fiscal years 1995 and 1996.<sup>245</sup>

## TITLE IV—JUDICIAL REVIEW

**SEC. 401. [2 U.S.C. 1571] JUDICIAL REVIEW.**

**(a) AGENCY STATEMENTS ON SIGNIFICANT REGULATORY ACTIONS.—**

(1) IN GENERAL.—Compliance or noncompliance by any agency with the provisions of sections 202 and 203(a) (1) and (2) shall be subject to judicial review only in accordance with this section.

(2) LIMITED REVIEW OF AGENCY COMPLIANCE OR NON-COMPLIANCE.—(A) Agency compliance or noncompliance with the provisions of sections 202 and 203(a) (1) and (2) shall be subject to judicial review only under section 706(1) of title 5, United States Code,<sup>246</sup> and only as provided under subparagraph (B).

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<sup>245</sup> Funds were appropriated for the Advisory Commission on Intergovernmental Relations in the Treasury, Postal Services and General Government Appropriations Act of 1996 (Public Law 104-52; 109 Stat. 468). For the fiscal year ending September 30, 1996, \$784,000 was appropriated, “of which \$450,000 shall be available only for the purposes of the prompt and orderly termination of the Advisory Commission on Intergovernmental Relations.” The Advisory Commission was terminated on September 30, 1996.

<sup>246</sup> 5 U.S.C. 706. “To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall compel agency action unlawfully withheld or unreasonably delayed”.

(B) If an agency fails to prepare the written statement (including the preparation of the estimates, analyses, statements, or descriptions) under section 202 or the written plan under section 203(a) (1) and (2), a court may compel the agency to prepare such written statement.

(3) REVIEW OF AGENCY RULES.—In any judicial review under any other Federal law of an agency rule for which a written statement or plan is required under sections 202 and 203(a) (1) and (2), the inadequacy or failure to prepare such statement (including the inadequacy or failure to prepare any estimate, analysis, statement or description) or written plan shall not be used as a basis for staying, enjoining, invalidating or otherwise affecting such agency rule.

(4) CERTAIN INFORMATION AS PART OF RECORD.—Any information generated under sections 202 and 203(a) (1) and (2) that is part of the rulemaking record for judicial review under the provisions of any other Federal law may be considered as part of the record for judicial review conducted under such other provisions of Federal law.

(5) APPLICATION OF OTHER FEDERAL LAW.—For any petition under paragraph (2) the provisions of such other Federal law shall control all other matters, such as exhaustion of administrative remedies, the time for and manner of seeking review and venue, except that if such other Federal law does not provide a limitation on the time for filing a petition for judicial review that is less than 180 days, such limitation shall be 180 days after a final rule is promulgated by the appropriate agency.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1995, and shall apply only to any agency rule for which a general notice of proposed rulemaking is promulgated on or after such date.

(b) JUDICIAL REVIEW AND RULE OF CONSTRUCTION.—Except as provided in subsection (a)—

(1) any estimate, analysis, statement, description or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review; and

(2) no provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action.

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**STATUTORY PAY-AS-YOU-GO ACT OF 2010**

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## STATUTORY PAY-AS-YOU-GO ACT OF 2010

H. J. RES. 45, PUBLIC LAW 111-139, 124 STAT. 8

Sponsor:	No Sponsor
April 29, 2009	Introduced in House
April 29, 2009	Passed/agreed to in House: Pursuant to the provisions of S. Con. Res. 13, H.J. Res. 45 is considered passed House.
January 20, 2010	Senate Committee on Finance discharged by Unanimous Consent.
January 28, 2010	Passed/agreed to in Senate: Passed Senate, under the order of 12/22/2009, having achieved 60 votes in the affirmative, with an amendment by Yea-Nay Vote. 60 - 39. Record Vote Number: 14.
February 4, 2010	Resolving differences – House actions: On motion to adopt the second portion of the divided question Agreed to by the Yeas and Nays: 233 - 187 (Roll no. 48).
February 4, 2010	Cleared for White House.
February 4, 2010	Presented to President.
February 12, 2010	Signed by President.
February 12, 2010	Became Public Law No: 111-139

# STATUTORY PAY-AS-YOU-GO ACT OF 2010

[PUBLIC LAW 111–139; 124 STAT. 8; FEBRUARY 12, 2010]

Increasing the statutory limit on the public debt.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof \$14,294,000,000,000.*

## TITLE I—STATUTORY PAY-AS-YOU-GO ACT OF 2010

### SEC. 1. [2 U.S.C. 931 note] SHORT TITLE.

This title may be cited as the “Statutory Pay-As-You-Go Act of 2010”.

### SEC. 2. [2 U.S.C. 931] PURPOSE.

The purpose of this title is to reestablish a statutory procedure to enforce a rule of budget neutrality on new revenue and direct spending legislation.

### SEC. 3. [2 U.S.C. 932] DEFINITIONS AND APPLICATIONS.

As used in this title—

(1) The term “BBEDCA” means the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) The definitions set forth in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and in section 250 of BBEDCA<sup>66</sup> shall apply to this title, except to the extent that they are specifically modified as follows:

(A) The term “outyear” means a fiscal year one or more years after the budget year.

(B) In section 250(c)(8)(C), the reference to the food stamp program shall be deemed to be a reference to the Supplemental Nutrition Assistance Program. (3) The term “AMT” means the Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986, 26 U.S.C. 55–59, the term “EGTRRA” means the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16), and the term “JGTRRA” means the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27).



(4)(A) The term “budgetary effects” means the amount by which PAYGO legislation changes outlays flowing from direct spending or revenues relative to the baseline and shall be determined on the basis of estimates prepared under section 4. Budgetary effects that increase outlays flowing from direct spending or decrease revenues are termed “costs” and budgetary effects that increase revenues or decrease outlays flowing from direct spending are termed “savings”. Budgetary effects shall not include any costs associated with debt service.

(B) For purposes of these definitions, off-budget effects shall not be counted as budgetary effects.

(C) Solely for purposes of recording entries on a PAYGO scorecard, provisions in appropriation Acts are also considered to be budgetary effects for purposes of this title if such provisions make outyear modifications to substantive law, except that provisions for which the outlay effects net to zero over a period consisting of the current year, the budget year, and the 4 subsequent years shall not be considered budgetary effects. For purposes of this paragraph, the term, “modifications to substantive law” refers to changes to or restrictions on entitlement law or other mandatory spending contained in appropriations Acts, notwithstanding section 250(c)(8) of BBEDCA. Provisions in appropriations Acts that are neither outyear modifications to substantive law nor changes in revenues have no budgetary effects for purposes of this title.

(5) The term “debit” refers to the net total amount, when positive, by which costs recorded on the PAYGO scorecards for a fiscal year exceed savings recorded on those scorecards for that year.

(6) The term “entitlement law” refers to a section of law which provides entitlement authority.

(7) The term “PAYGO legislation” or a “PAYGO Act” refers to a bill or joint resolution that affects direct spending or revenue relative to the baseline. The budgetary effects of changes in revenues and outyear modifications to substantive law included in appropriation Acts as defined in paragraph (4) shall be treated as if they were contained in PAYGO legislation or a PAYGO Act.

(8) The term “timing shift” refers to a delay of the date on which outlays flowing from direct spending would otherwise occur from the ninth outyear to the tenth outyear or an acceleration of the date on which revenues would otherwise occur from the tenth outyear to the ninth outyear.

**SEC. 4. [2 U.S.C. 933] PAYGO ESTIMATES AND PAYGO SCORECARDS.****(a) PAYGO ESTIMATES.—****(1) REQUIRED DESIGNATION IN PAYGO ACTS.—**

**(A) HOUSE OF REPRESENTATIVES.—**To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the House Budget Committee, a PAYGO Act originated in or amended by the House of Representatives may include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.”.

**(B) SENATE.—**To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the Senate Budget Committee, a PAYGO Act originated in or amended by the Senate shall include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.”.

**(C) CONFERENCE REPORTS AND AMENDMENTS BETWEEN THE HOUSES.—**To establish the budgetary effects of the conference report on a PAYGO Act, or an amendment to an amendment between Houses on a PAYGO Act, which if estimated shall be estimated jointly by the Chairmen of the House and Senate Budget Committees, the conference report or amendment between the Houses shall include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote

on passage in the House acting first on this conference report or amendment between the Houses.”.

(2) DETERMINATION OF BUDGETARY EFFECTS OF PAYGO ACTS.—

(A) ORIGINAL LEGISLATION.—

(i) STATEMENT AND ESTIMATE.—Prior to a vote on passage of a PAYGO Act originated or amended by one House, the Chairman of the Budget Committee of that House may submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act, if available prior to passage of the Act by that House and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 7 of this Act. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(A) or (1)(B), as applicable, shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) EFFECT.—The latest statement submitted by the Chairman of the Budget Committee of that House prior to passage shall supersede any prior statements submitted in the Congressional Record and shall be valid only if the PAYGO Act is not further amended by either House.

(iii) FAILURE TO SUBMIT ESTIMATE.—If—

(I) the estimate required by clause (i) has not been submitted prior to passage by that House;

(II) such estimate has been submitted but is no longer valid due to a subsequent amendment to the PAYGO Act; or

(III) the designation required pursuant to this subsection has not been made;

the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3), provided that this clause shall not apply if a valid designation is subsequently included in that PAYGO Act pursuant to paragraph (1)(C) and a statement is submitted pursuant to subparagraph (B).

(B) CONFERENCE REPORTS AND AMENDMENTS BETWEEN THE HOUSES.—

(i) IN GENERAL.—Prior to the adoption of a report of a committee of conference on a PAYGO Act

in either House, or disposition of an amendment to an amendment between Houses on a PAYGO Act, the Chairmen of the Budget Committees of the House and Senate may jointly submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act if available prior to passage of the Act by the House acting first on the legislation and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 7 of this title. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(C), shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) FAILURE TO SUBMIT ESTIMATE.—If such estimate has not been submitted prior to the adoption of a report of a committee of conference by either House, or if the designation required pursuant to this subsection has not been made, the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3).

(3) PROCEDURE IN THE SENATE.—In the Senate, upon submission of a statement titled “Budgetary Effects of PAYGO Legislation” by the Chairman of the Senate Budget Committee for printing in the Congressional Record, the Legislative Clerk shall read the statement.

(4) JURISDICTION OF THE BUDGET COMMITTEES.—For the purposes of enforcing section 306 of the Congressional Budget Act of 1974, a designation made pursuant to paragraph (1)(A),(1)(B), or (1)(C), that includes only the language specifically prescribed therein, shall not be considered a matter within the jurisdiction of either the Senate or House Committees on the Budget.

(b) CBO PAYGO ESTIMATES.—

(1) IN GENERAL.—

(A) ESTIMATES.—Section 308(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

“(3) CBO PAYGO ESTIMATES.—

“(A) The Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request from the Director of the Congressional Budget Office an estimate of the budgetary effects of PAYGO legislation.

“(B) Estimates shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(C) The Director shall not count timing shifts, as that term is defined at section 3(8) of the Statutory Pay-As-You-Go Act of 2010, in estimates of the budgetary effects of PAYGO Legislation.”.

(B) SIDEHEADING.—The side heading of section 308(a) of the Congressional Budget Act of 1974 is amended by striking “Reports on”.

(2) GUIDELINES.—Section 308 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

“(d) SCOREKEEPING GUIDELINES.—Estimates under this section shall be provided in accordance with the scorekeeping guidelines determined under section 252(d)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985.”.

(c) CURRENT POLICY ADJUSTMENTS FOR CERTAIN LEGISLATION.—

(1) IN GENERAL.—For any provision of legislation that meets the criteria in subsection (c), (d), (e) or (f) of section 7, the Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request that CBO adjust the estimate of budgetary effects of that legislation pursuant to paragraph (2) for the purposes of this title. A single piece of legislation may contain provisions that meet criteria in more than one of the subsections referred to in the preceding sentence. CBO shall adjust estimates for legislation designated under subsection (a) and estimated under subsection (b). OMB shall adjust estimates for legislation estimated under subsection (d)(3).

(2) ADJUSTMENTS.—

(A) ESTIMATES.—CBO or OMB, as applicable, shall exclude from the estimate of budgetary effects any budgetary effects of a provision that meets the criteria in subsection (c), (d), (e) or (f) of section 7, to the extent that those budgetary effects, when combined with all other excluded budgetary effects of any other previously designated provisions of enacted legislation under

the same subsection of section 7, do not exceed the maximum applicable current policy adjustment defined under the applicable subsection of section 7 for the applicable 10-year period.

(B) BASELINES.—Any estimate made pursuant to subparagraph (A) shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the BBEDCA. CBO estimates of legislation adjusted for current policy shall include a separate presentation of costs excluded from the calculation of budgetary effects for the legislation, as well as an updated total of all excluded costs of provisions within subsection (c), (d), or (e) of section 7, as applicable, and in the case of paragraph (1) of section 7(f), within any of the subparagraphs (A) through (L) of such paragraph, as applicable.

(3) LIMITATION ON AVAILABILITY OF EXCESS SAVINGS.—

(A) PROHIBITION ON USE OF EXCESS SAVINGS FOR INELIGIBLE POLICIES.—To the extent the adjustment for current policy of any provision estimated under this subsection exceeds the estimated budgetary effects of that provision, these excess savings shall not be available to offset the costs of any provisions not otherwise eligible for a current policy adjustment under section 7, and shall not be counted on the PAYGO scorecards established pursuant to subsections (d)(4) and (d)(5).

(B) PROHIBITION ON USE OF EXCESS SAVINGS ACROSS BUDGET AREAS.—For provisions eligible for a current policy adjustment under subsections (c) through (f) of section 7, to the extent the adjustment for current policy of any provision exceeds the estimated budgetary effects of that same provision, the excess savings shall be available only to offset the costs of other provisions that qualify for a current policy adjustment in that same subsection. Each paragraph in section 7(f)(1) shall be considered a separate subsection for purposes of this section.

(4) FURTHER GUIDANCE ON ESTIMATING BUDGETARY EFFECTS.—Estimates of budgetary effects under this subsection shall be consistent with the guidance provided at section 7(h).

(5) INCLUSION OF STATEMENTS.—For PAYGO legislation adjusted pursuant to section 7, the Chairman of the House or Senate Budget Committee, as applicable, shall include in any statement titled “Budgetary Effects of PAYGO Legislation”, submitted for that legislation pursu-

ant to section 4, an explanation of the current policy designation and adjustments.

(d) OMB PAYGO SCORECARDS.—

(1) IN GENERAL.—OMB shall maintain and make publicly available a continuously updated document containing two PAYGO scorecards displaying the budgetary effects of PAYGO legislation as determined under section 308 of the Congressional Budget Act of 1974, applying the look-back requirement in subsection (e) and the averaging requirement in subsection (f), and a separate addendum displaying the estimates of the costs of provisions designated in statute as emergency requirements.

(2) ESTIMATES IN LEGISLATION.—Except as provided in paragraph (3), in making the calculations for the PAYGO scorecards, OMB shall use the budgetary effects included by reference in the applicable legislation pursuant to subsection (a).

(3) OMB PAYGO ESTIMATES.—If a PAYGO Act does not contain a valid reference to its budgetary effects consistent with subsection (a), OMB shall estimate the budgetary effects of that legislation upon its enactment. The OMB estimate shall be based on the approaches to scorekeeping set forth in section 308 of the Congressional Budget Act of 1974, as amended by this title, and subsection (g)(4), and shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31 of the United States Code.

(4) 5-YEAR SCORECARD.—The first scorecard shall display the budgetary effects of PAYGO legislation in each year over the 5-year period beginning in the budget year.

(5) 10-YEAR SCORECARD.—The second scorecard shall display the budgetary effects of PAYGO legislation in each year over the 10-year period beginning in the budget year.

(6) COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS ACT.—Neither scorecard maintained by OMB pursuant to this subsection shall include net savings from any provisions of legislation titled “Community Living Assistance Services and Supports Act”, which establishes a Federal insurance program for long-term care, if such legislation is enacted into law, or amended, subsequent to the date of enactment of this title.

(e) LOOK-BACK TO CAPTURE CURRENT-YEAR EFFECTS.—For purposes of this section, OMB shall treat the budgetary effects of PAYGO legislation enacted during a session of Congress

that occur during the current year as though they occurred in the budget year.

(f) AVERAGING USED TO MEASURE COMPLIANCE OVER 5-YEAR AND 10-YEAR PERIODS.—OMB shall cumulate the budgetary effects of a PAYGO Act over the budget year (which includes any lookback effects under subsection (e)) and—

(1) for purposes of the 5-year scorecard referred to in subsection (d)(4), the four subsequent outyears, divide that cumulative total by five, and enter the quotient in the budget-year column and in each subsequent column of the 5-year PAYGO scorecard; and

(2) for purposes of the 10-year scorecard referred to in subsection (d)(5), the nine subsequent outyears, divide that cumulative total by ten, and enter the quotient in the budget-year column and in each subsequent column of the 10-year PAYGO scorecard.

(g) EMERGENCY LEGISLATION.—

(1) DESIGNATION IN STATUTE.—If a provision of direct spending or revenue legislation in a PAYGO Act is enacted as an emergency requirement that the Congress so designates in statute pursuant to this section, the amounts of new budget authority, outlays, and revenue in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purposes of this Act.

(2) DESIGNATION IN THE HOUSE OF REPRESENTATIVES.—If a PAYGO Act includes a provision expressly designated as an emergency for the purposes of this title, the Chair shall put the question of consideration with respect thereto.

(3) POINT OF ORDER IN THE SENATE.—

(A) IN GENERAL.—When the Senate is considering a PAYGO Act, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the



appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(D) FORM OF POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.<sup>247</sup>

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a PAYGO Act, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(4) EFFECT OF DESIGNATION ON SCORING.—If a provision is designated as an emergency requirement under this Act, CBO or OMB, as applicable, shall not include the budgetary effects of such a provision in its estimate of the budgetary effects of that PAYGO legislation.<sup>248</sup>

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<sup>247</sup> Section 313 of the Budget Act, (“the Byrd Rule”), sets out a procedure by which extraneous provisions are stricken from a bill or joint resolution in the Senate. A provision deemed “extraneous” is removed but the measure continues to be considered. It may be waived by 60 votes. See §120 and §123, *supra*.

<sup>248</sup> Provisions designated as emergencies under this subsection are not entered on S-Paygo scorecards and are not counted for purposes of clause 10 of rule XXI in the House (Cutgo).

**SEC. 5. [2 U.S.C. 934] ANNUAL REPORT AND SEQUESTRATION ORDER.**

(a) ANNUAL REPORT.—Not later than 14 days (excluding weekends and holidays) after Congress adjourns to end a session, OMB shall make publicly available and cause to be printed in the Federal Register an annual PAYGO report. The report shall include an up-to-date document containing the PAYGO scorecards, a description of any current policy adjustments made under section 4(c), information about emergency legislation (if any) designated under section 4(g), information about any sequestration if required by subsection (b), and other data and explanations that enhance public understanding of this title and actions taken under it.

(b) SEQUESTRATION ORDER.—If the annual report issued at the end of a session of Congress under subsection (a) shows a debit on either PAYGO scorecard for the budget year, OMB shall prepare and the President shall issue and include in that report a sequestration order that, upon issuance, shall reduce budgetary resources of direct spending programs by enough to offset that debit as prescribed in section 6. If there is a debit on both scorecards, the order shall fully offset the larger of the two debits. OMB shall transmit the order and the report to the House of Representatives and the Senate. If the President issues a sequestration order, the annual report shall contain, for each budget account to be sequestered, estimates of the baseline level of budgetary resources subject to sequestration, the amount of budgetary resources to be sequestered, and the outlay reductions that will occur in the budget year and the subsequent fiscal year because of that sequestration.

**SEC. 6. [2 U.S.C. 935] CALCULATING A SEQUESTRATION.**

(a) REDUCING NONEXEMPT BUDGETARY RESOURCES BY A UNIFORM PERCENTAGE.—

(1) IN GENERAL.—OMB shall calculate the uniform percentage by which the budgetary resources of nonexempt direct spending programs are to be sequestered such that the outlay savings resulting from that sequestration, as calculated under subsection (b), shall offset the budget-year debit, if any, on the applicable PAYGO scorecard. If the uniform percentage calculated under the prior sentence exceeds 4 percent, the Medicare programs described in section 256(d) of BBEDCA shall be reduced by 4 percent and the uniform percentage by which the budgetary resources of all other nonexempt direct spending programs are to be sequestered shall be increased, as necessary, so that the sequestration of Medicare and of all other non-

exempt direct spending programs together produce the required outlay savings.

(2) PROGRAMS AND ACTIVITIES IN UNIFIED BUDGET ONLY.— Subject to the exemptions set forth in section 11<sup>249</sup>, OMB shall determine the uniform percentage required under paragraph (1) with respect to programs and activities contained in the unified budget only.

(b) OUTLAY SAVINGS.—In determining the amount by which a sequestration offsets a budget-year debit, OMB shall count—

(1) the amount by which the sequestration in a crop year of crop support payments, pursuant to section 256(j) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year;

(2) the amount by which the sequestration of Medicare payments in the 12-month period following the sequestration order, pursuant to section 256(d) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year; and

(3) the amount by which the sequestration in the budget year of the budgetary resources of other nonexempt mandatory programs reduces outlays in the budget year and in the subsequent fiscal year.

**SEC. 7. [2 U.S.C. 936] ADJUSTMENT FOR CURRENT POLICIES.**

(a) PURPOSE.—The purpose of this section is to provide for adjustments of estimates of budgetary effects of PAYGO legislation for legislation affecting 4 areas of the budget—

(1) payments made under section 1848 of the Social Security Act (referred to in this section as “Payment for Physicians’ Services”);

(2) the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986;

(3) the AMT;<sup>250</sup> and

(4) provisions of EGTRRA or JGTRRA that amended the Internal Revenue Code of 1986 (or provisions in later statutes further amending the amendments made by EGTRRA or JGTRRA), other than—

(A) the provisions of those 2 Acts that were made permanent by the Pension Protection Act of 2006 (Public Law 109–280);

(B) amendments to the Estate and Gift Tax referred to in paragraph (2);

(C) the AMT referred to in paragraph (3); and

<sup>249</sup> See section 255 of BBEDCA, *supra* at §207. Amended by BBA of 2013.

<sup>250</sup> “AMT” is the “Alternative Minimum Tax.”

(D) the income tax rates on ordinary income that apply to individuals with adjusted gross incomes greater than \$200,000 for a single filer and \$250,000 for joint filers.

(b) DURATION.—This section shall remain in effect through December 31, 2011.

(c) MEDICARE PAYMENTS TO PHYSICIANS.—

(1) CRITERIA.—Legislation that includes provisions amending or superseding the system for updating payments under subsections (d) and (f) of section 1848 of the Social Security Act shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters in accordance with subsections (d) and (f) of section 1848 of the Social Security Act (as scheduled on December 31, 2009, to be in effect); and

(B) what those net outlays would have been if—

(i) the nominal payment rates and related parameters in effect for 2009 had been in effect through December 31, 2014, without change; and

(ii) thereafter, the nominal payment rates and related parameters described in subparagraph (A) had applied and the assumption described in clause (i) had never applied.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2014, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters specified in that section of the Social Security Act (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those net outlays would have been if the nominal payment rates and related parameters in effect for 2009 had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(d) ESTATE AND GIFT TAX.—

(1) CRITERIA.—Legislation that includes provisions amending the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986 shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of the legislation meeting the criteria in paragraph (1), estate and gift tax law had instead been amended so that the tax rates, nominal exemption amounts, and related parameters in effect for tax year 2009 had remained in effect through December 31, 2011, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g).

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if the estate and gift tax law rates, nominal exemption amounts, and related parameters in effect for 2009, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g), had been in effect for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) DURATION OF POLICY ADJUSTMENT.—Adjustments made pursuant to this subsection are available for policies affecting the estate and gift tax through only December 31, 2011. Any adjustments shall include budgetary effects in all years from these policy changes.

(e) AMT RELIEF.—

(1) CRITERIA.—Legislation that includes provisions extending AMT relief shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of taxpayers affected by the AMT in tax year 2008 in any year for which relief is provided, through December 31, 2011.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of AMT taxpayers in tax year 2008 for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) DURATION OF POLICY ADJUSTMENT.—Adjustments made pursuant to this subsection are available for policies affecting the AMT through only December 31, 2011.

Any adjustments shall include budgetary effects in all years from these policy changes.

(f) PERMANENT EXTENSION OF MIDDLE-CLASS TAX CUTS.—

(1) CRITERIA.—Legislation that includes provisions extending middle-class tax cuts shall trigger the current policy adjustment required by this title if those provisions extend 1 or more of the following provisions:

(A) The 10 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(B) The child tax credit as in effect for tax year 2010, as provided for under section 201 of EGTRRA and any later amendments through December 31, 2009.

(C) Tax benefits for married couples as in effect for tax year 2010, as provided for under title III of EGTRRA and any later amendments through December 31, 2009.

(D) The adoption credit as in effect in tax year 2010, as provided for under section 202 of EGTRRA and any later amendments through December 31, 2009.

(E) The dependent care credit as in effect in tax year 2010, as provided for under section 204 of EGTRRA and any later amendments through December 31, 2009.

(F) The employer-provided child care credit as in effect in tax year 2010, as provided for under section 205 of EGTRRA and any later amendments through December 31, 2009.

(G) The education tax benefits as in effect in tax year 2010, as provided for under title IV of EGTRRA and any later amendments through December 31, 2009.

(H) The 25 and 28 percent brackets as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(I) The 33 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 or less for joint filers in tax year 2010, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(J) The rates on income derived from capital gains and qualified dividends as in effect for tax year 2010, as provided for under sections 301 and 302 of JGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(K) The phaseout of personal exemptions and the overall limitation on itemized deductions as in effect for tax year 2010, as provided for under sections 102 and 103 of EGTRRA of 2001, respectively, and any later amendment through December 31, 2009, affecting taxpayer with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(L) The increase in the limitations on expensing depreciable business assets for small businesses under section 179(b) of the Internal Revenue Code of 1986 as in effect in tax year 2010, as provided under section 202 of JGTRRA and any later amendment through December 31, 2009.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in paragraph (1) were made permanent.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) are not permanent, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and



(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in paragraph (1) had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(g) INDEXING FOR INFLATION.—Indexed amounts are assumed to increase in each year by an amount equal to the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, determined by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) of such section.

(h) GUIDANCE ON ESTIMATES AND CURRENT POLICY ADJUSTMENTS.—

(1) MIDDLE CLASS TAX CUTS.—For purposes of estimates made pursuant to subsection (f)—

(A) each of the income tax provisions shall be estimated as though the AMT had remained at current law as scheduled on December 31, 2009 to be in effect; and

(B) if more than 1 of the income tax provisions is included in a single piece of legislation, those provisions shall be estimated in the order in which they appear.

(2) AMT.—For purposes of estimates made pursuant to subsection (e), changes to the AMT shall be estimated as if, on the date of enactment of legislation meeting the criteria in subsection (e)(1), all of the income tax provisions identified in subsection (f)(1) were made permanent.

#### SEC. 8. [2 U.S.C. 937] APPLICATION OF BBEDCA.

For purposes of this title—

(1) notwithstanding section 275 of BBEDCA, the provisions of sections 255, 256, 257, and 274 of BBEDCA, as amended by this title, shall apply to the provisions of this title;

(2) references in sections 255, 256, 257, and 274 to “this part” or “this title” shall be interpreted as applying to this title;

(3) references in sections 255, 256, 257, and 274 of BBEDCA to “section 254” shall be interpreted as referencing section 5 of this title;

(4) the reference in section 256(b) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 5 of this title;

(5) the reference in section 256(d)(1) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 6 of this title;

(6) the reference in section 256(d)(4) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 5 of this title;

(7) section 256(k) of BBEDCA shall apply to a sequestration, if any, under this title; and

(8) references in section 257(e) of BBEDCA to “section 251, 252, or 253” shall be interpreted as referencing section 4 of this title.

#### SEC. 9. TECHNICAL CORRECTIONS.

(a) Section 250(c)(18) of BBEDCA is amended by striking “the expenses the Federal deposit insurance agencies” and inserting “the expenses of the Federal deposit insurance agencies”.

(b) Section 256(k)(1) of BBEDCA is amended by striking “in paragraph (5)” and inserting “in paragraph (6)”.

#### SEC. 10. CONFORMING AMENDMENTS.

(a) Section 256(a) of BBEDCA is repealed.<sup>251</sup>

(b) Section 256(b) of BBEDCA is amended by striking “origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.” and inserting in lieu thereof “origination fees under sections 438(c)(2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.”.

(c) Section 256(c) of BBEDCA is repealed.<sup>252</sup>

<sup>251</sup> Before its repeal, section 256(a) read as follows:

“AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

“Special milk program; and

“Vocational rehabilitation basic State grants.

“In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.”

<sup>252</sup> Before its repeal, section 256(c) of BBEDCA read as follows:

“(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increas-

(d) Section 256(d) of BBEDCA is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (5), and (6);

(2) by amending paragraph (1) to read as follows:

“(1) CALCULATION OF REDUCTION IN PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by section 252 or 253, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act—

“(A) in the case of parts A and B of such title, to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and “(B) in the case of parts C and D, to monthly payments under contracts under such parts for the same one-year period; such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.”.

(3) by inserting after paragraph (1) the following:

“(2) UNIFORM REDUCTION RATE; MAXIMUM PERMISSIBLE REDUCTION.—Reductions in payments for programs and activities under such title XVIII pursuant to a sequestration order under section 254 shall be at a uniform rate, which shall not exceed 4 percent, across all such programs and activities subject to such order.”;

(4) by inserting after paragraph (3), as redesignated, the following:

“(4) TIMING OF SUBSEQUENT SEQUESTRATION ORDER.—A sequestration order required by section 252 or 253 with respect to programs under such title XVIII shall not take effect until the first month beginning after the end

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es in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage.

of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).”;

(5) in paragraph (6), as redesignated, to read as follows:

“(6) SEQUESTRATION DISREGARDED IN COMPUTING PAYMENT AMOUNTS.—The Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part, for purposes of computing any adjustments to payment rates under such title XVIII, specifically including—

“(A) the part C growth percentage under section 1853(c)(6);

“(B) the part D annual growth rate under section 1860D-2(b)(6); and

“(C) application of risk corridors to part D payment rates under section 1860D-15(e).”;

(6) by adding after paragraph (6), as redesignated, the following:

“(7) EXEMPTIONS FROM SEQUESTRATION.—In addition to the programs and activities specified in section 255, the following shall be exempt from sequestration under this part:

“(A) PART D LOW-INCOME SUBSIDIES.—Premium and cost-sharing subsidies under section 1860D-14 of the Social Security Act.

“(B) PART D CATASTROPHIC SUBSIDY.—Payments under section 1860D-15(b) and (e)(2)(B) of the Social Security Act.

“(C) QUALIFIED INDIVIDUAL (QI) PREMIUMS.—Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act.”.

#### SEC. 11. EXEMPT PROGRAMS AND ACTIVITIES.

(a) DESIGNATIONS.—Section 255 of BBEDCA is amended by redesignating subsection (i) as (j) and striking “1998” and inserting in lieu thereof “2010”.

(b) SOCIAL SECURITY, VETERANS PROGRAMS, NET INTEREST, AND TAX CREDITS.—Subsections (a) through (d) of section 255 of BBEDCA are amended to read as follows:

[...]

(c) OTHER PROGRAMS AND ACTIVITIES, LOW-INCOME PROGRAMS, AND ECONOMIC RECOVERY PROGRAMS.—Subsections (g) and (h) of section 255 of BBEDCA are amended to read as follows:

[...]

**SEC. 12. [2 U.S.C. 938] DETERMINATIONS AND POINTS OF ORDER.**

Nothing in this title shall be construed as limiting the authority of the chairmen of the Committees on the Budget of the House and Senate under section 312 of the Congressional Budget Act of 1974. CBO may consult with the Chairmen of the House and Senate Budget Committees to resolve any ambiguities in this title.

**SEC. 13. [2 U.S.C. 939] LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.**

(a) **LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.**—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any bill or resolution pursuant to any expedited procedure to consider the recommendations of a Task Force for Responsible Fiscal Action<sup>253</sup> or other commission that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or the taxes received under subchapter A of chapter 9; the taxes imposed by subchapter E of chapter 1; and the taxes collected under section 86 of part II of subchapter B of chapter 1 of the Internal Revenue Code.

(b) **WAIVER.**—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) **APPEALS.**—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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<sup>253</sup> Legislation has been introduced in Congress to establish a bipartisan commission to develop proposals addressing long term budgetary issues. None has been enacted, though this point of order applies to measures recommending changes to OASDI by any commission.

In the 110<sup>th</sup> Congress:

S. 2063, the Bipartisan Task Force for Responsible Fiscal Action Act of 2007, was introduced by Sen. Kent Conrad [ND]. H.R.3655, the Bipartisan Task Force for Responsible Fiscal Action Act of 2007, by Rep. Jim Cooper [TN]. Hearings were held but no other legislative action was taken on these bills.

In the 111<sup>th</sup> Congress:

S. 2853, the Bipartisan Task Force for Responsible Fiscal Action Act of 2009, was introduced by Sen. Kent Conrad [ND].

S. 2965, the Commission for Fiscal Sustainability Act of 2010, was introduced by Sen. John Ensign [NV].

No legislative action was taken on these bills.

**TITLE II—ELIMINATION OF  
DUPLICATIVE AND WASTEFUL  
SPENDING**

**SEC. 21. IDENTIFICATION, CONSOLIDATION, AND ELIMINATION  
OF DUPLICATIVE GOVERNMENT PROGRAMS.**

The Comptroller General of the Government Accountability Office shall conduct routine investigations to identify programs, agencies, offices, and initiatives with duplicative goals and activities within Departments and governmentwide and report annually to Congress on the findings, including the cost of such duplication and with recommendations for consolidation and elimination to reduce duplication identifying specific rescissions.



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**BUDGET CONTROL ACT OF 2011**

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## BUDGET CONTROL ACT OF 2011

S. 365, PUBLIC LAW 112.25, 125 STAT. 240

Sponsor:	Senator Thomas Richard Harkin
February 16, 2011	Introduced in Senate
February 16, 2011	Committee on Health, Education, Labor, and Pensions. Original measure reported to Senate by Senator Harkin. Without written report.
February 17, 2011	Passed/agreed to in Senate: Passed Senate without amendment by Unanimous Consent.
August 1, 2011	Passed/agreed to in House: On passage Passed with amendment by recorded vote: 269 - 161 (Roll no. 690).
August 2, 2011	Resolving differences -- Senate actions: Senate agreed in the House amendment to the bill by Yea-Nay Vote. 74 - 26. Record Vote Number: 123.
August 2, 2011	Presented to President.
August 2, 2011	Signed by President.
August 2, 2011	Became Public Law No: 112-025

# BUDGET CONTROL ACT OF 2011

[PUBLIC LAW 112–25; 125 STAT. 240; AUGUST 2, 2011]

To provide for budget control.

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Budget Control Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Severability.

### TITLE I—TEN-YEAR DISCRETIONARY CAPS WITH SEQUESTER

Sec. 101. Enforcing discretionary spending limits.

Sec. 102. Definitions.

Sec. 103. Reports and orders. Sec. 104. Expiration.

Sec. 105. Amendments to the Congressional Budget and Impoundment Control Act of 1974.

Sec. 106. Senate budget enforcement.

### TITLE II—VOTE ON THE BALANCED BUDGET AMENDMENT

Sec. 201. Vote on the balanced budget amendment.

Sec. 202. Consideration by the other House.

### TITLE III—DEBT CEILING DISAPPROVAL PROCESS

Sec. 301. Debt ceiling disapproval process.

Sec. 302. Enforcement of budget goal.

### TITLE IV—JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

Sec. 401. Establishment of Joint Select Committee.

Sec. 402. Expedited consideration of joint committee recommendations.

Sec. 403. Funding.

Sec. 404. Rulemaking.

### TITLE V—PELL GRANT AND STUDENT LOAN PROGRAM CHANGES

Sec. 501. Federal Pell grants.

Sec. 502. Termination of authority to make interest subsidized loans to graduate and professional students.

Sec. 503. Termination of direct loan repayment incentives.

Sec. 504. Inapplicability of title IV negotiated rulemaking and master calendar exception.

## SEC. 2. SEVERABILITY.

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of this Act to any other person or circumstance shall not be affected.

## TITLE I—TEN-YEAR DISCRETIONARY CAPS WITH SEQUESTER

### SEC. 101. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:<sup>254</sup>

[...]

### SEC. 102. DEFINITIONS.

Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike paragraph (4) and insert the following new paragraph:<sup>255</sup>

[...]

### SEC. 103. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:<sup>256</sup>

[...]

### SEC. 104. EXPIRATION.

(a) REPEALER.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) CONFORMING CHANGE.—Sections 252(d)(1), 254(c), 254(f)(3), and 254(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not apply to the Congressional Budget Office.

### SEC. 105. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) ADJUSTMENTS.—Section 314 of the Congressional Budget Act of 1974 is amended as follows:<sup>257</sup>

[...]

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<sup>254</sup> This section is omitted: It amended section 251 of BBEDCA and the most up-to-date language of that section may be found herein. See §202, *supra*. The discretionary spending limits were first set forth in the Budget Enforcement Act of 1990. The Omnibus Budget Reconciliation Act of 1993 and BEA of 1997 both revised and extended the limits. They ended after fiscal year 2002. Though a different direction was taken, the BCA reestablished the limits through fiscal year 2021 (divided between defense and nondefense categories).

<sup>255</sup> This section is omitted: It amended section 250 of BBEDCA and the most up-to-date language of that section may be found herein. See §201, *supra*.

<sup>256</sup> This section is omitted: It amended section 254 of BBEDCA and the most up-to-date language may be found herein. See §206, *supra*.

<sup>257</sup> This section is omitted: It amended section 314 of the Budget Act and the most up-to-date language of that section may be found herein. See §124, *supra*.

**SEC. 106. [2 U.S.C. 631 note] SENATE BUDGET ENFORCEMENT.****(a) IN GENERAL.—**

(1) For the purpose of enforcing the Congressional Budget Act of 1974 through April 15, 2012, including section 300 of that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(1) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2012 with appropriate budgetary levels for fiscal years 2011 and 2013 through 2021.

(2) For the purpose of enforcing the Congressional Budget Act of 1974 after April 15, 2012, including section 300 of that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(2) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2013 with appropriate budgetary levels for fiscal years 2012 and 2014 through 2022.

**(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—**

(1) As soon as practicable after the date of enactment of this section, the Chairman of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2011 and 2012 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2011 and 2012 and aggregate revenue levels for fiscal years 2011, 2012, 2012 through 2016, 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted

prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(2) Not later than April 15, 2012, the Chairman of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2012 and 2013 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2012, 2013, 2013 through 2017, and 2013 through 2022 consistent with the Congressional Budget Office's March 2012 baseline for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2012 and 2013 and aggregate revenue levels for fiscal years 2012, 2013, 2013–2017, and 2013–2022 consistent with the Congressional Budget Office's March 2012 baseline and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2012 and 2013, 2013–2017, and 2013–2022 consistent with the Congressional Budget Office's March 2012 baseline budget for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) SENATE PAY-AS-YOU-GO SCORECARD.—

(1) Effective on the date of enactment of this section, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

(2) Not later than April 15, 2012, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

(3) Upon resetting the Senate paygo scorecard pursuant to paragraph (2), the Chairman shall publish a notification of such action in the Congressional Record.

(d) FURTHER ADJUSTMENTS.—

(1) The Chairman of the Committee on the Budget of the Senate may revise any allocations, aggregates, or levels set pursuant to this section to account for any subsequent adjustments to discretionary spending limits made pursuant to this Act.

(2) With respect to any allocations, aggregates, or levels set or adjustments made pursuant to this section, sections 412 through 414 of S. Con. Res. 13 (111th Congress) shall remain in effect.

(e) EXPIRATION.—

(1) Subsections (a)(1), (b)(1), and (c)(1) shall expire if a concurrent resolution on the budget for fiscal year 2012 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

(2) Subsections (a)(2), (b)(2), and (c)(2) shall expire if a concurrent resolution on the budget for fiscal year 2013 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

## TITLE II—VOTE ON THE BALANCED BUDGET AMENDMENT

### SEC. 201. VOTE ON THE BALANCED BUDGET AMENDMENT.

After September 30, 2011, and not later than December 31, 2011, the House of Representatives and Senate, respectively, shall vote on passage of a joint resolution, the title of which is as follows: “Joint resolution proposing a balanced budget amendment to the Constitution of the United States.”.

### SEC. 202. CONSIDERATION BY THE OTHER HOUSE.

(a) HOUSE CONSIDERATION.—

(1) REFERRAL.—If the House receives a joint resolution described in section 201 from the Senate, such joint resolution shall be referred to the Committee on the Judiciary. If the committee fails to report the joint resolution within five legislative days, it shall be in order to move that

the House discharge the committee from further consideration of the joint resolution. Such a motion shall not be in order after the House has disposed of a motion to discharge the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except twenty minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the joint resolution in accordance with paragraph (3). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(2) PROCEEDING TO CONSIDERATION.—After the joint resolution has been referred to the appropriate calendar or the committee has been discharged (other than by motion) from its consideration, it shall be in order to move to proceed to consider the joint resolution in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(3) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the joint resolution. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(b) SENATE CONSIDERATION.—(1) If the Senate receives a joint resolution described in section 201 from the House of Representatives, such joint resolution shall be referred to the appropriate committee of the Senate. If such committee has not reported the joint resolution at the close of the fifth session day after its receipt by the Senate, such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(2) Consideration of the joint resolution and on all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to pro-

ceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the joint resolution, including time used for quorum calls and voting, shall be counted against the total 20 hours of consideration.

(3) If the Senate has voted to proceed to a joint resolution, the vote on passage of the joint resolution shall be taken on or before the close of the seventh session day after such joint resolution has been reported or discharged or immediately following the conclusion of consideration of the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

### TITLE III—DEBT CEILING DISAPPROVAL PROCESS

#### SEC. 301. DEBT CEILING DISAPPROVAL PROCESS.

(a) IN GENERAL.—Subchapter I of chapter 31 of subtitle III of title 31, United States Code, is amended—

(1) in section 3101(b), by striking “or otherwise” and inserting “or as provided by section 3101A or otherwise”; and

(2) by inserting after section 3101 the following:

[...]

(b) CONFORMING AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by inserting after the item relating to section 3101 the following new item:

“3101A. Presidential modification of the debt ceiling.”.

#### SEC. 302. ENFORCEMENT OF BUDGET GOAL.

(a) IN GENERAL.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 251 the following new section:<sup>258</sup>

[...]

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after the item relating to section 251 the following:

“Sec. 251A. Enforcement of budget goal.”.

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<sup>258</sup> This section added section 251A to BBEDCA, see §203, *supra*, and amended by the Bipartisan Budget Act of 2013. See §296, *supra*.



## TITLE IV—JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

### SEC. 401. [2 U.S.C. 900 note] ESTABLISHMENT OF JOINT SELECT COMMITTEE.

(a) DEFINITIONS.—In this title:

(1) JOINT COMMITTEE.—The term “joint committee” means the Joint Select Committee on Deficit Reduction established under subsection (b)(1).

(2) JOINT COMMITTEE BILL.—The term “joint committee bill” means a bill consisting of the proposed legislative language of the joint committee recommended under subsection (b)(3)(B) and introduced under section 402(a).

(b) ESTABLISHMENT OF JOINT SELECT COMMITTEE.—

(1) ESTABLISHMENT.—There is established a joint select committee of Congress to be known as the “Joint Select Committee on Deficit Reduction”.

(2) GOAL.—The goal of the joint committee shall be to reduce the deficit by at least \$1,500,000,000,000 over the period of fiscal years 2012 to 2021.

(3) DUTIES.—

(A) IN GENERAL.—

(i) IMPROVING THE SHORT-TERM AND LONG-TERM FISCAL IMBALANCE.—The joint committee shall provide recommendations and legislative language that will significantly improve the short-term and long-term fiscal imbalance of the Federal Government.

(ii) RECOMMENDATIONS OF COMMITTEES.—Not later than October 14, 2011, each committee of the House of Representatives and the Senate may transmit to the joint committee its recommendations for changes in law to reduce the deficit consistent with the goal described in paragraph (2) for the joint committee’s consideration.

(B) REPORT, RECOMMENDATIONS, AND LEGISLATIVE LANGUAGE.—

(i) IN GENERAL.—Not later than November 23, 2011, the joint committee shall vote on—

(I) a report that contains a detailed statement of the findings, conclusions, and recommendations of the joint committee and the estimate of the Congressional Budget Office required by paragraph (5)(D)(ii); and

(II) proposed legislative language to carry out such recommendations as described in subclause (I), which shall include a statement of the deficit reduction achieved by the legislation over the period of fiscal years 2012 to 2021. Any change to the Rules of the House of Representatives or the Standing Rules of the Senate included in the report or legislative language shall be considered to be merely advisory.

(ii) APPROVAL OF REPORT AND LEGISLATIVE LANGUAGE.—The report of the joint committee and the proposed legislative language described in clause (i) shall require the approval of a majority of the members of the joint committee.

(iii) ADDITIONAL VIEWS.—A member of the joint committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final joint committee vote on the approval of the report and legislative language under clause (ii) shall be entitled to 3 calendar days in which to file such views in writing with the staff director of the joint committee. Such views shall then be included in the joint committee report and printed in the same volume, or part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the joint committee report may be printed and transmitted immediately without such views.

(iv) TRANSMISSION OF REPORT AND LEGISLATIVE LANGUAGE.—If the report and legislative language are approved by the joint committee pursuant to clause (ii), then not later than December 2, 2011, the joint committee shall submit the joint committee report and legislative language described in clause (i) to the President, the Vice President, the Speaker of the House of Representatives, and the majority and minority Leaders of each House of Congress.

(v) REPORT AND LEGISLATIVE LANGUAGE TO BE MADE PUBLIC.—Upon the approval or disapproval of the joint committee report and legislative language pursuant to clause (ii), the joint committee shall promptly make the full report and legislative language, and a record of the vote, available to the public.

## (4) MEMBERSHIP.—

(A) IN GENERAL.—The joint committee shall be composed of 12 members appointed pursuant to subparagraph (B).

(B) APPOINTMENT.—Members of the joint committee shall be appointed as follows:

(i) The majority leader of the Senate shall appoint three members from among Members of the Senate.<sup>259</sup>

(ii) The minority leader of the Senate shall appoint three members from among Members of the Senate.<sup>260</sup>

(iii) The Speaker of the House of Representatives shall appoint three members from among Members of the House of Representatives.<sup>261</sup>

(iv) The minority leader of the House of Representatives shall appoint three members from among Members of the House of Representatives.<sup>262</sup>

## (C) CO-CHAIRS.—

(i) IN GENERAL.—There shall be two Co-Chairs of the joint committee. The majority leader of the Senate shall appoint one Co-Chair from among the members of the joint committee.<sup>263</sup> The Speaker of the House of Representatives shall appoint the second Co-Chair from among the members of the joint committee.<sup>264</sup> The Co-Chairs shall be appointed not later than 14 calendar days after the date of enactment of this Act.

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<sup>259</sup> The Majority Leader of the Senate, Senator Harry Read of Nevada, appointed the following Senators: Senator Patty Murray of Washington; Senator Max Baucus of Montana; and Senator John Kerry of Massachusetts.

<sup>260</sup> The Minority Leader of the Senate, Senator Mitch McConnell of Kentucky, appointed the following Senators: Senator John Kyl of Arizona; Senator Rob Portman of Ohio; and Senator Pat Toomey of Pennsylvania.

<sup>261</sup> The Speaker of the House of Representatives, Representative John Boehner of Ohio, appointed the following Members: Representative Jeb Hensarling of Texas; Representative Fred Upton of Michigan; and Representative Dave Camp of Michigan.

<sup>262</sup> The Minority Leader of the House of Representatives, Representative Nancy Pelosi of California, appointed the following Members: Representative Xavier Becerra of California; Representative Jim Clyburn of South Carolina; and Representative Chris Van Hollen of Maryland.

<sup>263</sup> The Majority Leader of the Senate, Senator Harry Reid of Nevada, appointed Senator Patty Murray of Washington, as Co-Chair of the Select Committee on Deficit Reduction.

<sup>264</sup> The Speaker of the House of Representatives, Representative John Boehner of Ohio, appointed Representative Jeb Hensarling (TX), as Co-Chair of the Select Committee on Deficit Reduction.

(ii) STAFF DIRECTOR.—The Co-Chairs, acting jointly, shall hire the staff director of the joint committee.<sup>265</sup>

(D) DATE.—Members of the joint committee shall be appointed not later than 14 calendar days after the date of enactment of this Act.

(E) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the joint committee. Any vacancy in the joint committee shall not affect its powers, but shall be filled not later than 14 calendar days after the date on which the vacancy occurs, in the same manner as the original designation was made. If a member of the joint committee ceases to be a Member of the House of Representatives or the Senate, as the case may be, the member is no longer a member of the joint committee and a vacancy shall exist.

(5) ADMINISTRATION.—

(A) IN GENERAL.—To enable the joint committee to exercise its powers, functions, and duties, there are authorized to be disbursed by the Senate the actual and necessary expenses of the joint committee approved by the Co-Chairs, subject to the rules and regulations of the Senate.

(B) EXPENSES.—In carrying out its functions, the joint committee is authorized to incur expenses in the same manner and under the same conditions as the Joint Economic Committee is authorized by section 11 of Public Law 79–304 (15 U.S.C. 1024 (d)).

(C) QUORUM.—Seven members of the joint committee shall constitute a quorum for purposes of voting, meeting, and holding hearings.

(D) VOTING.—

(i) PROXY VOTING.—No proxy voting shall be allowed on behalf of the members of the joint committee.

(ii) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—The Congressional Budget Office shall provide estimates of the legislation (as described in paragraph (3)(B)) in accordance with sections 308(a) and 201(f) of the Congressional Budget Act of 1974

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<sup>265</sup> On September 2, 2011, Mark Prater, Deputy Staff Director and Chief Counsel of the Republican Staff of the Senate Finance Committee was appointed as Staff Director for the Select Committee. On September 6, 2011 Sarah Kuehl, a Senior Budget Analyst on the Democratic Staff of the Senate Budget Committee was appointed as Deputy Staff Director.

(2 U.S.C. 639(a) and 601(f))(including estimates of the effect of interest payment on the debt). In addition, the Congressional Budget Office shall provide information on the budgetary effect of the legislation beyond the year 2021. The joint committee may not vote on any version of the report, recommendations, or legislative language unless such estimates are available for consideration by all members of the joint committee at least 48 hours prior to the vote as certified by the Co-Chairs.

(E) MEETINGS.—

(i) INITIAL MEETING.—Not later than 45 calendar days after the date of enactment of this Act, the joint committee shall hold its first meeting.

(ii) AGENDA.—The Co-Chairs of the joint committee shall provide an agenda to the joint committee members not less than 48 hours in advance of any meeting.

(F) HEARINGS.—

(i) IN GENERAL.—The joint committee may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, require attendance of witnesses and production of books, papers, and documents, take such testimony, receive such evidence, and administer such oaths as the joint committee considers advisable.

(ii) HEARING PROCEDURES AND RESPONSIBILITIES OF CO-CHAIRS.—

(I) ANNOUNCEMENT.—The Co-Chairs of the joint committee shall make a public announcement of the date, place, time, and subject matter of any hearing to be conducted, not less than 7 days in advance of such hearing, unless the Co-Chairs determine that there is good cause to begin such hearing at an earlier date.

(II) WRITTEN STATEMENT.—A witness appearing before the joint committee shall file a written statement of proposed testimony at least 2 calendar days before the appearance of the witness, unless the requirement is waived by the Co-Chairs, following their determination that there is good cause for failure to comply with such requirement.

(G) TECHNICAL ASSISTANCE.—Upon written request of the Co-Chairs, a Federal agency shall provide technical assistance to the joint committee in order for the joint committee to carry out its duties.

(c) STAFF OF JOINT COMMITTEE.—

(1) IN GENERAL.—The Co-Chairs of the joint committee may jointly appoint and fix the compensation of staff as they deem necessary, within the guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate.

(2) ETHICAL STANDARDS.—Members on the joint committee who serve in the House of Representatives shall be governed by the ethics rules and requirements of the House. Members of the Senate who serve on the joint committee and staff of the joint committee shall comply with the ethics rules of the Senate.

(d) TERMINATION.—The joint committee shall terminate on January 31, 2012.<sup>266</sup>

**SEC. 402. [2 U.S.C. 900 note] EXPEDITED CONSIDERATION OF JOINT COMMITTEE RECOMMENDATIONS.**

(a) INTRODUCTION.—If approved by the majority required by section 401(b)(3)(B)(ii), the proposed legislative language submitted pursuant to section 401(b)(3)(B)(iv) shall be introduced in the Senate (by request) on the next day on which the Senate is in session by the majority leader of the Senate or by a Member of the Senate designated by the majority leader of the Senate and shall be introduced in the House of Representatives (by request) on the next legislative day by the majority leader of the House or by a Member of the House designated by the majority leader of the House.<sup>267</sup>

(b) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) REFERRAL AND REPORTING.—Any committee of the House of Representatives to which the joint committee bill is referred shall report it to the House without amendment not later than December 9, 2011. If a committee fails to report the joint committee bill within that pe-

<sup>266</sup> The Joint Select Committee on Deficit Reduction, established by the Budget Control Act of 2011, ended on January 31, 2012 without having made any recommendations as to deficit reduction for purposes of calculating sequestration for the purpose of calculating the deficit reduction budget goal under section 251A(3) of the Balanced Budget and Emergency Deficit Control Act of 1985. See *supra* at §203.

<sup>267</sup> No legislative language was ever introduced pursuant to this subsection since a majority of Members of the Joint Select Committee did not vote in favor of any proposed text.

riod, it shall be in order to move that the House discharge the committee from further consideration of the bill. Such a motion shall not be in order after the last committee authorized to consider the bill reports it to the House or after the House has disposed of a motion to discharge the bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except 20 minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the joint committee bill in accordance with paragraphs (2) and (3). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(2) PROCEEDING TO CONSIDERATION.—After the last committee authorized to consider a joint committee bill reports it to the House or has been discharged (other than by motion) from its consideration, it shall be in order to move to proceed to consider the joint committee bill in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to the joint committee bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(3) CONSIDERATION.—The joint committee bill shall be considered as read. All points of order against the joint committee bill and against its consideration are waived. The previous question shall be considered as ordered on the joint committee bill to its passage without intervening motion except 2 hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the joint committee bill. A motion to reconsider the vote on passage of the joint committee bill shall not be in order.

(4) VOTE ON PASSAGE.—The vote on passage of the joint committee bill shall occur not later than December 23, 2011.<sup>268</sup>

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<sup>268</sup> On November 21, 2011, the Co-Chairs of the Joint Select Committee on Deficit Reduction, Representative Jeb Hensarling and Senator Patty Murray, released a statement that said it would not be possible to come to any agreement before the committee's deadline. No vote on passage of a joint select committee bill was taken pursuant to this paragraph. The Joint Select Committee did not report a bill and no legislation was enacted under its terms during its existence. The failure to enact the required deficit reduction set in motion the sequestration procedure in effect through 2024 (as extended).

(c) EXPEDITED PROCEDURE IN THE SENATE.—

(1) COMMITTEE CONSIDERATION.—A joint committee bill introduced in the Senate under subsection (a) shall be jointly referred to the committee or committees of jurisdiction, which committees shall report the bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than December 9, 2011. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(2) MOTION TO PROCEED.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order, not later than 2 days of session after the date on which a joint committee bill is reported or discharged from all committees to which it was referred, for the majority leader of the Senate or the majority leader's designee to move to proceed to the consideration of the joint committee bill. It shall also be in order for any Member of the Senate to move to proceed to the consideration of the joint committee bill at any time after the conclusion of such 2-day period. A motion to proceed is in order even though a previous motion to the same effect has been disagreed to. All points of order against the motion to proceed to the joint committee bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint committee bill is agreed to, the joint committee bill shall remain the unfinished business until disposed of.

(3) CONSIDERATION.—All points of order against the joint committee bill and against consideration of the joint committee bill are waived. Consideration of the joint committee bill and of all debatable motions and appeals in connection therewith shall not exceed a total of 30 hours which shall be divided equally between the Majority and Minority Leaders or their designees. A motion further to limit debate on the joint committee bill is in order, shall require an affirmative vote of three-fifths of the Members duly chosen and sworn, and is not debatable. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the joint committee bill, including time used for quorum calls and voting, shall be counted against the total 30 hours of consideration.



(4) NO AMENDMENTS.—An amendment to the joint committee bill, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint committee bill, is not in order.

(5) VOTE ON PASSAGE.—If the Senate has voted to proceed to the joint committee bill, the vote on passage of the joint committee bill shall occur immediately following the conclusion of the debate on a joint committee bill, and a single quorum call at the conclusion of the debate if requested. The vote on passage of the joint committee bill shall occur not later than December 23, 2011.

(6) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint committee bill shall be decided without debate.

(d) AMENDMENT.—The joint committee bill shall not be subject to amendment in either the House of Representatives or the Senate.

(e) CONSIDERATION BY THE OTHER HOUSE.—

(1) IN GENERAL.—If, before passing the joint committee bill, one House receives from the other a joint committee bill—

(A) the joint committee bill of the other House shall not be referred to a committee; and

(B) the procedure in the receiving House shall be the same as if no joint committee bill had been received from the other House until the vote on passage, when the joint committee bill received from the other House shall supplant the joint committee bill of the receiving House.

(2) REVENUE MEASURE.—This subsection shall not apply to the House of Representatives if the joint committee bill received from the Senate is a revenue measure.

(f) RULES TO COORDINATE ACTION WITH OTHER HOUSE.—

(1) TREATMENT OF JOINT COMMITTEE OF OTHER HOUSE.—If the Senate fails to introduce or consider a joint committee bill under this section, the joint committee bill of the House shall be entitled to expedited floor procedures under this section.

(2) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the joint committee bill in the Senate, the Senate then receives the joint committee bill from the House of Representatives, the House-passed joint committee bill shall not be debatable. The vote on passage of the joint committee bill in the Senate shall be considered to be the vote on passage of the joint committee bill received from the House of Representatives.

(3) VETOES.—If the President vetoes the joint committee bill, debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(g) LOSS OF PRIVILEGE.<sup>269</sup>—The provisions of this section shall cease to apply to the joint committee bill if—

(1) the joint committee fails to vote on the report or proposed legislative language required under section 401(b)(3)(B)(i) not later than November 23, 2011; or

(2) the joint committee bill does not pass both Houses not later than December 23, 2011.

#### SEC. 403. FUNDING.

Funding for the joint committee shall be derived in equal portions from—

(1) the applicable accounts<sup>270</sup> of the House of Representatives; and

(2) the contingent fund of the Senate from the appropriations account “Miscellaneous Items”, subject to the rules and regulations of the Senate.<sup>271</sup>

#### SEC. 404. RULEMAKING.

The provisions of this title are enacted by Congress<sup>272</sup>—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

<sup>269</sup> Since the Joint Select Committee on Deficit Reduction did not vote on or report a bill, When it ended, and neither House had considered such a measure, the privilege referred to here had never been invoked and expired on December 23, 2011.

<sup>270</sup> The “applicable accounts” are not specified but derived from various existing House appropriations.

<sup>271</sup> 2 U.S.C. § 31a-2c: “Upon the written request of the Majority or Minority Whip of the Senate, the Secretary of the Senate shall transfer during any fiscal year, from the appropriations account appropriated under the headings ‘Salaries, Officers and Employees’ and ‘offices of the majority and minority whips’, such amount as either whip shall specify to the appropriations account, within the contingent fund of the Senate, ‘miscellaneous items.’”

<sup>272</sup> Provisions included in legislation provided for under this title that recommended changes to the Rules of the House or the Standing Rules of the Senate would be considered solely advisory under the terms set forth under section 401(b)(3)(B)(i) of this title. Such text did not have privileged status.

## TITLE V—PELL GRANT AND STUDENT LOAN PROGRAM CHANGES

### SEC. 501. FEDERAL PELL GRANTS<sup>273</sup>.

Section 401(b)(7)(A)(iv) of the Higher Education Act of 1965 (20 1070a(b)(7)(A)(iv)) is amended—

- (1) in subclause (II), by striking “\$3,183,000,000” and inserting “\$13,183,000,000”; and
- (2) in subclause (III), by striking “\$0” and inserting “\$7,000,000,000”.

### SEC. 502. TERMINATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS TO GRADUATE AND PROFESSIONAL STUDENTS.<sup>274</sup>

Section 455(a) of the Higher Education Act of 1965 (20 U.S.C. 1087e(a)) is amended by adding at the end the following new paragraph:

“(3) TERMINATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS TO GRADUATE AND PROFESSIONAL STUDENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

“(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and“(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the maximum annual amount for such student determined under section 428H, plus an amount equal to the amount of Federal Direct Stafford loans the student would have received in the absence of this subparagraph.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an individual enrolled in course work specified in paragraph (3)(B) or (4)(B) of section 484(b).”.

<sup>273</sup> CBO estimated Pell Grants spending would increase by \$4 billion in fiscal year 2012, \$8 billion in fiscal year 2013, and \$5 billion in fiscal year 2014.

<sup>274</sup> From the August 1, 2011 CBO estimate: “Beginning July 1, 2012, the BCA eliminates the interest subsidy on subsidized student loans for almost all graduate students while a borrower is in school, in the post-school grace period, and during any authorized deferment period.”

**SEC. 503. TERMINATION OF DIRECT LOAN REPAYMENT INCENTIVES.**<sup>275</sup>

Section 455(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)(8)) is amended—

(1) in subparagraph (A)—

(A) by amending the header to read as follows: “(A) INCENTIVES FOR LOANS DISBURSED BEFORE JULY 1, 2012.—”; and

(B) by inserting “with respect to loans for which the first disbursement of principal is made before July 1, 2012,” after “of this part”;

(2) in subparagraph (B), by inserting “with respect to loans for which the first disbursement of principal is made before July 1, 2012” after “repayment incentives”; and

(3) by adding at the end the following new subparagraph:

“(C) NO REPAYMENT INCENTIVES FOR NEW LOANS DISBURSED ON OR AFTER JULY 1, 2012.—Notwithstanding any other provision of this part, the Secretary is prohibited from authorizing or providing any repayment incentive not otherwise authorized under this part to encourage on-time repayment of a loan under this part for which the first disbursement of principal is made on or after July 1, 2012, including any reduction in the interest or origination fee rate paid by a borrower of such a loan, except that the Secretary may provide for an interest rate reduction for a borrower who agrees to have payments on such a loan automatically electronically debited from a bank account.”.

**SEC. 504. [20 U.S.C. 1089 note] INAPPLICABILITY OF TITLE IV NEGOTIATED RULEMAKING AND MASTER CALENDAR EXCEPTION.**

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c)<sup>276</sup>, 1098a<sup>277</sup>) shall not apply to the amendments made by this title, or to any regulations promulgated under those amendments.

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<sup>275</sup> From the August 1, 2011 CBO estimate of the BCA: “Beginning July 1, 2012, the BCA terminates, with one exception, the Secretary of Education’s authority to make incentive payments to borrowers to encourage the on-time repayment of their federal loans.”

<sup>276</sup> 20 USC 1089(c) provides in part that “any regulatory changes initiated by the Secretary affecting [certain education programs] that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.”

<sup>277</sup> By waiving 20 USC 1098a, this section renders inapplicable requirements for certain public involvement in the development of proposed regulations.



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**BIPARTISAN BUDGET ACT OF 2013**

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## CONTINUING APPROPRIATIONS RESOLUTION, 2014

(BIPARTISAN BUDGET ACT OF 2013)

H. J. RES. 59, PUBLIC LAW 113-67, 127 STAT. 1165

Sponsor:	Representative Harold Rogers
September 10, 2013	Introduced in House.
September 20, 2013	Passed/agreed to in House: On passage Passed by recorded vote: 230 - 189 (Roll No. 478).
September 27, 2013	Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote. 54 - 44. Record Vote Number: 209.
September 29, 2013	Resolving differences – House actions: On agreeing to the Senate amendment with amendment #1 Agreed to by the Yeas and Nays: 248 - 174 (Roll no. 497).
September 30, 2013	Resolving differences – House actions: On receding from the House amendments, and concurring in the Senate amendment with amendment Agreed to by recorded vote: 228 - 201 (Roll no. 504).
December 12, 2013	Resolving differences – House actions: On motion that the House recede and concur with an amendment in the Senate amendment Agreed to by recorded vote: 332 - 94 (Roll no. 640).
December 18, 2013	Resolving differences – Senate actions: Senate agreed to the House amendment to the Senate amendment by Yea-Nay Vote. 64 - 36. Record Vote Number: 281.
December 19, 2013	Presented to President.
December 26, 2013	Signed by President.
December 26, 2013	Became Public Law 113-67

# BIPARTISAN BUDGET ACT OF 2013

[PUBLIC LAW 113-67; 127 STAT. 1165; H. J. Res. 59; DECEMBER 26, 2013]

Making continuing appropriations for fiscal year 2014, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That*

## DIVISION A—BIPARTISAN BUDGET AGREEMENT

### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Bipartisan Budget Act of 2013”.<sup>278</sup>

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

#### DIVISION A—BUDGET ENFORCEMENT AND DEFICIT REDUCTION

SEC. 1. Short title and table of contents.

#### TITLE I—BUDGET ENFORCEMENT

##### SUBTITLE A—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Sec. 101. Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985.

##### SUBTITLE B—ESTABLISHING A CONGRESSIONAL BUDGET

- Sec. 111. Fiscal year 2014 budget resolution.
- Sec. 112. Limitation on advance appropriations in the Senate.
- Sec. 113. Rule of construction in the House of Representatives.
- Sec. 114. Additional Senate budget enforcement.
- Sec. 115. Authority for fiscal year 2015 budget resolution in the House of Representatives.
- Sec. 116. Authority for fiscal year 2015 budget resolution in the Senate.
- Sec. 117. Exclusion of savings from PAYGO scorecards.
- Sec. 118. Exercise of rulemaking powers.

##### SUBTITLE C—TECHNICAL CORRECTIONS

- Sec. 121. Technical corrections to the Balanced Budget and Emergency Deficit Control Act of 1985.
- Sec. 122. Technical corrections to the Congressional Budget Act of 1974.

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<sup>278</sup> H. J. Res. 59 included the Bipartisan Budget Act of 2013. It became Public Law 113-67 on December 26, 2013. It included budget-related provisions in Title I, found here. “Division A” included “Titles II—Prevention of Waste, Fraud, and Abuse; Title III—Natural Resources; Title IV—Federal and Civilian Military Retirement; Title V—Higher Education; Title VI—Transportation; Title VII—Miscellaneous Provisions. The Act included “Division B—Medicare and Other Health Related Provisions”. These are omitted. Originally an appropriations Act, it did not include annual appropriations.



## TITLE I—BUDGET ENFORCEMENT

### Subtitle A—Amendments To the Balanced Budget and Emergency Deficit Control Act Of 1985

#### SEC. 101. AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

(a) REVISED DISCRETIONARY SPENDING LIMITS.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraphs (1) through (10) and inserting the following new paragraphs:<sup>279</sup>

“(1) for fiscal year 2014—

“(A) for the revised security category, \$520,464,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$491,773,000,000 in new budget authority;

“(2) for fiscal year 2015—

“(A) for the revised security category, \$521,272,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$492,356,000,000 in new budget authority;

“(3) for fiscal year 2016—

“(A) for the revised security category, \$577,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$530,000,000,000 in new budget authority;

“(4) for fiscal year 2017—

“(A) for the revised security category, \$590,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$541,000,000,000 in new budget authority;

“(5) for fiscal year 2018—

“(A) for the revised security category, \$603,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$553,000,000,000 in new budget authority;

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<sup>279</sup> Discretionary spending limits, as revised by the Bipartisan Budget Act of 2013 (BBA of 2013), enforce levels for the security and nonsecurity categories for fiscal years 2014 and 2015. The BBA of 2013 did not revise the levels for fiscal years 2016 through 2021, but did amend sections 251 and 251A of BBEDCA, where those limits live, to more accurately reflect these limits. Under section 251A of BBEDCA, the limits are annually revised downward by OMB's Sequestration Preview Report, which is included in the President's budget submission required by 31 U.S. C. 1105(a), see §305, *infra*.

“(6) for fiscal year 2019—

“(A) for the revised security category, \$616,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$566,000,000,000 in new budget authority;

“(7) for fiscal year 2020—

“(A) for the revised security category, \$630,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$578,000,000,000 in new budget authority; and

“(8) for fiscal year 2021—

“(A) for the revised security category, \$644,000,000,000 in new budget authority; and

“(B) for the revised nonsecurity category, \$590,000,000,000 in new budget authority.”.

(b) DIRECT SPENDING ADJUSTMENTS FOR FISCAL YEARS 2014 AND 2015.—(1) Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as redesignated by subsection (d), is amended by adding at the end the following new paragraph:

“(10) IMPLEMENTING DIRECT SPENDING REDUCTIONS FOR FISCAL YEARS 2014 AND 2015.—(A) OMB shall make the calculations necessary to implement the direct spending reductions calculated pursuant to paragraphs (3) and (4) without regard to the amendment made to section 251(c) revising the discretionary spending limits for fiscal years 2014 and 2015 by the Bipartisan Budget Act of 2013.

“(B) Paragraph (5)(B) shall not be implemented for fiscal years 2014 and 2015.”.

(2) Paragraph (5)(B) of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as redesignated by subsection (d)(2)(C) of this section, is amended by striking “On” and inserting “Except as provided by paragraph (10), on”.

(c) EXTENSION OF DIRECT SPENDING REDUCTIONS FOR FISCAL YEARS 2022 AND 2023.—Paragraph (6), as redesignated by subsection (d)(2)(C) of this section, of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting “(A)” before “On the date” and by adding at the end the following new subparagraph:

“(B) On the dates OMB issues its sequestration preview reports for fiscal year 2022 and for fiscal year 2023, pursuant to section 254(c), the President shall order a sequestration, effective upon issuance such that—

“(i) the percentage reduction for nonexempt direct spending for the defense function is the same percent as the percentage reduction for nonexempt direct spending for the defense function for fiscal year 2021 calculated under paragraph (3)(B); and

“(ii) the percentage reduction for nonexempt direct spending for nondefense functions is the same percent as the percentage reduction for nonexempt direct spending for nondefense functions for fiscal year 2021 calculated under paragraph (4)(B).”.

(d) CONFORMING AMENDMENTS.—Part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in section 250(c)(4) (2 U.S.C. 900(c)(4)), by adding at the end the following:

“(D) The term ‘revised security category’ means discretionary appropriations in budget function 050.

“(E) The term ‘revised nonsecurity category’ means discretionary appropriations other than in budget function 050.

“(F) The term ‘category’ means the subsets of discretionary appropriations in section 251(c). Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.”; and

(2) in section 251A (2 U.S.C. 901a)—

(A) by striking, in the matter preceding paragraph (1), “Unless” through “as follows:” and inserting the following: “Discretionary appropriations and direct spending accounts shall be reduced in accordance with this section as follows:”;

(B) by striking paragraphs (1) and (2);

(C) by redesignating paragraphs (3) through (11) as paragraphs (1) through (9), respectively;

(D) in paragraph (2), as redesignated, by striking “paragraph (3)” and inserting “paragraph (1)”;

(E) in paragraph (3), as redesignated, by striking “paragraph (4)” each place it appears and inserting “paragraph (2)”;

(F) in paragraph (4), as redesignated, by striking “paragraph (4)” each place it appears and inserting “paragraph (2)”;

- (G) in paragraph (5), as redesignated—
- (i) by striking “paragraph (5)” each place it appears and inserting “paragraph (3)”; and
  - (ii) by striking “paragraph (6)” each place it appears and inserting “paragraph (4)”;
- (H) in paragraph (6), as redesignated—
- (i) by striking “paragraph (4)” and inserting “paragraph (2)”; and
  - (ii) by striking “paragraphs (5) and (6)” and inserting “paragraphs (3) and (4)”;
- (I) in paragraph (7), as redesignated—
- (i) by striking “paragraph (8)” and inserting “paragraph (6)”; and
  - (ii) by striking “paragraph (6)” each place it appears and inserting “paragraph (4)”; and
- (J) in paragraph (9), as redesignated, by striking “paragraph (4)” and inserting “paragraph (2)”.

## Subtitle B—Establishing A Congressional Budget

### SEC. 111. FISCAL YEAR 2014 BUDGET RESOLUTION.

(a) FISCAL YEAR 2014.—For the purpose of enforcing the Congressional Budget Act of 1974 for fiscal year 2014, and enforcing, in the Senate, budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the same manner as for a concurrent resolution on the budget for fiscal year 2014 with appropriate budgetary levels for fiscal year 2014 and for fiscal years 2015 through 2023.

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—The Chairmen of the Committee on the Budget of the House of Representatives<sup>280</sup> and the Senate<sup>281</sup> shall each submit a statement for publication in the Congressional Record as soon as practicable after the date of enactment of this Act that includes—

<sup>280</sup> Representative Paul D. Ryan inserted into the Congressional Record “Publication of Budgetary Material”, page H222, the allocations for the Committee on Appropriations of the House for fiscal year 2014. On January 27, 2014, Rep. Ryan further published allocations for authorizing committees (Congressional Record, page H1428) as required under this section.

<sup>281</sup> Senator Patty Murray inserted “Budget Enforcement Details” into the Congressional Record (Page S361, January 15, 2014) required here: relevant aggregates and Committee allocations for fiscal years 2014, 2014 through 2018, 2014 through 2023, and Social Security levels.

(1) for the Committee on Appropriations of that House, committee allocations for fiscal year 2014 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(2) for all committees of that House other than the Committee on Appropriations, committee allocations for—

(A) fiscal year 2014;

(B) fiscal years 2014 through 2018 in the Senate only; and

(C) fiscal years 2014 through 2023;

consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(3) aggregate spending levels for fiscal year 2014 in accordance with the allocations established under paragraphs (1) and (2), for the purpose of enforcing section 311 of the Congressional Budget Act of 1974;

(4) aggregate revenue levels for—

(A) fiscal year 2014;

(B) fiscal years 2014 through 2018 in the Senate only; and

(C) fiscal years 2014 through 2023;

consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(5) in the Senate only, levels of Social Security revenues and outlays for fiscal year 2014 and for the periods of fiscal years 2014 through 2018 and 2014 through 2023 consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) FURTHER ADJUSTMENTS.—After the date of enactment of this Act, the Chairman of the Committee on the Budget of the House of Representatives may reduce the aggregates, allocations, and other budgetary levels included in the statement of the Chairman of the Committee on the Budget of the House of Representatives referred to in subsection (b) to reflect the budgetary effects of any legislation enacted during the 113th Congress that reduces the deficit.

**SEC. 112. LIMITATION ON ADVANCE APPROPRIATIONS IN THE SENATE.****(a) POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS IN THE SENATE.—****(1) IN GENERAL.—**

(A) POINT OF ORDER.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, amendment between the Houses, or conference report that would provide an advance appropriation.

(B) DEFINITION.—In this subsection, the term “advance appropriation” means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2014 that first becomes available for any fiscal year after 2014 or any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2015 that first becomes available for any fiscal year after 2015.

(2) EXCEPTIONS.—Advance appropriations may be provided—

(A) for fiscal years 2015 and 2016 for programs, projects, activities, or accounts identified in a statement submitted to the Congressional Record by the Chairman of the Committee on the Budget of the Senate under the heading “Accounts Identified for Advance Appropriations” in an aggregate amount not to exceed \$28,852,000,000 in new budget authority in each fiscal year;

(B) for the Corporation for Public Broadcasting; and

(C) for the Department of Veterans Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.

**(3) SUPERMAJORITY WAIVER AND APPEAL.—**

(A) Waiver.—In the Senate, paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(4) FORM OF POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this subsection, and such point of order being sustained, such material contained in such conference report or amendment between the Houses shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this paragraph), no further amendment shall be in order.

(6) INAPPLICABILITY.—In the Senate, section 402 of S. Con. Res. 13 (111<sup>th</sup> Congress) shall no longer apply.<sup>282</sup>

(b) EXPIRATION.—Subsection (a) shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

**SEC. 113. RULE OF CONSTRUCTION IN THE HOUSE OF REPRESENTATIVES.**

In the House of Representatives, for the remainder of the 113th Congress, the provisions of H. Con. Res. 25 (113th Congress)<sup>283</sup>, as deemed in force by H. Res. 243 (113th Congress),<sup>284</sup> shall remain in force to the extent its budgetary levels are not superseded by this subtitle or by further action of the House of Representatives.<sup>285</sup>

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<sup>282</sup> Section 402 of S. Con. Res. 13 (111<sup>th</sup> Congress) set forth the point of order against advance appropriations in the Senate. This point of order was replaced under the terms of this subsection.

<sup>283</sup> H. Con. Res. 25 considered and passed the House of Representatives on March 21, 2013.

<sup>284</sup> H. Res. 243 deemed H. Con. Res. 25 as it passed the House of Representatives, to be in force as the budget resolution for fiscal year 2014. Section 113 affirmed H. Con. Res. 25 to be in force, but only to the extent it was consistent with the levels included in the Bipartisan Budget Act of 2013.

<sup>285</sup> No further action was taken on H. Con. Res. 25. This concurrent resolution was originally deemed in force by H. Res. 243, which was then superseded by the BBA of 2013. See note #251. It was deemed in force again for the 114<sup>th</sup> Congress by H. Res. 5 until a budget was adopted for fiscal year 2015. The deeming resolution extended H. Con. Res. 25, adding a reserve fund for measures improving solvency in the Highway Trust Fund.

**SEC. 114. ADDITIONAL SENATE ENFORCEMENT.****(a) SENATE PAY-AS-YOU-GO SCORECARD.—**

(1) **IN GENERAL.**—Effective on the date of enactment of this Act, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Committee on the Budget of the Senate shall reduce any balances of direct spending and revenues for any fiscal year to zero.

(2) **FISCAL YEAR 2015.**—After April 15, 2014, but not later than May 15, 2014, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Committee on the Budget of the Senate shall reduce any balances of direct spending and revenues for any fiscal year to zero.

(3) **PUBLICATION.**—Upon resetting the Senate paygo scorecard pursuant to paragraph (2), the Chairman of the Committee on the Budget of the Senate shall publish a notification of such action in the Congressional Record.

**(b) FURTHER ADJUSTMENTS.**—With respect to any allocations, aggregates, or levels set or adjustments made pursuant to this subtitle, sections 412 through 414 of S. Con. Res. 13 (111th Congress) shall remain in effect.

**(c) DEFICIT-NEUTRAL RESERVE FUND TO REPLACE SEQUESTRATION.**—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels and limits set pursuant to this subtitle for one or more bills, joint resolutions, amendments, motions, or conference reports that amend section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) to repeal or revise the enforcement procedures established under that section, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2014 through 2023. For purposes of determining deficit-neutrality under this subsection, the Chairman may include the estimated effects of any amendment or amendments to the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)).<sup>286</sup>

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<sup>286</sup> See page S67 of the Congressional Record (January 7, 2014) for a Colloquy between Senators Patty Murray and Rob Portman, who asked if “the intent of the reserve fund under section 114 (c) is to be available to adjust certain budgetary levels for deficit-neutral legislation that would replace sequestration?” Responding affirmatively, Senator Murray stated legislation altering the statutory limits is in the Budget Committee jurisdiction so a section 306 Budget Act point of order applies. She also stated section 312(b) of that Act would apply against legislation causing the statutory limits on discretionary spending to be exceeded. Both apply despite section 114(c).



(d) **ADDITIONAL DEFICIT-NEUTRAL RESERVE FUNDS.**—In the Senate only, sections 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 338, 339, 340, 341, 344, 348, 349, 350, 353, 354, 356, 361, 363, 364, 365, 366, 367, 368, 369, 371, 376, 378, 379, and 383 of S. Con. Res. 8 (113th Congress), as passed the Senate, shall have force and effect.

(e) **EXPIRATION.**—Subsections (a)(2), (c), and (d) shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

**SEC. 115. AUTHORITY FOR FISCAL YEAR 2015 BUDGET RESOLUTION IN THE HOUSE OF REPRESENTATIVES.** <sup>287</sup>

(a) **FISCAL YEAR 2015.**—If a concurrent resolution on the budget for fiscal year 2015 has not been adopted by April 15, 2014, for the purpose of enforcing the Congressional Budget Act of 1974, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the House of Representatives after April 15, 2014, in the same manner as for a concurrent resolution on the budget for fiscal year 2015 with appropriate budgetary levels for fiscal year 2015 and for fiscal years 2016 through 2024.

(b) **COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.**—In the House of Representatives, the Chairman of the Committee on the Budget shall submit a statement for publication in the Congressional Record after April 15, 2014, but not later than May 15, 2014,<sup>288</sup> containing—

(1) for the Committee on Appropriations, committee allocations for fiscal year 2015 at the total level as set forth in section 251(c)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

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<sup>287</sup> H. Con. Res. 96 passed the House of Representatives on April 10, 2014 as the Concurrent Resolution on the Budget for Fiscal Year 2015. It was, however, not deemed to be in force, and no further legislative action was taken on the measure in the 113th Congress. Its provisions were not extended into the 114th Congress, and hence it expired as a legislative measure and had no force or effect as the budget resolution for fiscal year 2015. The budget resolution year 2015 was enforced through H. Res. 5 of the 114th Congress which deemed provisions of H. Con. Res. 25 to be in force for fiscal year 2015.

<sup>288</sup> Chairman Paul D. Ryan placed the aggregates, allocations, and other budgetary levels required by this section into the Congressional Record on April 29, 2014. These levels are on page H3288 of the Congressional Record (113th Congress). They were deemed in force for fiscal year 2015 by H. Res. 5 (114th Congress), which deemed H. Con. Res. 25 instead of the House-passed budget resolution for fiscal year 2015, H. Con. Res. 96).

(2) for all committees other than the Committee on Appropriations, committee allocations for fiscal year 2015 and for the period of fiscal years 2015 through 2024 at the levels included in the most recent baseline of the Congressional Budget Office, as adjusted for the budgetary effects of any provision of law enacted during the period beginning on the date such baseline is issued and ending on the date of submission of such statement, for the purpose of enforcing section 302 of the Congressional Budget Act of 1974; and

(3) aggregate spending levels for fiscal year 2015 and aggregate revenue levels for fiscal year 2015 and for the period of fiscal years 2015 through 2024, at the levels included in the most recent baseline of the Congressional Budget Office, as adjusted for the budgetary effects of any provision of law enacted during the period beginning on the date such baseline is issued and ending on the date of submission of such statement, for the purpose of enforcing section 311 of the Congressional Budget Act of 1974.

(c) **ADDITIONAL MATTER.**—The statement referred to in subsection (b) may also include for fiscal year 2015, the matter contained in title IV (reserve funds) and in sections 601, 603(a), 605(a), and 609 of H. Con. Res. 25 (113th Congress), as adopted by the House, updated by one fiscal year, including updated amounts for section 601.

(d) **FISCAL YEAR 2015 ALLOCATION TO THE COMMITTEE ON APPROPRIATIONS.**—If the statement referred to in subsection (b) is not filed by May 15, 2014, then the matter referred to in subsection (b)(1) shall be submitted by the Chairman of the Committee on the Budget for publication in the Congressional Record on the next day that the House of Representatives is in session.

(e) **ADJUSTMENTS.**—The Chairman of the Committee on the Budget of the House of Representatives may adjust the levels included in the statement referred to in subsection (b) to reflect the budgetary effects of any legislation enacted during the 113th Congress that reduces the deficit or as otherwise necessary.<sup>289</sup>

(f) **APPLICATION.**—Subsections (a), (b), (c), (d), and (e) shall no longer apply if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.<sup>290</sup>

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<sup>289</sup> Section 115(e) authorizes the House Budget Chairman to adjust levels for laws enacted in the 113<sup>th</sup> Congress, and other “necessary” adjustments.

<sup>290</sup> Neither Chamber adopted a fiscal year 2015 budget resolution, so these subsections applied until a fiscal year 2016 budget resolution was adopted.

**SEC. 116. AUTHORITY FOR FISCAL YEAR 2015 BUDGET RESOLUTION IN THE SENATE.**

(a) FISCAL YEAR 2015.—For the purpose of enforcing the Congressional Budget Act of 1974, after April 15, 2014, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2015 with appropriate budgetary levels for fiscal years 2014 and 2016 through 2024.<sup>291</sup>

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—After April 15, 2014, but not later than May 15, 2014, the Chairman of the Committee on the Budget of the Senate shall file—

(1) for the Committee on Appropriations, committee allocations for fiscal years 2014 and 2015 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(2) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(3) aggregate spending levels for fiscal years 2014 and 2015 in accordance with the allocations established under paragraphs (1) and (2), for the purpose of enforcing section 311 of the Congressional Budget Act of 1974;

(4) aggregate revenue levels for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(5) levels of Social Security revenues and outlays for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

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<sup>291</sup> “On January 15, I filed the first of the two budgets in the Senate for fiscal year 2014. Today, pursuant to section 116 of the Bipartisan Budget Act of 2013, I am filing the budget in the Senate for fiscal year 2015.” Senator Patty Murray, p. S2640, Cong. Rec. (113<sup>th</sup> Congress). The House adopted a budget resolution for fiscal year 2015, H. Con. Res. 96, but instead of deeming that resolution in force, the House Budget Committee went in a different direction and deemed the previous year’s budget resolution, H. Con. Res. 25, to be in force, under the terms of the BBA of 2013.

(c) **ADDITIONAL MATTER.**—The filing referred to in subsection (b) may also include, for fiscal year 2015, the reserve funds included in section 114(c) and (d) of this Act, updated by one fiscal year.

(d) **SUPERSEDING PREVIOUS STATEMENT.**—In the Senate, the filing referred to in subsection (b) shall supersede the statement referred to in section 111(b) of this Act.

(e) **EXPIRATION.**—This section shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.<sup>292</sup>

**SEC. 117. EXCLUSION OF SAVINGS FROM PAYGO SCORECARDS.**

(a) **STATUTORY PAY-AS-YOU-GO SCORECARDS.**—Notwithstanding section 1(c) of this division, the budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.<sup>293</sup>

(b) **SENATE PAYGO SCORECARDS.**—Notwithstanding section 1(c) of this division, the budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).<sup>294</sup>

**SEC. 118. EXERCISE OF RULEMAKING POWERS.**

The provisions of this subtitle are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

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<sup>292</sup> A budget resolution was not adopted by Congress for fiscal year 2015 so the provisions referred to here stayed in effect until superseded by the Concurrent Resolution on the Budget for Fiscal Year 2016.

<sup>293</sup> Section 117(a) excludes the budgetary effects of BBA 2013 from the Statutory Pay-As-You-Go scorecards. OMB does not count the effects calculating sequestration under the Statutory Pay-As-You-Go Act of 2010.

<sup>294</sup> Section 117(b), similar to subsection (a) of this section, excludes the budgetary effects of the Bipartisan Budget Act of 2013 from the Senate Pay-As-You-Go scorecard. Therefore, in applying the point of order under that provision, included in S. Con. Res. 21 (110<sup>th</sup> Congress), the budget effects of this Act will not count when considering legislation comes to the floor of the Senate. The Senate Paygo Scorecard (often referred to as the Senate Paygo Ledger) was also set to zero under section 114 of this Act.

## Subtitle C—Technical Corrections

### SEC. 121. TECHNICAL CORRECTIONS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In section 252(b)(2)(B), strike “applicable to budget year” and insert “applicable to the budget year”.

(2) In section 252(c)(1)(C)(i), strike “paragraph (1)” and insert “subsection (b)”.

(3) In section 254(c)(3)(A), strike “subsection 252(b)” and insert “section 252(b)”.

(4) In section 254(f)(4), strike “subsection 252(b)” and insert “section 252(b)”.

(5) In section 255(a), strike “section 231b(a), 231b(f)(2), 231c(a), and 231c(f) of title 45 United States Code” and insert “sections 3 and 4 of the Railroad Retirement Act of 1937 (45 U.S.C. 231 et seq.)”.

(6) In section 255(h), in the item relating to Federal Pell Grants, strike “section 401 Title IV” and insert “section 401 of title IV”.

(7) In the first subsection (j) of section 255 (relating to Split Treatment Programs), move the margins for the list items two ems to the right.

(8) Redesignate the second subsection (j) of section 255 (relating to Identification of Programs) as subsection (k).

(9) In section 257(b)(2)(A)(i), strike “differenes” and insert “differences”.

(10) In section 258(a)(1), strike “section 254(j)” and insert “section 254(i)”.

### SEC. 122. TECHNICAL CORRECTIONS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

The Congressional Budget Act of 1974 is amended as follows:

(1) In sections 301(a)(6) and 301(a)(7), strike “For purposes” and insert “for purposes”.

(2) In section 301(a), in the matter following paragraph (7), strike “old age” and insert “old-age”.

(3) In section 302(g)(2)(A), strike “committee on the Budget” and insert “Committee on the Budget”.

(4) In section 305(a)(1), strike “clause 2(l)(6) of rule XI” and insert “clause 4 of rule XIII”.

(5) In section 305(a)(5), strike “provisions of rule XXIII” and insert “provisions of rule XVIII”.

(6) In section 305(b)(1), strike “section 304(a)” and insert “section 304”.

(7) In section 306 strike “No” and insert “(a) In The Senate.—In the Senate, no”, strike “of either House” and “in that House”, strike “of that House”, and add at the end the following new subsection:

“(b) In The House Of Representatives.—In the House of Representatives, no bill or joint resolution, or amendment thereto, or conference report thereon, dealing with any matter which is within the jurisdiction of the Committee on the Budget shall be considered unless it is a bill or joint resolution which has been reported by the Committee on the Budget (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or joint resolution.”.

(8) In section 308(d), in the subsection heading, strike “Scorekeeping Guidelines.—” and insert “SCOREKEEPING GUIDELINES.—”.

(9) In section 310(c)(1)(A)(i) and (ii), strike “under that paragraph by more than” and insert “under that paragraph by more than—”.

(10) In section 314(d)(2), strike subparagraph (A), redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B) respectively, in subparagraph (A), as redesignated, strike “under subparagraph (A)” and insert “under paragraph (1)”, and in subparagraph (B), as redesignated, strike “under subparagraph (B)” and insert “under subparagraph (A)”.

(11) In section 315, add at the end the following new sentence: “In the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.”.

(12) In section 401(b)(2), strike “section 302(b)” and insert “section 302(a)”.

(13) In section 401(c), add at the end the following new paragraph:

“(3) In the House of Representatives, subsections (a) and (b) shall not apply to new authority described in those subsections to the extent that a provision in a bill or joint resolution, or an amendment thereto or a conference report thereon, establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations.”.

(14) In section 421(5)(A)(i)(II), strike “subparagraph (B)” and insert “subparagraph (B)”.

(15) In section 505(c), strike “section 406(b)” both places it appears and insert “section 405(b)”.

(16) In section 904(c)(2), strike “258A(b)(3)(C)(I)” and “258(h)(3)” and insert “258A(b)(3)(C)(i)” and “258B(h)(3)”, respectively, and strike “and 314(e)” and insert “314(e), and 314(f)”.

(17) In section 904(d)(3), strike “258A(b)(3)(C)(I)” and “258(h)(3)” and insert “258A(b)(3)(C)(i)” and “258B(h)(3)”, respectively, and strike “and 312(c)” and insert “312(c), 314(e), and 314(f)”

## **PART II**

### **ADDITIONAL LAWS OF THE THE CONGRESSIONAL BUDGET PROCESS**





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TITLE 31, UNITED STATES CODE: PRESIDENT'S BUDGET

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EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

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ACT OF 2003



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**TITLE 31 OF THE UNITED STATES CODE**

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# TITLE 31 OF THE UNITED STATES CODE

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## CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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TITLE 31—MONEY AND FINANCE  
SUBTITLE II—THE BUDGET PROCESS

CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND  
PROGRAM INFORMATION

**§ 1101. DEFINITIONS.**

In this chapter—

(1) “agency” includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) “appropriations” means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

**§ 1102. FISCAL YEAR.**

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

**§ 1103. BUDGET CEILING.**

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

**§ 1104. BUDGET AND APPROPRIATIONS AUTHORITY OF THE PRESIDENT.**

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal



year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress. Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

**§ 1105. BUDGET CONTENTS AND SUBMISSION TO CONGRESS.**

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)-(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)-(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.

(27) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(28) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.

(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

(30) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.

(31) a separate statement of the amount of appropriations requested for the Chief Financial Officer in the Executive Office of the President.

(32) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(33) a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.

(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.

(35)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

(II) an estimate of the current service levels of homeland security spending;

(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

(i), amounts shall be provided by account for each program, project and activity; and

(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 "Annual Report to Congress on Combatting Terrorism", the term "homeland security" refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.

(36) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.

(37) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for the following accounts of the Department of Veterans Affairs:

(A) Veterans Benefits Administration, Compensation and Pensions.

(B) Veterans Benefits Administration, Readjustment Benefits.

(C) Veterans Benefits Administration, Veterans Insurance and Indemnities.

(D) Veterans Health Administration, Medical Services.

(E) Veterans Health Administration, Medical Support and Compliance.

(F) Veterans Health Administration, Medical Facilities.

(38) a separate statement for the Crow Settlement Fund established under section 411 of the Crow Tribe Water

Rights Settlement Act of 2010, which shall include the estimated amount of deposits into the Fund, obligations, and outlays from the Fund.

(39) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

- (i) economic assumptions;
- (ii) engineering standards;
- (iii) estimates of spending for operation and maintenance;
- (iv) estimates of expenditures for similar investments by State and local governments; and
- (v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

- (A) roadways or bridges,
- (B) airports or airway facilities,
- (C) mass transportation systems,
- (D) wastewater treatment or related facilities,
- (E) water resources projects,
- (F) hospitals,
- (G) resource recovery facilities,
- (H) public buildings,
- (I) space or communications facilities,
- (J) railroads, and
- (K) federally assisted housing.



(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term “construction” includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term “acquisition” includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease—purchase, trade, or donation; and

(C) the term “rehabilitation” includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph(B), the term “advisory and assistance services” means the following services when provided by nongovernmental sources:

- (i) Management and professional support services.
- (ii) Studies, analyses, and evaluations.
- (iii) Engineering and technical services.

(B) In paragraph (1), the term “advisory and assistance services” does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 1102 of title 40.

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

(h)(1) If there is a Medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

(2) Paragraph (1) does not apply if, during the year in which the warning is made, legislation is enacted which eliminates excess general revenue Medicare funding (as defined in section 801(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) for the 7-fiscal year reporting period, as certified by the Board of Trustees of each Medicare trust fund (as defined in section 801(c)(5) of such Act) not later than 30 days after the date of the enactment of such legislation.

#### § 1106. SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title.<sup>295</sup> The summary shall include—

(1) for that fiscal year—

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

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<sup>295</sup> This statutorily mandated supplemental budget material is transmitted by the Director of the Office of Management and Budget to Congress as the “Mid-Session Review” of each year.

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

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

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

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

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

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

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

**§ 1107. DEFICIENCY AND SUPPLEMENTAL APPROPRIATIONS.**

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under

that section. The President shall transmit promptly to Congress without change, proposed deficiency and supplemental appropriations submitted to the President by the legislative branch and the judicial branch.

**§ 1108. PREPARATION AND SUBMISSION OF APPROPRIATIONS REQUESTS TO THE PRESIDENT.**

(a) In this section (except subsections (b)(1) and (e)), “agency” means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501<sup>296</sup> of this title. The

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<sup>296</sup> The section referred to here, section 1501 of Title 31 of the United States Code reads as follows:

**§1501. DOCUMENTARY EVIDENCE REQUIREMENT FOR GOVERNMENT OBLIGATIONS**

“(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

“(1) a binding agreement between an agency and another person (including an agency) that is—

“(A) in writing, in a way and form, and for a purpose authorized by law; and

“(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

“(2) a loan agreement showing the amount and terms of repayment;

“(3) an order required by law to be placed with an agency;

“(4) an order issued under a law authorizing purchases without advertising—

head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (subsubsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission<sup>297</sup> shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to

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“(A) when necessary because of a public exigency;

“(B) for perishable subsistence supplies; or

“(C) within specific monetary limits;

“(5) a grant or subsidy payable—

“(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

“(B) under an agreement authorized by law; or

“(C) under plans approved consistent with and authorized by law;

“(6) a liability that may result from pending litigation;

“(7) employment or services of persons or expenses of travel under law;

“(8) services provided by public utilities; or

“(9) other legal liability of the Government against an available appropriation or fund.

“(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.”

<sup>297</sup> The Interstate Commerce Commission was eliminated in 1995 and its remaining functions were transferred to the Surface Transportation Board.

the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

**§ 1109. CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.**

(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading "Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year.

**§ 1110. YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.**

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and 2d fiscal years.

**§ 1111. IMPROVING ECONOMY AND EFFICIENCY.**

To improve economy and efficiency in the United States Government, the President shall—

- (1) make a study of each agency to decide, and may send Congress recommendations, on changes that should

be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

**§ 1112. FISCAL, BUDGET, AND PROGRAM INFORMATION.**

(a) In this section, “agency” means a department, agency, or instrumentality of the United States Government except a mixed— ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

- (1) consistency in budget and accounting classifications;
- (2) synchronization between those classifications and organizational structure; and
- (3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

**§ 1113. CONGRESSIONAL INFORMATION.**

(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

- (1) provide information on the location and kind of available fiscal, budget, and program information;
- (2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and
- (3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

- (1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;



(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall-

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on-

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

**§ 1114. BUDGET INFORMATION ON CONSULTING SERVICES (REPEALED).<sup>298</sup>**

**§ 1115. FEDERAL GOVERNMENT AND AGENCY PERFORMANCE PLANS.**

(a) **FEDERAL GOVERNMENT PERFORMANCE PLANS.**—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

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<sup>298</sup> This section, “§1114: Budget Information on Consulting Services”, was repealed by Public Law 103–355, title II, §2454(c)(2), Oct. 13, 1994, 108 Stat. 3326. The original section from Public Law 97–258, Sept. 13, 1982, 96 Stat. 916 required the head each agency to include in its budget justifications submitted annually to Congress amounts for consulting services and a description why such services were needed.

(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

(A) overall progress toward each Federal Government performance goal; and

(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph(2);

(5) establish clearly defined quarterly milestones; and

(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such challenges, including relevant performance goals, performance indicators, and milestones.

(b) AGENCY PERFORMANCE PLANS.<sup>299</sup>—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

(3) describe how the performance goals contribute to—

(A) the general goals and objectives established in the agency's strategic plan required by section 306(a)(2) of title 5; and

(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

(5) provide a description of how the performance goals are to be achieved, including—

(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

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<sup>299</sup> 5 U.S.C. 306(c) states “The performance plan required by section 1115(b) of title 31 shall be consistent with the agency's strategic plan.” Section 306 sets forth the requirements of such a strategic plan.

- (B) clearly defined milestones;
  - (C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;
  - (D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and
  - (E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;
- (6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;
- (7) provide a basis for comparing actual program results with the established performance goals;
- (8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—
- (A) the means to be used to verify and validate measured values;
  - (B) the sources for the data;
  - (C) the level of accuracy required for the intended use of the data;
  - (D) any limitations to the data at the required level of accuracy; and
  - (E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;
- (9) describe major management challenges the agency faces and identify—
- (A) planned actions to address such challenges;
  - (B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and
  - (C) the agency official responsible for resolving such challenges; and
- (10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.
- (c) ALTERNATIVE FORM.—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance

goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

(1) include separate descriptive statements of—

(A)(i) a minimally effective program; and

(ii) a successful program; or

(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(d) TREATMENT OF PROGRAM ACTIVITIES.—For the purpose of complying with this section, an agency may aggregate, dis-aggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

(e) APPENDIX.—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) is properly classified pursuant to such Executive order.

(f) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

(g) CHIEF HUMAN CAPITAL OFFICERS.—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

(h) DEFINITIONS.—For purposes of this section and sections 1116 through 1125, and sections 9703(1) and 9704, the term—

(1) “agency” has the same meaning as such term is defined under section 306(f) of title 5;

(2) “crosscutting” means across organizational (such as agency) boundaries;

(3) “customer service measure” means an assessment of service delivery to a customer, client, citizen, or other recip-

ient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

(4) “efficiency measure” means a ratio of a program activity's inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the desired results of a program);

(5) “major management challenge” means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

(6) “milestone” means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

(7) “outcome measure” means an assessment of the results of a program activity compared to its intended purpose;

(8) “output measure” means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

(9) “performance goal” means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

(10) “performance indicator” means a particular value or characteristic used to measure output or outcome;

(11) “program activity” means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

(12) “program evaluation” means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

**§ 1116. AGENCY PERFORMANCE REPORTING.**

(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

(b)(1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with

more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) Each update shall—

(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

(3) explain and describe where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 1 of this title;

(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management;

(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

(A) the means used to verify and validate measured values;

(B) the sources for the data;

(C) the level of accuracy required for the intended use of the data;

(D) any limitations to the data at the required level of accuracy; and

(E) how the agency has compensated for such limita-

tions if needed to reach the required level of accuracy;  
and

(7) include the summary findings of those program evaluations completed during the period covered by the update.

(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

- (1) the head of the agency;
- (2) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (3) the Committee on Oversight and Governmental Reform of the House of Representatives; and
- (4) the Government Accountability Office.

(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of



Management and Budget, for an amount determined appropriate by the Director.

(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

(1) reauthorization proposals for each program or activity that has not met performance goals;

(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

(3) planned executive actions or identification of the program for termination or reduction in the President's budget.

**§ 1117. EXEMPTION.**

The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 of this title and section 306 of title 5, any agency with annual outlays of \$20,000,000 or less.

**§ 1118. PILOT PROJECTS FOR PERFORMANCE GOALS.**

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot agencies in meeting the purposes of the Government Performance and Results Act of 1993;

(2) identify any significant difficulties experienced by the pilot agencies in preparing plans and reports; and

(3) set forth any recommended changes in the requirements of the provisions of Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1119 and 9703 of this title, and this section.

**§ 1119. PILOT PROJECTS FOR PERFORMANCE BUDGETING.**

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency shall designate not less than five agencies as pilot projects in performance budgeting for fiscal years 1998 and 1999. At least three of the agencies shall be selected from those designated as pilot projects under section 1118, and shall also reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall cover the preparation of performance budgets. Such budgets shall present, for one or more of the major functions and operations of the agency, the varying levels of performance, including outcome related performance, that would result from different budgeted amounts.

(c) The Director of the Office of Management and Budget shall include, as an alternative budget presentation in the budget submitted under section 1105 for fiscal year 1999, the performance budgets of the designated agencies for this fiscal year.

(d) No later than March 31, 2001, the Director of the Office of Management and Budget shall transmit a report to the President and to the Congress on the performance budgeting pilot projects which shall—

(1) assess the feasibility and advisability of including a performance budget as part of the annual budget submitted under section 1105;

(2) describe any difficulties encountered by the pilot agencies in preparing a performance budget;

(3) recommend whether legislation requiring performance budgets should be proposed and the general provisions of any legislation; and

(4) set forth any recommended changes in the other requirements of the Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, and 9703 of this title, and this section.

(e) After receipt of the report required under subsection (d), the Congress may specify that a performance budget be submitted as part of the annual budget submitted under section 1105.

**§ 1120. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.**

(a) FEDERAL GOVERNMENT PRIORITY GOALS.—

(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the performance and management of the Federal Government. Such Federal Government priority goals shall include—

(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

(B) goals for management improvements needed across the Federal Government, including—

(i) financial management;

(ii) human capital management;

(iii) information technology management;

(iv) procurement and acquisition management;

and

(v) real property management;

(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be updated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

(A) the Committees on Appropriations of the Senate and the House of Representatives;

(B) the Committees on the Budget of the Senate and the House of Representatives;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Oversight and Government Reform of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Ways and Means of the House of Representatives; and

(G) any other committees as determined appropriate;

(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

(b) AGENCY PRIORITY GOALS.—

(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

(B) have ambitious targets that can be achieved within a 2-year period;

(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

(D) have interim quarterly targets for performance indicators if more frequent updates of actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

(E) have clearly defined quarterly milestones.

(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal Government and agency priority goals shall be performed only by Federal employees.

**§ 1121. QUARTERLY PRIORITY PROGRESS REVIEWS AND USE OF PERFORMANCE INFORMATION.**

(a) **USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.**—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

(b) **AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.**—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support of the agency Performance Improvement Officer, shall—

(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

(5) for agency priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.

**§ 1122. TRANSPARENCY OF PROGRAMS, PRIORITY GOALS, AND RESULTS.**

**(a) TRANSPARENCY OF AGENCY PROGRAMS.—**

(1) **IN GENERAL.**—Not later than October 1, 2012, the Office of Management and Budget shall—

(A) ensure the effective operation of a single website;

(B) at a minimum, update the website on a quarterly basis; and

(C) include on the website information about each program identified by the agencies.

(2) **Information.**—Information for each program described under paragraph (1) shall include—

(A) an identification of how the agency defines the term "program", consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

**(b) TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.**—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to

an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

(3) a description of how each agency priority goal will be achieved, including—

(A) the strategies and resources required to meet the priority goal;

(B) clearly defined milestones;

(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

(D) how the agency is working with other agencies to achieve the goal; and

(E) an identification of the agency official responsible for achieving the priority goal;

(4) the performance indicators to be used in measuring or assessing progress;

(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

(A) the means used to verify and validate measured values;

(B) the sources for the data;

(C) the level of accuracy required for the intended use of the data;

(D) any limitations to the data at the required level of accuracy; and

(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

(9) any prospects or strategies for performance improvement.

(c) **TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.**—The Director of the Office of Management and Budget shall also make available on the website—

(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

(4) an identification of the lead Government official for each Federal Government performance goal;

(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that contribute to each Federal Government priority goal;

(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

(9) any prospects or strategies for performance improvement.

(d) **INFORMATION ON WEBSITE.**—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.

**§ 1123. CHIEF OPERATION OFFICERS.**

(a) **ESTABLISHMENT.**—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

(b) **FUNCTION.**—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—



(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

(3) oversee agency—specific efforts to improve management functions within the agency and across Government; and

(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency

**§ 1124. PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.**

(a) PERFORMANCE IMPROVEMENT OFFICERS.—

(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

(2) FUNCTION.—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title

5,<sup>300</sup> including the contributions of the agency to the Federal Government priority goals;

(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

(b) PERFORMANCE IMPROVEMENT COUNCIL.—

(1) ESTABLISHMENT.—There is established a Performance Improvement Council, consisting of—

(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

(D) other individuals as determined appropriate by the chairperson.

(2) FUNCTION.—The Performance Improvement Council shall—

(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

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<sup>300</sup> The reference to 5 U.S.C. 306 (“sections” should be singular) indicates “agency strategic plans”. This section sets forth a list of required elements for a strategic plan, including a “comprehensive mission statement covering the major functions and operations of the agency.”

(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

(F) coordinate with other interagency management councils;

(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

(3) SUPPORT.—

(A) IN GENERAL.—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

(B) PERSONNEL.—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.

**§ 1125. ELIMINATION OF UNNECESSARY AGENCY REPORTING.**

(a) AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

(2) analyze the list compiled under paragraph (1), identify which plans and reports are outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

(b) PLANS AND REPORTS.—

(1) FIRST YEAR.—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10 percent of all plans and reports identified under subsection (a)(1).

(2) SUBSEQUENT YEARS.—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

(c) REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.



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**THE ANTIDEFICIENCY ACT**

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NOTES ON THE ANTIDEFICIENCY ACT

## THE ANTIDEFICIENCY ACT

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### § 1341. LIMITATIONS ON EXPENDING AND OBLIGATING AMOUNTS.

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;

(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

### § 1342. LIMITATION ON VOLUNTARY SERVICES.

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government. As used in this section, the term “emergencies involving the safety of human life or the protection of property” does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.



**§1349. ADVERSE PERSONNEL ACTIONS**

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

**§1350. CRIMINAL PENALTY**

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

**§1351. REPORTS ON VIOLATIONS**

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section 1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

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**§ 1512. APPORTIONMENT AND RESERVES.**

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

**§ 1513. OFFICIALS CONTROLLING APPORTIONMENTS.**

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by

which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

**§ 1514. ADMINISTRATIVE DIVISION OF APPORTIONMENTS.**

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reapportionments of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

**§1515. AUTHORIZED APPORTIONMENTS NECESSITATING DEFICIENCY OR SUPPLEMENTAL APPROPRIATIONS.**

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

**§1516. EXEMPTIONS.**

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

- (1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;
- (2) a working capital fund or a revolving fund established for intragovernmental operations;
- (3) receipts from industrial and power operations available under law; and
- (4) appropriations made specifically for—
  - (A) interest on, or retirement of, the public debt;
  - (B) payment of claims, judgments, refunds, and drawbacks;
  - (C) items the President decides are of a confidential nature;
  - (D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and
  - (E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

**§ 1517. PROHIBITED OBLIGATIONS AND EXPENDITURES.**

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

- (1) an apportionment; or
- (2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

**NOTES ON THE ANTIDEFICIENCY ACT<sup>301</sup>**

*Government Accountability Office:  
A Glossary of Terms Used in the Federal Budget Process  
(September 2005)*

*Antideficiency Act*

The Antideficiency Act is a Federal law that:

- Prohibits the making of expenditures or the incurring of obligations in advance of an appropriation;
- Prohibits the incurring of obligations or the making of expenditures in excess of amounts available in appropriation or fund accounts unless specifically authorized by law (31 U.S.C. § 1341(a));
- Prohibits the acceptance of voluntary or personal services unless authorized by law (31 U.S.C. § 1342);
- Requires the Office of Management and Budget, via delegation from the President, to apportion appropriated funds and other budgetary resources for all executive branch agencies (31 U.S.C. § 1512);
- Requires a system of administrative controls within each agency (see 31 U.S.C. § 1514 for the administrative divisions established);
- Prohibits incurring any obligation or making any expenditure in excess of an apportionment or reapportionment or in excess of other subdivisions established pursuant to sections 1513 and 1514 of title 31 of the United States Code (31 U.S.C. § 1517); and
- Specifies penalties for deficiencies.

The act permits agencies to reserve funds (that is, withhold them from obligation) under certain circumstances.

*Antideficiency Act Violation*

An Antideficiency Act Violation occurs when one or more of the following happens:

- Overobligation or overexpenditure of an appropriation or fund account (31 U.S.C. § 1341(a));
- Entering into a contract or making obligations in advance of an appropriation, unless authorized by law (31 U.S.C. § 1341(a));
- Acceptance of voluntary service, unless authorized by law (31 U.S.C. § 1342); or
- Overobligation or overexpenditure of (1) an apportionment or reapportionment or (2) amounts permitted by the administrative control of funds regulations (31 U.S.C. § 1517(a)).

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<sup>301</sup> This text is derived from *A Glossary of Terms Used in the Federal Budget Process (September 2005)*; Government Accountability Office. See that volume and GAO documents generally for a complete and authoritative description of the Antideficiency Act.

*Antideficiency Act Background*

Federal employees violating the Act are subject to two types of sanctions: administrative and penal. Employees may be subject to administrative discipline including suspension from duty without pay or removal from office. Employees may also be subject to fines, imprisonment, or both.

*Reporting Requirements*

Once it has been determined a violation of the Antideficiency Act has occurred, the agency head must report all relevant facts and a statement of actions taken to the President and Congress and submit a copy of the report to the Comptroller General. Penalties for Antideficiency Act violations include administrative discipline, such as suspension from duty without pay or removal from office. In addition, an officer or employee convicted of willfully and knowingly violating the law shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both (31 U.S.C. §§ 1349, 1350, 1518, and 1519).

*Summary History of the Antideficiency (Various Sources)*

The Antideficiency Act has evolved in response to abuses. The earliest version of the legislation was enacted in 1870 (16 Stat. 251) to end executive agencies' practice of creating coercive deficiencies. Some might intentionally exhaust funds; requiring Congress to provide more funds to prevent violating contracts. Some spent their entire budget in the first few months of a fiscal year, funding the remainder with additional appropriations from Congress. The act stated: "It shall not be lawful for any department of the government to expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal year, or to involve the government in any contract for the future payment of money in excess of such appropriations." In 1905 and 1906, Congress amended it to require apportionment of appropriations in monthly installments with criminal penalties imposed for violations.

The Anti-Deficiency Act includes sections of Title 31 not always thought as part of the Act (31 USC 1341). Among others, it includes 31 USC 1342; barring voluntary services and 31 USC 1501-1519, requiring the apportionment of appropriated funds before expenditure by agencies.

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**PUBLIC DEBT**

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*MONEY AND FINANCE*  
*TITLE 31 OF THE UNITED STATES CODE*

## PUBLIC DEBT

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### § 3101. PUBLIC DEBT LIMIT.

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than \$14,294,000,000,000, outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX<sup>87</sup> of the Rules of the House of Representatives or as provided by section 3101A or otherwise.

(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

(1) the original issue price of the obligation, plus

(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).

### § 3101A. PRESIDENTIAL MODIFICATION OF THE DEBT CEILING.

(a) IN GENERAL.—

(1) \$900 billion.—

(A) CERTIFICATION.—If, not later than December 31, 2011, the President submits a written certification to Congress that the President has determined that the debt subject to limit is within \$100,000,000,000 of the limit in section 3101(b) and that further borrowing is required to meet existing commitments, the Secretary of the Treasury may exercise authority to borrow an additional \$900,000,000,000, subject to the enactment of a joint resolution of disapproval enacted pursuant to this

section. Upon submission of such certification, the limit on debt provided in section 3101(b) (referred to in this section as the "debt limit") is increased by \$400,000,000,000.

(B) RESOLUTION OF DISAPPROVAL.—Congress may consider a joint resolution of disapproval of the authority under subparagraph (A) as provided in subsections (b) through (f). The joint resolution of disapproval considered under this section shall contain only the language provided in subsection (b)(2). If the time for disapproval has lapsed without enactment of a joint resolution of disapproval under this section, the debt limit is increased by an additional \$500,000,000,000.

(2) ADDITIONAL AMOUNT.—

(A) CERTIFICATION.—If, after the debt limit is increased by \$900,000,000,000 under paragraph (1), the President submits a written certification to Congress that the President has determined that the debt subject to limit is within \$100,000,000,000 of the limit in section 3101(b) and that further borrowing is required to meet existing commitments, the Secretary of the Treasury may, subject to the enactment of a joint resolution of disapproval enacted pursuant to this section, exercise authority to borrow an additional amount equal to—

(i) \$1,200,000,000,000, unless clause (ii) or (iii) applies;

(ii) \$1,500,000,000,000 if the Archivist of the United States has submitted to the States for their ratification a proposed amendment to the Constitution of the United States pursuant to a joint resolution entitled "Joint resolution proposing a balanced budget amendment to the Constitution of the United States"; or

(iii) if a joint committee bill to achieve an amount greater than \$1,200,000,000,000 in deficit reduction as provided in section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011 is enacted, an amount equal to the amount of that deficit reduction, but not greater than \$1,500,000,000,000, unless clause (ii) applies.

(B) RESOLUTION OF DISAPPROVAL.—Congress may consider a joint resolution of disapproval of the authority under subparagraph (A) as provided in subsections (b) through (f). The joint resolution of disapproval considered under this section shall contain only the language provided in subsection (b)(2). If the time for dis-

approval has lapsed without enactment of a joint resolution of disapproval under this section, the debt limit is increased by the amount authorized under subparagraph (A).

(b) JOINT RESOLUTION OF DISAPPROVAL.—

(1) IN GENERAL.—Except for the \$400,000,000,000 increase in the debt limit provided by subsection (a)(1)(A), the debt limit may not be raised under this section if, within 50 calendar days after the date on which Congress receives a certification described in subsection (a)(1) or within 15 calendar days after Congress receives the certification described in subsection (a)(2) (regardless of whether Congress is in session), there is enacted into law a joint resolution disapproving the President's exercise of authority with respect to such additional amount.

(2) CONTENTS OF JOINT RESOLUTION.—For the purpose of this section, the term "joint resolution" means only a joint resolution—

(A)(i) for the certification described in subsection (a)(1), that is introduced on September 6, 7, 8, or 9, 2011 (or, if the Senate was not in session, the next calendar day on which the Senate is in session); and

(ii) for the certification described in subsection (a)(2), that is introduced between the date the certification is received and 3 calendar days after that date;

(B) which does not have a preamble;

(C) the title of which is only as follows: "Joint resolution relating to the disapproval of the President's exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on \_\_\_\_\_" (with the blank containing the date of such submission); and

(D) the matter after the resolving clause of which is only as follows: "That Congress disapproves of the President's exercise of authority to increase the debt limit, as exercised pursuant to the certification under section 3101A(a) of title 31, United States Code."

(c) EXPEDITED CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(1) RECONVENING.—Upon receipt of a certification described in subsection (a)(2), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such certification.

(2) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House without amendment not later than 5 calendar days after the date of introduction of a joint resolution described in subsection (a). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(3) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after introduction of a joint resolution under subsection (a), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on a joint resolution addressing a particular submission. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(4) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(d) EXPEDITED PROCEDURE IN SENATE.—

(1) RECONVENING.—Upon receipt of a certification under subsection (a)(2), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(2) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be immediately placed on the calendar.

(3) FLOOR CONSIDERATION.—

(A) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the day after the date on which Congress receives a certification under subsection (a) and, for the certification described in subsection (a)(1), ending on September 14, 2011, and for the certification described in subsection (a)(2), on the 6th day after the date on which Congress receives a certification under subsection (a) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(B) CONSIDERATION.—Consideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(C) VOTE ON PASSAGE.—If the Senate has voted to proceed to a joint resolution, the vote on passage of the joint resolution shall occur immediately following the conclusion of consideration of the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(e) AMENDMENT NOT IN ORDER.—A joint resolution of disapproval considered pursuant to this section shall not be subject to amendment in either the House of Representatives or the Senate.

(f) COORDINATION WITH ACTION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before passing the joint resolution, one House receives from the other a joint resolution—

(A) the joint resolution of the other House shall not be referred to a committee; and

(B) the procedure in the receiving House shall be the same as if no joint resolution had been received from the other House until the vote on passage, when the joint resolution received from the other House shall supplant the joint resolution of the receiving House.

(2) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House shall be entitled to expedited floor procedures under this section.

(3) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(4) CONSIDERATION AFTER PASSAGE.—(A) If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President signs, allows to become law without his signature, or vetoes and returns the joint resolution (but excluding days when either House is not in session) shall be disregarded in computing the appropriate calendar day period described in subsection (b)(1).

(B) Debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(5) VETO OVERRIDE.—If within the appropriate calendar day period described in subsection (b)(1), Congress overrides a veto of the joint resolution with respect to authority exercised pursuant to paragraph (1) or (2) of subsection (a), the limit on debt provided in section 3101(b) shall not be raised, except for the \$400,000,000,000 increase in the limit provided by subsection (a)(1)(A).

(6) SEQUESTRATION.—(A) If within the 50-calendar day period described in subsection (b)(1), the President signs the joint resolution, the President allows the joint resolution to become law without his signature, or Congress overrides a veto of the joint resolution with respect to authority exercised pursuant to paragraph (1) of subsection (a), there shall be a sequestration to reduce spending by

\$400,000,000,000. OMB shall implement the sequestration forthwith.

(B) OMB shall implement each half of such sequestration in accordance with section 255, section 256, and subsections (c), (d), (e), and (f) of section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, and for the purpose of such implementation the term "excess deficit" means the amount specified in subparagraph (A).

(g) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.— This subsection and subsections (b), (c), (d), (e), and (f) (other than paragraph (6)) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

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#### § 3123. PAYMENT OF OBLIGATIONS AND INTEREST ON THE PUBLIC DEBT

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)–(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by



the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

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**§ 3321. DISBURSING AUTHORITY IN THE EXECUTIVE BRANCH.**

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.

(2) The Department of Defense.

(3) The Department of Homeland Security (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

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**EMERGENCY ECONOMIC  
STABILIZATION ACT OF 2008**

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PAUL WELLSTONE MENTAL  
HEALTH AND ADDICTION EQUITY ACT OF 2007<sup>302</sup>

H.R.1424, PUBLIC LAW 110-343

Sponsor:	Rep. Patrick J. Kennedy (D-RI)
March 9, 2007	Introduced in House
October 15, 2007	Reported (Amended) by the Committee on Education and Labor. H. Rept. 110-374, Part I.
October 15, 2007	Reported (Amended) by the Committee on Ways and Means. H. Rept. 110-374, Part II.
March 4, 2008	Reported (Amended) by the Committee on Energy and Commerce. H. Rept. 110-374, Part III.
March 5, 2008	Passed House: 268 - 148 (Roll no. 101).
October 1, 2008	Passed Senate: 74 - 25. (Record Vote: 213).
October 3, 2008	Cleared for White House.
October 3, 2008	Presented to President.
October 3, 2008	Signed by President.
October 3, 2008	Became Public Law 110-343

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<sup>302</sup> Also known as the Emergency Economic Stabilization Act of 2008.

# EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

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[PUBLIC LAW 110–343; H.R.1424; 122 STAT. 3765; OCTOBER 3, 2008]

*An Act*

To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

*Be it enacted by the Senate and House of Representatives  
of the United States of America in Congress assembled,*

## TITLE I—TROUBLED ASSETS RELIEF PROGRAM

\* \* \* \* \*

### SEC. 123. CREDIT REFORM.

(a) IN GENERAL.—Subject to subsection (b), the costs of purchases of troubled assets made under section 101(a)<sup>303</sup> and guarantees of troubled assets under section 102,<sup>304</sup> and any cash flows associated with the activities authorized in section 102 and subsections (a), (b), and (c) of section 106 shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).<sup>305</sup>

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<sup>303</sup> Section 101(a) of EESA set the terms for the purchase of “troubled assets” by the Secretary of the Treasury on behalf of the Federal Government. This term was broadly defined, including allowing the purchase of any “financial instrument that the Secretary ... determines the purchase of which is necessary to promote financial market stability”.

<sup>304</sup> Section 102 of EESA allowed the Federal Government to “guarantee the timely payment of principal of, and interest on, troubled assets” rather than purchase the financial instrument outright. This was a more limited form of Federal activity than the purchase of the assets, though it was not used extensively by either President George W. Bush or Barack Obama during the program’s existence.

<sup>305</sup> The Federal Credit Reform Act of 1990 may be found in Title V of the Congressional Budget Act of 1974. See §§150-157, *supra*.

(b) COSTS.—For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))<sup>306</sup>—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E))<sup>307</sup> for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

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**SEC. 134. RECOUPMENT.**

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office, shall submit a report to the Congress on the net amount within the Troubled Asset Relief Program under this Act. In any case where there is a shortfall, the President shall submit a legislative proposal that recoups from the financial industry an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the deficit or national debt.

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**SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET AND THE CONGRESSIONAL BUDGET OFFICE.**

(a) REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET.— Within 60 days of the first exercise of the authority granted in section 101(a), but in no case later than December 31, 2008, and semiannually thereafter, the Office of Management and Budget shall report to the President and the Congress—

(1) the estimate, notwithstanding section 502(5)(F) of

<sup>306</sup> See section 502(5) of Title V of the Congressional Budget Act of 1974.

<sup>307</sup> See Title V of the Congressional Budget Act of 1974: In “estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.”

the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(F)), as of the first business day that is at least 30 days prior to the issuance of the report, of the cost of the troubled assets, and guarantees of the troubled assets, determined in accordance with section 123;

(2) the information used to derive the estimate, including assets purchased or guaranteed, prices paid, revenues received, the impact on the deficit and debt, and a description of any outstanding commitments to purchase troubled assets; and

(3) a detailed analysis of how the estimate has changed from the previous report. Beginning with the second report under subsection (a), the Office of Management and Budget shall explain the differences between the Congressional Budget Office estimates delivered in accordance with subsection (b) and prior Office of Management and Budget estimates.

(b) **REPORTS BY THE CONGRESSIONAL BUDGET OFFICE.**—Within 45 days of receipt by the Congress of each report from the Office of Management and Budget under subsection (a), the Congressional Budget Office shall report to the Congress the Congressional Budget Office's assessment of the report submitted by the Office of Management and Budget, including—

(1) the cost of the troubled assets and guarantees of the troubled assets,

(2) the information and valuation methods used to calculate such cost, and

(3) the impact on the deficit and the debt.

(c) **FINANCIAL EXPERTISE.**—In carrying out the duties in this subsection or performing analyses of activities under this Act, the Director of the Congressional Budget Office may employ personnel and procure the services of experts and consultants.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to produce reports required by this section.

**SEC. 203. [2 U.S.C. 603] PUBLIC ACCESS TO BUDGET DATA.**

(a) **RIGHT TO COPY.**—Except as provided in subsections (c), (d), and (e), the Director shall make all information, data, estimates, and statistics obtained under sections 201(d) and 201(e) available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or sta-

tistics upon payment by such person of the cost of making and furnishing such copy.

(b) INDEX.—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) EXCEPTIONS.—Subsection (a) shall not apply to information, data, estimates, and statistic—

(1) which are specifically exempted from disclosure by law; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; unless the portions containing such matters, information, or data have been excised

(d) INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS.— Subsection (a) shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

(e) LEVEL OF CONFIDENTIALITY.—With respect to information, data, estimates, and statistics obtained under sections 201(d) and 201(e), the Director shall maintain the same level of confidentiality as is required by law of the department, agency, establishment, or regulatory agency or commission from which it is obtained. Officers and employees of the Congressional Budget Office shall be subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the department, agency, establishment, or regulatory agency or commission from which it is obtained.

**SEC. 204. EMERGENCY TREATMENT.**

All provisions of this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008 and rescissions of any amounts provided in this Act shall not be counted for purposes of budget enforcement.





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**MEDICARE PRESCRIPTION DRUG, IMPROVEMENT,  
AND MODERNIZATION ACT OF 2003**

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MEDICARE PRESCRIPTION DRUG, IMPROVEMENT,  
AND MODERNIZATION ACT OF 2003

H.R. 1; PUBLIC LAW 108-391; 117 STAT. 2066

Sponsor:	Rep. J. Dennis Hastert (R-IL)
June 25, 2003	Introduced in House
June 27, 2003	Passed/agreed to in House: On passage Passed by recorded vote: 216 - 215, 1 Present (Roll no. 332).
July 7, 2003	Passed/agreed to in Senate: Passed Senate in lieu of S.1 with an amendment and an amendment to the Title by Unanimous Consent.
November 21, 2003	Conference report H. Rept. 108-391 filed.
November 22, 2003	Conference report agreed to in House: On agreeing to the conference report Agreed to by the Yeas and Nays: 220 - 215 (Roll No. 669).
November 25, 2003	Conference report agreed to in Senate: Senate agreed to conference report by Yea-Nay Vote. 54 - 44. Record Vote Number: 459.
November 25, 2003	Cleared for White House.
December 7, 2003	Presented to President.
December 8, 2003	Signed by President.
December 8, 2003	Became Public Law No: 108-173

# MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003

[PUBLIC LAW 108–173; 117 STAT. 2066; H.R. 1, DECEMBER 8, 2003]

An Act

To amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes.<sup>308</sup>

## TITLE VIII—COST CONTAINMENT

### SUBTITLE A—COST CONTAINMENT<sup>309</sup>

#### SEC. 801. INCLUSION IN ANNUAL REPORT OF MEDICARE TRUSTEES OF INFORMATION ON STATUS OF MEDICARE TRUST FUNDS.

##### (a) DETERMINATIONS OF EXCESS GENERAL REVENUE MEDICARE FUNDING.—

(1) IN GENERAL.—The Board of Trustees of each Medicare trust fund shall include in the annual reports submitted under subsection (b)(2) of sections 1817 and 1841 of the Social Security Act (42 U.S.C. 1395i and 1395t)<sup>310</sup>—

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<sup>308</sup> Titles I through VII established “Medicare Part D” – a prescription drug benefit within the Medicare Program. Those titles are not included in this Compendium.

<sup>309</sup> Subtitle A of Title VIII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 is often called the “Medicare Trigger.”

On July 24, 2008, the House adopted H. Res. 1368 (110<sup>th</sup> Congress) which suspended its application for the remainder of the 110<sup>th</sup> Congress. The entirety of that resolution is as follows: “Resolved, That section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 shall not apply during the remainder of the 110th Congress.”

On January 6, 2009, the House adopted H. Res. 5 (111<sup>th</sup> Congress) suspending its application for the 111<sup>th</sup> Congress. From Sec. 3(e): “Section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 shall not apply during the One Hundred Eleventh Congress.”

<sup>310</sup> Section 1395i of the Title 42 of the U.S. Code reads in pertinent part as follows: “It shall be the duty of the Board of Trustees to ...[r]eport to the Con-

(A) the information described in subsection (b); and  
(B) a determination as to whether there is projected to be excess general revenue medicare funding (as defined in subsection (c)) for the fiscal year in which the report is submitted or for any of the succeeding 6 fiscal years.

(2) **MEDICARE FUNDING WARNING.**—For purposes of section 1105(h) of title 31, United States Code,<sup>311</sup> and this subtitle, an affirmative determination under paragraph (1)(B) in 2 consecutive annual reports shall be treated as a medicare funding warning in the year in which the second such report is made.

(3) **7-FISCAL YEAR REPORTING PERIOD.**—For purposes of this subtitle, the term “7-fiscal-year reporting period” means, with respect to a year in which an annual report described in paragraph (1) is made, the period of 7 consecutive fiscal years beginning with the fiscal year in which the report is submitted.

(b) **INFORMATION.**—The information described in this subsection for an annual report in a year is as follows:

(1) **PROJECTIONS OF GROWTH OF GENERAL REVENUE SPENDING.**—A statement of the general revenue medicare funding as a percentage of the total medicare outlays for each of the following:

(A) Each fiscal year within the 7-fiscal-year reporting period.

(B) Previous fiscal years and as of 10, 50, and 75 years after such year.

(2) **COMPARISON WITH OTHER GROWTH TRENDS.**—A comparison of the trend of such percentages with the annual growth rate in the following:

(A) The gross domestic product.

(B) Private health costs.

(C) National health expenditures.

(D) Other appropriate measures.

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gress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years; Each report provided under paragraph (2) beginning with the report in 2005 shall include the information specified in section 801(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 ... [and to report] immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small;”

<sup>311</sup> See §305, *supra*, for the text of this section of the U.S. Code.

(3) PART D SPENDING.—Expenditures, including trends in expenditures, under part D of title XVIII of the Social Security Act, as added by section 101.

(4) COMBINED MEDICARE TRUST FUND ANALYSIS.—A financial analysis of the combined medicare trust funds if general revenue medicare funding were limited to the percentage specified in subsection (c)(1)(B) of total medicare outlays.

(c) DEFINITIONS.—For purposes of this section:

(1) Excess general revenue medicare funding.—The term “excess general revenue medicare funding” means, with respect to a fiscal year, that—

(A) general revenue medicare funding (as defined in paragraph (2)), expressed as a percentage of total medicare outlays (as defined in paragraph (4)) for the fiscal year;

(B) exceeds 45 percent.

(2) GENERAL REVENUE MEDICARE FUNDING.—The term “general revenue medicare funding” means for a year—

(A) the total medicare outlays (as defined in paragraph (4)) for the year; minus

(B) the dedicated medicare financing sources (as defined in paragraph (3)) for the year.

(3) DEDICATED MEDICARE FINANCING SOURCES.—The term “dedicated medicare financing sources” means the following:

(A) HOSPITAL INSURANCE TAX.—Amounts appropriated to the Hospital Insurance Trust Fund under the third sentence of section 1817(a) of the Social Security Act (42 U.S.C. 1395i(a)) and amounts transferred to such Trust Fund under section 7(c)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(2)).

(B) TAXATION OF CERTAIN OASDI BENEFITS.—Amounts appropriated to the Hospital Insurance Trust Fund under section 121(e)(1)(B) of the Social Security Amendments of 1983 (Public Law 98-21), as inserted by section 13215(c) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66).

(C) STATE TRANSFERS.—The State share of amounts paid to the Federal Government by a State under section 1843 of the Social Security Act (42 U.S.C. 1395v) or pursuant to section 1935(c) of such Act.

(D) PREMIUMS.—The following premiums:

(i) PART A.—Premiums paid by non-Federal sources under sections 1818 and section 1818A (42 U.S.C. 1395i-2 and 1395i-2a) of such Act.

(ii) PART B.—Premiums paid by non-Federal sources under section 1839 of such Act (42 U.S.C. 1395r), including any adjustments in premiums under such section.

(iii) PART D.—Monthly beneficiary premiums paid under part D of title XVIII of such Act, as added by section 101, and MA monthly prescription drug beneficiary premiums paid under part C of such title insofar as they are attributable to basic prescription drug coverage.

Premiums under clauses (ii) and (iii) shall be determined without regard to any reduction in such premiums attributable to a beneficiary rebate under section 1854(b)(1)(C) of such title, as amended by section 222(b)(1), and premiums under clause (iii) are deemed to include any amounts paid under section 1860D-13(b) of such title, as added by section 101.

(E) GIFTS.—Amounts received by the medicare trust funds under section 201(i) of the Social Security Act (42 U.S.C. 401(i)).

(4) TOTAL MEDICARE OUTLAYS.—The term “total medicare outlays” means total outlays from the medicare trust funds and shall—

(A) include payments made to plans under part C of title XVIII of the Social Security Act that are attributable to any rebates under section 1854(b)(1)(C) of such Act (42 U.S.C. 1395w-24(b)(1)(C)), as amended by section 222(b)(1);

(B) include administrative expenditures made in carrying out title XVIII of such Act and Federal outlays under section 1935(b) of such Act, as added by section 103(a)(2); and

(C) offset outlays by the amount of fraud and abuse collections insofar as they are applied or deposited into a medicare trust fund.

(5) MEDICARE TRUST FUND.—The term “medicare trust fund” means—

(A) the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i); and

(B) the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), including the Medicare Prescription Drug Account under such Trust Fund.

(d) CONFORMING AMENDMENTS.—

(1) FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817(b)(2) (42 U.S.C. 1395i(b)(2)) is amended by adding at the end the following: “Each report provided under paragraph (2) beginning with the report in 2005 shall include the information specified in section 801(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.”

(2) FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841(b)(2) (42 U.S.C. 1395t(b)(2)) is amended by adding at the end the following: “Each report provided under paragraph (2) beginning with the report in 2005 shall include the information specified in section 801(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.”

(e) NOTICE OF MEDICARE FUNDING WARNING.—Whenever any report described in subsection (a) contains a determination that for any fiscal year within the 7-fiscal-year reporting period there will be excess general revenue medicare funding, Congress and the President should address the matter under existing rules and procedures.

**SEC. 802. PRESIDENTIAL SUBMISSION OF LEGISLATION.**

(a) IN GENERAL.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(h)(1) If there is a medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

“(2) Paragraph (1) does not apply if, during the year in which the warning is made, legislation is enacted which eliminates excess general revenue medicare funding (as defined in section 801(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) for the 7-fiscal-year reporting period, as certified by the Board of Trustees of each medicare trust fund (as defined in section 801(c)(5) of such Act) not later than 30 days after the date of the enactment of such legislation.”

(b) SENSE OF CONGRESS.—It is the sense of Congress that legislation submitted pursuant to section 1105(h) of title 31, United States Code, in a year should be designed to eliminate excess general revenue medicare funding (as defined in section 801(c)) for the 7-fiscal-year period that begins in such year.



**SEC. 803. PROCEDURES IN THE HOUSE OF REPRESENTATIVES.****(a) INTRODUCTION AND REFERRAL OF PRESIDENT'S LEGISLATIVE PROPOSAL.—**

(1) **INTRODUCTION.**—In the case of a legislative proposal submitted by the President pursuant to section 1105(h) of title 31, United States Code, within the 15-day period specified in paragraph (1) of such section,<sup>312</sup> the Majority Leader of the House of Representatives (or his designee) and the Minority Leader of the House of Representatives (or his designee) shall introduce such proposal (by request), the title of which is as follows: “A bill to respond to a medicare funding warning.” Such bill shall be introduced within 3 legislative days after Congress receives such proposal.<sup>313</sup>

(2) **REFERRAL.**—Any legislation introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives.

**(b) DIRECTION TO THE APPROPRIATE HOUSE COMMITTEES.—**

(1) **In general.**—In the House, in any year during which the President is required to submit proposed legislation to Congress under section 1105(h) of title 31, United States Code, the appropriate committees shall report medicare funding legislation by not later than June 30 of such year.

(2) **Medicare funding legislation.**—For purposes of this section, the term “medicare funding legislation” means—

(A) legislation introduced pursuant to subsection (a)(1), but only if the legislative proposal upon which the legislation is based was submitted within the 15-day period referred to in such subsection; or

(B) any bill the title of which is as follows: “A bill to respond to a medicare funding warning.”

(3) **Certification.**—With respect to any medicare funding legislation or any amendment to such legislation to

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<sup>312</sup> The 15-day period specified is from the date of the submission of the President's Budget. Under 31 USC 1105(a), the President is required to submit his budget “not later than the first Monday in February” of each year. President's generally comply with this requirement, though President Barack Obama has not.

<sup>313</sup> Introduced pursuant to this paragraph:

H.R.5480 (110<sup>th</sup>): Medicare Funding Warning Response Act of 2008; Rep. Steny H. Hoyer (D-MD) (by request).

On February 25, 2008, the bill was introduced in the House.

On February 29, 2008, it was referred to the Committees on Energy and Commerce, the Judiciary, and Ways and Means.

No further legislative action was taken on this measure.

respond to a medicare funding warning, the chairman of the Committee on the Budget of the House shall certify—

(A) whether or not such legislation eliminates excess general revenue medicare funding (as defined in section 801(c)) for each fiscal year in the 7-fiscal-year reporting period; and

(B) with respect to such an amendment, whether the legislation, as amended, would eliminate excess general revenue medicare funding (as defined in section 801(c)) for each fiscal year in such 7-fiscal-year reporting period.

(c) FALLBACK PROCEDURE FOR FLOOR CONSIDERATION IF THE HOUSE FAILS TO VOTE ON FINAL PASSAGE BY JULY 30.—

(1) After July 30 of any year during which the President is required to submit proposed legislation to Congress under section 1105(h) of title 31, United States Code, unless the House of Representatives has voted on final passage of any medicare funding legislation for which there is an affirmative certification under subsection (b)(3)(A), then, after the expiration of not less than 30 calendar days (and concurrently 5 legislative days), it is in order to move to discharge any committee to which medicare funding legislation which has such a certification and which has been referred to such committee for 30 calendar days from further consideration of the legislation.

(2) A motion to discharge may be made only by an individual favoring the legislation, may be made only if supported by one-fifth of the total membership of the House (a quorum being present), and is highly privileged in the House. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) Only one motion to discharge a particular committee may be adopted under this subsection in any session of a Congress.

(4) Notwithstanding paragraph (1), it shall not be in order to move to discharge a committee from further consideration of medicare funding legislation pursuant to this subsection during a session of a Congress if, during the previous session of the Congress, the House passed medicare funding legislation for which there is an affirmative certification under subsection (b)(3)(A).

(d) FLOOR CONSIDERATION IN THE HOUSE OF DISCHARGED LEGISLATION.—

(1) In the House, not later than 3 legislative days after any committee has been discharged from further consideration of legislation under subsection (c), the Speaker shall resolve the House into the Committee of the Whole for consideration of the legislation.

(2) The first reading of the legislation shall be dispensed with. All points of order against consideration of the legislation are waived. General debate shall be confined to the legislation and shall not exceed five hours, which shall be divided equally between those favoring and those opposing the legislation. After general debate the legislation shall be considered for amendment under the five-minute rule. During consideration of the legislation, no amendments shall be in order in the House or in the Committee of the Whole except those for which there has been an affirmative certification under subsection (b)(3)(B). All points of order against consideration of any such amendment in the Committee of the Whole are waived. The legislation, together with any amendments which shall be in order, shall be considered as read. During the consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of Rule XVIII of the Rules of the House of Representatives.<sup>314</sup> Debate on any amendment shall not exceed one hour, which shall be divided equally between those favoring and those opposing the amendment, and no pro forma amendments shall be offered during the debate. The total time for debate on all amendments shall not exceed 10 hours. At the conclusion of consideration of the legislation for amendment, the Committee shall rise and report the legislation to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the legislation and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it

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<sup>314</sup> The relevant text of clause 8 of rule XVIII is as follows: "Material submitted for printing in the Congressional Record under this clause shall indicate the full text of the proposed amendment, the name of the Member, Delegate, or Resident Commissioner proposing it, the number of the bill or resolution to which it will be offered, and the point in the bill or resolution or amendment thereto where the amendment is intended to be offered."

has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of Rule XIV of the Rules of the House of Representatives,<sup>315</sup> resolve into the Committee of the Whole for further consideration of the bill.

(3) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any such legislation shall be decided without debate.

(4) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any such legislation and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(e) LEGISLATIVE DAY DEFINED.—As used in this section, the term “legislative day” means a day on which the House of Representatives is in session.<sup>316</sup>

(f) RESTRICTION ON WAIVER.—In the House, the provisions of this section may be waived only by a rule or order proposing only to waive such provisions.

(g) RULEMAKING POWER.—The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and, as such, shall be considered as part of the rules of that House and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of that House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

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<sup>315</sup> Clause 1 of rule XIV of the Rules of the House provides for the “daily order of business (unless varied by the application of other rules and except for the disposition of matters of higher precedence). The “third daily order of business” is the reading of the “Pledge of Allegiance to the Flag.”

<sup>316</sup> A “legislative day” in the House and Senate does not always follow the calendar day and instead depends on when a session of that Chamber adjourns.

In the Senate, a “day” starts when the Senate meets after an adjournment and ends when the Senate next adjourns. Hence, a legislative day may extend over several calendar days or even weeks and months. Lengthy legislative days generally do not occur in the House.

## SEC. 804. PROCEDURES IN THE SENATE.

## (a) INTRODUCTION AND REFERRAL OF PRESIDENT'S LEGISLATIVE PROPOSAL.—

(1) INTRODUCTION.—In the case of a legislative proposal submitted by the President pursuant to section 1105(h) of title 31, United States Code, within the 15-day period specified in paragraph (1) of such section,<sup>317</sup> the Majority Leader and Minority Leader of the Senate (or their designees) shall introduce such proposal (by request), the title of which is as follows: “A bill to respond to a medicare funding warning.” Such bill shall be introduced within 3 days of session after Congress receives such proposal.<sup>318</sup>

(2) REFERRAL.—Any legislation introduced pursuant to paragraph (1) shall be referred to the Committee on Finance.

## (b) MEDICARE FUNDING LEGISLATION.—For purposes of this section, the term “medicare funding legislation” means—

(1) legislation introduced pursuant to subsection (a)(1), but only if the legislative proposal upon which the legislation is based was submitted within the 15-day period referred to in such subsection; or

(2) any bill the title of which is as follows: “A bill to respond to a medicare funding warning.”

## (c) QUALIFICATION FOR SPECIAL PROCEDURES.—

(1) IN GENERAL.—The special procedures set forth in subsections (d) and (e) shall apply to medicare funding legislation, as described in subsection (b), only if the legislation—

(A) is medicare funding legislation that is passed by the House of Representatives; or

(B) contains matter within the jurisdiction of the Committee on Finance in the Senate.

(2) FAILURE TO QUALIFY FOR SPECIAL PROCEDURES.—If the medicare funding legislation does not satisfy paragraph (1), then the legislation shall be considered under the ordinary procedures of the Standing Rules of the Senate.

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<sup>317</sup> Paragraph (1) of 31 USC 1105(h) indicates a period 15-days from the date of the submission of the President's Budget during which the President must submit a proposal to respond to the Medicare warning. See §305, *supra*.

<sup>318</sup> Bills introduced pursuant to this paragraph:  
S.2662 [110<sup>th</sup> Congress]: Medicare Funding Warning Response Act of 2008;  
Sen. Max Baucus Max (D-MT) (by request).

On February 25, 2008, the bill was introduced in the Senate.

On February 25, 2008, it was referred to the Committee on Finance.

No further legislative action was taken on this measure.

(d) DISCHARGE.—

(1) IN GENERAL.—If the Committee on Finance has not reported medicare funding legislation described in subsection (c)(1) by June 30 of a year in which the President is required to submit medicare funding legislation to Congress under section 1105(h) of title 31, United States Code, then any Senator may move to discharge the Committee of any single medicare funding legislation measure. Only one such motion shall be in order in any session of Congress.

(2) DEBATE LIMITS.—Debate in the Senate on any such motion to discharge, and all appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the maker of the motion and the Majority Leader, or their designees, except that in the event the Majority Leader is in favor of such motion, the time in opposition thereto shall be controlled by the Minority Leader or the Minority Leader's designee. A point of order under this subsection may be made at any time. It is not in order to move to proceed to another measure or matter while such motion (or the motion to reconsider such motion) is pending.

(3) AMENDMENTS.—No amendment to the motion to discharge shall be in order.

(4) EXCEPTION IF CERTIFIED LEGISLATION ENACTED.—Notwithstanding paragraph (1), it shall not be in order to discharge the Committee from further consideration of medicare funding legislation pursuant to this subsection during a session of a Congress if the chairman of the Committee on the Budget of the Senate certifies that medicare funding legislation has been enacted that eliminates excess general revenue medicare funding (as defined in section 801(c)) for each fiscal year in the 7-fiscal-year reporting period.

(e) CONSIDERATION.—After the date on which the Committee on Finance has reported medicare funding legislation described in subsection (c)(1), or has been discharged (under subsection (d)) from further consideration of, such legislation, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such legislation.

(f) RULES OF THE SENATE.—This section is enacted by the Senate—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure

to be followed in the Senate in the case of a bill described in this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

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## **PART III**

THE UNITED STATES CONGRESS





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THE HOUSE OF REPRESENTATIVES



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**RULES OF THE HOUSE OF REPRESENTATIVES**

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# RULES OF THE HOUSE OF REPRESENTATIVES

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The Rules of the House of Representatives include budget-related provisions governing consideration of legislation. The central budgetary document of the Federal Government is the budget resolution, itself a rulemaking document. Its provisions take precedence over House Rules if provisions conflict.

This part of this document includes the budget-related provisions of the standing rules of the House. It contains explanatory material from the Manual of the Rules of the House (113<sup>th</sup> Congress) and are incorporated as footnotes. While taken from the document prepared by the Clerk of the House and the House Parliamentarian, these are not replicated verbatim. It is important for an authoritative, complete, and unedited explanation of the House Rules and Manual be reviewed. The section numbers and headings are from the House Manual and may be cross-referenced to the verbatim notation there.

“Separate Orders” are also included here. These are additions to the standing rules of the House contained in a House Resolution (H. Res. 5 of each new Congress typically, though in 1995 and 2007 it was “H. Res. 6”) that provides for the organization of that Congress.

## RULE X

### ORGANIZATION OF COMMITTEES

#### *Clause 1. Committees and Their Legislative Jurisdictions*

##### *§ 714. Number and Jurisdiction of Standing Committees.*

*Clause 1.* There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:<sup>319</sup>

[...]

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<sup>319</sup> Other than the Committees on the Budget and on Appropriations, the standing committees described in clause 1 of rule X are not included.



*§ 716. Appropriations.*

*Clause 1(b). Committee on Appropriations.*

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) Bills and joint resolutions reported by other committees that provide new entitlement authority as defined in section 3(9) of the Congressional Budget Act of 1974 and referred to the committee under clause 4(a)(2).

(5) Bills and joint resolutions that provide new budget authority, limitation on the use of funds, or other authority relating to new direct loan obligations and new loan guarantee commitments referencing section 504(b) of the Congressional Budget Act of 1974.

*§ 719. Budget.*

*Clause 1(d). Committee on the Budget.*

(1) Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

(2) Budget Process generally.

(3) Establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

***Clause 3. Special Oversight Functions***

*§ 744. Special Oversight.*

*Clause 3(c).* The Committee on the Budget shall study on a continuing basis the effect on budget outlays of relevant existing and proposed legislation and report the results of such studies to the House on a recurring basis.

**Clause 4. Additional Functions of Committees***§ 745. Committee on Appropriations; Budget Hearings.**Clause 4(a)(1).*

(A) The Committee on Appropriations shall, within 30 days after the transmittal of the Budget to Congress each year, hold hearings on the Budget as a whole with particular reference to—

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings under subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

*§ 746. Procedure for Budget Hearings.**Clause 4(a)(1)*

(C) A hearing under subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by record vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. The committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner.

(D) A hearing under subdivision (A), or any part thereof, may be held before a joint meeting of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

*§ 747. Budget Act; 15-day Referral to Appropriations.*

*Clause 4(a)(2).* Pursuant to section 401(b)(2) of the Congressional Budget Act of 1974, when a committee reports a bill or joint resolution that provides new entitlement authority as defined in section 3(9) of that Act, and enactment of the bill or joint resolution, as reported, would cause a breach of the committee's pertinent allocation of new budget authority under section 302(a) of that Act, the bill or joint resolution may be referred to the Committee on Appropriations with instructions to report it with recommendations (which may include an

amendment limiting the total amount of new entitlement authority provided in the bill or joint resolution). If the Committee on Appropriations fails to report a bill or joint resolution so referred within 15 calendar days (not counting any day on which the House is not in session), the committee automatically shall be discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law that (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority or permanent budget authority and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

(4) In the manner provided by section 302 of the Congressional Budget Act of 1974, the Committee on Appropriations (after consulting with the Committee on Appropriations of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and promptly report the subdivisions to the House as soon as practicable after a concurrent resolution on the budget for a fiscal year is agreed to.

*§ 748. Budget.*

*Clause 4(b).* The Committee on the Budget shall—

(1) review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) hold hearings and receive testimony from Members, Senators, Delegates, the Resident Commissioner, and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it considers desirable in developing concurrent resolutions on the budget for each fiscal year;

(3) make all reports required of it by the Congressional Budget Act of 1974;

(4) study on a continuing basis those provisions of law that exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and report to the House from time to time its recommendations for terminating or modifying such provisions;

(5) study on a continuing basis proposals designed to improve and facilitate the congressional budget process, and report to the House from time to time the results of such studies, together with its recommendations; and

(6) request and evaluate continuing studies of tax expenditures, devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and report the results of such studies to the House on a recurring basis.

### ***Budget Act Responsibilities***

#### *§ 756. Concurrent Resolution on Budget.*

*Clause 4(f)(1).* Each standing committee shall submit to the Committee on the Budget not later than six weeks after the submission of the budget by the President, or at such time as the Committee on the Budget may request—

(A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year that are within its jurisdiction or functions; and

(B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(C) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.

### ***Clause 5. Election and Membership of Standing Committees***

#### *§ 758. Composition of the Budget Committee.*

##### *Clause 5(a)(2)*

(A) The Committee on the Budget shall be composed of members as follows:

(i) Members, Delegates, or the Resident Commissioner who are members of other standing committees, including five from the Committee on Appropriations, five from the Committee on Ways and Means, and one from the Committee on Rules;

(ii) one Member designated by the elected leadership of the majority party; and

(iii) one Member designated by the elected leadership of the minority party.

(B) Except as permitted by subdivision (C), a member of the Committee on the Budget other than one described in

subdivision (A)(ii) or (A)(iii) may not serve on the committee during more than four Congresses in a period of six successive Congresses (disregarding for this purpose any service for less than a full session in a Congress)

(C) A Member, Delegate, or Resident Commissioner may exceed the limitation of subdivision (B) if elected to serve a second consecutive Congress as the chair or a second consecutive Congress as the ranking minority member.

***Clause 11. Permanent Select Committee on Intelligence***

***§ 785. Permanent Select Committee on Intelligence.***

*Clause 11(c)(3).* Within six weeks after the President submits a budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

**RULE XIII**

**CALENDARS AND COMMITTEE REPORTS**

***Clause 1. Calendars***

***§ 828. Calendar for Reports of Committees.***

*Clause 1(a).* All business reported by committees shall be referred to one of the following three calendars:

(1) A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred public bills and public resolutions raising revenue, involving a tax or charge on the people, directly or indirectly making appropriations of money or property or requiring such appropriations to be made, authorizing payments out of appropriations already made, releasing any liability to the United States for money or property, or referring a claim to the Court of Claims.

***Clause 2. Filing and Printing of Reports***

***§ 836. Filing Minority Views.***

*Clause 2(c).* All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the

committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.

**Clause 3. Content of Reports**

*§ 837. Single Volume.*

*Clause 3(a)(1).* Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that—

(A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and

(B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3)) are included as part of the report.

*§838. Technical Error.*

*Clause 3(a)(2).* A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter. A supplemental report only correcting errors in the depiction of record votes under paragraph (b) may be filed under this subparagraph and shall not be subject to the requirement in clause 4 or clause 6 concerning the availability of reports.

*§ 839. Vote on Reporting.*

*Clause 3(b).* With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to votes taken in executive session by the Committee on Ethics.

*§ 840. Content of Reports.*

*Clause 3(c).* The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) Oversight findings and recommendations under clause 2(b)(1) of rule X.

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.

(4) A statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

*§ 841. Estimate of Cost.*

*Clause 3(d).* Each report of a committee on a public bill or public joint resolution shall contain the following:

(1)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);

(B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(2)(A) In subparagraph (1) the term "Government agency" includes any department, agency, establishment, wholly owned Government Corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (1) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Ethics, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

§ 846. “Ramseyer Rule.”

*Clause 3(e)*<sup>320</sup>

(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document—

(A) the text of a statute or part thereof that is proposed to be repealed; and

(B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.

§ 847. *Content of Reports on Appropriation Bills.*<sup>321</sup>

*Clause 3(f)*

(1) A report of the Committee on Appropriations on a general appropriation bill shall include—

(A) a concise statement describing the effect of any provision of the accompanying bill that directly or indirectly changes the application of existing law; and

(B) a list of all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned (excepting classified intelligence or national security programs, projects, or activities), along with a statement of the last year for which such expend-

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<sup>320</sup> The failure of a committee report to comply with the “Ramseyer” rule may be remedied by a supplemental report.

<sup>321</sup> This provision (formerly clause 3 of rule XXI) became a part of the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93d Cong., Oct. 8, 1974, p. 34470). This provision was amended on January 14, 1975 (H. Res. 5, 94th Cong., p. 32) to confine its applicability to general appropriation bills, and again in the 104th Congress to add subparagraph (1)(B) concerning unauthorized items (sec. 215(d), H. Res. 6, Jan. 4, 1995, p. 468). Subparagraph (1)(B) was amended in the 107th Congress to require more detail on the status of unauthorized appropriations (sec. 2(m), H. Res. 5, Jan. 3, 2001, p. 25). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 3 of rule XXI (H. Res. 5, Jan. 6, 1999).



itures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.

(2) Whenever the Committee on Appropriations reports a bill or joint resolution including matter specified in clause 1(b)(2) or (3) of rule X, it shall include—

(A) in the bill or joint resolution, separate headings for “Rescissions” and “Transfers of Unexpended Balances”; and

(B) in the report of the committee, a separate section listing such rescissions and transfers.

*§ 848. Comparative Print.*

*Clause 3(g).* Whenever the Committee on Rules reports a resolution proposing to repeal or amend a standing rule of the House, it shall include in its report or in an accompanying document—

(1) the text of any rule or part thereof that is proposed to be repealed; and

(2) a comparative print of any part of the resolution proposing to amend the rule and of the rule or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

*§ 849. Tax Complexity Analysis.*<sup>322</sup>

*Clause 3(h).* It shall not be in order to consider a bill or joint resolution reported by the Committee on Ways and Means that proposes to amend the Internal Revenue Code of 1986 unless—

(1) the report includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(2) the chair of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the bill or joint resolution.

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<sup>322</sup> This requirement of a macroeconomic analysis of any tax proposal replaced a provision that authorized the chair of the Committee on Ways and Means to request the Joint Committee on Taxation to prepare a dynamic estimate of revenue changes proposed in a measure designated by the Majority Leader as major tax legislation (sec. 2(j), H. Res. 5, Jan. 7, 2003, p. 7). The former provision was added in the 105th Congress (H. Res. 5, Jan. 7, 1997, p. 121).

**Clause 4. Availability of Reports***§ 850. Three-day Layover.**Clause 4(a)*

(1) Except as specified in subparagraph (2), it shall not be in order to consider in the House a measure or matter reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which each report of a committee on that measure or matter has been available to Members, Delegates, and the Resident Commissioner.

(2) Subparagraph (1) does not apply to—

(A) a resolution providing a rule, joint rule, or order of business reported by the Committee on Rules considered under clause 6;

(B) a resolution providing amounts from the applicable accounts described in clause 1(k)(1) of rule X reported by the Committee on House Administration considered under clause 6 of rule X;

(C) a resolution presenting a question of the privileges of the House reported by any committee;

(D) a measure for the declaration of war, or the declaration of a national emergency, by Congress; and

(E) a measure providing for the disapproval of a decision, determination, or action by a Government agency that would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. In this subdivision the term “Government agency” includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or of the government of the District of Columbia.

(b) A committee that reports a measure or matter shall make every reasonable effort to have its hearings thereon (if any) printed and available for distribution to Members, Delegates, and the Resident Commissioner before the consideration of the measure or matter in the House.

*§ 852. Printed Hearings on Appropriation Bills.*

*Clause 4(c).* A general appropriation bill reported by the Committee on Appropriations may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) on which printed hearings of the Committee on Appropriations thereon have been available to Members, Delegates, and the Resident Commissioner.

**Clause 5. Privileged Reports, Generally***§ 853. Privileged Reports.*

*Clause 5(a).* The following committees shall have leave to report at any time on the following matters, respectively:

(1) The Committee on Appropriations, on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year after September 15 in the preceding fiscal year.

(2) The Committee on the Budget, on the matters required to be reported by such committee under titles III and IV of the Congressional Budget Act of 1974.

(3) The Committee on House Administration, on enrolled bills, on contested elections, on matters referred to it concerning printing for the use of the House or the two Houses, on expenditure of the applicable accounts of the House described in clause 1(k)(1) of rule X, and on matters relating to preservation and availability of noncurrent records of the House under rule VII.

(4) The Committee on Rules, on rules, joint rules, and the order of business.

(5) The Committee on Ethics, on resolutions recommending action by the House with respect to a Member, Delegate, Resident Commissioner, officer, or employee of the House as a result of an investigation by the committee relating to the official conduct of such Member, Delegate, Resident Commissioner, officer, or employee.

(b) A report filed from the floor as privileged under paragraph (a) may be called up as a privileged question by direction of the reporting committee, subject to any requirement concerning its availability to Members, Delegates, and the Resident Commissioner under clause 4 or concerning the timing of its consideration under clause 6.

**Clause 6. Privileged Reports by the Committee on Rules***§ 857. Reports From Committee on Rules.*

*Clause 6(a).* A report by the Committee on Rules on a rule, joint rule, or the order of business may not be called up for consideration on the same day it is presented to the House except—

(1) when so determined by a vote of two-thirds of the Members voting, a quorum being present;

(2) in the case of a resolution proposing only to waive a requirement of clause 4 or of clause 8 of rule XXII concerning the availability of reports; or

(3) during the last three days of a session of Congress.

(b) Pending the consideration of a report by the Committee on Rules on a rule, joint rule, or the order of business, the Speaker may entertain one motion that the House adjourn but may not entertain any other dilatory motion until the report shall have been disposed of.

(c) The Committee on Rules may not report a rule or order that would prevent the motion to recommit a bill or joint resolution from being made as provided in clause 2(b) of rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee, except with respect to a Senate bill or joint resolution for which the text of a House-passed measure has been substituted.

*§ 861. Filing Reports.*

*Clause 6(d).* The Committee on Rules shall present to the House reports concerning rules, joint rules, and the order of business, within three legislative days of the time when they are ordered. If such a report is not considered immediately, it shall be referred to the calendar. If such a report on the calendar is not called up by the member of the committee who filed the report within seven legislative days, any member of the committee may call it up as a privileged question on the day after the calendar day on which the member announces to the House intention to do so. The Speaker shall recognize a member of the committee who rises for that purpose.

(e) An adverse report by the Committee on Rules on a resolution proposing a special order of business for the consideration of a public bill or public joint resolution may be called up as a privileged question by a Member, Delegate, or Resident Commissioner on a day when it is in order to consider a motion to discharge committees under clause 2 of rule XV.

*§ 862. Privileged Motion.*

*Clause 6(f).* If the House has adopted a resolution making in order a motion to consider a bill or resolution, and such a motion has not been offered within seven calendar days thereafter, such a motion shall be privileged if offered by direction of all reporting committees having initial jurisdiction of the bill or resolution.<sup>323</sup>

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<sup>323</sup> This provision was amended on January 14, 1975 (H. Res. 5, 94th Cong., p. 32) to confine its applicability to general appropriation bills, and again in the 104th Congress to add subparagraph (1)(B) concerning unauthorized items. Subparagraph (1)(B) was amended in the 107th Congress to require

*§ 863. Specifying Waivers.*

*Clause 6(g).* Whenever the Committee on Rules reports a resolution providing for the consideration of a measure, it shall (to the maximum extent possible) specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.<sup>324</sup>

***Clause 7. Resolutions of Inquiry***

*§ 864. Resolution of Inquiry.*

*Clause 7.* A report on a resolution of inquiry addressed to the head of an executive department may be filed from the floor as privileged. If such a resolution is not reported to the House within 14 legislative days after its introduction, a motion to discharge a committee from its consideration shall be privileged.

***Clause 8. Estimates of Major Legislation***

*Clause 8(a).* An estimate provided by the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974<sup>325</sup> for any major legislation shall, to the extent practicable, incorporate the budgetary effects of changes in economic output, employment, capital stock, and other macroeconomic variables resulting from such legislation.

(b) An estimate provided by the Joint Committee on Taxation to the Director of the Congressional Budget Office under section 201(f)<sup>326</sup> of the Congressional Budget Act of 1974 for any major legislation shall, to the extent practicable, incorporate the budgetary effects of changes in economic output, em-

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more detail on the status of unauthorized appropriations (sec. 2(m), H. Res. 5, Jan. 3, 2001, p. 25).

<sup>324</sup> This provision was added to the rules under the Committee Reform Amendments of 1974, effective January 3, 1975 (H. Res. 988, 93rd Congress, Oct. 8, 1974, p. 34470), and is similar to the “Ramseyer Rule” requirements of paragraph (e) relating to bills and joint resolutions repealing or amending existing law. This clause is applicable to resolutions reported from the Committee on Rules that propose direct permanent repeal or amendment of a rule of the House, but does not apply to resolutions providing temporary waivers of rules during the consideration of particular legislative business, or to a special order of business resolution providing for the consideration of a bill with textual modifications that would affect certain changes in House rules on enactment of the bill into law, but not itself repealing or amending any rule (May 27, 1993, p. 11597).

<sup>325</sup> See *supra* at §132.

<sup>326</sup> See *supra* at §107.

ployment, capital stock, and other macroeconomic variables resulting from such legislation.

(c) An estimate referred to in this clause shall, to the extent practicable, include.—

(1) a qualitative assessment of the budgetary effects (including macroeconomic variables described in paragraphs (a) and (b)) of such legislation in the 20-fiscal year period beginning after the last fiscal year of the most recently agreed to concurrent resolution on the budget that set forth appropriate levels required by section 301<sup>327</sup> of the Congressional Budget Act of 1974; and

(2) an identification of the critical assumptions and the source of data underlying that estimate.

(d) As used in this clause.—

(1) the term “major legislation” means any bill or joint resolution.—

(A) for which an estimate is required to be prepared pursuant to section 402<sup>328</sup> of the Congressional Budget Act of 1974 and that causes a gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year over the years of the most recently agreed to concurrent resolution on the budget equal to or greater than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; or

(B) designated as such by the chair of the Committee on the Budget for all direct spending legislation other than revenue legislation or the Member who is chair or vice chair, as applicable, of the Joint Committee on Taxation for revenue legislation<sup>329</sup>; and

(2) the term “budgetary effects” means changes in revenues, outlays, and deficits.

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<sup>327</sup> See *supra* at §111.

<sup>328</sup> See *supra* at §132

<sup>329</sup> The term “revenue legislation” is defined in section 201(f) of the Congressional Budget Act of 1974 (see *supra* at §107: The applicable text of that section reads as follows: “For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.”

## RULE XVIII

THE COMMITTEE OF THE WHOLE HOUSE ON THE  
STATE OF THE UNION**Clause 10. Concurrent Resolution on the Budget**<sup>330</sup>

*§990. Reading Concurrent Resolution on Budget for Amendment.*

*Clause 10(a).* At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment.

(b) It shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, unless the concurrent resolution, as amended by such amendment or amendments—

(1) would be mathematically consistent except as limited by paragraph (c); and

(2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974.

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

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<sup>330</sup> Clause 10 of Rule XVIII requires amendments to concurrent resolutions on the budget be mathematically consistent. Amendments making changes in budget authority and outlay aggregate totals must be accompanied by comparable changes in functional categories. A point of order will lie against an amendment to the resolution increasing aggregates and functional categories but the amount of the deficit. Amendments transferring amounts of budget authority from one functional category to another—reducing one category by certain amounts and adding the same amount to another category—need make no changes in the aggregates to achieve mathematical consistency.

**RULE XXI****RESTRICTIONS ON CERTAIN BILLS*****Clause 1. Reservation of Certain Points of Order******§ 1035. Reservation of Points of Order.***

*Clause 1.* At the time a general appropriation bill is reported, all points of order against provisions therein shall be considered as reserved.

***Clause 2. General Appropriation Bills and Amendments******§ 1036. Unauthorized Appropriations Reported in General Appropriation Bills or Amendments Thereto.***

*Clause 2(a)(1).* An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law, except to continue appropriations for public works and objects that are already in progress.

***§ 1037. Reappropriations Prohibited.***

*Clause 2(a)(2).* A reappropriation of unexpended balances of appropriations may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, except to continue appropriations for public works and objects that are already in progress. This subparagraph does not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated that are reported by the Committee on Appropriations.

***§ 1038. Legislation in Reported General Appropriation Bills: Exceptions.<sup>331</sup>***

*Clause 2(b).* A provision changing existing law may not be reported in a general appropriation bill, including a provision making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation, except germane provisions that re-trench expenditures by the reduction of amounts of money covered by the bill (which may include those recommended to the Committee on Appropriations by direction of a legislative committee having jurisdiction over the subject matter) and except rescissions of appropriations contained in appropriation Acts.

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<sup>331</sup> The “Holman Rule” allows exceptions to the rule against legislating on appropriation bills for retrenchments reducing spending. It permits committees of jurisdiction to recommend inclusion to the Appropriations Committee.



*§ 1039. Legislation or Limitations in Amendments to General Appropriation Bills.*

*Clause 2(c).* An amendment to a general appropriation bill shall not be in order if changing existing law, including an amendment making the availability of funds contingent on the receipt or possession of information not required by existing law for the period of the appropriation. Except as provided in paragraph (d), an amendment proposing a limitation not specifically contained or authorized in existing law for the period of the limitation shall not be in order during consideration of a general appropriation bill.

*§ 1040. Motion to Rise and Report As Preferential To Amendments.*

*Clause 2(d).* After a general appropriation bill has been read for amendment, a motion that the Committee of the Whole House on the state of the Union rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the Majority Leader or a designee, have precedence over motions to amend the bill. If such a motion to rise and report is rejected or not offered, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments that retrench expenditures by reductions of amounts of money covered by the bill may be considered.

*§1041. Designated Emergencies Reported in Appropriation Bills.*

*Clause 2(e).* A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.

*§1042. Offsetting Amendments En Bloc to Appropriation Bills.*

*Clause 2(f).* During the reading of an appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc under this paragraph, such amendments may amend portions of the bill not

yet read for amendment (following disposition of any points of order against such portions) and are not subject to a demand for division of the question in the House or in the Committee of the Whole.

***Clause 3. Transportation Obligation Limitations***<sup>332</sup>

*§1064. Highway Funding.*

*Clause 3.* It shall not be in order to consider a general appropriation bill or joint resolution, or conference report thereon, that—

(a) provides spending authority derived from receipts deposited in the Highway Trust Fund (excluding any transfers from the General Fund of the Treasury); or

(b) reduces or otherwise limits the accruing balances of the Highway Trust Fund,

for any purpose other than for those activities authorized for the highway or mass transit categories.<sup>333</sup>

***Clause 4. Appropriations on Legislative Bills***

*§ 1065. Restriction of Power to Report Appropriations.*

*Clause 4.* A bill or joint resolution carrying an appropriation may not be reported by a committee not having jurisdiction to report appropriations, and an amendment proposing an appropriation shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against an appropriation in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

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<sup>332</sup> Before 112<sup>th</sup> Congress, this rule prohibited the consideration of legislation causing transportation obligation limitations to be below the levels specified in law for the highway or mass transit categories, then in law. This created funding guarantees for transportation activities within the highway and mass transit categories. Any legislation, including amendments, causing spending to be less than the authorized amount was subject to a point of order. An amendment that would reduce the limitation on obligations for federal-aid highway funds (i.e., reducing the amount of spending authority for highway projects) below the levels authorized in statute would have been subject to the point of order. After the beginning of the 112<sup>th</sup> Congress, though, a general appropriations measure, or an amendment to it, could reduce spending authority for highway and mass transit activities below the level in statute without being subject to the point of order, as long as those funds were not made available for a purpose not authorized by law.

<sup>333</sup> Section 251 of BBEDCA included highway spending limits last set by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59), expiring after fiscal year 2009. See §202, *supra*.

**Clause 5. Tax and Tariff Measures and Amendments****§ 1066. Restriction on Bills and Amendments Carrying Taxes or Tariffs.**

*Clause 5(a)(1).* A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.<sup>334</sup>

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<sup>334</sup> A point of order under this paragraph against a provision in a bill is in order at any time during consideration of the bill for amendment in Committee of the Whole (Aug. 1, 1986, p. 18649). On October 4, 1989, the chair of the Committee of the Whole, before ruling on several points of order under this paragraph, enunciated several guidelines to distinguish taxes and tariffs on the one hand and user or regulatory fees and other forms of revenue on the other (p. 23260). On the opening day of the 102d Congress, Speaker Foley inserted in the Congressional Record the following statement of jurisdictional concepts underlying those same distinctions and indicated his intention to exercise his referral authority under rule X in a manner consistent with this paragraph (Jan. 3, 1991, p. 64 (reiterated at the beginning of each Congress, e.g., Jan. 4, 1995, p. 551; Jan. 3, 2001, p. 39)).

Clause 5(a) of rule XXI prohibits the reporting of a tax or tariff matter by any committee not having jurisdiction. Most of the questions of order arising under this clause since its adoption in 1983 have related to provisions that clearly affected the operation of the Internal Revenue Code or the customs laws. Questions have arisen related to provisions drafted as a user or regulatory fee levied on members of a class that avails itself of a governmental activity, typically to generate revenue in support of that activity. In order to provide guidance concerning the referral of bills, to assist committees in staying within their appropriate jurisdictions under rule X, to assist committees without jurisdiction over tax or tariff measures in complying with this clause, and to protect the constitutional prerogative of the House to originate revenue bills, the Speaker will make the following statement: Standing committees of the House (other than the Committees on Appropriations and Budget) have jurisdiction to consider user, regulatory and other fees, charges, and assessments levied on a class directly availing itself of, or directly subject to, a governmental service, program, or activity, but not on the general public, as measures to be utilized solely to support, subject to annual appropriations, the service, program, or activity for which such fees, charges, and assessments are established and collected and not to finance the costs of Government generally. The fee must be paid by a class benefiting from the service, program or activity, or being regulated by the applicable agency: There must be a reasonable connection between the payors and the agency or function receiving the fee. The fund that receives the amounts collected is not itself determinative of the existence of a fee or a tax.

*Clause 5(a)(2).* For purposes of paragraph (1),<sup>93</sup> a tax or tariff measure includes an amendment proposing a limitation on funds in a general appropriation bill for the administration of a tax or tariff.

### ***Passage of Tax Rate Increases***

*§1067. Three-fifths vote to increase income tax rates.*

*Clause 5(b).* A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present. In this paragraph the term “Federal income tax rate increase” means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.<sup>335</sup>

### ***Consideration of Retroactive Tax Rate Increases***

*§1068. Prohibition Against Retroactive Income Tax Rate Increase.*

*Clause 5(c).* It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. In this paragraph—

(1) the term “Federal income tax rate increase” means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning before the enactment of the provision.

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Ways and Means has jurisdiction over “revenue measures generally” under rule X. The Chair coordinates principles related to revenue with the Budget Committee and the Congressional Budget Office, especially in reconciliation, so budget scorekeeping does not determine, and reconciliation directives and implementation are consistent with, committee jurisdiction.

<sup>335</sup> This provision defined “Federal income tax rate increase” as limited to a specific amendment to one of the named subsections. The modified version of this paragraph comprises three elements (an amendment to a pertinent section of the Internal Revenue Code of 1986, the imposition of a new rate of tax thereunder, and an increase in the amount of tax thereby imposed) and a measure that does not fulfill the first element does not have a Federal income tax rate increase. This paragraph does not apply to concurrent resolutions.

**Clause 6. Designation of Public Works***§ 1068a. Restriction on Designation of Public Works.*

*Clause 6.* It shall not be in order to consider a bill, joint resolution, amendment, or conference report that provides for the designation or redesignation of a public work in honor of an individual then serving as a Member, Delegate, Resident Commissioner, or Senator.

**Clause 7. Reconciliation Directives***§ 1068b. Restriction on Reconciliation Directives.*

*Clause 7.* It shall not be in order to consider a concurrent resolution on the budget, or an amendment thereto, or a conference report thereon that contains reconciliation directives under section 310 of the Congressional Budget Act of 1974 that specify changes in law such that the reconciliation legislation reported pursuant to such directives would cause an increase in net direct spending (as such term is defined in clause 10) for the period covered by such concurrent resolution.<sup>336</sup>

**Clause 8. Application of Budget Act Points of Order***§1068c. Budget Act Points of Order.*

*Clause 8.* With respect to measures considered pursuant to a special order of business, points of order under title III of the Congressional Budget Act of 1974<sup>337</sup> shall operate without regard to whether the measure concerned has been reported from committee. Such points of order shall operate with respect to (as the case may be)—

(a) the form of a measure recommended by the reporting committee where the statute uses the term “as reported” (in the case of a measure that has been so reported);

(b) the form of the measure made in order as an original bill or joint resolution for the purpose of amendment; or

(c) the form of the measure on which the previous question is ordered directly to passage.<sup>338</sup>

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<sup>336</sup> This clause was added in the 110th Congress (sec. 402, H. Res. 6, Jan. 4, 2007, p. 19 (adopted Jan. 5, 2007)), amended in the 111th Congress to reflect a change in the time periods in clause 10(a)(1) (sec. 2(j), H. Res. 5, 2009), and rewritten in the 112th Congress to focus on an increase in direct spending instead of a reduction in the surplus or an increase in the deficit.

<sup>337</sup> Points of order which are included in title IV of the Congressional Budget Act of 1974, such as section 401 related to contract authority and new entitlement authority are not covered by this extension of the points of order to measures not reported by a committee.

<sup>338</sup> Added in the 110th Congress (sec. 403, H. Res. 6, Jan. 4, 2007, p. 19).

**Clause 9. Earmarks***§1068d. Congressional Earmarks.*

*Clause 9(a).* It shall not be in order to consider<sup>339</sup>—

(1) a bill or joint resolution reported by a committee unless the report includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;<sup>340</sup>

(2) a bill or joint resolution not reported by a committee unless the chair of each committee of initial referral has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration;

(3) an amendment to a bill or joint resolution to be offered at the outset of its consideration for amendment by a Member of a committee of initial referral as designated in a report of the Committee on Rules to accompany a resolution prescribing a special order of business unless the proponent has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the amendment (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the proponent for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

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<sup>339</sup> A point of order under this clause does not apply to an unreported measure if the chair of the committee of referral has caused to be printed in the Congressional Record a statement that the measure contains no congressional earmarks, limited tax benefits, or limited tariff benefits, or against a reported measure if the committee report contains this statement. A point of order hereunder is untimely after consideration has begun.

<sup>340</sup> After a point of order under paragraph (a)(1) is sustained against consideration of a bill, a committee may file a supplemental report pursuant to clause 3(a)(2) of rule XIII to correct a technical error in the depiction of a bill number in the portion of a committee report regarding disclosure under this clause (July 30, 2010, p. 1).

(4) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

(b) It shall not be in order to consider a conference report to accompany a regular general appropriation bill<sup>341</sup> unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes—

(1) a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) that were neither committed to the conference committee by either House nor in a report of a committee of either House on such bill or on a companion measure; or

(2) a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

(c) It shall not be in order to consider a rule or order that waives the application of paragraph (a) or (b). As disposition of a point of order under this paragraph or paragraph (b), the Chair shall put the question of consideration with respect to the rule or order or conference report, as applicable. The question of consideration shall be debatable for 10 minutes by the Member initiating the point of order and for 10 minutes by an opponent, but shall otherwise be decided without intervening motion except one that the House adjourn.<sup>342</sup>

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<sup>341</sup> “Continuing appropriations” are different from general or supplemental appropriations. Continuing appropriations in general “continue” budget authority already provided by extending the time period during which it is available for obligation.

<sup>342</sup> Debate on the point of order is on the question of considering the measure that is the subject of the point of order (May 14, 2008). A point of order may be raised against a special order of business (May 14, 2008). A manager who controls time for debate against the point of order that is to be resolved

(d) In order to be cognizable<sup>343</sup> by the Chair, a point of order raised under paragraph (a) may be based only on the failure of a report, submission to the Congressional Record, or joint explanatory statement to include a list required by paragraph (a) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.<sup>344</sup>

(e) For the purpose of this clause, the term “congressional earmark” means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula driven or competitive award process.

(f) For the purpose of this clause, the term “limited tax benefit” means—

(1) any revenue-losing provision<sup>345</sup> that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986, and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.

(g) For the purpose of this clause, the term “limited tariff benefit” means modifying the Harmonized Tariff Schedule of the United States<sup>346</sup> in a manner that benefits 10 or fewer entities.

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by a question of consideration is entitled to close debate (Mar 21, 2010, p. 1).

<sup>343</sup> A cognizable point of order is one that meets the basic criteria of viability for being evaluated by the presiding officer.

<sup>344</sup> Paragraph (d) requires that a point of order under this clause be predicated only on the absence of a complying statement, and does not contemplate a question of order relating to the content of such statement (May 10, 2007, p. 12191). Whether the items included on the list of earmarks, limited tax benefits, or limited tariff benefits, in the statement is not the subject of debate but rather whether the statement has fulfilled the terms of inclusion pursuant to this clause is.

<sup>345</sup> Under clause 4 of Rule XXIX, the Chairman of the Committee on the Budget provides “authoritative guidance” as to the budgetary impacts on revenue of a provision included in a measure. Such guidance may be sought in determining whether a provision is “revenue losing”.

<sup>346</sup> The U.S. International Trade Commission publishes the Harmonized



**Clause 10. Cut-As-You-Go**

§ 1068f. *Cut-As-You-Go Point of Order.*

*Clause 10(a)(1).* Except as provided in paragraphs (b) and (c), it shall not be in order to consider a bill or joint resolution, or an amendment thereto or a conference report thereon, if the provisions of such measure have the net effect of increasing mandatory spending for the period of either—

(A) the current year, the budget year, and the four fiscal years following that budget year; or

(B) the current year, the budget year, and the nine fiscal years following that budget year.

(2) For the purpose of this clause, the terms “budget year” and “current year” have the meanings specified in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the term “mandatory spending” has the meaning of “direct spending” specified in such section 250 except that such term shall also include provisions in appropriation Acts that make outyear modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010.<sup>347</sup>

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Tariff Schedule of the United States (HTS) as directed by Congress in section 1207 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 19 U.S.C. 3007). The HTS contains both legal (enacted or proclaimed) and nonlegal (statistical or reference) provisions specifically designated as such in section 1204(a) of the Trade Act (102 Stat. 1148). All goods imported into the United States are subject to the provisions of the HTS, as well as to regulations of U.S. Customs and Border Protection and laws that it enforces.

<sup>347</sup> Clause 10 was added in the 110th Congress (sec. 405, H. Res. 6, Jan. 4, 2007, p. 19 (adopted Jan. 5, 2007)) and amended in the 111th Congress (sec. 2(j), H. Res. 5, Jan. 6, 2009, p. 7; sec. 5, H. Res. 1500, July 1, 2010, p. 1). In its original form it addressed increases in the deficit or surplus caused by changes in revenue and direct spending. It was changed to its present form in the 112th Congress (sec. 2(d), H. Res. 5, Jan. 5, 2011, p. 1). The Chair is authoritatively guided by estimates from the chair of the Committee on the Budget whether the net effect of an amendment increases mandatory spending as compared to the proposition to which offered (e.g., Jan. 26, 2011, p. 1; Mar. 3, 2011, p. 1 (sustained by tabling of appeal); Mar. 10, 2011, p. 1; Mar. 11, 2011, p. 1). A point of order against a bill under this clause is not timely pending the question of engrossment and third reading (Mar. 30, 2011, p. 1).

§ 1068j. Former Pay-As-You-Go Point of Order. Under the former clause 10, the Chair was authoritatively guided by estimates from the Committee on the Budget as to the net effect of a provision on the relevant surplus or deficit (Dec. 12, 2007, p. 34065). Spending provided by appropriation acts did not constitute “direct spending” (May 15, 2008, p. 9229). For a complete recitation of precedents under the former clause, see § 1068e of the House Rules and Manual for the 111th Congress (H. Doc. 110–162).

(b) If a bill or joint resolution, or an amendment thereto, is considered pursuant to a special order of the House directing the Clerk to add as new matter at the end of such bill or joint resolution the entire text of a separate measure or measures as passed by the House, the new matter proposed to be added shall be included in the evaluation under paragraph (a) of the bill, joint resolution, or amendment.

(c)(1). Except as provided in subparagraph (2), the evaluation under paragraph (a) shall exclude a provision expressly designated as an emergency for the Statutory Pay-As-You-Go Act of 2010,<sup>348</sup> in the case of a point of order under this clause against consideration of—

- (A) a bill or joint resolution;
- (B) an amendment made in order as original text by a special order of business;
- (C) a conference report; or
- (D) an amendment between the Houses.<sup>349</sup>

(2) In the case of an amendment (other than one specified in subparagraph (1)) to a bill or joint resolution, the evaluation under paragraph (a) shall give no cognizance to any designation of emergency.<sup>350</sup>

### **Clause 11. Notice Requirements**

#### *§ 1068i. Availability of Introduced Measures.*

*Clause 11.* It shall not be in order to consider a bill or joint resolution which has not been reported by a committee until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which such measure has been available to Members, Delegates, and the Resident Commissioner.<sup>351</sup>

<sup>348</sup> See section 4(g) of the Statutory Pay-As-You-Go-Act of 2010. Under that designation, amounts are not counted for purposes of the scorecards that determine whether a sequestration is to be ordered. The amounts on the scorecard reflect on-budget spending and revenue effects. Similarly, the evaluation under this clause (Cutgo) is applied against on-budget direct spending, excluding the effects on Social Security and Postal operations. See §284 and §220, *supra*.

<sup>349</sup> Budget effects of amendments are counted under Cutgo, except amendments between the Houses or text made in order as original text.

<sup>350</sup> The original “Paygo” clause 10(c)((3) (111<sup>th</sup> Congress) read: “If a bill or joint resolution, an amendment made in order as original text by a special order of business, a conference report, or an amendment between the Houses includes a provision expressly designated as an emergency for purposes of pay-as-you-go principles.”

<sup>351</sup> Amendments offered on the Floor may not be designated emergencies – the budget effects are still counted under Cutgo. Amendments between the Houses, or self-executed text under a rule, may be so designated.

**RULE XXII****HOUSE AND SENATE RELATIONS*****Clause 11. Conference Reports on the Internal Revenue Code******§ 1092. Tax Complexity Analysis.***<sup>352</sup>

*Clause 11.* It shall not be in order to consider a conference report to accompany a bill or joint resolution that proposes to amend the Internal Revenue Code of 1986 unless—

(a) the joint explanatory statement of the managers includes a tax complexity analysis prepared by the Joint Committee on Internal Revenue Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

(b) the chair of the Committee on Ways and Means causes such a tax complexity analysis to be printed in the Congressional Record before consideration of the conference report.

**RULE XXIX****GENERAL PROVISIONS*****Clause 4. Authoritative Guidance From the Budget Committee Chairman on Budgetary Levels.******§ 1105d. Authoritative Guidance of Budgetary Levels.***

*Clause 4.* Authoritative guidance from the Committee on the Budget concerning the impact of a legislative proposition on the levels of new budget authority, outlays, direct spending, new entitlement authority and revenues may be provided by the chair of the committee.<sup>353</sup>

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<sup>352</sup> The Internal Revenue Service Restructuring and Reform Act of 1998 (sec. 4022, P.L. 105–206) added this provision to clause 11 of rule XXII.

<sup>353</sup> Clause 4 of rule XXIX codified the accepted practice that the Chair of the Committee on the Budget provides authoritative guidance as to budgetary levels related to legislation considered on the floor.

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**SEPARATE ORDERS OF H. RES. 5  
[114<sup>TH</sup> CONGRESS]**

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# BUDGET-RELATED PROVISIONS

## SEPARATE ORDERS OF H. RES. 5

[114<sup>TH</sup> CONGRESS]

January 6, 2015

*Resolved*, That the Rules of the House of Representatives of the One Hundred Thirteenth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Thirteenth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Fourteenth Congress, with amendments to the standing rules as provided in section 2, and with other orders as provided in sections 3, 4, and 5.

### SEC. 2. CHANGES TO THE STANDING RULES.

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### SEC. 3. SEPARATE ORDERS.

(a) INDEPENDENT PAYMENT ADVISORY BOARD.—Section 1899A(d) of the Social Security Act shall not apply in the One Hundred Fourteenth Congress.

(b) STAFF DEPOSITION AUTHORITY FOR CERTAIN COMMITTEES.—

[...]

(c) PROVIDING FOR TRANSPARENCY WITH RESPECT TO MEMORIALS SUBMITTED PURSUANT TO ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES.—

[...]

(d) SPENDING REDUCTION AMENDMENTS IN APPROPRIATIONS BILLS.—

(1) During the reading of a general appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations from an object or objects in the bill to a spending reduction ac-

count. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and are not subject to a demand for division of the question in the House or in the Committee of the Whole.

(2) Except as provided in paragraph (1), it shall not be in order to consider an amendment to a spending reduction account in the House or in the Committee of the Whole House on the state of the Union.

(3) It shall not be in order to consider an amendment to a general appropriation bill proposing a net increase in budget authority in the bill (unless considered en bloc with another amendment or amendments proposing an equal or greater decrease in such budget authority pursuant to clause 2(f) of rule XXI).

(4) A point of order under clause 2(b) of rule XXI shall not apply to a spending reduction account.

(5) A general appropriation bill may not be considered in the Committee of the Whole House on the state of the Union unless it includes a spending reduction account as the last section of the bill. An order to report a general appropriation bill to the House shall constitute authority for the chair of the Committee on Appropriations to add such a section to the bill or modify the figure contained therein.

(6) For purposes of this subsection, the term “spending reduction account” means an account in a general appropriation bill that bears that caption and contains only a recitation of the amount by which an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974 exceeds the amount of new budget authority proposed by the bill.

(e) BUDGET MATTERS.—

(1)(A) During the first session of the One Hundred Fourteenth Congress, pending the adoption of a concurrent resolution on the budget for fiscal year 2015.—

(i) the provisions of titles III, IV, and VI of House Concurrent Resolution 25, One Hundred Thirteenth Congress, as adopted by the House, shall have force and effect in the House as though Congress has adopted such concurrent resolution;

(ii) the allocations, aggregates, and other appropriate levels as contained in the statement of the chair of the Committee on the Budget of the House of Representatives in the Congressional Record of April 29, 2014, as adjusted in the One Hundred Thirteenth Con-

gress, shall be considered for all purposes in the House to be the allocations, aggregates, and other appropriate levels under titles III and IV of the Congressional Budget Act of 1974;

(iii) all references in titles IV and VI of House Concurrent Resolution 25, One Hundred Thirteenth Congress, to a fiscal year shall be considered for all purposes in the House to be references to the succeeding fiscal year; and

(iv) all references in titles IV and VI of House Concurrent Resolution 25, One Hundred Thirteenth Congress, to allocations, aggregates, or other appropriate levels in “this concurrent resolution” (or, in the case of section 408 of such concurrent resolution, “this resolution”) shall be considered for all purposes in the House to be references to the allocations, aggregates, or other appropriate levels contained in the statement of the chair of the Committee on the Budget of the House of Representatives printed in the Congressional Record of April 29, 2014, as adjusted in the One Hundred Thirteenth Congress.

(B) The chair of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels provided for in subparagraph (A)(ii) for any bill or joint resolution, or amendment thereto or conference report thereon, if such measure maintains the solvency of the Highway Trust Fund, but only if such measure would not increase the deficit over the period of fiscal years 2015 through 2025.

(C) The chair of the Committee on the Budget may revise the allocations, aggregates, and other appropriate levels provided for in subparagraph (A)(ii) to take into account the most recent baseline published by the Congressional Budget Office.

(2)(A) During the One Hundred Fourteenth Congress, except as provided in subparagraph (C), a motion that the Committee of the Whole rise and report a bill to the House shall not be in order if the bill, as amended, exceeds an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974, as estimated by the Committee on the Budget.

(B) If a point of order under subparagraph (A) is sustained, the Chair shall put the question: “shall the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted notwithstanding that the bill exceeds its allocation of new budget author-



ity under section 302(b) of the Congressional Budget Act of 1974?”. Such question shall be debatable for 10 minutes equally divided and controlled by a proponent of the question and an opponent but shall be decided without intervening motion.

(C) Subparagraph (A) shall not apply.—

(i) to a motion offered under clause 2(d) of rule XXI;

or

(ii) after disposition of a question under subparagraph (B) on a given bill.

(D) If a question under subparagraph (B) is decided in the negative, no further amendment shall be in order except.—

(i) one proper amendment, which shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole; and

(ii) pro forma amendments, if offered by the chair or ranking minority member of the Committee on Appropriations or their designees, for the purpose of debate.

(f) CONTINUING LITIGATION AUTHORITIES.—

[...]

(g) DUPLICATION OF FEDERAL PROGRAMS.—

(1) The chair of a committee may request that the Government Accountability Office perform a duplication analysis of any bill or joint resolution referred to that committee. Any such analysis shall assess whether, and the extent to which, the bill or joint resolution creates a new Federal program, office, or initiative that duplicates or overlaps with any existing Federal program, office, or initiative.

(2) The report of a committee on a bill or joint resolution that establishes or reauthorizes a program of the Federal Government shall include a statement, as though under clause 3(c) of rule XIII, indicating whether any such program is known to be duplicative of another such program. The statement shall at a minimum explain whether.—

(A) any such program was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or

(B) the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169), identified other programs related to the program established or reauthorized by the measure.

(h) ESTIMATES OF DIRECT SPENDING.<sup>354</sup>—

(1) It shall not be in order to consider any concurrent resolution on the budget, or amendment thereto or conference report thereon, unless it contains a separate heading entitled “Direct Spending”, which shall include a category for “Means-Tested Direct Spending” and a category for “Nonmeans-Tested Direct Spending” and sets forth.—

(A) the average rate of growth for each category in the total amount of outlays during the 10-year period preceding the budget year;

(B) estimates for each such category under current law for the period covered by the concurrent resolution; and

(C) information on proposed reforms in such categories.

(2) Before the consideration of a concurrent resolution on the budget by the Committee on the Budget for a fiscal year, the chair of the Committee on the Budget shall submit for printing in the Congressional Record a description of programs which shall be considered means-tested direct spending and nonmeans-tested direct spending for purposes of this subsection.

## (i) DISCLOSURE OF DIRECTED RULEMAKINGS.—

(1) The report of a committee on a bill or joint resolution shall include a statement, as though under clause 3(c) of rule XIII, estimating the number of directed rule makings required by the measure.<sup>355</sup>

(2) For purposes of this subparagraph, the term “directed rule making” means a specific rule making within the meaning of section 551 of title 5,<sup>356</sup> United States Code,

<sup>354</sup> S. Con. Res. 11, the conference report on the concurrent resolution on the budget for fiscal year 2016 complied with this subsection by setting forth the required elements related to means-tested and non-means tested direct spending. It may be found in Title V of that concurrent resolution.

<sup>355</sup> This requirement for the inclusion of a disclosure statement related to directed rule makings does not apply to concurrent resolutions so it is not required for concurrent resolutions on the budget.

<sup>356</sup> The applicable language of 5 USC 551:

“(4) ‘rule’ means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

“(5) ‘rule making’ means agency process for formulating, amending, or repealing a rule;”.

specifically directed to be completed by a provision in the measure, but does not include a grant of discretionary rule making authority.

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(q) SOCIAL SECURITY SOLVENCY<sup>357</sup>.—

(1) POINT OF ORDER.—During the One Hundred Fourteenth Congress, it shall not be in order to consider a bill or joint resolution, or an amendment thereto or conference report thereon, that reduces the actuarial balance by at least .01 percent of the present value of future taxable payroll of the Federal Old-Age and Survivors Insurance Trust Fund established under section 201(a) of the Social Security Act for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act.

(2) EXCEPTION.—Paragraph (1) shall not apply to a measure that would improve the actuarial balance of the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act.

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<sup>357</sup> This point of order was also included, largely verbatim, in the Concurrent Resolution on the Budget for Fiscal Year 2016, S. Con. Res. 11 (114<sup>th</sup> Congress). Though it was included in an adopted concurrent resolution on the budget for both the House and the Senate, it applies in the House only under that concurrent resolution. When there are inconsistencies between a concurrent resolution, which is a rulemaking document, and the House Rules, the former takes precedence. S. Con. Res. 11 is not included in this Compendium. It was the first conference report adopted since 2010. It was not included though because its erratic drafting causes some confusion and a different direction from existing budget-related rules and laws.

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**JURISDICTION OF THE COMMITTEE ON THE BUDGET OF THE  
HOUSE OF REPRESENTATIVES**

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## JURISDICTION OF THE HOUSE BUDGET COMMITTEE

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The Committee on the Budget of the House primarily and originally derives its jurisdiction from the *Congressional Budget and Impoundment Control Act of 1974*. Section 101 of Title I of this Act established House Budget Committee, and section 102 established the Senate Budget Committee. This jurisdiction is protected by law under section 306 of the Budget Act, which states that “no bill, resolution, amendment, motion, or conference report dealing with any matter within the jurisdiction of the Budget Committee may be considered in the House unless it is a bill or resolution having been reported by that Committee or unless it is an amendment to a bill or resolution reported by the Committee.”

House Rule X, clause 1(d) states that the Budget Committee has jurisdiction over the concurrent resolution on the budget; other matters required to be referred to it pursuant to the Budget Act; establishment, extension, and enforcement of special controls over the federal budget; and the budget process generally.

Prior to the 104<sup>th</sup> Congress, the Committee on the Budget of the House did not have jurisdiction over legislation other than budget resolutions and reconciliation bills. The Committees on Rules and Government Oversight and Reform had the primary substantive jurisdiction over budget process. With the adoption of the Rules of the House of Representatives for the 104<sup>th</sup> Congress (H. Res. 6) on January 5, 1995, the Budget Committee achieved for the first time legislative jurisdiction over a variety of aspects of the congressional budget and various statutory controls over the Federal budget.

Under clause 1(d) of Rule X, the Committee on the Budget has jurisdiction over:

“Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government. Measures relating to the congressional budget process, generally.

Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.” The addition to (d)(2) intended the Budget Committee had substantive jurisdiction over a statement providing for a balanced budget required under a proposed amendment to the U.S. Constitution. The House passed the amendment but it did not receive the necessary votes in the Senate.

The intent of paragraph (d)(3) was discussed in a memorandum of understanding between Representative John R. Kasich, the chairman of the Committee on the Budget, and Mr. Gerald B. H. Solomon, the chairman of the Committee on Rules. The memorandum states that the Budget Committee would have primary jurisdiction over budget terminology and the discretionary spending limits. The memorandum established the Budget Committee’s secondary jurisdiction over other elements of the congressional budget process. The Committee has primary jurisdiction over both budgetary levels and budgetary concepts and secondary jurisdiction over procedural aspects of the congressional budget.

The Committee on Rules does not have jurisdiction over matters other than those affecting procedures of Congress as far as budget is concerned. Therefore, though the two are inter-related, the Rules Committee does not have jurisdiction over laws such as those setting statutory discretionary spending limits or direct spending controls such as in the pay-as-you-go system.

FROM VOLUME 18 OF  
DESCHLER-BROWN-JOHNSON-SULLIVAN  
PRECEDENTS  
CH. 41 § 7

(Page 79-83)<sup>358</sup>

§ 7. ROLE OF COMMITTEES

The Committees on the Budget for both the House and the Senate were created by section 101<sup>359</sup> of the Congressional Budget Act of 1974.<sup>360</sup> In the House prior to this time, the Committee on Government Operations had jurisdiction over “budget and accounting measures,” but no single committee had jurisdiction over the budget process generally.<sup>361</sup>

Membership on the Committee on the Budget was initially set at 23 members, but was increased to 25 in the 94<sup>th</sup> Congress.<sup>362</sup> Membership was increased again to 30 in the 97<sup>th</sup> Congress,<sup>363</sup> and to 31 in the 98<sup>th</sup> Congress.<sup>364</sup> In the 99<sup>th</sup> Congress, the numerical limitation on membership was eliminated.<sup>365</sup>

Rule X clause 5(a)(2)<sup>366</sup> lays out the composition and term-limit requirements for the Committee on the Budget. Originally,<sup>367</sup> the House required that all members of the Committee on

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<sup>358</sup> Footnotes in this section in brackets are from Volume 18 of Deschler-Brown-Johnson-Sullivan Precedents; Ch. 41 § 7. References within these brackets are to the Volumes of Deschler’s Precedents.

<sup>359</sup> The Committee on the Budget for the House was created by section 101 and the Committee on the Budget for the Senate was created by section 102 of the Congressional Budget Act of 1974.

<sup>360</sup> [(Footnote #1 on page 79) Pub. L. No 93–344, title I. For an earlier overview of the history, composition, jurisdiction, and specific responsibilities of the Committee on the Budget, see Deschler’s Precedents Ch. 17 § 34, *supra*. However, some of that material has been overtaken by subsequent changes to the budget laws and House rules.]

<sup>361</sup> [(Footnote #2 on page 79) House Rules and Manual § 691 (1973).]

<sup>362</sup> [(Footnote #3 on page 79) 21 CON. REC. 20, 94<sup>th</sup> Cong. 1st Sess., Jan. 14, 1975 (H. Res. 5).]

<sup>363</sup> [(Footnote #4 on page 79) 127 CON. REC. 98–113, 97<sup>th</sup> Cong. 1st Sess., Jan. 5, 1981 (H. Res. 5).]

<sup>364</sup> [(Footnote #5 on page 79) 129 CON. REC. 1791, 1792, 98<sup>th</sup> Cong. 1st Sess., Feb. 7, 1983 (unanimous-consent request).]

<sup>365</sup> [(Footnote #6 on page 79) 131 CON. REC. 353, 99<sup>th</sup> Cong. 1st Sess., Jan. 3, 1985 (H. Res. 7).]

<sup>366</sup> [(Footnote #7 on page 79) House Rules and Manual § 758 (2011).]

<sup>367</sup> [(Footnote #8 on page 79) Former Rule X clause 1(e), House Rules and



the Budget be members of other standing committees, with five required to come from the Committee on Appropriations, five required to come from the Committee on Ways and Means, and two others chosen by their respective party leaderships. As noted above, membership of the committee has gradually increased over the years, but the requirements of other standing committee affiliation have not changed. The one exception is a change made at the beginning of the 108<sup>th</sup> Congress, which required that one member of the Committee on the Budget also be a member of the Committee on Rules.<sup>368</sup>

Membership on the Committee on the Budget is subject to term limits, both for the chairman and ranking minority member, as well as rank-and-file members. Originally, no Member could serve on the Committee on the Budget for more than two Congresses out of any five successive Congresses,<sup>369</sup> but this restriction was changed to three Congresses (out of five) in the 96<sup>th</sup> Congress.<sup>370</sup> In the 104<sup>th</sup> Congress, the rule was changed to its present form, which prohibits a Member from serving on the committee for more than four Congresses in any period of six successive Congresses (with an exception allowing a Member to exceed such limitation by being elected to a second consecutive term as chairman or ranking minority member of such committee).<sup>371</sup> However, these restrictions do not apply to the Members designated by their respective party leaderships.<sup>372</sup> The Committee on the Budget is now subject to the same tenure limitations of its chair as other committees—a member may serve as chairman for no more than three successive Congresses—pursuant to Rule X clause 5(c)(2).<sup>373</sup>

The Congressional Budget Act, which created the House Committee on the Budget, also specified certain duties of that committee, which were subsequently incorporated into the standing rules of the House. Rule X clause 3(c),<sup>374</sup> laying out the special oversight functions of various committees, requires the Committee on the Budget to study on a continuing basis

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Manual § 674(a) (1975).]

<sup>368</sup> [(Footnote #9 on page 79) 149 CON. REC. 7, 108<sup>th</sup> Cong. 1st Sess., Jan. 7, 2003 (H. Res. 5).]

<sup>369</sup> [(Footnote #10 on page 79) House Rules and Manual § 674(b) (1975).]

<sup>370</sup> [(Footnote #11 on page 80) 125 CON. REC. 8, 96<sup>th</sup> Cong. 1st Sess., Jan. 15, 1979 (H. Res. 5).]

<sup>371</sup> [(Footnote #12 on page 80) See 141 CON. REC. 464, 104<sup>th</sup> Cong. 1st Sess., Jan. 4, 1995 (H. Res. 6).]

<sup>372</sup> [(Footnote #13 on page 79) Rule X clause 5(a)(2)(B), House Rules and Manual § 758 (2011).]

<sup>373</sup> [(Footnote #14 on page 80) Id. at § 761 (2011).]

<sup>374</sup> [(Footnote #15 on page 80) Id. at § 744 (2011).]

the effect of budget outlays on existing and proposed legislation and to report its findings to the House on a recurring basis. Rule X clause 4(b),<sup>375</sup> requires the committee to: (1) review the conduct of the Congressional Budget Office; (2) hold hearings to develop the concurrent resolution on the budget; (3) make all reports required by the Congressional Budget Act; (4) study provisions of law that exclude certain Federal agencies or outlays from inclusion in the budget; (5) study proposals to improve the congressional budget process; and (6) evaluate studies of tax expenditures.

Pursuant to Rule X clause 4(f),<sup>376</sup> all House committees are given certain responsibilities with respect to the concurrent resolution on the budget. As noted in Section 2,<sup>377</sup> each standing committee must submit to the Committee on the Budget its views and estimates with respect to all matters set forth in the congressional budget resolution, as well as estimates of new budget authority and outlays authorized in legislation within the jurisdiction of each committee intended to become effective in that fiscal year. Such views and estimates must be submitted no later than six weeks after the submission of the President's budget.<sup>378</sup> The Committee on Ways and Means is further required to include views and estimates regarding the appropriate level of the public debt. The Committee on the Budget accepts these submissions from the other standing committees of the House and uses them in formulating the concurrent resolution on the budget. An additional requirement for the Committee on the Budget to consult with the legislative committees in preparing the concurrent resolution on the budget is found in section 301(h) of the Congressional Budget Act.<sup>379</sup>

The Congressional Budget Act requires the Committee on the Budget to provide estimates as to the budgetary effect of legislation in various contexts. Section 312(a) is the primary source for this authority, mandating that levels of new budget authority, outlays, direct spending, new entitlement authority and revenues are to be determined on the basis of estimates provided by the Committee on the Budget for purposes of titles

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<sup>375</sup> [(Footnote #16 on page 80) Id. at § 748 (2011).]

<sup>376</sup> [(Footnote #17 on page 80) Id. at § 756 (2011).]

<sup>377</sup> The reference to "Section 2" is to Deschler's Volume 18, on page 11.

<sup>378</sup> [(Footnote #18 on page 80) For an exchange of letters between a Member and the Parliamentarian regarding proper committee procedure in submitting views and estimates to the Committee on the Budget, see 137 CON. REC. 7778, 7779, 102d Cong. 1st Sess., Apr. 10, 1991.]

<sup>379</sup> [(Footnote #19 on page 81) 2 USC § 632(h).]

III and IV of the Budget Act.<sup>380</sup> Pursuant to section 310(d)(4), budgetary levels for reconciliation enforcement are also to be provided by the Committee on the Budget.<sup>381</sup> Finally, section 308(b)(2) mandates that the Committee on the Budget provide Members of the House with periodic ‘status reports’ as to the current state of congressional actions providing new budget authority and comparisons with levels set forth in the most recent concurrent resolution on the budget.<sup>382</sup> The Committee on the Budget is required to use Congressional Budget Office estimates in formulating such reports.<sup>383</sup>

Pursuant to Rule XXIX clause 4,<sup>384</sup> authoritative guidance from the Committee on the Budget regarding the budgetary impact of a legislative proposition may be provided by the chairman of that committee. This rule, adopted at the beginning of the 112<sup>th</sup> Congress, codified existing practice for obtaining timely guidance as to budgetary matters from the Committee on the Budget.

Additional duties required of the Committee on the Budget are found in section 301 of the Congressional Budget Act, which describes how the concurrent resolution on the budget is to be prepared.<sup>385</sup> Section 301(e)(1)<sup>386</sup> requires the Committee on the Budget to hold hearings and receive testimony from various entities in developing the budget. Section 301(e)(2) lays out the requirements for the report to accompany the concurrent resolution on the budget, while section 301(e)(3) describes the optional components of such report.<sup>387</sup>

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<sup>380</sup> [(Footnote #20 on page 81) 2 USC § 643(a). A similar authority, applicable only to section 311 points of order, was initially found in former section 311(b), prior to the reforms of Gramm-Rudman-Hollings in 1985. It was then moved to section 311(c) before being subsumed into current section 312(a) by the Budget Enforcement Act of 1997. Likewise, the Committee on the Budget was required under former section 302(g) to provide estimates of budgetary levels for purposes of section 302 enforcement, but this specific requirement was collapsed into the broader authority currently found in section 312(a) by the Budget Enforcement Act of 1997.]

<sup>381</sup> [(Footnote #21 on page 81) 2 USC § 641(d)(4).]

<sup>382</sup> [(Footnote #22 on page 81) 2 USC § 639(b)(2). For an example of such a status report, see 146 CON. REC. 12634, 12635, 106<sup>th</sup> Cong. 2d Sess., June 27, 2000. Such status reports have been “revised” by supplemental submission, see, e.g., 152 CON. REC. 3522, 109<sup>th</sup> Cong. 2d Sess., Mar. 14, 2006.]

<sup>383</sup> [(Footnote #23 on page 81) House Rules and Manual § 1127 (2011).]

<sup>384</sup> [(Footnote #24 on page 81) House Rules and Manual § 1105d (2011).]

<sup>385</sup> [(Footnote #25 on page 82) 2 USC § 632.]

<sup>386</sup> [(Footnote #26 on page 82) Id. at (e)(1).]

<sup>387</sup> [(Footnote #27 on page 82) Id. at (e)(2), (e)(3).]

As originally conceived, the jurisdiction of the Committee on the Budget was quite limited, encompassing only concurrent resolutions on the budget and other matters requiring referral to that committee under the Congressional Budget Act.<sup>388</sup> Over time, that jurisdiction has been expanded to include additional matters. In the 99<sup>th</sup> Congress, the committee was given jurisdiction over Senate joint or concurrent resolutions constituting responses to Presidential sequestration orders.<sup>389</sup> In the 104<sup>th</sup> Congress, the committee was given jurisdiction over: (1) other measures setting forth budgetary levels for the United States Government; (2) the congressional budget process generally; and (3) special controls over the Federal budget (including the budgetary treatment of off-budget entities).<sup>390</sup> In the 105<sup>th</sup> Congress, the committee's jurisdiction over the congressional budget process was expanded to include the Federal budget process generally.<sup>391</sup> With regard to the special treatment of off-budget entities and the executive branch budget process, jurisdiction over these matters was transferred from the Committee on Oversight and Government Reform (and its predecessor committees) to the Committee on the Budget.<sup>392</sup> The Committee on Oversight and Government Reform has retained jurisdiction over "overall economy, efficiency, and management of government operations and activities," and "government management and accounting measures generally," but it no longer has the same role with respect to budgetary matters specifically.

As noted throughout this chapter, budget processes have been incorporated into the standing rules of the House and certain sections of the Congressional Budget Act constitute rule-making in the House. The Committee on Rules has jurisdiction over the rules and the order of business in the House, pursuant to Rule X clause 1(o).<sup>393</sup> Thus, there are many areas in which the Committee on the Budget's jurisdiction over budget-related matters overlap with the Committee on Rules' jurisdiction over

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<sup>388</sup> [(Footnote #28 on page 82) House Rules and Manual § 674(c) (1975).]

<sup>389</sup> [(Footnote #29 on page 82) House Rules and Manual § 674(b) (1987). See Pub. L. No. 99-177, sec. 232(h). See § 26, *infra*.]

<sup>390</sup> [(Footnote #30 on page 82) *Id.* at § 673b (1995).]

<sup>391</sup> [(Footnote #31 on page 82) *Id.* at § 673b (1997).]

<sup>392</sup> [(Footnote #32 on page 82) For a list of referrals reflecting the migration of these jurisdictional matters to the Committee on the Budget, see House Rules and Manual § 719 (2011).]

<sup>393</sup> (Footnote #33 on page 83) House Rules and Manual § 733 (2011). See Deschler's Precedents Ch. 17 §§ 52, 53, *supra*. The Committee on the Budget's jurisdictional statement can be found in Rule X, clause 1(d), House Rules and Manual § 719 (2011).]

the rules of the House.<sup>394</sup> As a result, budget resolutions have been sequentially referred to the Committee on Rules.<sup>395</sup> Additionally, section 301(c) of the Congressional Budget Act specifies that any concurrent resolution on the budget that would have the effect of changing any rule of the House shall be referred to the Committee on Rules with instructions to report such resolution back to the House within five calendar days.<sup>396</sup>

The Congressional Budget Act also provides for a point of order against consideration of any bill, resolution, amendment, motion or conference report that contains subject matter within the jurisdiction of the Committee on the Budget, but which has not been reported (or discharged) from that committee.<sup>397</sup>

While many points of order under the Congressional Budget Act apply to measures only as reported from committee (leaving unreported measures uncovered), Rule XXI clause 8 of the standing rules of the House (first adopted in the 110<sup>th</sup> Congress),<sup>398</sup> separately applies all points of order under title III of the Budget Act to unreported as well as reported measures.

Traditionally, the President's budget submission is referred to the Committee on Appropriations, and not to the Committee on the Budget.<sup>399</sup>

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<sup>394</sup> [(Footnote #34 on page 83) The chairman of the Committee on the Budget inserted into the Congressional Record a memorandum of understanding between this committee and the Committee on Rules to clarify each committee's jurisdiction over the congressional budget process. See 141 CON. REC. 617, 618, 104<sup>th</sup> Cong. 1st Sess., Jan. 4, 1995.]

<sup>395</sup> [(Footnote #35 on page 83) See, e.g., 130 CON. REC. 7315, 98<sup>th</sup> Cong. 2d Sess., Apr. 2, 1984; and 129 CON. REC. 6321, 98<sup>th</sup> Cong. 1st Sess., Mar. 21, 1983.]

<sup>396</sup> [(Footnote #36 on page 83) 2 USC § 632(c). Former section 402(b) of the Congressional Budget Act, repealed by Gramm-Rudman-Hollings, provided specific authority to the Committee on Rules to recommend emergency waivers of former section 402(a). For more on former section 402(a), see § 14, *infra*.]

<sup>397</sup> [(Footnote #37 on page 83) Section 306 of the Congressional Budget Act, 2 USC § 637. For additional information on section 306 points of order, see § 16, *infra*.]

<sup>398</sup> [(Footnote #38 on page 83) House Rules and Manual § 1068c (2011).]

<sup>399</sup> [(Footnote #39 on page 83) See, e.g., 149 CON. REC. 2301, 2302, 108<sup>th</sup> Cong. 1st Sess., Feb. 4, 2003. For an example of the House dividing a presidential message and referring the portion on the budget to the Committee on Appropriations, see Deschler's Precedents Ch. 17 § 27.4 and Deschler-Brown-Johnson Precedents Ch. 35 § 3.6, *supra*. For more on presidential budget submissions, see § 3, *supra*.]

## DEBATE ON H. RES. 6

### ADOPTING THE RULES OF THE HOUSE OF REPRESENTATIVES FOR THE ONE HUNDRED FOURTH CONGRESS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 4, 1995 (Page H45)*

**Mr. ARMEY.** Mr. Speaker, this agreement addresses the intent of the Chairman of the Committee on the Budget and the Chairman of the Committee on Government Reform and Oversight concerning the jurisdiction of each committee over the congressional budget process. It is not intended to address jurisdictional issues involving the budget process between the Committee on the Budget and the Committee on Rules.

Clause (1)(d)(2) of rule X, relating to all concurrent resolutions on the budget and other measures setting forth budget totals for the United States, affords the Budget Committee legislative jurisdiction over the establishment and adoption of the congressional budget resolution, whether joint or concurrent. This extends to any statement setting forth a balanced budget as required by an amendment to the United States Constitution, or a capital budget or joint/capital operating budget, if mandated.

Clause (1)(d)(3) of rule X affirms the Budget Committee's primary jurisdiction over budget terminology and secondary jurisdiction over other elements of the congressional budget process, such as those currently provided for in the Congressional Budget Act. This includes: The budget resolution, timetable and accompanying report language; committee allocations; and the reconciliation process. This paragraph is not, however, intended to provide the Budget Committee with jurisdiction over the following: process changes in Federal rescission or impoundment authority; process changes in the submission of agency performance plans or reports, or agency regulatory plans, reports or reviews as part of the budget process; or process changes leading to the required adoption of a Federal capital budget or joint capital/operating budget which accounts for the fixed assets of the United States Government. In addition, this paragraph is not intended to provide the Budget Committee with jurisdiction over special funds, accounts or spending set asides created to reduce the deficit.

Clause (1)(d)(4) of rule X is intended to provide the Budget Committee with jurisdiction over measures to control spending, the deficit, or the Federal budget. The Budget Committee's ju-

jurisdiction will include the establishment, extension and enforcement of mandatory and discretionary spending limits; Pay-As-You-Go requirements for legislation that increases the deficit; and special budgetary mechanisms to control spending, the deficit or the Federal budget. The Budget Committee will have jurisdiction over Federal sequestrations, including sequestration rules, special rules and exemptions. The Budget Committee is intended to have jurisdiction over the selection of programs subject to spending controls, the determination of the numerical level of those controls, and the enforcement of the controls.

Clause (1)(g)(4) of rule X is intended to retain the Committee on Government Reform and Oversight's legislative jurisdiction over: measures relating to process changes in Federal rescission or impoundment authority; measures relating to Executive agency budgeting, including the submission of agency performance reports or plans, or agency regulatory plans, reports or reviews as part of the Federal budget process; measures relating to Executive agency financial management; and process changes leading to the required adoption of a Federal capital budget or joint capital/operating budget which accounts for the fixed assets of the United States Government. In addition, the Committee on Government Reform and Oversight retains jurisdiction over special funds, accounts and spending set asides created to reduce the deficit.

**RULES PACKAGE/MEMORANDUM  
OF UNDERSTANDING**

**HON. JOHN R. KASICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 4, 1995<sup>400</sup>*

**Mr. KASICH.** Mr. Speaker, I rise in support of the Rules package and wish to take this opportunity to thank my colleagues on the Committee on Rules and the Committee on Oversight and Reform for their cooperation in providing the Committee on the Budget legislative jurisdiction in the area of

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<sup>400</sup> See 141 CONG. REC. 617, 618, 104th Cong. 1st Sess., Jan. 4, 1995. This may be found on page E36, CONG. REC.—Extensions of Remarks January 5, 1995.

the budget process reform. I submit today the following Memorandum of Understanding between the distinguished chairman of the Committee on Rules, GERALD B. H. SOLOMON, and I on the intent of subparagraph (1)(d)(3) as it pertains to the Committee on Rules and the Committee on the Budget. The distinguished chairman of the Committee on Government Reform, and Oversight, WILLIAM F. CLINGER, shall submit a similar Memorandum of Understanding on budget process reform as it pertains to the Committee on Government Reform and Oversight and the Committee on the Budget.<sup>401</sup>

STATEMENT OF UNDERSTANDING BETWEEN THE COMMITTEE ON  
THE BUDGET AND THE COMMITTEE ON RULES OVER THE  
CONGRESSIONAL BUDGET PROCESS

HOUSE OF REPRESENTATIVES,  
*Washington, DC.*

This statement addresses the intent of subparagraph (1)(d)(3) as it pertains to the Committee on the Budget and the Committee on Rules.

Subparagraph (1)(d)(3) relating to the Congressional Budget process is intended to provide the Committee on the Budget primary jurisdiction over budgetary terminology and the discretionary spending limits that are set forth in the Congressional Budget Act. It is also understood that the Committee on the Budget shall have secondary jurisdiction over the other elements of the Congressional budget process that are under the primary jurisdiction of the Committee on Rules. Such jurisdiction shall include the budget timetable, the budget resolution and its report, committee allocations, the reconciliation process, and related enforcement procedures. It is understood that the Committee on Rules will remain the Committee of primary jurisdiction over all aspects of the Congressional budget process that are within the joint rule-making authority of Congress except for budgetary terminology and the discretionary spending limits.

Gerald B. H. Solomon, *Chairman,*  
*Committee on Rules.*

John R. Kasich, *Chairman,*  
*Committee on the Budget.*

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<sup>401</sup> Representative William F. Clinger, Chairman of the Government Reform and Oversight Committee, did not place a separate statement in the Congressional Record.



CHANGES IN JURISDICTION IN THE 105<sup>TH</sup> CONGRESS

January 7, 1997

TEXT FROM H. RES. 5 (105<sup>TH</sup> CONGRESS):<sup>402</sup>

## SEC. 5. BUDGET JURISDICTION CHANGES.

(a) In clause 1(d)(3) of rule X (relating to the Committee on the Budget), strike “congressional budget process” and insert in lieu thereof “budget process.”

(b) In clause 1(g)(4) of rule X (relating to the Committee on Government Reform and Oversight), strike “Budget and accounting measures, generally” and insert in lieu thereof “Government management and accounting measures, generally,”

DESCRIPTION OF CHANGE FROM ANALYSIS OF H. RES. 5:<sup>403</sup>

*Section 5. Budget Jurisdiction Changes:* The jurisdiction of the Budget Committee is changed by striking “congressional budget process” and inserting in lieu, “budget process.” The jurisdiction of the Government Reform and Oversight Committee is changed by striking “budget and accounting measures, generally,” and replacing it with “Government management and accounting measures, generally.”. The intent of this is to give the Budget Committee jurisdiction over the President’s budget process as well as the congressional budget process, and thereby to avoid duplication with the Government Reform and Oversight Committee in this area. This change will not alter Government Reform and Oversight’s existing legislative jurisdiction over such matters as government management and reorganization, the Office of Management and Budget’s management, regulatory, and other coordinating functions, or the General Accounting Office.

<sup>402</sup> CONG. REC.; 1<sup>st</sup> Session, 105<sup>th</sup> Congress, January 7, 1997; p. H8.

<sup>403</sup> CONG. REC.; 1<sup>st</sup> Session, 105<sup>th</sup> Congress, January 7, 1997; p.H12.

THE UNITED STATES SENATE



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**RULES OF THE SENATE**  
**S. CON. RES. 21 (110<sup>TH</sup> CONGRESS)**

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# S. CON. RES. 21, 110<sup>TH</sup> CONGRESS

## TITLE II—BUDGET PROCESS

### SEC. 201. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

#### (a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for either of the applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term “applicable time period” means either—

(A) the period of the current fiscal year, the budget year, and the ensuing 4 fiscal years following the budget year; or

(B) the period of the current fiscal year, the budget year, and the ensuing 9 fiscal years following the budget year.

(3) DIRECT SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term “direct spending legislation” means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms “direct spending legislation” and “revenue legislation” do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) **BASELINE.**—Estimates prepared pursuant to this subsection shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) **PRIOR SURPLUS.**—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted in any bill pursuant to a reconciliation instruction since the beginning of that same calendar year shall never be made available on the pay-as-you-go ledger and shall be dedicated only for deficit reduction.

(b) **SUPERMAJORITY WAIVER AND APPEALS.**—

(1) **WAIVER.**—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) **APPEALS.**—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) **DETERMINATION OF BUDGET LEVELS.**—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Senate Committee on the Budget.

(d) **SUNSET.**—This section shall expire on September 30, 2017.<sup>404</sup>

(e) **REPEAL.**—In the Senate, section 505 of H. Con. Res. 95 (108th Congress), the fiscal year 2004 concurrent resolution on the budget, shall no longer apply.

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<sup>404</sup> S. Con. Res. 11 (114<sup>th</sup> Congress) repealed subsection (d), making the Senate pay-as-you-go point of order permanent.

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**SEC. 203. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING LONG-TERM DEFICITS.**

(a) CONGRESSIONAL BUDGET OFFICE ANALYSIS OF PROPOSALS.—The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill and joint resolution reported from committee (except measures within the jurisdiction of the Committee on Appropriations), and amendments thereto and conference reports thereon, an estimate of whether the measure would cause, relative to current law, a net increase in deficits in excess of \$5,000,000,000 in any of the four 10-year periods beginning in fiscal year 2018 through fiscal year 2057.

(b) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a net increase in deficits in excess of \$5,000,000,000 in any of the 4 10-year periods beginning in 2018 through 2057.

(c) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels of net deficit increases shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(e) REPEAL.—In the Senate, section 407 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, shall no longer apply.

(f) SUNSET.—This section shall expire on September 30, 2017.

**SEC. 204. EMERGENCY LEGISLATION.**

(a) SENATE.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.



(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974 and sections 201, 203, and 207 of this resolution (relating to pay-as-you-go in the Senate, long-term deficits, and discretionary spending limits).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms “direct spending”, “receipts”, and “appropriations for discretionary accounts” mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this subsection, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this paragraph), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(7) REPEAL.—In the Senate, section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, shall no longer apply.

(b) HOUSE.—In the House, if any bill or joint resolution, or amendment offered or considered as adopted or conference report thereon, that makes appropriations for discretionary amounts, and such amounts are designated as necessary to meet emergency needs, then the new budget authority and outlays resulting therefrom shall not be counted for the purposes of titles III and IV of the Congressional Budget Act of 1974.

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**SEC. 206. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.**

(a) SENATE.—

(1) IN GENERAL.—

(A) POINT OF ORDER.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(B) DEFINITION.—In this subsection, the term “advance appropriation” means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2008 that first becomes available for any fiscal year after 2008, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2009, that first becomes available for any fiscal year after 2009.

(2) EXCEPTIONS.—Advance appropriations may be provided—

(A) for fiscal years 2009 and 2010 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading “Accounts Identified for Advance Appropriations” in an aggregate amount not to exceed \$25,158,000,000 in new budget authority in each year; and

(B) for the Corporation for Public Broadcasting.

(3) SUPERMAJORITY WAIVER AND APPEAL.—

(A) WAIVER.—In the Senate, paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(4) **FORM OF POINT OF ORDER.**—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) **CONFERENCE REPORTS.**—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this subsection, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(6) **REPEAL.**—In the Senate, section 401 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, shall no longer apply.

(b) **HOUSE.**—

(1) **IN GENERAL.**—In the House, except as provided in paragraph (2), a bill or joint resolution making a general appropriation or continuing appropriation, or an amendment thereto may not provide for advance appropriations.

(2) **ADVANCE APPROPRIATION.**—In the House, an advance appropriation may be provided for fiscal year 2009 or 2010 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading “Accounts Identified for Advance Appropriations” in an aggregate amount not to exceed \$25,558,000,000 in new budget authority.

(3) **DEFINITION.**—In this subsection, the term “advance appropriation” means any new discretionary budget authority provided in a bill or joint resolution making general appropriations or any new discretionary budget authority provided in a bill or joint resolution continuing appropriations for fiscal year 2008 that first becomes available for any fiscal year after 2008.

**SEC. 207. DISCRETIONARY SPENDING LIMITS, PROGRAM INTEGRITY INITIATIVES, AND OTHER ADJUSTMENTS.**

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**SEC. 208. APPLICATION OF PREVIOUS ALLOCATIONS IN THE SENATE.**

Section 7035 of Public Law 109–234 shall no longer apply in the Senate.

**SEC. 209. SENATE POINT OF ORDER AGAINST PROVISIONS OF APPROPRIATIONS LEGISLATION THAT CONSTITUTE CHANGES IN MANDATORY PROGRAMS WITH NET COSTS.**

(a) **IN GENERAL.**—In the Senate, it shall not be in order to consider any appropriations legislation, including any amendment thereto, motion in relation thereto, or conference report thereon, that includes any provision which constitutes a change in a mandatory program producing net costs, as defined in subsection (b), that would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in legislation other than appropriations legislation. A point of order pursuant to this section shall be raised against such provision or provisions as described in subsections (e) and (f).

(b) **CHANGES IN MANDATORY PROGRAMS PRODUCING NET COSTS.**—A provision or provisions shall be subject to a point of order pursuant to this section if—

(1) the provision would increase budget authority in at least 1 of the 9 fiscal years that follow the budget year and over the period of the total of the budget year and the 9 fiscal years following the budget year;

(2) the provision would increase net outlays over the period of the total of the 9 fiscal years following the budget year; and

(3) the sum total of all changes in mandatory programs in the legislation would increase net outlays as measured over the period of the total of the 9 fiscal years following the budget year.

(c) **DETERMINATION.**—The determination of whether a provision is subject to a point of order pursuant to this section shall be made by the Committee on the Budget of the Senate.

(d) **SUPERMAJORITY WAIVER AND APPEAL.**—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) GENERAL POINT OF ORDER.—It shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provision of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(f) FORM OF POINT OF ORDER.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(g) EFFECTIVENESS.—This section shall not apply to—

(1) legislation making supplemental appropriations for fiscal year 2007; and

(2) any provision constituting a change in a mandatory program in appropriations legislation if such provision has been enacted in each of the 3 fiscal years prior to the budget year.



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**RULES OF THE SENATE**  
**S. CON. RES. 70 (110<sup>TH</sup> CONGRESS)**

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# S. CON. RES. 70, 110<sup>TH</sup> CONGRESS

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## TITLE III—BUDGET ENFORCEMENT

### SUBTITLE A—HOUSE ENFORCEMENT PROVISIONS

#### SEC. 301. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS.

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#### SEC. 302. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.

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### SUBTITLE B—SENATE ENFORCEMENT PROVISIONS

#### SEC. 311. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING LONG-TERM DEFICITS.

(a) CONGRESSIONAL BUDGET OFFICE ANALYSIS OF PROPOSALS.— The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill and joint resolution reported from committee (except measures within the jurisdiction of the Committee on Appropriations), and amendments thereto and conference reports thereon, an estimate of whether the measure would cause, relative to current law, a net increase in deficits in excess of \$5,000,000,000 in any of the 4 consecutive 10-year periods beginning with the first fiscal year that is 10 years after the budget year provided for in the most recently adopted concurrent resolution on the budget.

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<sup>405</sup> The Senate adopted the Conference Report on S. Con. Res. 70 on June 4, 2008. The House adopted this Conference Report the next day, on June 5, 2008. In the process of coming to an agreement on the budget resolution, the conferees merged components of the House-passed concurrent resolution on the budget (H. Con. Res. 312) with the Senate-passed concurrent resolution (S. Con. Res. 70).

(b) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a net increase in deficits in excess of \$5,000,000,000 in any of the 4 consecutive 10-year periods described in subsection (a).

(c) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels of net deficit increases shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(e) SUNSET.—This section shall expire on September 30, 2017.

(f) REPEAL.—In the Senate, subsections (a) through (d) and subsection (f) of section 203 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 312. DISCRETIONARY SPENDING LIMITS, PROGRAM INITIATIVES, AND OTHER ADJUSTMENTS.**

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**SEC. 313. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.**

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**SEC. 314. SENATE POINT OF ORDER AGAINST PROVISIONS OF APPROPRIATIONS LEGISLATION THAT CONSTITUTE CHANGES IN MANDATORY PROGRAMS WITH NET COSTS.**

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any appropriations legislation, including any amendment thereto, motion in relation thereto, or conference report thereon, that includes any provision which constitutes a change in a mandatory program producing net costs, as defined in subsection (b), that would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in legislation other than appropriations legislation. A point of order pursuant to this section shall be raised against such provision or provisions as described in subsections (e) and (f).

(b) CHANGES IN MANDATORY PROGRAMS PRODUCING NET COSTS.—A provision or provisions shall be subject to a point of order pursuant to this section if—

1) the provision would increase budget authority in at least 1 of the 9 fiscal years that follow the budget year and over the period of the total of the budget year and the 9 fiscal years following the budget year;

(2) the provision would increase net outlays over the period of the total of the 9 fiscal years following the budget year; and

(3) the sum total of all changes in mandatory programs in the legislation would increase net outlays as measured over the period of the total of the 9 fiscal years following the budget year.

(c) DETERMINATION.—The determination of whether a provision is subject to a point of order pursuant to this section shall be made by the Committee on the Budget of the Senate.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) GENERAL POINT OF ORDER.—It shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provision of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(f) **FORM OF POINT OF ORDER.**—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(g) **EFFECTIVENESS.**—This section shall not apply to any provision constituting a change in a mandatory program in appropriations legislation if such provision has been enacted in each of the 3 fiscal years prior to the budget year.

(h) **INAPPLICABILITY.**—In the Senate, section 209 of S. Con. Res. 21 (110th Congress) shall no longer apply.

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**RULES OF THE SENATE**  
**S. CON. RES. 13 (111<sup>TH</sup> CONGRESS)**

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# S. CON. RES. 13, 111<sup>TH</sup> CONGRESS

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## TITLE IV—BUDGET PROCESS

### SUBTITLE A—SENATE PROVISIONS

#### PART I—BUDGET ENFORCEMENT

##### SEC. 401. DISCRETIONARY SPENDING LIMITS, PROGRAM INTEGRITY INITIATIVES, AND OTHER ADJUSTMENTS.

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##### SEC. 402. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.

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##### SEC. 403. EMERGENCY LEGISLATION.

(a) **AUTHORITY TO DESIGNATE.**—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this section.

(b) **EXEMPTION OF EMERGENCY PROVISIONS.**—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this section, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and sections 401 and 404 of this resolution (relating to discretionary spending and short term deficits). Designated emergency provisions shall not count for the purpose of revis-



ing allocations, aggregates, or other levels pursuant to procedures established under section 301(b)(7) of the Congressional Budget Act of 1974 for deficit-neutral reserve funds and revising discretionary spending limits set pursuant to section 301 of this resolution.

(c) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subsection (f).

(d) DEFINITIONS.—In this section, the terms “direct spending”, “receipts”, and “appropriations for discretionary accounts” mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations

(e) POINT OF ORDER.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(3) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(4) FORM OF POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such

point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) CRITERIA.—

(1) IN GENERAL.—For purposes of this section, any provision is an emergency requirement if the situation addressed by such provision is—

(A) necessary, essential, or vital (not merely useful or beneficial);

(B) sudden, quickly coming into being, and not building up over time;

(C) an urgent, pressing, and compelling need requiring immediate action;

(D) subject to paragraph (2), unforeseen, unpredictable, and unanticipated; and

(E) not permanent, temporary in nature.

(2) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(g) INAPPLICABILITY.—In the Senate, section 204(a) of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008, shall no longer apply.

**SEC. 404. POINT OF ORDER AGAINST LEGISLATION INCREASING SHORT-TERM DEFICIT.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report (except measures within the jurisdiction of the Committee on Appropriations) that would cause a net increase in the deficit in excess of \$10,000,000,000 in any fiscal year provided for in the most recently adopted concurrent resolution on the budget unless it is fully offset over the period of all fiscal years provided for in the most recently adopted concurrent resolution on the budget.

(b) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) LIMITATION.—The provisions of this section shall not apply to any bills, joint resolutions, amendments, motions, or conference reports for which the chairman of the Senate Committee on the Budget has made adjustments to the allocations, levels or limits contained in this resolution pursuant to Section 301(a) of this resolution.

(d) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(e) SUNSET.—This section shall expire on September 30, 2018.

(f) INAPPLICABILITY.—In the Senate, section 315 of S. Con. Res. 70 (110th Congress), the concurrent resolution in the budget for fiscal year 2009, shall no longer apply.

**SEC. 405. POINT OF ORDER AGAINST CERTAIN LEGISLATION RELATED TO SURFACE TRANSPORTATION FUNDING.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that extends the authority or reauthorizes surface transportation programs that appropriates budget authority from sources other than the Highway Trust Fund, including the Mass Transit Account of such fund.

(b) SUPERMAJORITY WAIVER AND APPEALS IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) SUNSET.—This section shall expire on September 30, 2018.

**PART II—OTHER PROVISIONS****SEC. 411. OVERSIGHT OF GOVERNMENT PERFORMANCE.**

In the Senate, all committees are directed to review programs within their jurisdiction to root out waste, fraud, and abuse in program spending, giving particular scrutiny to issues raised by Government Accountability Office reports. Based on these oversight efforts and committee performance reviews of programs within their jurisdiction, committees are directed to include recommendations for improved governmental performance in their annual views and estimates reports required under section 301(d) of the Congressional Budget Act of 1974 to the Senate Committee on the Budget.

**SEC. 412. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.**

In the Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budget Act of 1974 to the Senate Committee on Appropriation amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

**SEC. 413. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.**

(a) APPLICATION.—In the Senate, any adjustments of allocations and aggregates made pursuant to this resolution shall—

- (1) apply while that measure is under consideration;
- (2) take effect upon the enactment of that measure; and
- (3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Senate Committee on the Budget.

(d) ADJUSTMENTS.—The chairman of the Senate Committee on the Budget may adjust the aggregates, allocations, and other levels and limits in this resolution for legislation which has received final Congressional approval in the same form by the House of Representatives and the Senate, but has yet to be presented to or signed by the President at the time of final consideration of this resolution.

**SEC. 414. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.**

Upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the chairman of the Senate Committee on the Budget may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

**SEC. 415. EXERCISE OF RULEMAKING POWERS.**

The Senate adopts the provisions of this subtitle—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of the Senate to change those rules at any time, in the same manner, and to the same extent as is the case of any other rule of the Senate.

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**RULES OF THE SENATE  
BUDGET CONTROL ACT OF 2011**

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# SENATE PROVISIONS OF THE BUDGET CONTROL ACT OF 2011

(PUBLIC LAW 112–25)

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## SEC. 106. SENATE BUDGET ENFORCEMENT.

(a) IN GENERAL.—

(1) For the purpose of enforcing the Congressional Budget Act of 1974 through April 15, 2012, including section 300 of that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(1) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2012 with appropriate budgetary levels for fiscal years 2011 and 2013 through 2021.

(2) For the purpose of enforcing the Congressional Budget Act of 1974 after April 15, 2012, including section 300 of that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(2) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2013 with appropriate budgetary levels for fiscal years 2012 and 2014 through 2022.

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—

(1) As soon as practicable after the date of enactment of this section, the Chairman of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2011 and 2012 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021



consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2011 and 2012 and aggregate revenue levels for fiscal years 2011, 2012, 2012 through 2016, 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(2) Not later than April 15, 2012, the Chairman 12 of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2012 and 2013 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2012, 2013, 2013 through 2017, and 2013 through 2022 consistent with the Congressional Budget Office's March 2012 baseline for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2012 and 2013 and aggregate revenue levels for fiscal years 2012, 2013, 2013—2017, and 2013—2022 consistent with the Congressional Budget Office's March 2012 baseline and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2012 and 2013, 2013—2017, and 2013—2022 consistent with the Congressional Budget Office's March 2012 baseline budget for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) SENATE PAY-AS-YOU-GO SCORECARD.—

(1) Effective on the date of enactment of this section, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

(2) Not later than April 15, 2012, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

(3) Upon resetting the Senate paygo scorecard pursuant to paragraph (2), the Chairman shall publish a notification of such action in the Congressional Record.

(d) FURTHER ADJUSTMENTS.—

(1) The Chairman of the Committee on the Budget of the Senate may revise any allocations, aggregates, or levels set pursuant to this section to account for any subsequent adjustments to discretionary spending limits made pursuant to this Act.

(2) With respect to any allocations, aggregates, or levels set or adjustments made pursuant to this section, sections 412 through 414 of S. Con. Res. 13 (111th Congress) shall remain in effect.

(e) EXPIRATION.—

(1) Subsections (a)(1), (b)(1), and (c)(1) shall expire if a concurrent resolution on the budget for fiscal year 2012 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

(2) Subsections (a)(2), (b)(2), and (c)(2) shall expire if a concurrent resolution on the budget for fiscal year 2013 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.



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**RULES OF THE SENATE  
BIPARTISAN BUDGET ACT OF 2013**

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# SENATE PROVISIONS OF THE BIPARTISAN BUDGET ACT OF 2013

(PUBLIC LAW 113–67)

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## SUBTITLE B—ESTABLISHING A CONGRESSIONAL BUDGET

### SEC. 111. FISCAL YEAR 2014 BUDGET RESOLUTION.

(a) FISCAL YEAR 2014.—For the purpose of enforcing the Congressional Budget Act of 1974 for fiscal year 2014, and enforcing, in the Senate, budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the same manner as for a concurrent resolution on the budget for fiscal year 2014 with appropriate budgetary levels for fiscal year 2014 and for fiscal years 2015 through 2023.

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—The Chairmen of the Committee on the Budget of the House of Representatives and the Senate shall each submit a statement for publication in the Congressional Record as soon as practicable after the date of enactment of this Act that includes--

(1) for the Committee on Appropriations of that House, committee allocations for fiscal year 2014 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(2) for all committees of that House other than the Committee on Appropriations, committee allocations for--

(A) fiscal year 2014;

(B) fiscal years 2014 through 2018 in the Senate only; and

(C) fiscal years 2014 through 2023;

consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of en-

forcing section 302 of the Congressional Budget Act of 1974;

(3) aggregate spending levels for fiscal year 2014 in accordance with the allocations established under paragraphs (1) and (2), for the purpose of enforcing section 311 of the Congressional Budget Act of 1974;

(4) aggregate revenue levels for—

(A) fiscal year 2014;

(B) fiscal years 2014 through 2018 in the Senate only;

and

(C) fiscal years 2014 through 2023;

consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(5) in the Senate only, levels of Social Security revenues and outlays for fiscal year 2014 and for the periods of fiscal years 2014 through 2018 and 2014 through 2023 consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office, for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) FURTHER ADJUSTMENTS.—After the date of enactment of this Act, the Chairman of the Committee on the Budget of the House of Representatives may reduce the aggregates, allocations, and other budgetary levels included in the statement of the Chairman of the Committee on the Budget of the House of Representatives referred to in subsection (b) to reflect the budgetary effects of any legislation enacted during the 113th Congress that reduces the deficit.

**SEC. 112. LIMITATION ON ADVANCE APPROPRIATIONS IN THE SENATE.**

(a) POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS IN THE SENATE.—

(1) IN GENERAL -

(A) POINT OF ORDER.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, amendment between the Houses, or conference report that would provide an advance appropriation.

(B) DEFINITION.—In this subsection, the term 'advance appropriation' means any new budget authority

provided in a bill or joint resolution making appropriations for fiscal year 2014 that first becomes available for any fiscal year after 2014 or any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2015 that first becomes available for any fiscal year after 2015.

(2) EXCEPTIONS.—Advance appropriations may be provided—

(A) for fiscal years 2015 and 2016 for programs, projects, activities, or accounts identified in a statement submitted to the Congressional Record by the Chairman of the Committee on the Budget of the Senate under the heading “Accounts Identified for Advance Appropriations” in an aggregate amount not to exceed \$28,852,000,000 in new budget authority in each fiscal year;

(B) for the Corporation for Public Broadcasting; and

(C) for the Department of Veterans Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.

(3) SUPERMAJORITY WAIVER AND APPEAL.—

(A) WAIVER.—In the Senate, paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(4) FORM OF POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this subsection, and such point of order being sustained, such material contained in such conference report or amendment between the Houses shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion



in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this paragraph), no further amendment shall be in order.

(6) INAPPLICABILITY.—In the Senate, section 402 of S. Con. Res. 13 (111th Congress) shall no longer apply.

(b) EXPIRATION.—Subsection (a) shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

\* \* \* \* \*

**SEC. 114. ADDITIONAL SENATE BUDGET ENFORCEMENT.**

(a) SENATE PAY-AS-YOU-GO SCORECARD.—

(1) IN GENERAL.— Effective on the date of enactment of this Act, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Committee on the Budget of the Senate shall reduce any balances of direct spending and revenues for any fiscal year to zero.

(2) FISCAL YEAR 2015.—After April 15, 2014, but not later than May 15, 2014, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Committee on the Budget of the Senate shall reduce any balances of direct spending and revenues for any fiscal year to zero.

(3) PUBLICATION.—Upon resetting the Senate paygo scorecard pursuant to paragraph (2), the Chairman of the Committee on the Budget of the Senate shall publish a notification of such action in the Congressional Record.

(b) FURTHER ADJUSTMENTS.—With respect to any allocations, aggregates, or levels set or adjustments made pursuant to this subtitle, sections 412 through 414 of S. Con. Res. 13 (111th Congress) shall remain in effect.

(c) DEFICIT-NEUTRAL RESERVE FUND TO REPLACE SEQUESTERATION.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels and limits set pursuant to this subtitle for one or more bills, joint resolutions, amendments, motions, or conference reports that amend section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) to repeal or revise the enforcement procedures established under that section, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2014 through 2023. For

purposes of determining deficit-neutrality under this subsection, the Chairman may include the estimated effects of any amendment or amendments to the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)).

(d) ADDITIONAL DEFICIT-NEUTRAL RESERVE FUNDS.—In the Senate only, sections 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 338, 339, 340, 341, 344, 348, 349, 350, 353, 354, 356, 361, 363, 364, 365, 366, 367, 368, 369, 371, 376, 378, 379, and 383 of S. Con. Res. 8 (113th Congress), as passed the Senate, shall have force and effect.

(e) EXPIRATION.—Subsections (a)(2), (c), and (d) shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

\* \* \* \* \*

**SEC. 116. AUTHORITY FOR FISCAL YEAR 2015 BUDGET RESOLUTION IN THE SENATE.**

(a) FISCAL YEAR 2015.—For the purpose of enforcing the Congressional Budget Act of 1974, after April 15, 2014, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2015 with appropriate budgetary levels for fiscal years 2014 and 2016 through 2024.

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—After April 15, 2014, but not later than May 15, 2014, the Chairman of the Committee on the Budget of the Senate shall file—

(1) for the Committee on Appropriations, committee allocations for fiscal years 2014 and 2015 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(2) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(3) aggregate spending levels for fiscal years 2014 and 2015 in accordance with the allocations established under

paragraphs (1) and (2), for the purpose of enforcing section 311 of the Congressional Budget Act of 1974;

(4) aggregate revenue levels for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(5) levels of Social Security revenues and outlays for fiscal years 2014, 2015, 2015 through 2019, and 2015 through 2024 consistent with the most recent baseline of the Congressional Budget Office for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) **ADDITIONAL MATTER.**—The filing referred to in subsection (b) may also include, for fiscal year 2015, the reserve funds included in section 114(c) and (d) of this Act, updated by one fiscal year.

(d) **SUPERSEDING PREVIOUS STATEMENT.**—In the Senate, the filing referred to in subsection (b) shall supersede the statement referred to in section 111(b) of this Act.

(e) **EXPIRATION.**—This section shall expire if a concurrent resolution on the budget for fiscal year 2015 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

**SEC. 117. EXCLUSION OF SAVINGS FROM PAYGO SCORECARDS.**

(a) **STATUTORY PAY-AS-YOU-GO SCORECARDS.**—Notwithstanding section 1(c) of this division, the budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) **SENATE PAYGO SCORECARDS.**—Notwithstanding section 1(c) of this division, the budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

**SEC. 118. EXERCISE OF RULEMAKING POWERS.**

The provisions of this subtitle are enacted by the Congress--

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

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**JURISDICTION OF THE  
COMMITTEE ON THE BUDGET  
OF THE SENATE**

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# JURISDICTION OF THE COMMITTEE ON THE BUDGET OF THE SENATE

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The jurisdiction of the Committee on the Budget of the Senate is established under congressional rules, a long-standing unanimous consent agreement, and S. Res. 445 (108<sup>th</sup> Congress).

## S. RES. 445 (108<sup>TH</sup> CONGRESS)<sup>406</sup>

IN THE SENATE OF THE UNITED STATES

October 9, 2004

Considered, amended, and agreed to

### SEC. 101. \* \* \*

(a) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d) JURISDICTION OF BUDGET COMMITTEE—

Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are—

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on

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<sup>406</sup> Sections 101(d) and (e) of S. Res. 445 (108th Congress) superseded the Unanimous Consent Agreement of August 4, 1977, regarding legislation affecting the budget process.

the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

- (4) the limiting of backdoor spending devices;
- (5) the timetables for Presidential submission of appropriations and authorization requests;
- (6) the definitions of what constitutes impoundment—such as ‘rescissions’ and deferrals’;
- (7) the process and determination by which impoundments must be reported to and considered by Congress;
- (8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and
- (9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) OMB NOMINEES—The Committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

**RULE XXV**

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

(a) \* \* \*

\* \* \* \* \*

(e)(1)<sup>407</sup> **Committee on the Budget**, to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

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<sup>407</sup> *From Note 12 of the Standing Rules of the Senate:* “Pursuant to S. Res. 445, 108–2, Oct. 9, 2004, the Committee on Budget’s jurisdiction was amended although the Standing Rules were not modified.”

(2) Such committee shall have the duty—

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

\* \* \* \* \*

#### UNANIMOUS CONSENT AGREEMENT OF JANUARY 30, 1975

(as modified on April 11, 1986) with respect to Rescissions and Deferrals (which had the effect of adopting the language of Senate Resolution 45 which is set forth below):

#### *Resolved,*

1. That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

2. That bills, resolutions and joint resolutions introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, and Budget Committee, and pending implementations of section 401 of the Congressional Budget and Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2)(A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.



3. If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report the bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

(A) the time remaining under the act in the case of rescissions, or

(B) within 20 days in the case of deferrals.

4. The 20 day period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more than 3 days, to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate. (Agreed to January 30, 1975 (94th Cong., 1st Sess.), found at page S1917 of the Congressional Record and as modified on April 11, 1986 (99th Cong., 2d Sess.), found on pages S7918–19 of the *Congressional Record*.)

**UNANIMOUS CONSENT AGREEMENT OF AUGUST 4, 1977**

(regarding legislation affecting the budget process  
(the text of which is set forth below)):

\* \* \* [t]hat legislation affecting the congressional budget process, as described below, be referred jointly to the committees on the Budget and on Governmental Affairs. If one committee acts to report a jointly referred measure, the other must act within 30 calendar days of the continuous possession, or be automatically discharged.

Legislative proposals affecting the congressional budget process to which this order applies are:

First. The functions, duties, and powers of the Budget Committee—as described in title I of the act;

Second. The functions, duties, and powers of the Congressional Budget Office—as described in title II and IV of the act;

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the establishment: mandatory ceilings on spending and appropriations; a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting on authorization bills, and on the enactment of appropriation bills; and enforcement mechanisms for the limits and timetables, all as described in titles III and IV of the act.

Fourth. The limiting of backdoor spending device—as described in title IV of the act;

Fifth. The timetables for Presidential submission of appropriations and authorization requests—as described in title IV of the act;

Sixth. The definitions of what constitutes impoundment—such as “rescissions” and “deferrals” as provided in the Impoundment Control Act, title X;

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X;

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

Ninth. The provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof. (Agreed to August 4, 1977 (95th Cong., 1st Sess.), found at pages S26709–10 of the Congressional Record.



## PART IV

### GENERAL MATTER



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**LIST OF CONCURRENT RESOLUTIONS  
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## LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET

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BUDGET RESOLUTION YEAR	HOUSE RESOLUTION NUMBER	SENATE RESOLUTION NUMBER	CONFERENCE REPORT NUMBER
FY1976 (1 <sup>st</sup> ) 94 <sup>th</sup> Congress	H. Con. Res. 218	S. Con. Res. 32	H. Con. Res. 218
FY1976 (2 <sup>nd</sup> ) 94 <sup>th</sup> Congress	H. Con. Res. 466	S. Con. Res. 76	H. Con. Res. 466
FY1977 (1 <sup>st</sup> ) 94 <sup>th</sup> Congress	H. Con. Res. 611	S. Con. Res. 109	S. Con. Res. 109
FY1977 (2 <sup>nd</sup> ) 94 <sup>th</sup> Congress	H. Con. Res. 728	S. Con. Res. 139	S. Con. Res. 139
FY1977 (3 <sup>rd</sup> ) 95 <sup>th</sup> Congress	H. Con. Res. 110	S. Con. Res. 10	S. Con. Res. 10
FY1978 (1 <sup>st</sup> ) 95 <sup>th</sup> Congress	H. Con. Res. 214	S. Con. Res 19	S. Con. Res 19
FY1978 (2 <sup>nd</sup> ) 95 <sup>th</sup> Congress	H. Con. Res. 341	S. Con. Res 43	H. Con. Res. 341
FY1979 (1 <sup>st</sup> ) 95 <sup>th</sup> Congress	H. Con. Res. 559	S. Con. Res. 80	S. Con. Res. 80
FY1979 (2 <sup>nd</sup> ) 95 <sup>th</sup> Congress	H. Con. Res. 683	S. Con. Res. 104	H. Con. Res. 683

**LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET 560**

BUDGET RESOLUTION YEAR	HOUSE RESOLUTION NUMBER	SENATE RESOLUTION NUMBER	CONFERENCE REPORT NUMBER
FY1980 (1 <sup>st</sup> ) 96 <sup>th</sup> Congress	H. Con. Res. 107	S. Con. Res. 22	H. Con. Res. 107
FY1980 (2 <sup>nd</sup> ) 96 <sup>th</sup> Congress	H. Con. Res. 186 <sup>408</sup>	S. Con. Res. 36 <sup>409</sup> S. Con. Res. 53	S. Con. Res. 53
FY1981 (1 <sup>st</sup> ) 96 <sup>th</sup> Congress	H. Con. Res. 307	S. Con. Res. 86	H. Con. Res. 307
FY1981 (2 <sup>nd</sup> ) 96 <sup>th</sup> Congress	H. Con. Res. 448	S. Con. Res. 119	H. Con. Res. 448
FY1982 (1 <sup>st</sup> ) 97 <sup>th</sup> Congress	H. Con. Res. 115	S. Con. Res. 19	H. Con. Res. 115
FY1982 (2 <sup>nd</sup> ) 97 <sup>th</sup> Congress	H. Con. Res. 230 <sup>410</sup>	S. Con. Res. 50	S. Con. Res. 50
FY1983 (1 <sup>st</sup> ) 97 <sup>th</sup> Congress	H. Con. Res. 345 <sup>411</sup> H. Con. Res. 352	S. Con. Res. 92	S. Con. Res. 92
FY1983 (2 <sup>nd</sup> ) <sup>412</sup>	<i>None</i>	<i>None</i>	<i>None</i>

<sup>408</sup> H. Con. Res. 186 failed of passage in the House on September 19, 1979. The measure revised the budget for fiscal year 1980 (H. Rept. 96-435). The it failed to pass, the House adopted the Senate's version of the budget resolution, hence a conference report was not required.

<sup>409</sup> S. Con. Res. 36 revised the fiscal year 1980 concurrent resolution on the budget (S. Rept. 96-311), as a conference report was filed (S. Rept. 399 and H. Rept. 96-582) on passed the Senate with an amendment on November 7, 1979. After the removal of the reconciliation instructions, the concurrent resolution was adopted as the 2<sup>nd</sup> Budget Resolution (H. Con. Res. 53). See statement by Mr. Robert Giaimo (CT) on page 33906 of the Congressional Record for November 28, 1978.

<sup>410</sup> H. Con. Res. 230, reaffirming the 1<sup>st</sup> budget resolution for fiscal year 1982 (H. Con. Res. 115), was reported by the House Budget Committee on December 8, 1981 (H. Rept. 97-369) and a Rule provided for its consideration. Though the Rule passed, the House laid the concurrent resolution on the table by Unanimous Consent.

<sup>411</sup> H. Con. Res. 345 failed of passage in the House on May 27, 1982.

<sup>412</sup> After the second budget resolution for fiscal year 1982, no further separate second budget resolutions were adopted until the Balanced Budget and Emergency Deficit Control Act of 1985 repealed the requirement.

**561 LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET**98<sup>th</sup> Congress

<b>BUDGET RESOLUTION YEAR</b>	<b>HOUSE RESOLUTION NUMBER</b>	<b>SENATE RESOLUTION NUMBER</b>	<b>CONFERENCE REPORT NUMBER</b>
FY1984 (1 <sup>st</sup> ) 98 <sup>th</sup> Congress	H. Con. Res. 91	S. Con. Res. 27	H. Con. Res. 91
FY1984 (2 <sup>nd</sup> ) 98 <sup>th</sup> Congress	<i>None</i>	<i>None</i>	<i>None</i>
FY1985 (1 <sup>st</sup> ) 98 <sup>th</sup> Congress	H. Con. Res. 280	S. Con. Res. 106	H. Con. Res. 280
FY1985 (2 <sup>nd</sup> ) 98 <sup>th</sup> Congress	<i>None</i>	<i>None</i>	<i>None</i>
FY1986 (1 <sup>st</sup> ) 99 <sup>th</sup> Congress	H. Con. Res. 152 <sup>413</sup>	S. Con. Res. 32	S. Con. Res. 32
FY1986 (2 <sup>nd</sup> ) 99 <sup>th</sup> Congress	<i>None</i>	<i>None</i>	<i>None</i>
FY1987 <sup>414</sup> 99 <sup>th</sup> Congress	H. Con. Res. 337	S. Con. Res. 120	S. Con. Res. 120
FY1988 100 <sup>th</sup> Congress	H. Con. Res. 93	S. Con. Res. 49	H. Con. Res. 93
FY1989 100 <sup>th</sup> Congress	H. Con. Res. 268	S. Con. Res. 113	H. Con. Res. 268
FY1990 101 <sup>st</sup> Congress	H. Con. Res. 106	S. Con. Res. 30	H. Con. Res. 106
FY1991 101 <sup>st</sup> Congress	H. Con. Res. 310	S. Con. Res. 110	H. Con. Res. 310
FY1992	H. Con. Res. 121	S. Con. Res. 29	H. Con. Res. 121

<sup>413</sup> H. Con. Res. 152 was deemed to be in force on July 24, 1985 before the adoption of the conference report on S. Con. Res. 32 on August 1, 1985.

<sup>414</sup> Beginning in fiscal year 1987, under amendments made by the Balanced Budget and Emergency Deficit Control Act of 1985, second concurrent resolutions on the budget were no longer required under the Congressional Budget Act of 1974. Despite being required under that Act, second concurrent resolutions on the budget were not adopted for fiscal years 1983 through 1986.

**LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET 562**

101<sup>st</sup> Congress

BUDGET RESOLUTION YEAR	HOUSE RESOLUTION NUMBER	SENATE RESOLUTION NUMBER	CONFERENCE REPORT NUMBER
FY1993 102 <sup>nd</sup> Congress	H. Con. Res. 287	S. Con. Res. 106	H. Con. Res. 287
FY1994 103 <sup>rd</sup> Congress	H. Con. Res. 64	S. Con. Res. 18	H. Con. Res. 64
FY1995 103 <sup>rd</sup> Congress	H. Con. Res. 218	S. Con. Res. 63	H. Con. Res. 218
FY1996 104 <sup>th</sup> Congress	H. Con. Res. 67	S. Con. Res. 13	H. Con. Res. 67
FY1997 104 <sup>th</sup> Congress	H. Con. Res. 178	S. Con. Res. 57	H. Con. Res. 178
FY1998 105 <sup>th</sup> Congress	H. Con. Res. 84	S. Con. Res. 27	H. Con. Res. 84
FY1999 105 <sup>th</sup> Congress	H. Con. Res. 284	S. Con. Res. 86	<i>None</i> <sup>415</sup>
FY2000 106 <sup>th</sup> Congress	H. Con. Res. 68	S. Con. Res. 20	H. Con. Res. 68
FY2001 106 <sup>th</sup> Congress	H. Con. Res. 290	S. Con. Res. 101	H. Con. Res. 290
FY2002 107 <sup>th</sup> Congress	H. Con. Res. 83	<i>None</i>	H. Con. Res. 83 <sup>416</sup>

<sup>415</sup> Fiscal Year 1999 was the first year a conference report on a concurrent resolution on the budget – the Congressional budget – was not adopted for a fiscal year since passage of the Congressional Budget Act of 1974. In the House, for fiscal year 1999, two resolutions “deeming” the budget in place were adopted.

<sup>416</sup> Since the Senate adopted the House-passed budget resolution instead of adopting its own, no conference was held and H. Con. Res. 83 served as the Concurrent Resolution the Budget for Fiscal Year 2002 for Congress.

**563 LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET**

BUDGET RESOLUTION YEAR	HOUSE RESOLUTION NUMBER	SENATE RESOLUTION NUMBER	CONFERENCE REPORT NUMBER
FY2003 107 <sup>th</sup> Congress	H. Con. Res. 353	S. Con. Res. 100	<i>None</i> <sup>417</sup>
FY2004 108 <sup>th</sup> Congress	H. Con. Res. 95	S. Con. Res. 23	H. Con. Res. 95
FY2005 108 <sup>th</sup> Congress.	H. Con. Res. 393	S. Con. Res. 95	<i>None</i> <sup>418</sup>
FY2006 109 <sup>th</sup> Congress	H. Con. Res. 95	S. Con. Res. 18	H. Con. Res. 95
FY2007 109 <sup>th</sup> Congress	H. Con. Res. 376	S. Con. Res. 83	<i>None</i>
FY2008 110 <sup>th</sup> Congress	H. Con. Res. 99	S. Con. Res. 21	S. Con. Res. 21
FY2009 110 <sup>th</sup> Congress	H. Con. Res. 312	S. Con. Res. 70	S. Con. Res. 70
FY2010 111 <sup>th</sup> Congress	H. Con. Res. 85	S. Con. Res. 13	S. Con. Res. 13 <sup>419</sup>

<sup>417</sup> Congress did not adopt a fiscal 2003 budget resolution. On May 22, 2002 the House adopted H. Res. 428, and H. Res. 5 on Jan. 7, 2003: Each deemed H. Con. Res. 353 (107<sup>th</sup> Congress) the House-passed fiscal year 2003 budget resolution to have force and effect. The Senate did not adopt such a deeming resolution for that fiscal year.

<sup>418</sup> Congress did not adopt a concurrent resolution on the budget for fiscal year 2005. Though a conference was appointed and reported a budget resolution, both Chambers did not agreed to it. The House adopted the conference report to S. Con. Res. 95 (H. Rept. 108-498), but the Senate did not. The House agreed to H. Res. 649 (108<sup>th</sup> Congress) on May 19, 2004, and H. Res. 5 (109<sup>th</sup> Congress) on January 4, 2005, deeming the conference report in force. Section 14007 of the Defense Appropriations Act, 2005 (P.L. 108-287), enacted on Aug. 5, 2004, set fiscal year 2005 spending allocations for the Senate Appropriations Committee.

<sup>419</sup> The conference report on the Concurrent Resolution on the Budget for Fiscal Year 2010 was notable in that it provided for reconciliation instructions under which the Health Care and Education Reconciliation Act of 2010 was enacted. This law is one of the two founding statutes of the Affordable Care Act.

**LIST OF CONCURRENT RESOLUTIONS ON THE BUDGET 564**

BUDGET RESOLUTION YEAR	HOUSE RESOLUTION NUMBER	SENATE RESOLUTION NUMBER	CONFERENCE REPORT NUMBER
FY2011 111 <sup>th</sup> Congress	<i>None</i>	S. Con. Res. 60	<i>None</i> <sup>420</sup>
FY2012 112 <sup>th</sup> Congress	H. Con. Res. 34	<i>None</i>	<i>None</i>
FY2013 112 <sup>th</sup> Congress	H. Con. Res. 112	<i>None</i>	<i>None</i>
FY2014 113 <sup>th</sup> Congress	H. Con. Res. 25	S. Con. Res. 8 <sup>421</sup>	<i>None</i>
FY2015 113 <sup>th</sup> Congress	H. Con. Res. 96	<i>None</i>	<i>None</i>
FY2016 114 <sup>th</sup> Congress	H. Con. Res. 27	S. Con. Res. 11	S. Con. Res. 11

<sup>420</sup> Congress did not adopt a budget resolution for FY2011. The House deemed a budget resolution (H. Res. 1493) in force on July 1, 2010. At the beginning of the 112th Congress, the House H. Res. 5 (Section 3(b)) that provided for the enforcement of budget levels submitted for printing in the Congressional Record by the chair of the House Budget Committee. The Senate did not deem a fiscal year 2011 budget resolution in force.

<sup>421</sup> A conference was held on S. Con. Res. 8. Though no conference report was filed, the Bipartisan Budget Act of 2013 was based on its deliberations. That law included a deeming resolution for fiscal years 2014 and 2015 in the House. Despite having a budget resolution already deemed in force, the House still made the effort to establish a concurrent resolution on the budget for fiscal year 2015 through regular procedures. Hence the House adopted H. Con. Res. 96 by a vote of 219 ayes to 205 noes, the Concurrent Resolution on the Budget for Fiscal Year 2015. Even though it was so adopted, it was not deemed in force. Instead the fiscal year 2015 levels provided for in the BBA of 2013 were used. The levels in the more recent House-passed H. Con. Res. 96 varied from the BBA 2013. House Leadership reversed its decision to update budget levels and policies and instead reverted to the BBA 2013 levels, finding it more politically advantageous.

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**LIST OF RECONCILIATION ACTS**

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## LIST OF RECONCILIATION BILLS

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*Revenue Adjustment Act* (H.R.5559); December 18, 1975 (vetoed).<sup>422</sup>

*Omnibus Reconciliation Act of 1980* (P.L. 96-499) H. Con. Res. 307; December 5, 1980.

*Omnibus Budget Reconciliation Act of 1981* (P.L. 97-35) H. Con. Res. 115; August 3, 1981.

*Tax Equity and Fiscal Responsibility Act of 1982* (P.L. 97-248) S. Con. Res. 92.

*Omnibus Budget Reconciliation Act of 1982* (P.L. 97-253) S. Con. Res. 92; September 8, 1982.

*Omnibus Budget Reconciliation Act of 1983* (P.L. 98-270) H. Con. Res. 91; April 18, 1984.

*Consolidated Omnibus Budget Reconciliation Act of 1985* (P.L. 99-272) S. Con. Res. 32; April 7, 1986.

*Omnibus Budget Reconciliation Act of 1986* (P.L. 99-509) S. Con. Res. 120; October 21, 1986.

*Omnibus Budget Reconciliation Act of 1987* (P.L. 100-203) H. Con. Res. 92; December 22, 1987.

*Omnibus Budget Reconciliation Act of 1989* (P.L. 101-239) H. Con. Res. 106; December 19, 1989.

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<sup>422</sup> Many dispute the status of the Revenue Adjustment Act as a reconciliation measure. From 142 CONG. REC. 11941, 104th Cong. 2d Sess., May 21, 1996, page Ernest Hollings. “[The Revenue Adjustment Act (H.R. 5559)] was not reconciliation. I know Senator Long could use language loosely from time to time. But that was not a reconciliation bill. We did not start reconciliation until December 1980.”

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- Omnibus Budget Reconciliation Act of 1990* (P.L. 101-508) H. Con. Res. 310; November 05, 1990.
- Omnibus Budget Reconciliation Act of 1993* (P.L. 103-66) H. Con. Res. 64; August 10, 1993.
- Balanced Budget Act of 1995* (H.R. 2491) H. Con. Res. 67; December 6, 1995 (vetoed).
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (P.L. 104-193) H. Con. Res. 178; 08-22-96.
- Balanced Budget Act of 1997* (P.L. 105-33) H. Con. Res. 84; August 5, 1997.
- Taxpayer Relief Act of 1997* (P.L. 105-34) H. Con. Res. 84; August 5, 1997.
- Taxpayer Refund and Relief Act of 1999* (H.R. 2488) H. Con. Res. 68; 09-23-99 (vetoed).
- Marriage Tax Relief Reconciliation Act of 2000* (H.R. 4810) H. Con. Res. 290; August 5, 2000; (vetoed).
- Economic Growth and Tax Relief Reconciliation Act of 2001* (P.L. 107-16) H. Con. Res. 83; June 7, 2001.
- Jobs and Growth Tax Relief Reconciliation Act of 2003* (P.L. 108-27) H. Con. Res. 95; May 28, 2003.
- Deficit Reduction Act of 2005* (P.L. 109-171) H. Con. Res. 95; February 8, 2006.
- Tax Increase Prevention and Reconciliation Act of 2005* (P.L. 109-222) H. Con. Res. 95; May 17, 2006.
- College Cost Reduction and Access Act of 2007* (P.L. 110-84) S. Con. Res. 21; September 27, 2007.
- Health Care and Education Reconciliation Act of 2010* (P.L. 111-152) S. Con. Res. 13; March 30, 2010.

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**LIST OF ALTERNATING RESPONSIBILITIES  
OF THE HOUSE AND SENATE BUDGET COMMITTEES**

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LIST OF ALTERNATING RESPONSIBILITIES OF THE  
HOUSE AND SENATE BUDGET COMMITTEES

- Hosting of the Conference Reports on the Concurrent Resolution on the Budget
- Hosting of the Conference Reports on Reconciliation Measures
- Recommending the Appointment of the Director of the Congressional Budget Office

## **HOSTING OF CONFERENCE REPORTS ON THE CONCURRENT RESOLUTION ON THE BUDGET**

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Concurrent resolutions, under section 301 of the Congressional Budget Act of 1947, are required to be adopted annually. A conference agreement is not necessarily required since a resolution could be adopted through amending a concurrent resolution between the two Chambers. Even so, since the enactment of the Budget Act, each time a budget resolution has been adopted by both Houses of Congress, it has been done through a conference agreement.

Over time, the House and Senate have established the precedent of alternating “hosting” the conference on the budget. This responsibility has several aspects associated with it. The Chairman of the Committee on the Budget hosting the conference acts as the Chairman of the Conference Committee as well. The staff of the hosting committee also has the responsibility of drafting the official resolution text of the conference report, both the resolution text and the joint explanatory statement of managers. Even so, the work is done through collegial agreement.

It has also been settled that those years in which a budget resolution has not been agreed to do not count for purposes of determining the hosting of the conferences. A fiscal year 1999 budget resolution was not agreed upon, so that year did not count toward the alternating of responsibilities: Because the Senate Chairman of the Budget Committee, Sen. Pete Domenici, chaired the conference for the fiscal year 1998 budget resolution, the House chairman, Rep. John R. Kasich, hosted the fiscal year 2000 budget conference.

Though conference meetings were held on S. Con. Res. 8, the Senate-passed concurrent resolution on the budget for fiscal year 2014, no conference report was agreed to and none adopted by either the House or the Senate. Despite this, the conference meeting was considered to have been the House Budget Committee’s turn in the alternating of hosting responsibilities. The conference also set the process in motion that produced the Bipartisan Act of 2013 (Public Law 113-67, H.J. Res. 59, December 26, 2013). Included here are the alternating Chairs since the 104<sup>th</sup> Congress.

CONGRESSIONAL SESSION	RESOLUTION CONFERENCE	CHAMBER OF CONGRESS	HOSTING CHAIRMAN
<u>104<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY1996 (1995)	H. Con. Res. 67	Senate	Domenici
2 <sup>nd</sup> FY1997 (1996)	H. Con. Res. 178	House	Kasich
<u>105<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY1998 (1997)	H. Con. Res. 84	Senate	Domenici
2 <sup>nd</sup> FY1999 (1998)	No conference	None	None
<u>106<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY2000 (1999)	H. Con. Res. 68	House	Kasich
2 <sup>nd</sup> FY2001 (2000)	H. Con. Res. 290	Senate	Domenici
<u>107<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY2002 (2001)	H. Con. Res. 83	House	Nussle
2 <sup>nd</sup> FY2003 (2002)	No conference	None	None
<u>108<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY2004 (2003)	H. Con. Res. 95	House	Nickles
2 <sup>nd</sup> FY2005 (2004)	S. Con. Res. 95 <sup>423</sup>	None	None
<u>109<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> Session (2005)	H. Con. Res. 95	House	Nussle
2 <sup>nd</sup> Session (2006)	No conference	None	None
<u>110<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> Session (2007)	S. Con. Res. 21	Senate	Conrad
2 <sup>nd</sup> Session (2008)	S. Con. Res. 70	House	Spratt

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<sup>423</sup> On March 30, 2004, the Speaker appointed conferees for the consideration of S. Con. Res. 95 and the House amendment thereto (text of H. Con. Res. 393): Nussle, Portman, and Spratt. On March 31, 2004, the Senate disagreed to House amendment, appointed conferees. Nickles, Domenici, Grassley, Gregg, Conrad, Hollings, Sarbanes; and a conference was held. The conference report was not adopted by the Senate.

**573                    HOSTING BUDGET RESOLUTION CONFERENCES**

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<b>CONGRESSIONAL SESSION</b>	<b>RESOLUTION CONFERENCE</b>	<b>CHAMBER OF CONGRESS</b>	<b>HOSTING CHAIRMAN</b>
<u>111<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> Session (2009)	S. Con. Res. 13	Senate	Conrad
2 <sup>nd</sup> Session (2010)	No conference	None	None
<u>112<sup>TH</sup> CONGRESS</u>			
1 <sup>st</sup> FY2012 (2011)	No conference	None	None
2 <sup>nd</sup> FY2013 (2012)	No conference	None	None
<u>113<sup>TH</sup> CONGRESS<sup>424</sup></u>			
1 <sup>st</sup> FY2014 (2013)	S. Con. Res. 8	House	Ryan
2 <sup>nd</sup> FY2015 (2014)	No conference	None	None
<u>114<sup>TH</sup> CONGRESS<sup>425</sup></u>			
1 <sup>st</sup> FY2016 (2015)	S. Con. Res. 11.	Senate	Enzi
2 <sup>nd</sup> FY2017 (2016)	To be determined.	House	TBD

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<sup>424</sup> S. Con. Res. 8 was the Senate-passed concurrent resolution on the budget. The Senate agreed to a conference with the House on October 16, 2013, on the House-passed concurrent resolution on the budget, H. Con. Res. 25. Though several conference meetings were held, which Congressman Paul D. Ryan chaired, no conference report was agreed to. Legislation was enacted pursuant to the agreement that derived from this conference (it was not a reconciliation bill), H.J. Res. 59 that became Public Law 113-67, as the Bipartisan Budget Act of 2013.

<sup>425</sup> For the concurrent resolution on the budget fiscal year 2016, it is expected that the Senate Committee on the Budget and its Chairman, Sen. Mike Enzi, will host and chair the conference.



## HOSTING OF BUDGET COMMITTEE CONFERENCE REPORTS ON RECONCILIATION MEASURES

BUDGET RESOLUTION	RECONCILIATION BILL	ENACTED CONGRESS	CONGRESS CHAMBER	CHAIR HOSTING
H. Con. Res. 68	H.R. 2491 <sup>426</sup>	104 <sup>th</sup> Congress 1995	Senate	Domenici
H. Con. Res. 178	H.R.3734 <sup>427</sup>	104 <sup>th</sup> Congress 1996	House	Kasich
H. Con. Res. 84	H.R. 2014 <sup>428</sup> H.R. 2015 <sup>429</sup>	105 <sup>th</sup> Congress 1997	Senate	Domenici
H. Con. Res. 95	S. 1932 <sup>430</sup>	109 <sup>th</sup> Congress 2005	House	Nussle
S. Con. Res. 13	H.R.4872 <sup>431</sup>	111 <sup>th</sup> Congress 2010	Senate	Conrad

<sup>426</sup> President William Clinton vetoed H.R. 2491, Balanced Budget Act of 1995 on December 6, 1995.

<sup>427</sup> Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

<sup>428</sup> Balanced Budget Act of 1997.

<sup>429</sup> Taxpayer Relief Act of 1997.

<sup>430</sup> Deficit Reduction Act of 2005.

<sup>431</sup> Health Care and Education Reconciliation Act of 2010.

## RECOMMENDING DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

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The Chairmen of the Budget Committees, as a matter of practice, decorum, and tradition, have recommended individuals for the position of Director of the Congressional Budget Office. The official announcement is made by the Speaker of the House and the President Pro-Tem of the Senate, but reflects the recommendation made by the Chairman. This recommendation alternates between the Houses.

This table shows the recent recommendations of those Chairmen, and which Chamber was responsible for making them. The table has been thoroughly researched by the Counsels of the House Committee on the Budget with citations foot-noted.

CBO DIRECTOR	COMMITTEE RECOMMEND	COMMITTEE CHAIR	TERM BEGAN	TERM ENDED
June O'Neill <sup>432</sup>	House Budget Committee	John Richard Kasich	February 22, 1995	January 29, 1999
Daniel L. Crippen <sup>433</sup>	Senate Budget Committee	Pietro Vichi "Pete" Domenici	February 4, 1999	January 3, 2003,
Douglas Holtz- Eakin <sup>434</sup>	House Budget Committee	James Allen "Jim" Nussle <sup>435</sup>	February 5, 2003 <sup>436</sup>	December 29, 2005

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<sup>432</sup> See Eric Piain, (September 4, 1995). "Honeymoon over for Kasich and handpicked budget maven". *The Washington Post*. p. A23. "When House Budget Committee Chairman John R. Kasich (R-Ohio) picked O'Neill to head the CBO last February, he described the New York economics professor as "fabulous" and "highly qualified.""

<sup>433</sup> Bloomberg BNA – Daily Report: "Domenici Recommends Dan Crippen As New Congressional Budget Office Director". "Senate Budget Committee Chairman Pete Domenici (R-N.M.) Jan. 13 formally recommended Dan Crippen—a veteran Washington consultant, political aide, and doctorate in public finance—as the next director of the Congressional Budget Office."

<sup>434</sup> CQ Monitor News—Budget; Jan. 9, 2003. "White House Economist Selected To Replace Crippen at CBO" – By Andrew Taylor, CQ Staff Writer. "White House economist Douglas J. Holtz-Eakin was named the new director of the Congressional Budget Office (CBO) on Thursday, the very day he interviewed for the position. House Budget Committee Chairman Jim Nussle, R-Iowa, announced the selection after leading a months-long search to fill the difficult but important job."

<sup>435</sup> Bloomberg BNA—Daily Report, January 10, 2003. "Bush Economist

CBO DIRECTOR	COMMITTEE RECOMMEND	COMMITTEE CHAIR	TERM BEGAN	TERM ENDED
Peter Richard Orszag <sup>437</sup>	Senate Budget Committee	Gaylord Kent Conrad	January 18, 2007	November 25, 2008
Douglas William Elmendorf <sup>438</sup>	House Budget Committee	John Spratt	January 22, 2009	January 26, 2011
Douglas William Elmendorf	Senate Budget Committee	Gaylord Kent Conrad	January 26, 2011	March 31, 2015
Keith Hall <sup>439</sup>	House Budget Committee	Thomas Price	April 1, 2015	N/A

Holtz-Eakin Nominated By Nussle to Become New CBO Director". "House Budget Committee Chairman Jim Nussle (R-Iowa) said Jan. 9 he is nominating Douglas Holtz-Eakin, the chief economist at the Bush administration's Council of Economic Advisers, to be the new director of the Congressional Budget Office and that Holtz-Eakin has accepted the job."

<sup>436</sup> Appointment of Douglas Holtz-Eakin as Director of the Congressional Budget Office: Congressional Record—House; February 5, 2003, page H313: "Appointment As Director of Congressional Budget Office": J. Dennis Hastert, Speaker of the House; Ted Stevens, President pro tempore of the Senate.

<sup>437</sup> "From Senate Budget Committee press release of December 12, 2006: "Incoming Senate Budget Committee Chairman Kent Conrad (D-ND) will recommend the appointment of Peter R. Orszag as the new director of the Congressional Budget Office (CBO). "I am enthusiastically recommending Dr. Orszag to be the next CBO Director," Conrad said."

<sup>438</sup> CQ Today Online News—Budget; Nov. 25, 2008; "Democrats to Name new CBO Director" – By David Clarke, CQ Staff: "Traditionally, the chairmen alternate in picking a new director. Senate Budget Chairman Kent Conrad, D-N.D., took the lead in choosing Orszag, so it is the turn of House Budget Chairman John M. Spratt Jr., D-S.C."

<sup>439</sup> Members of the House interviewed Keith Hall before he was chosen to become Director of the Congressional Budget Office. Though the Speaker of the House, Rep. John Boehner, and the President Pro Tempore of the Senate, Orin Hatch, announced him in March of 2015, the statement placed in the Congressional Record for that date indicated he would take the position of Director on April 1. The Chairman of the House Budget Committee made the recommendation to the Joint Leadership of Congress, pursuant to Section 201 of the Congressional Budget Act of 1974. See §107, *supra*.

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**THE CONSTITUTION OF THE UNITED STATES**

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# THE CONSTITUTION OF THE UNITED STATES

## PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I, SECTION 5, SECOND CLAUSE

Each House may determine the Rules of its Proceedings<sup>440</sup>

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<sup>440</sup> *Rulemaking Power:* The power of a House to make its own rules is not impaired by previously enacted law. In adopting its rules, the House may incorporate by reference provisions of law constituting the Rules of the House at the end of the preceding Congress. It also may incorporate provisions of concurrent resolutions intended to remain applicable.

Ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules, and under later decisions questions of constitutional privilege should also be considered in accordance with the rules. That House has recognized a law passed by an existing Congress with the concurrence of the House. In exercising its constitutional power to change its rules the House may confine itself within limitations.

Concurrent resolutions on the budget, as well as budget-related statutes, including rulemaking such as expedited consideration of legislation, often make reference to this power. For example, this text is from the Medicare Prescription Drug, Improvement, and Modernization Act of 2003:

“Section 803.—Procedures in the House of Representatives.

“(g) RULEMAKING POWER.—The provisions of this section are enacted by the Congress—

“(1) as an exercise of the rulemaking power of the House of Representatives and, as such, shall be considered as part of the rules of that House and shall supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of that House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.”

“SECTION 804.—PROCEDURES IN THE SENATE.

“(f) RULES OF THE SENATE.—This section is enacted by the Senate—

“(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a bill described in this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

ARTICLE I, SECTION 7, FIRST CLAUSE<sup>441</sup>

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.<sup>442</sup>

ARTICLE I, SECTION 8, FIRST CLAUSE<sup>443</sup>

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

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“(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.”

<sup>441</sup> *Revenue Bills*: The insertion of this clause was another of the devices sanctioned by the Framers to preserve and enforce the separation of powers. It applies, in the context of the permissibility of Senate amendments to a House-passed bill, to all bills for collecting revenue—revenue decreasing as well as revenue increasing—rather than simply to just those bills that increase revenue.

<sup>442</sup> *Appropriations Act*: Article I extends to Appropriation Acts, which must also originate in the House of Representatives. Any bill providing for an appropriation of funds must begin its consideration in the House or it will be returned to the Senate without House consideration (this is a procedure commonly known a “blue slipping” legislation).

<sup>443</sup> *Kinds of Taxes Permitted*: By the terms of the Constitution, the power of Congress to levy taxes is subject to but one exception and two qualifications. Articles exported from any State may not be taxed at all. Direct taxes must be levied by the rule of apportionment and indirect taxes by the rule of uniformity. The Court has emphasized the sweeping character of this power by saying from it “reaches every subject,” that it is “exhaustive” or that it “embraces every conceivable power of taxation.” Despite these generalizations, the power has been at times substantially curtailed by judicial decision with respect to the subject matter of taxation, the manner in which taxes are imposed, and the objects for which they may be levied.

**ARTICLE I, SECTION 8, SECOND CLAUSE<sup>444</sup>**

To borrow Money on the credit of the United States;

**ARTICLE I, SECTION 9, SEVENTH CLAUSE.<sup>445</sup>**

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

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<sup>444</sup> *Purposes Served by the Grant:* This clause serves a two-fold purpose: it is the direct source of the most important powers that the Federal Government exercises in peacetime, and, except for the due process and equal protection clauses of the Fourteenth Amendment, it is the most important limitation imposed by the Constitution on the exercise of state power. The latter, restrictive operation of the clause was long the more important one from the point of view of the constitutional lawyer. Of the approximately 1400 cases that reached the Supreme Court under the clause prior to 1900, the overwhelming proportion stemmed from state legislation. The result was that the guiding lines in construction of the clause were initially laid down in the context of curbing state power rather than its operation as a source of national power. The consequence of this historical progression was that the word “commerce” came to dominate the clause while the word “regulate” remained in the background. The so-called “constitutional revolution” of the 1930s, however, brought the latter word to its present prominence.

<sup>445</sup> *Appropriations:* This clause is a limitation upon the power of the Executive Department and does not restrict Congress in appropriating moneys in the Treasury. When it directs a specific sum to be paid to a certain person, neither the Secretary of the Treasury nor any court has discretion to determine whether the person is entitled to receive it.

In making appropriations to pay claims arising out of the Civil War, Congress could, the Court held, lawfully provide that certain persons, i.e., those who had aided the Rebellion, should not be paid out of the funds made available by the general appropriation, but that such persons should seek relief from Congress.

The Court has also recognized that Congress has a wide discretion with regard to the extent to which it shall prescribe details of expenditures for which it appropriates funds and has approved the frequent practice of making general appropriations of large amounts to be allotted and expended as directed by designated government agencies.

Citing as an example that act of June 17, 1902, where all moneys received from the sale and disposal of public lands in a large number of States and territories were set aside as a special fund to be expended under the direction of the Secretary of the Interior upon such projects as he determined to be practicable and advisable for the reclamation of arid and semi-arid lands within those States and territories, the Court declared: “The constitutionality of this delegation of authority has never been seriously questioned.”



AMENDMENT XVI<sup>446</sup>

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.<sup>447</sup>

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<sup>446</sup> *History and Purpose of the Amendment:* The ratification of this Amendment was the direct consequence of the Court's decision in 1895 in *Pollock v. Farmers' Loan & Trust Company*, 157 U.S. 429 (1895), affirmed on rehearing, 158 U.S. 601 (1895), whereby the attempt of Congress the previous year to tax incomes uniformly throughout the United States was held by a divided court to be unconstitutional.

A tax on incomes derived from property, the Court declared, was a "direct tax" which Congress under the terms of Article I, Sec. 2 and Sec. 9, could impose only by the rule of apportionment according to population, although scarcely fifteen years prior the Justices had unanimously sustained the collection of a similar tax during the Civil War, the only other occasion preceding the Sixteenth Amendment in which Congress had ventured to utilize this method of raising revenue.

During the interim between the *Pollock* decision in 1895 and the ratification of the Sixteenth Amendment in 1913, the Court gave evidence of a greater awareness of the dangerous consequences to national solvency which that holding threatened, and partially circumvented the threat, either by taking refuge in redefinitions of "direct tax" or, and more especially, by emphasizing, virtually to the exclusion of the former, the history of excise taxation.

<sup>447</sup> *Ratification:* Passed by Congress July 2, 1909. Ratified February 3, 1913, Amendment XVI modified Article I, section 9, of the Constitution.

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**BUDGET AND ACCOUNTING ACT OF 1921**

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OFFICE OF MANAGEMENT AND BUDGET  
A-11 CIRCULAR

*Why is the Budget and Accounting Act of 1921 important?*

Before enactment of this law in 1921, there was no annual centralized budgeting in the Executive Branch. Federal Government agencies usually sent budget requests independently to congressional committees with no coordination of the various requests in formulating the Federal Government's budget. The Budget and Accounting Act required the President to coordinate the budget requests for all Government agencies and to send a comprehensive budget to the Congress. It created the Bureau of the Budget, now the Office of Management and Budget (OMB), to help the President implement these requirements. It also required the President to include certain information in the budget. The Congress has amended the requirements many times and has codified them as Chapter 11, Title 31, U.S. Code. These are some of the requirements:

“On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year.”

“Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following....” The provision goes on to list about thirty items, such as expenditures and receipts for the past year through the fourth year following the budget year, information on debt, financial information, and information on employment levels.

“Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.”

“Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch...shall be submitted to the President before October 16 of each year and included in the budget by the President without change.”

*Circular No. A-11  
Preparation, Submission, and Execution of the Budget  
Executive Office of the President  
Office of Management and Budget  
June 2015*

# BUDGET AND ACCOUNTING ACT OF 1921

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[PUBLIC LAW 67-13; 42 STAT. 20; JUNE 10, 1921, S. 1084]

## *An Act*

To provide a national budget system and an independent audit of Government accounts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the States of America in Congress assembled,*

### TITLE I—DEFINITIONS

SECTION 1. This Act may be cited as the “Budget and Accounting Act, 1921.”

SEC. 2. When used in this Act—

The terms “department and establishment” and “department or establishment” mean any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including the municipal government of the District of Columbia, but do not include the Legislative Branch of the Government or the Supreme Court of the United States;

The term “the Budget” means the Budget required by section 201 to be transmitted to Congress;

The term “Bureau” means the Bureau of the Budget;

The term “Director” means the Director of the Bureau of the Budget; and

The term “Assistant Director” means the Assistant Director of the Bureau of the Budget.

### TITLE II—THE BUDGET

SEC. 201. The President shall transmit to Congress on the first day of each regular session, the Budget, which shall set forth in summary and in detail:

(a) Estimates of the expenditures and appropriations necessary in his judgment for the support of the Government for the ensuing fiscal year; except that the estimates for such year for the Legislative Branch of the Government and the Supreme Court of the United States shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision;

(b) His estimates of the receipts of the Government during the ensuing fiscal year, under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

(c) The expenditures and receipts of the Government during the last completed fiscal year;

(d) Estimates of the expenditures and receipts of the Government during the fiscal year in progress;

(e) The amount of annual, permanent, or other appropriations, rent year for expenditure including balances of appropriations for prior fiscal years, available for expenditure during the fiscal year in progress, as of November 1 of such year;

(f) Balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condition of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of the ensuing fiscal year if the financial proposals contained in the Budget are adopted;

(g) All essential facts regarding the bonded and other indebtedness of the Government; and

(h) Such other financial statements and data as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government.

SEC. 202. (a) If the estimated receipts for the ensuing fiscal year contained in the Budget on the basis of laws existing at the time the Budget is transmitted, plus the estimated amounts in the Treasury at the close of the fiscal year in progress, available for expenditure in the ensuing fiscal year, are less than the estimated expenditures for the ensuing fiscal year contained in the Budget, the President in the Budget shall make recommendations to Congress for new taxes, loans, or other appropriate action to meet the estimated deficiency.

(b) If the aggregate of such estimated receipts and such estimated amounts in the Treasury is greater than such estimated expenditures for the ensuing fiscal year, he shall make such recommendations as in his opinion the public interests require.

SEC. 203. (a) The President from time to time may transmit to Congress supplemental or deficiency estimates for such appropriations or expenditures as in his judgment (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are otherwise in the public interest. He shall accompany such estimates with a statement of the reasons therefor, including the reasons for their omission from the Budget.

(b) Whenever such supplemental or deficiency estimates reach an aggregate which, if they had been contained in the Budget, would have required the President to make a recommendation under subdivision (a) of section 202, he shall thereupon make such recommendation.

SEC. 204. (a) Except as otherwise provided in this Act, the contents, order, and arrangement of the estimates of appropriations and the statements of expenditures and estimated expend-

itures contained in the Budget or transmitted under section 203, and the notes and other data submitted therewith, shall conform to the requirements of existing law.

(b) Estimates for lump-sum appropriations contained in the Budget or transmitted under section 203 shall be accompanied by statements showing, in such detail and form as may be necessary to inform Congress, the manner of expenditure of such appropriations and of the corresponding appropriations for the fiscal year in progress and the just completed fiscal year. Such statements shall be in lieu of statements of like character now required by law.

SEC. 205. The President, in addition to the Budget, shall transmit to Congress on the first Monday in December, 1921, for the service of the fiscal year ending June 30, 1923, only, an alternative budget, which shall be prepared in such form and amounts and according to such system of classification and itemization as is, in his opinion, most appropriate, with such explanatory notes and tables as may be necessary to show where the various items embraced in the Budget are contained in such alternative budget.

SEC. 206. No estimate or request for an appropriation and no request for in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.

SEC. 207. There is hereby created in the Treasury Department a Bureau to be known as the Bureau of the Budget. There shall be in the Bureau a Director and an Assistant Director, who shall be appointed by the President and receive salaries of \$10,000 and \$7,500 a year, respectively. The Assistant Director shall perform duties as the Director may designate, and during the absence or incapacity of the Director or during a vacancy in the office of Director he shall act as Director. The Bureau, under such rules and regulations as the President may prescribe, shall prepare for him the Budget, the alternative Budget, and any supplemental or deficiency estimates, and to this end shall have authority to assemble, correlate, revise, reduce, or increase the estimates of the several departments or establishments.

SEC. 208. (a) The Director, under such rules and regulations as the President may prescribe, shall appoint and fix the compensation of attorneys and other employees and make expenditures for rent in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, and necessary expenses of the office, within the appropriations made therefor.

(b) No person appointed by the Director shall be paid a salary at a rate in excess of \$6,000 a year, and not more than four persons so appointed shall be paid a salary at a rate in excess of \$5,000 a year.

(c) All employees in the Bureau whose compensation is at a rate of \$5,000 a year or less shall be appointed in accordance with the civil-service laws and regulations.

(d) The provisions of law prohibiting the transfer of employees of executive departments and independent establishments until after service of three years shall not apply during the fiscal years ending June 30, 1921, and June 30, 1922, to the transfer of employees to the Bureau.

(e) The Bureau shall not be construed to be a bureau or office created since January 1, 1916, so as to deprive employees therein of the additional compensation allowed civilian employees under the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act for the fiscal years ending June 30, 1921, and June 30, 1922, if otherwise entitled thereto.

SEC. 209. The Bureau, when directed by the President, shall make a detailed study of the departments and establishments for some the purpose of enabling the President to determine what changes (with a view of securing greater economy and efficiency in the conduct of the public service) should be made in (1) the existing organization, activities, and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the regrouping of services. The results of such study shall be embodied in a report or reports to the President, who may transmit to Congress such report or reports or any part thereof with his recommendations on the matters covered thereby.

SEC. 210. The Bureau shall prepare for the President a codification of all of all laws or parts of laws relating to the preparation and transmission to Congress of statements of receipts and expenditures of the Government and of estimates of appropriations. The President shall transmit the same to Congress on or before the first Monday in December, 1921, with a recommendation as to the changes which, in his opinion, should be made in such laws or parts of laws.

SEC. 211. The powers and duties relating to the compiling of estimates now conferred and imposed upon the Division of Bookkeeping and Warrants of the office of the Secretary of the Treasury are transferred to the Bureau.

SEC. 212 The Bureau shall, at the request of any committee of either House of Congress having jurisdiction over revenue or appropriations, furnish the committee such aid and information as it may request.

SEC. 213. Under such regulations as the President may prescribe, (1) every department and establishment shall furnish to the Bureau such information as the Bureau may from time to time require, and (2) the Director and the Assistant Director, or any employee of the Bureau when duly authorized, shall, for the purpose of securing such information, have access to, and the right to examine, any books, documents, papers, or records of any such department or establishment.

SEC. 214. (a) The head of each department and establishment shall designate an official thereof as budget officer therefor who each year under his direction and on or before a date fixed by him, shall prepare the departmental estimates.

(b) Such budget officer shall also prepare, under the direction of the head of the department or establishment, such supplemental and deficiency estimates as may be required for its work.

SEC. 215. The head of each department and establishment shall revise the departmental estimates and submit them to the Bureau on or before September 15 of each year. In case of his failure to do so, the President shall cause to be prepared such estimates and data as are necessary to enable him to include in the Budget estimates and statements in respect to the work of such department or establishment.

SEC. 216. The departmental estimates and any supplemental deficiency estimates submitted to the Bureau by the head of any department or establishment shall be prepared and submitted in such form, manner, and detail as the President may prescribe.

SEC. 217. For expenses of the establishment and maintenance of the Bureau there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$225,000, to continue available during the fiscal year ending June 30, 1922.

### TITLE III—GENERAL ACCOUNTING OFFICE

SEC. 301. There is created an establishment of the Government to be known as the General Accounting Office, which shall be independent of the executive departments and under the control and direction of the Comptroller General of the United States. The offices of the Comptroller of the Treasury and Assistant Comptroller of the Treasury are abolished, to take effect July 1, 1921. All other officers and employees of the office of the Comptroller of the Treasury shall become officers and employees of the General Accounting Office at their counting grades and salaries on July 1, 1921, and all books, records, documents, papers, furniture, office equipment and other property of the office of the Comptroller of the Treasury shall become the prop-



erty of the General Accounting Office. The Comptroller General is authorized to adopt a seal for the General Accounting Office.

SEC. 302. There shall be in the General Accounting Office a Comptroller General of the United States and an Assistant Comptroller and Assistant to be General of the United States, who shall be appointed by the President with the advice and consent of the Senate, and shall receive salaries of \$10,000 and \$7,500 a year, respectively. The Assistant Comptroller General shall perform such duties as may be assigned to him by the Comptroller General, and during the absence or incapacity of the Comptroller General, or during a vacancy in that office, shall act as Comptroller General.

SEC. 303. Except as hereinafter provided in this section, the Comptroller General and the Assistant Comptroller General shall hold office for fifteen years. The Comptroller General shall not be eligible for reappointment. The Comptroller General or the Assistant Comptroller General may be removed at any time by joint resolution of Congress after notice and hearing, when, in the judgment of Congress, the Comptroller General or Assistant Comptroller General has become permanently incapacitated or has been inefficient, or guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment. Any Comptroller General or Assistant Comptroller General removed in the manner herein provided shall be ineligible for reappointment to that office. When a Comptroller General or Assistant Comptroller General attains the age of seventy years, he shall be retired from his office.

SEC. 304. All powers and duties now conferred or imposed by law upon the Comptroller of the Treasury or the six auditors of the Treasury Department, and the duties of the Division of Bookkeeping and the Secretary of the Treasury relating to keeping the personal ledger accounts of disbursing and collecting officers, shall, so far as not inconsistent with this Act, be vested in and imposed upon the General Accounting Office and be exercised without direction from any other officer. The balances certified by the Comptroller General shall be final and conclusive upon the executive branch of the Government. The revision by the Comptroller General of settlements made by the six auditors shall be discontinued, except as to settlements made before July 1, 1921.

The administrative examination of the accounts and vouchers of the Postal Service now imposed by law upon the Auditor for the Post Office Department shall be performed on and after July 1, 1921, by the Comptroller, to a bureau in the Post Office Department to be known as the Bureau of Accounts, which is hereby established for that purpose. The Bureau of Accounts shall be under the direction of a Comptroller, who shall be ap-

pointed by the President with the advice and consent of the Senate, and shall receive a salary of \$5,000 a year. The Comptroller shall perform the administrative duties now performed by the Auditor for the Post Office Department and such other duties in relation thereto as the Postmaster General may direct. The appropriation of \$5,000 for the salary of the Auditor for the Post Office Department for the fiscal year 1922 is transferred and made available for the salary of the Comptroller, Bureau of Accounts, Post Office Department. The officers and employees of the Office of the Auditor for the Post Office Department engaged in the administrative examination of accounts shall become officers and employees of the Bureau of Accounts at their grades and salaries on July 1, 1921. The appropriations for salaries and for contingent and miscellaneous expenses and tabulating equipment for such office for the fiscal year 1922, and all books, records, documents, papers, furniture, office equipment, and other property shall be apportioned between, transferred to, and made available for the Bureau of Accounts and the General Accounting Office, respectively, on the basis of duties transferred.

SEC. 305. Section 236 of the Revised Statutes is amended to read as follows:

“SEC. 236. All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office.”

SEC. 306. All laws relating generally to the administration of the departments and establishments, so far as applicable, govern the General Accounting Office. Copies of any books, records, papers, or documents, and transcripts from the books and proceedings of the General Accounting Office, when certified by the Comptroller General or the Assistant Comptroller General under its seal, shall be admitted as evidence with the same effect as the copies and transcripts referred to in sections 882 and 836 of the Revised Statutes.

SEC. 307. The Comptroller General may provide for the payment of accounts or claims adjusted and settled in the General Accounting Office, through disbursing officers of the several departments and establishments, instead of by warrant.

SEC. 308. The duties now appertaining to the Division of Public Moneys of the Office of the Secretary of the Treasury, so far as they relate to the covering of revenues and repayments into the Treasury the issue of duplicate checks and warrants and the certification of outstanding liabilities for payment, shall be performed by the Division of Bookkeeping and Warrants of the Office of the Secretary of the Treasury.

SEC. 309. The Comptroller General shall prescribe the forms, systems, and procedure for administrative appropriation and fund accounting in the several departments and establishments, and for the administrative examination of fiscal officers' accounts and claims against the United States.

SEC. 310. The offices of the six auditors shall be abolished, to take effect July 1, 1921. All other officers and employees of these offices, except as otherwise provided herein shall become officers and employees of the General Accounting Office at their grades and salaries on July 1, 1921. All books, records, documents, papers, furniture, office equipment, and other property of these offices, and of the Division of Bookkeeping and Warrants, so far as they relate to the work of such division transferred by section 304, shall become the property of the General Accounting Office. The General Accounting Office shall occupy temporarily the rooms now occupied by the office of the Comptroller of the Treasury and the six auditors.

SEC. 311. (a) The Comptroller General shall appoint, remove, and fix the compensation of such attorneys and other employees in the General Accounting Office as may from time to time be provided for by law.

(b) All such appointments, except to positions carrying a salary at a rate of more than \$5,000 a year, shall be made in accordance with the civil-service laws and regulations.

(c) No person appointed by the Comptroller General shall be paid a salary at a rate of more than \$6,000 a year, and not more than four persons shall be paid a salary at a rate of more than \$5,000 a year.

(d) All officers and employees of the General Accounting Office, whether transferred thereto or appointed by the Comptroller General, shall perform such duties as may be assigned to them by him.

(e) All official acts performed by such officers or employees specially designated therefor by the Comptroller General shall have the same force and effect as though performed by the Comptroller General in person.

(f) The Comptroller General shall make such rules and regulations, as may be necessary for carrying on the work of the General Accounting Office, including rules and regulations concerning the admission of attorneys to practice before such office.

SEC. 312. (a) The Comptroller General shall investigate, at the seat of government or elsewhere, all matters relating to the receipt on matters relating to disbursement, and application of public funds, and shall make to the President when requested by him, and to Congress at the beginning of each regular session, a report in writing of the work of the General Accounting Office, containing recommendations concerning the legislation he may deem necessary to facilitate the prompt and accurate rendition and settlement of accounts and concerning such other matters

relating to the receipt, disbursement, and application of public funds as he may think advisable: In such regular report, or in special reports at any time when Congress is in session, he shall make recommendations looking to greater economy or efficiency in public expenditures.

(b) He shall make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenue, appropriations, or expenditures. The Comptroller General shall also, at the request of any such committee, direct assistants from his office to furnish the committee such aid and information as it may request.

(c) The Comptroller General shall specially report to Congress every expenditure or contract made by any department or establishment in any year in violation of law.

(d) He shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

(e) He shall furnish such information relating to expenditures and accounting to the Bureau of the Budget as it may request from time to time.

SEC. 313. All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of the Comptroller General, or any of his assistants or employees, when duly authorized by him, shall for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment. The authority contained in this section shall not be applicable to expenditures made under the provisions of section 291 of the Revised Statutes.

SEC. 314. The Civil Service Commission shall establish an eligible list register for accountants for the General Accounting Office, and the examinations of applicants for entrance upon such register shall be based upon questions approved by the Comptroller General.

SEC. 315. (a) All appropriations for the fiscal year ending June 30, 1922 for the offices of the Comptroller of the Treasury and the six auditors, are transferred to and made available for the General Accounting Office, except as otherwise provided herein.

(b) During such fiscal year the Comptroller General, within the total appropriations available for the General Accounting Office, may make such changes in the number and compensation of officers and employees appointed by him or transferred to the General Accounting Office under this Act as may be necessary.

(c) There shall also be transferred to the General Accounting Office such portions of the appropriations for rent and contingent and miscellaneous expenses, including allotments for printing and binding, made for the Treasury Department for the fiscal year ending June 30, 1922, as are equal to the amounts expended from similar appropriations during the fiscal year ending June 30, 1921, by the Treasury Department for the offices of the Comptroller of the Treasury and the six auditors.

(d) During the fiscal year ending June 30, 1922, the appropriations and portions of appropriations referred to in this section shall be available for salaries and expenses of the General Accounting Office, including payment for rent in the District of Columbia, traveling expenses, the purchase and exchange of law books, books of reference, and for all necessary miscellaneous and contingent expenses.

SEC. 316. The General Accounting Office and the Bureau of Accounts shall not be construed to be a bureau or office created since January 1, 1916, so as to deprive employees therein of the additional compensation allowed civilian employees under the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act for the fiscal year ending June 30, 1922, if otherwise entitled thereto.

SEC. 317. The provisions of law prohibiting the transfer of employees of executive departments and independent establishments until after service of three years shall not apply during the fiscal year ending June 30, 1922, to the transfer of employees to the General Accounting Office.

SEC. 318. This Act shall take effect upon its approval by the President: Provided, That sections 301 to 317, inclusive, relating to the General Accounting Office and the Bureau of Accounts, shall on July 1, 1921.<sup>448</sup>

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<sup>448</sup> This Act became law on June 10, 1921. This act has been officially referred to as "the General Accounting Act of 1921", but is usually referred to as "the Budget and Accounting Act of 1921". Section 1 of the Act indicates it is to be cited with this latter title.

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**EMPLOYMENT ACT OF 1946**

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# EMPLOYMENT ACT OF 1946

[PUBLIC LAW 304—79<sup>TH</sup> CONGRESS]

[S. 380]

AN ACT

To declare a national policy on employment, production, and purchasing power, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SHORT TITLE

SECTION 1. This Act may be cited as the "Employment Act of 1946".

## DECLARATION OF POLICY

SEC. 2. The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy, with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing and seeking to work, and to promote maximum employment, production, and purchasing power.

## ECONOMIC REPORT OF THE PRESIDENT

SEC. 3. (a) The President shall transmit to the Congress within sixty days after the beginning of each regular session (commencing with the year 1947) an economic report (hereinafter called the "Economic Report") setting forth (1) the levels of employment, production and purchasing power obtaining in the United States and such levels needed to carry out the policy declared in section 2; (2) current and foreseeable trends in the levels of employment, production, and purchasing power; (3) a review of the economic program of the Federal Government and a review of economic conditions affecting employment in the United States or any considerable portion thereof during the preceding year and of their effect upon employment, production, and purchasing power; and (4) a program for carrying out the policy declared in section 2, together with such recommendations for legislation as he may deem necessary or desirable.



(b) The President may transmit from time to time to the Congress reports supplementary to the Economic Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 2.

(c) The Economic Report, and all supplementary reports transmitted under subsection (b), shall, when transmitted to Congress, be referred to the joint committee created by section 5.

#### COUNCIL OF ECONOMIC ADVISORS TO THE PRESIDENT

SEC. 4. (a) There is hereby created in the Executive Office of the Presidential Council of Economic Advisers (hereinafter called the "Council"). The Council shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall be a person who, as a result of his training, experience, and attainments, is exceptionally qualified to analyze and interpret economic developments, to appraise programs and activities of the Government in the light of the policy declared in section 2, and to formulate and recommend national economic policy to promote employment, production, and purchasing power under free competitive enterprise. Each member of the Council shall receive compensation at the rate of \$15,000 per annum. The President shall designate one of the members of the Council as chairman and one as vice chairman, who shall act as chairman in the absence of the chairman.

(b) The Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this Act, without regard to the civil-service laws and the Classification Act of 1923, as amended, and is authorized, subject to the civil-service laws, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the Classification Act of 1923, as amended.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Economic Report;

(2) to gather timely and authoritative information concerning economic developments and economic trends, both current and prospective, to analyze and interpret such information in the light of the policy declared in section 2 for the purpose of determining whether such developments and trends are interfering, or are likely to interfere, with the achievement of such policy and to compile and submit to the President studies relating to such developments and trends;

(3) to appraise the various programs and activities of the Federal Government in the light of the policy declared in section 2 for the purpose of determining the extent to which such programs and activities are contributing, and the extent to which they are not contributing, to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national economic policies to foster and promote free competitive enterprise, to avoid economic fluctuations or to diminish the effects thereof, and to maintain employment, production, and purchasing power;

(5) to make and furnish such studies, reports thereon, and recommendations with respect to matters of Federal economic policy and legislation as the President may request.

(d) The Council shall make an annual report to the President in December of each year.

(e) In existing powers, functions and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such representatives of industry, agriculture, labor, consumers, State and local governments, and other groups, as it deems advisable;

(2) the Council shall, to the fullest extent possible utilize the services, facilities, and information (including statistical information) of other Government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided.

(f) To enable the Council to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated (except for the salaries of the members and the salaries of officers and employees of the Council) such sums as may be necessary. For the salaries of the members and the salaries of officers and employees of the Council, there is authorized to be appropriated not exceeding \$345,000 in the aggregate for each fiscal year.

#### JOINT COMMITTEE ON THE ECONOMIC REPORT

SEC. 5. (a) There is hereby established a Joint Committee on the Economic Report, to be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and House of Representatives.

(b) It shall be the function of the joint committee—

(1) to make a continuing study of matters relating to the Economic Report;

(2) to study means of coordinating programs in order to further the policy of this Act; and

(3) as a guide to the several committees of the Congress dealing with legislation relating to the Economic Report, not later than May 1 of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.

(c) Vacancies in the Membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

(d) The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearing as it deems advisable, and, within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants, to procure such printing and binding, and to make such expenditures, as it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words. The joint committee is authorized to utilize the services, information, and facilities of the departments and establishments of the Government, and also of private research agencies.

(e) There is hereby authorized to be appropriated for each fiscal year, the sum of \$50,000, or so much thereof as may be necessary, to carry out the provisions of this section, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman or vice chairman.

*Approved February 20, 1946.*

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**SCOREKEEPING GUIDELINES**

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## SCOREKEEPING GUIDELINES

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These budget scorekeeping guidelines are used by the House and Senate Budget Committees, the Congressional Budget Office, and the Office of Management and Budget (the “scorekeepers”) in measuring compliance with the Congressional Budget Act of 1974, as amended; the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended; and the Statutory Pay-As-You-Go Act of 2010 (S-Paygo). The purpose of the guidelines is to ensure that the scorekeepers measure the effects of legislation on the deficit consistent with established scorekeeping conventions and with the specific requirements in those Acts regarding discretionary spending, direct spending, and receipts. These rules are reviewed annually by the scorekeepers and revised as necessary to adhere to the purpose. They cannot be changed unless all of the scorekeepers agree. New accounts or activities are classified only after consultation among the scorekeepers. Accounts and activities cannot be reclassified unless all of the scorekeepers agree. The scorekeeping guidelines have not been revised to reflect the impact of S-Paygo, especially as it relates to rule 3 and BBEDCA, as amended.<sup>449</sup>

### *1. Classifications of Appropriations*

A list of appropriations that are normally enacted in appropriations acts is included in the conference report of the Balanced Budget Act of 1997,<sup>450</sup> House Report 105-217, pages 1014-1053.<sup>451</sup> The list identifies appropriated entitlements and other mandatory spending in appropriations acts, and it identifies discretionary appropriations by category.

### *2. Outlays prior*

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

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<sup>449</sup> OMB added this caveat in the July 21, 2010 update to A-11.

<sup>450</sup> The list was originally included in the Joint Explanatory Statement of Managers of the Conference Report on the Balanced Budget Act of 1997 (Pub. L. 105-33).

<sup>451</sup> OMB modified the text from the actual rule to reflect the fact that the A-11 guidelines do not include a list of appropriations.

### ***3. Direct spending programs***

Revenues,<sup>452</sup> entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels as defined in section 257 of BBEDCA,<sup>453</sup> unless Congressional action modifies the authorization legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate. For the purpose of CBA<sup>454</sup> scoring, direct spending savings that are included in both an appropriations bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriations bill. For scoring under sections 251 or 252 of BBEDCA, such provisions will be scored to the first bill enacted.

### ***4. Transfer of budget authority from a mandatory account to a discretionary account***

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory.

### ***5. Permissive transfer authority***

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of executive or congressional intent.

This guideline will apply both to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) and general transfer authority.

### ***6. Reappropriations***

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

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<sup>452</sup> Scorekeepers agreed to add the term “revenues” at the November, 2014 scorekeepers meeting.

<sup>453</sup> BBEDCA refers to the Balanced Budget and Emergency Deficit Control Act of 1985 (“GRH” is used in the original 1997 references to this law).

<sup>454</sup> “CBA” refers to the Congressional Budget Act of 1974.

### ***7. Advance appropriations***

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

### ***8. Rescissions and transfers of unobligated balances***

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the account from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amounts in the source accounts. For purposes of section 257 of GRH,<sup>455</sup> such amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

### ***9. Delay of obligations***

Appropriations acts specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the act is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended.

### ***10. Contingent legislation***

If the authority to obligate is contingent upon the enactment of a subsequent appropriation, new budget authority and

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<sup>455</sup> This change was made in the October 1997 revision to A-11.



outlays will be scored with the subsequent appropriation. If a discretionary appropriation is contingent on the enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If a discretionary appropriation is contingent on the fulfillment of some action by the Executive Branch or some other event normally estimated, new budget authority will be scored with the appropriation and outlays will be estimated based on the best information about when (or if) the contingency will be met. If direct spending legislation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority and outlays will be scored based on the best information about when (or if) the contingency will be met. Non-law making contingencies within the control of the Congress are not scoreable events.

### ***11. Scoring purchases***

When a law provides the authority for an agency to enter into a contract for the purchase, lease-purchase, or lease of an asset, budget authority and outlays will be scored as follows:

For lease-purchases and capital leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount of the estimated net present value of the Government's total estimated legal obligations over the life of the contract, except for imputed interest costs calculated at Treasury rates for marketable debt instruments of similar maturity to the lease period and identifiable annual operating expenses that would be paid by the Government as owner (such as utilities, maintenance, and insurance). Property taxes will not be considered to be an operating cost. Imputed interest costs will be classified as mandatory and will not be scored against the legislation or for current level but will count for other purposes.<sup>456</sup>

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<sup>456</sup> OMB memorandum dated September 11, 1997 suggests that the scorekeepers agreed to the following rewording for the second paragraph of the lease-purchase rule but that change did not make it into the final version of the rule or into the A-11 revisions even though OMB indicated that these changes would be reflected in the A-11 revisions published in October 1997:

For lease-purchases and capital leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount of the estimated net present value of the Government's total estimated legal obligations over the life of the contract excluding obligations for identifiable annual operating expenses that would be paid by the Government as owner (such as utilities, maintenance, and insurance). Property taxes will not be considered to be an operating cost. The difference between the total estimated legal obligations (excluding obligations for annual operating expenses) and their estimated net present value represents im-

For operating leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount necessary to cover the Government's legal obligations. The amount scored will include the estimated total payments expected to arise under the full term of a lease contract or, if the contract will include a cancellation clause, an amount sufficient to cover the lease payments for the first fiscal year during which the contract is in effect, plus an amount sufficient to cover the costs associated with cancellation of the contract. For funds that are self-insuring under existing authority, only budget authority to cover the annual lease payment is required to be scored.

Outlays for a lease-purchase in which the Federal government assumes substantial risk (for example, through an explicit Government guarantee of third party financing) will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for an operating lease, a capital lease, or a lease-purchase in which the private sector retains substantial risk, will be spread across the lease period. In all cases, the total amount of outlays scored over time against legislation will equal the amount of budget authority scored against that legislation.

No special rules apply to scoring purchases of assets (whether the asset is existing or is to be manufactured or constructed). Budget authority is scored in the year in which the authority to purchase is first made available in the amount of the Government's estimated legal obligations. Outlays scored will equal the estimated disbursements by the Government based on the particular purchase arrangement, and over time will equal the amount of budget authority scored against that legislation.

Existing contracts will not be rescored.

To distinguish lease purchases and capital leases from operating leases, the following criteria will be used for defining an operating lease:

- Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease period.

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puted interest costs. Imputed interest costs will be calculated at Treasury rates for marketable debt instruments of similar maturity to the lease period, will be classified as mandatory and will not be scored against the legislation or for current level but will count for other purposes.

- The lease does not contain a bargain-price purchase option.
- The lease term does not exceed 75 percent of the estimated economic lifetime of the asset.
- The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the inception of the lease.
- The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to unique specification for the Government as lessee.
- There is a private-sector market for the asset.

Risks of ownership of the asset should remain with the lessor. Risk is defined in terms of how governmental in nature the project is. If a project is less governmental in nature, the private sector risk is considered to be higher. To evaluate the level of private-sector risk associated with a lease-purchase, legislation and lease-purchase contracts will be considered against the following type of illustrative criteria, which indicate ways in which the project is less governmental:

There should be no provision of Government financing and no explicit Government guarantee of third party financing:

- Risks of ownership of the asset should remain with the lessor unless the Government was at fault for such losses.
- The asset should be a general purpose asset rather than for a special purpose of the Government and should not be built to unique specification for the Government as lessee.
- There should be a private-sector market for the asset.
- The project should not be constructed on Government land.

Language that attempts to waive the Antideficiency Act, or to limit the amount or timing of obligations recorded, does not change the Government's obligations or obligational authority, and so will not affect the scoring of budget authority or outlays.

Unless language that authorizes a project clearly states that no obligations are allowed unless budget authority is provided specifically for that project in an appropriations bill in advance of the obligation, the legislation will be interpreted as providing obligation authority, in an amount to be estimated by the scorekeepers.

***12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments***

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., write-offs of cumulative balances that have built up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routing process shall be netted against outlays in the year in which the write off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

***13. Reclassification after an agreement***

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification or scoring of spending and revenues (e.g., from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

***14. Scoring of receipt increases or direct spending reductions for additional administration or program management expenses***

No increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administration or program management activities.<sup>457</sup>

***15. Asset sales***

If the net financial cost to the Government of an asset sale is zero or negative (a savings), the amount scored shall be the estimated change in receipts and mandatory outlays in each fiscal year on a cash basis.

If the cost to the Government is positive (a loss), the proceeds from the sale shall not be scored for the purposes of the CBA or GRH.

The net financial cost to the Federal government of an asset

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<sup>457</sup> The effect of this provision is to limit the use of increases in administrative in order to claim corresponding savings through greater efficiencies or oversight in direct spending programs. Compare program integrity discretionary spending adjustments that are designed to encourage greater oversight spending in order to increase efficiencies in direct spending programs. See 250(b) of BBEDCA.

sale shall be the net present value of the cash flows from:

- (1) estimated proceeds from the asset sale;
- (2) the net effect on Federal revenues, if any, based on special tax treatments specified in the legislation;
- (3) the loss of future offsetting receipts that would otherwise be collected under continued Government ownership (using baseline levels for the projection period and estimated levels thereafter); and
- (4) changes in future spending, both discretionary and mandatory, from levels that would otherwise occur under continued Government ownership (using baseline levels for the projection period and at levels estimated to be necessary to operate and maintain the asset thereafter).

The discount rate used to estimate the net present value shall be the average interest rate on marketable Treasury securities of similar maturity to the expected remaining useful life of the asset for which the estimate is being made, plus 2 percentage points to reflect the Government.

***16. Indefinite borrowing authority and limits on outstanding debt***

If legislation imposes or changes a limit on outstanding debt for an account financed by indefinite budget authority in the form of borrowing authority, the legislation will be scored as changing budget authority only if and to the extent the imposition of a limit or the change in the existing limit alters the estimated amount of obligations that will be incurred.

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**APPROPRIATED ENTITLEMENTS AND MANDATORIES**

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# APPROPRIATED ENTITLEMENTS AND OTHER MANDATORIES

## AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES

ACCOUNT TITLE	TAFS <sup>458</sup>	OMB ACCOUNT	COMMENT
DEPARTMENT OF AGRICULTURE (USDA)			
Child Nutrition Programs	12-3539	005-84-3539	Authorized by 42 U.S.C. 1771 et seq. This fund was created to extend, expand, and strengthen the School Lunch Program by enabling the Secretary of Agriculture to encourage the domestic consumption of agricultural and other foods, by assisting States through grants in-aid and other means, to meet more effectively the nutritional needs of our children.
Commodity Credit Corporation Fund	12-4336	005-49-4336	Authorized by 15 U.S.C. 713a-11, the fund is used to reimburse the Commodity Credit Corporation (CCC) for its net realized loss incurred during such fiscal year. The CCC is a government-owned and operated entity created to stabilize, support, and protect farm income and prices.
Funds for Strengthening Markets, Income and Supply (Section 32)	12-5209	005-45-5209	Authorized by 7 U.S.C. 612(c), this fund enables the Secretary of Agriculture to encourage exportation of agricultural commodities and products, encourage the domestic consumption of such commodities or products, and reestablish farmers' purchasing power.

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<sup>458</sup> TAFS is an acronym for "Treasury Appropriation Fund Symbol" used by the Office of Management and Budget for the preparation of the A-11 Circular. It "combines the Treasury agency or department code, the Federal account symbol, and the period of availability of the resources in the account." (OMB Circular No. A-11 (2015))



**AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG  
ADMINISTRATION AND RELATED AGENCIES**

(CONTINUED)

ACCOUNT TITLE	TAFS <sup>459</sup>	OMB ACCOUNT	COMMENT
DEPARTMENT OF AGRICULTURE (USDA)			
(CONTINUED)			
Dairy Indemnity Program	12-3314	005-49-1140	<p>Authorized by 7 U.S.C. Chapter 76 (P.L.-90-484), this program has been extended several times; most recently via the Food, Conservation, and Energy Act of 2008 in P.L. 110-234 for authorization through 2012.</p> <p>It pays for programs designed to strengthen the dairy industry's position in the marketplace, to maintain and expand domestic and foreign markets and to expand on the uses for fluid milk and dairy products.</p>
Supplemental Nutrition Assistance Program	12-3505	005-84-3505	<p>Authorized by 7 U.S.C. Chapter 51, this fund, used to be known as the Food Stamp program, pays for programs designed to raise the levels of nutrition among low-income households.<sup>460</sup></p>
Federal Crop Insurance Corporation Fund	12-4085	006-48-4313	<p>Authorized by 7 U.S.C. Chapter 36, the Federal Crop Insurance Act, this fund pays for programs that promote national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for research and experience helpful in devising and establishing such insurance.<sup>461</sup></p>

<sup>459</sup> TAFS is an acronym for "Treasury Appropriation Fund Symbol" used by the Office of Management and Budget for the preparation of the A-11 Circular, which provides essential information related to the Federal Budget process.

<sup>460</sup> Note from OMB: The appropriation language designating this program as mandatory was due to expire in 2012.

<sup>461</sup> Note from OMB: Only a portion of this fund is considered mandatory.

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**COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES**

<b>ACCOUNT TITLE</b>	<b>TAFS</b>	<b>OMB ACCOUNT</b>	<b>COMMENT</b>
DEPARTMENT OF COMMERCE			
Coastal Zone Management Fund	13-4313	006-48-4313	Pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), this fund consists of loan repayments from the former Coastal Energy Impact Program. Loans under this program were made prior to 1992. <sup>462</sup>

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<sup>462</sup> Note from OMB: Despite its establishment, the balances were not transferred to the General Fund in accordance with the Federal Credit Reform Act of 1990 (FCRA), even though the account effectively serves as a liquidating account. To resolve this inconsistency, the Budget Appendix (of the President's Budget) shows a proposal to cancel all balances in the Coastal Zone Management Fund, make future payments to the Fund subject to FCRA, and eliminate the annual transfer from this account to the Operations, Research, and Facilities account.

**COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES**  
(CONTINUED)

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF JUSTICE			
Fees and Expenses of Witnesses	15-0311	011-05-0311	Authorized by 28 U.S.C. 530(c), this fund is used for expenses, mileage, compensation, protection and per diem in lieu of subsistence, of witnesses; fees and expenses of neutrals in alternative dispute resolution proceedings, where the DOJ is a party; and construction of protected witness safe sites.
Independent Counsel	15-0327	011-05-0327	Authorized by 28 U.S.C. 591 note, this fund was created as permanent appropriation for independent and special counsel activities.
Public Safety Officer Benefits	15-0403	316-00-3400	Authorized by 42 U.S.C. 3796, this fund is used to enhance the appeal of service in public safety agencies; to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death of or total disability of an eligible officer, may not be able to afford it otherwise; and to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

## DEFENSE

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
CENTRAL INTELLIGENCE AGENCY			
Central Intelligence Agency Retirement and Disability System	56-3400	316-00-3400	Authorized by 50 U.S.C. Chap- ter 38, this account pays for retirement and disability bene- fits of CIA officers who meet the stated requirements.

## FINANCIAL SERVICES AND GENERAL GOVERNMENT

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF TREASURY			
Administering the Public Debt	20-0560	015-12-0520	Established by the Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101-509, 104 Stat. 1394), this account enables the Bureau of the Public Debt to reimburse the Federal Reserve Banks for acting as fiscal agents of the Federal Government in support of financing the public debt.  This program was listed as footnote 10 in 1997 list of ap- propriated entitlements and mandatory programs.
Payment of Government Losses in Shipment	20-1710	015-12-1710	Authorized by 40 U.S.C. Section 17303, this account was created as self-insurance to cover losses in shipment of Government property such as coins, curren- cy, securities, certain losses incurred by the Postal Service, and losses in connection with the redemption of savings bonds.  Approximately 1,100 claims are paid annually.
EXECUTIVE OFFICE OF THE PRESIDENT			
Compensation of the President	11-0001	100-05-0209	Authorized by 3 U.S.C. 102.  This fund pays the President's salary.

**FINANCIAL SERVICES AND GENERAL GOVERNMENT  
(CONTINUED)**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
JUDICIAL BRANCH			
Salaries and Expenses	10-0920	002-25-0920	Authorized by law, this account pays for the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, necessary expenses of the courts, and the purchase, rental, repair, and cleaning of uniforms for Probation and Pre-trial Services Office staff.
Payment to judiciary trust funds	10-0941	002-35-0941	Authorized by 28 U.S.C. 377(o); 28 U.S.C. 376(c); and 28 U.S.C. 178(l), this account pays for the benefits and annuity of judges and their survivors who meet specific requirements.
Salaries and Expenses	10-0100	002-05-0100	Authorized by 31 U.S.C. 1343 and 1344, this account pays for expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, and hiring of passenger motor vehicles for the use of agencies and select officials.

**FINANCIAL SERVICES AND GENERAL GOVERNMENT  
(CONTINUED)**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
<b>JUDICIAL BRANCH (CONTINUED)</b>			
Salaries and Expenses	10-0510	002-07-0510	Authorized by P.L. 105-339 (51021) October 31, 1998, Veterans Employment Opportunities Act of 1998, this account pays for salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the Federal Circuit court, as authorized by law. The United States Court of Appeals for the Federal Circuit, located in Washington, D. C., has exclusive nationwide jurisdiction over a large number of diverse subject areas, such as appeals in all patent cases, all government contract cases, all international trade cases, all government contract cases, all government personnel cases, all cases involving monetary claims against the United States under the Tucker Acts, veterans cases, and many others. Additional subject areas have been added to this court's jurisdiction almost yearly.

**FINANCIAL SERVICES AND GENERAL GOVERNMENT  
(CONTINUED)**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
<b>OFFICE OF PERSONNEL MANAGEMENT</b>			
Government payment for annuitants, employee life insurance	24-0500	027-00-0500	Authorized by 5 U.S.C. Chapter 87, this fund provides for the life insurance benefits of government employees.
Government payment for annuitants, employees health benefits	24-0206	027-00-0206	Authorized by 5 U.S.C. Chapter 89, this fund is used to deliver health benefits to government employees.
Salaries and Expenses	10-0400	002-15-0400	Established under Article III of the United States Constitution, and created by 94 Stat. 1727; P.L. 96-417, the United States Court of International Trade was the successor to the former United States Customs Court. The court has original and exclusive jurisdiction of civil actions against the United States, its agencies and officers, and certain civil actions brought by the United States, arising out of import transactions and Federal statutes affecting customs and international trade. This account pays for the salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services, and necessary expenses of the court.



**FINANCIAL SERVICES AND GENERAL GOVERNMENT**  
(CONTINUED)

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
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**OFFICE OF PERSONNEL MANAGEMENT**  
(CONTINUED)

Payment to civil service retirement and disability fund	24-0200	027-00-0200	Authorized by to 33 U.S.C. 771-6, this account funds the benefits for surviving spouses of Lighthouse Service employees.
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**FEDERAL DEPOSIT INSURANCE CORPORATION**

FSLIC Resolution fund	51-4065	357-30-4065	<p>Authorized by 12 U.S.C. 1821a, FSLIC (Federal Savings and Loan Insurance Corporation) was established in 1988 when the FSLIC faced massive thrift failures with little cash.</p> <p>The corporation shut down hundreds of sick thrifts by issuing notes promising to pay acquirers for losses on assets.</p> <p>The fund was established to carry out on these past commitments. The fund is still making these payments today, but its balance is less than \$1 million.</p>
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**HOMELAND SECURITY**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF HOMELAND SECURITY			
Retired Pay	70-0602	024-60-0602	<p>This fund is used to make payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under 10 U.S.C. Chapter 55.</p> <p>The 1997 Joint Statement listed the TAFS for this account as: 69-0241.</p>
Maritime Oil Spill Programs	70-8349	024-60-0602	<p>This account provides resources from the Oil Spill Liability Trust Fund for costs associated with the cleanup of oil spills.</p> <p>These include emergency costs associated with oil spill cleanup, the Prince William Sound Oil Spill Recovery Institute, and the payment of claims to those who suffer harm from oil spills where the responsible party is not identifiable or is without resources.</p> <p>The program activities in this account will continue to be funded under separate permanent appropriations, and are being displayed in a consolidated format to enhance presentation.</p>

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**INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

<b>ACCOUNT TITLE</b>	<b>TAFS</b>	<b>OMB ACCOUNT</b>	<b>COMMENT</b>
<b>DEPARTMENT OF THE INTERIOR</b>			
Miscellaneous Trust Funds	14-9971	010-04-9971	Pursuant to Section 307 of the Federal Land Policy and Management Act (43 U.S.C. 1701), this fund was established to be used as advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.
Range Improvements	14-5132	010-04-5132	Pursuant to 43 U.S.C. 1701 and 43 U.S.C. 315 et seq., this fund collects a portion of the money associated with grazing fees to use for the maintenance of range improvements within grazing districts.
Assistance to Territories	14-0412	010-85-0412	Authorized by law 48 U.S.C. 1661 (c) and P.L. 94-241, funds from this account are transferred to the Northern Mariana Islands, as required by the covenant to establish the Islands in Political Union with the U.S.
Compact of Free Association	14-0415	010-85-0415	Authorized by 48 U.S.C. Chapter 18 Subchapter II, this fund is used to aid the Government of Palau, pursuant to the compact between the U.S. and the Government of Palau.

**LABOR, HEALTH AND HUMAN SERVICES, EDUCATION  
AND RELATED AGENCIES**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF EDUCATION			
Rehabilitation services and disability research	91-0301	018-20-0301	This fund is used to carry out, to the extent not otherwise provided, the Rehabilitation Act of 1973 (P.L.93--112), the Assistive Technology Act of 1998 (P.L. 108-364), and the Helen Keller National Center Act.
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Payments to States for Child Support Enforcement and Family Support	75-1501	009-70-1501	Authorized under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. Chapter 9: Hospitalization of mentally ill nationals returned from foreign countries), this fund is used to pay States or other non-Federal entities to help provide services for the Aged, Blind, Disabled, Children, General provisions, peer review and admin simplification under the Social Security Act, as well as for the hospitalization of mentally ill nationals who returned from foreign countries.
Payments for Foster Care and Permanency	75-1545	009-70-1545	Authorized to make payments to States or other non-Federal entities under title IV-E of the Social Security Act, section 474, this fund is used to support States in their payments for Foster Care and Adoption Assistance.

**LABOR, HEALTH AND HUMAN SERVICES, EDUCATION  
AND RELATED AGENCIES**  
(CONTINUED)

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
(CONTINUED)

Social Services Block Grant	75-1534	009-70-1534	Pursuant to section 2002 of the Social Security Act (42 U.S.C. 1397a), this fund provides services related to: child care, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts.
Promoting Safe and Stable Families  (CBO Account Title: Supporting Healthy Families and Adolescent Development)	75-1512	009-70-1512	Authorized to carry out of sections 436 and 437 of the Social Security Act, this fund holds the reserves to support: evaluation, research, training and technical assistance; state court improvements; Indian tribes or tribal consortia; monthly caseworker visits; regional partnership grants; and children affected by Meth or other substance abuse. This program provides funds for a broad range of child welfare services, including family preservation and family support services. Additionally, this account includes funding for the Personal Responsibility Education Program (PREP) and Abstinence Education which were made available by the Patient Protection and Affordable Care Act (P.L. 111-148 Section 2953).

**LABOR, HEALTH AND HUMAN SERVICES, EDUCATION  
AND RELATED AGENCIES  
(CONTINUED)**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
(CONTINUED)**

Grants to States for Medicaid	75-0512	009-38-0512	Authorized by titles XI and XIX of the Social Security Act, this fund provides for grants to states for medical assistance programs and general provisions, peer review and administrative simplification.
Payments to Health Care Trust Funds	75-0580	009-38-0580	Authorized by sections 217(g), 1844, and 1860D-16 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965 (P.L. 89-97), section 278(d) of P.L. 97-248 to cover payment to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and administrative expenses incurred pursuant to section 201(g) of the Social Security Act.  The trust funds associated with these accounts relate to Benefits for Veterans, government contributions and contingency reserves, supplemental medical insurance benefits for the Aged and Disabled, the Medicare Prescription Drug Benefits, Federal Disability Insurance, Medicare coverage and the coverage of uninsured individuals for hospital insurance benefits.
Medical Facilities Guarantee and Loan Fund	75-4430	009-15-9931	Titles VI and XVI of the Public Health Service Act (42 U.S.C. Chapter 6A Subchapter IV) established a loan and loan guarantee fund for medical facilities with a maximum amount allowable for the Government's liability. Direct loans were made available for public facilities and guaranteed loans for private, nonprofit facilities.

**LABOR, HEALTH AND HUMAN SERVICES, EDUCATION  
AND RELATED AGENCIES  
(CONTINUED)**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
(CONTINUED)**

Vaccine Injury Compensation Program Trust Fund	20-8175	009-15-8175	Pursuant to P.L. 99-660 and P.L. 100-203, and 26 U.S.C. 9510, this account pays for compensation under the public Health Service Act (as in effect on October 18, 2000, captured in 42 U.S.C. Chapter 6A, Subchapter XIX) for vaccine-related injury or death with respect to any vaccine.
Vaccine Injury Compensation	75-0320	009-15-0320	
Health Resources and Services	75-0350	009-15-0350	
Retirement Pay and Medical Benefits for Commissioned Officers	75-0379	009-91-0379	Authorized by law under the Dependents' Medical Care Act (P.L. 84-569), 10 U.S.C. Chapter 55, this account pays for programs designed to provide improved and uniform medical service for dependents of members of the uniformed services and thereby enhance the morale of service personnel.
Medical Facilities Guarantee and Loan Fund	75-9931	009-15-9931	

**DEPARTMENT OF LABOR**

Federal Unemployment Benefits and Allowances	16-0326	012-05-0326	Authorized by 19 U.S.C. Chapter 12 Subchapter II Part 2 Subpart A (19 U.S.C. 2291), this fund is used to pay for unemployment benefits.
Special Benefits	16-1521	012-15-1521	Authorized by 5 U.S.C. Chapter 81, this fund is used to pay benefits to employees who have been injured on the job.

**LABOR, HEALTH AND HUMAN SERVICES, EDUCATION  
AND RELATED AGENCIES  
(CONTINUED)**

**DEPARTMENT OF LABOR  
(CONTINUED)**

Advances to the Unemployment Trust Fund and Other Funds	16-0327	012-05-0327	Pursuant to sections 905 (d) and 1203 of the Social Security Act, this fund is used to pay the Black Lung Disability Trust Fund of section 9501 (c) (1) of the Internal Revenue Code of 1954, and for nonrepayable advances to the Unemployment Trust Fund as authorized in 5 U.S.C. 8509.
Black Lung Disability Trust Fund	16-8144	012-15-8144	Authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, this account pays for all claims of miners of their survivors in which the miner's last coal mine employment was before January 1, 1970. The fund remains available until expended.

**SOCIAL SECURITY ADMINISTRATION**

Special Benefits for Disabled Coal Miners	16-0169	012-15-0169	Authorized by Title IV of the Federal Mine Safety and Health Act (P.L. 91-173), this account pays for the benefits associated with the authorizing legislation.  The 1997 Joint Statement listed the TAFS for this account as: 28-0409.
Payments to Social Security Trust Funds	28-0404	016-00-0404	For payment to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act.
Supplemental Security Income Program	28-0406	016-00-0406	Authorized by Titles XI and XVI of the Social Security Act, section 401 of P.L. 92-603, section 212 of P.L. 93-66, amended, section 405 of P.L. 95-216.



## LEGISLATIVE BRANCH

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
Compensation of Members and Related Administrative Expenses	00-0200	001-10-0200	Authorized by 2 U.S.C. 38 and P.L. 104-186, this account dictates the annual compensation of the members of the House of Representatives.
Payments to Widows and Heirs of Deceased Members of Congress, House	00-0215	001-10-0200	As authorized by 2 U.S.C. 38a, payment of unpaid salary is disbursed in to the beneficiary or beneficiaries of the Member.  It has also been the typical practice of the House to provide a death gratuity, equal to the Member's annual salary, payable to the deceased Member's widow or widower, or children, either in the annual legislative branch appropriations act or a measure providing supplemental funds for the legislative branch. <sup>463</sup>
Compensation of Members, Senate	00-0100	001-05-0100	Authorized by 2 U.S.C. 38 and P.L. 104-186, this account dictates the annual compensation of the members of the Senate.

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<sup>463</sup> From OMB: (Source: Cannon, Cannon's Precedents, vol. VI, p. 380; and Lewis Deschler, Deschler's Precedents of the United States House of Representatives, vol. II, H.Doc. 94-661, 94th Cong., 2nd sess. (Washington: GPO, 1977), p. 52.)

**LEGISLATIVE BRANCH**  
(CONTINUED)

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
Payments to widows and heirs of deceased members of Congress, Senate	00-0115	001-05-9911	<p>Authorized by 2 U.S.C. 38 and P.L. 104-186, this account dictates the annual compensation of the members of the Senate.</p> <p>It has also been the typical practice of the House to provide a death gratuity, equal to the Senator's annual salary, payable to the deceased Senator's widow or widower, or children, either in the annual legislative branch appropriations act or a measure providing supplemental funds for the legislative branch.<sup>464</sup></p>

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<sup>464</sup> From OMB: (Source: Cannon, Cannon's Precedents, vol. VI, p. 380; and Lewis Deschler, Deschler's Precedents of the United States House of Representatives, vol. II, H.Doc. 94-661, 94th Cong., 2nd sess. (Washington: GPO, 1977), p. 52.)

**MILITARY CONSTRUCTION, VETERANS AFFAIRS,  
AND RELATED AGENCIES**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF VETERANS AFFAIRS			
Compensation and Pensions	36-0102	029-25-0102	<p>Authorized by 38 U.S.C. 107, chapters 11, 13, 51, 53, 55 and 61, 92 Stat. 2508 and Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (replaced by Service Members' Civil Relief Act in 2004, P.L. 108-189); and other benefits authorized by 38 U.S.C. 107, 412, 777, and 806, Chapters 23, 51,53,55 and 61, 50 U.S.C. App. 540-548, 43 Stat. 122, 123; 45 Stat 735; 76 Stat. 1198.</p> <p>Pursuant of the 1997 Joint Statement, this account consolidated the VA Compensation (36-0153) with VA Benefits (36-0154) accounts.</p>
Veterans Housing Benefit Program Fund	36-0138	029-25-1119	<p>Pursuant to P.L. 105-368 in 1998, this account consists of the consolidation of the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund. Both these funds were authorized to pay for the cost of direct and guaranteed loans used to carry out the Veterans Housing Program.</p> <p>This account used to be known as the Housing Program Account. The 1997 Joint Statement listed the TAFS for this account as: 36-0138.</p>
Readjustment Benefits	36-0137	029-25-0137	<p>Authorized by 38 U.S.C. Chapter 30, this fund is used to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service.</p>

**MILITARY CONSTRUCTION, VETERANS AFFAIRS,  
AND RELATED AGENCIES**  
(CONTINUED)

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF VETERANS AFFAIRS (CONTINUED)			
Veterans Insurance and Indemnities	36-0120	029-25-0120	Authorized by 38 U.S.C. Chapter 19, this account pays the annuities of beneficiaries of life insurance that meets the requirements stated in the authorizing law.

## STATE, FOREIGN OPERATIONS AND RELATED PROGRAMS

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
DEPARTMENT OF STATE			
Payment to Foreign Service Retirement and Disability Fund	19-0540	014-05-0540	Authorized by 22 U.S.C. Chapter 52 Subchapter VIII, the fund makes disbursements attributable to liability from military service, the Foreign Service Pension System, and unfunded interest of the Foreign Service Retirement and Disability System.  This program has been considered an appropriated entitlement and mandatory program since 1997 and has not seen a change in status since.
AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID)			
Payment to the Foreign Service Retirement and Disability Fund (AID)	72-1036	184-15-1036	Authorized by Foreign Service Act of 1980 (P.L.96-465), this fund provides for the pension benefits of those who have been in the Foreign Service and meets the requirements of the law.

**ACCOUNTS IN THE BALANCED BUDGET ACT OF 1997  
LIST THAT APPEAR TO BE INACTIVE  
OR WERE RECLASSIFIED**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
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**COMMERCE, JUSTICE, SCIENCE AND RELATED AGENCIES**

DEPARTMENT OF JUSTICE

Civil Liberties public education fund	15-0329		Authorized in the Civil Liberties Act of 1988 (P.L. 100-383 Sec. 104d), it was terminated either by 1998 or by running out of its appropriated fund limit.
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**FINANCIAL SERVICES AND GENERAL GOVERNMENT**

DEPARTMENT OF THE TREASURY

Payments to DC financial respon- sibility and management assistance au- thority	20-1702		Established in 1995 by P.L. 104-8 to help D.C. out of its climbing debts, this account was suspended in 2001 after several years of D.C. having a balanced budget.
Payments to the farm credit sys- tem financial assistance corpo- ration	20-1850		Established in the late 1980s via 12 U.S.C. 2278b to help financially stressed System institutions through the issuance of bonds, this account's authority to issue bonds terminated in 1992, but the bonds it issued had maturities of 15 years from the issued date.  As a result, all bonds issued have been called or have matured, with the last bond maturing in June 2005, which was why the Federal Regulator (FCA) cancelled the fund's charter as of December 31, 2006.

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
<b>FINANCIAL SERVICES AND GENERAL GOVERNMENT (CONTINUED)</b>			
UNITED STATES POSTAL SERVICE			
Payment to the postal service fund for non-funded liabilities	18-1004		This payment was made to the U.S. Postal Service to meet the liabilities of the former Post Office Dept. to the Employees' Compensation Fund. Effective Oct. 1st, 1997, through P.L. 105-33 Section 7001, the Balanced Budget Act of 1997, these liabilities became liabilities of the U.S. Postal Service payable out of the Postal Service Fund. Hence, this account no longer exists.
<b>LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES</b>			
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Job Opportunities and Basic Skills	75-1509		Originally authorized by the part F of Title IV of the Social Security Act, 42 U.S.C. 402 (a)(19), but according to 42 U.S.C. Chapter 7 Subchapter 4--this program was repealed.
HMO loan and loan guarantee fund	75-4420		According to HHS's CMS Financial Report in 2004, this account was closed.
<b>MILITARY CONSTRUCTION, VETERANS AFFAIRS, AND RELATED AGENCIES</b>			
DEPARTMENT OF VETERANS AFFAIRS			
VA Burial benefits and miscellaneous assistance	36-0455		According to the Senate Report 105-53, this program is now funded through VA's Compensation and Benefits account (TAFS 36-0102) so it no longer exists.

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
<b>TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES</b>			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
FHA-Mutual Mortgage Insurance Program Account	86-0183		<p>Reclassified as discretionary pursuant of agreement found in the Scorekeepers' notes on Feb. 12th, 2001. This change was brought about through a discussion of the Ginnie Mae (GNMA) receipts, which result from similar authorities as FHA's Mutual Mortgage Insurance Program (FHA-MMI) but GNMA was classified as Discretionary.</p> <p>Instead of reclassifying GNMA as mandatory, the scorekeepers reclassified the FHA-MMI fund as discretionary.</p>



**POTENTIAL ADDITIONS ENACTED AFTER THE  
BALANCED BUDGET ACT OF 1997**

ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
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**INTERIOR, ENVIRONMENT, AND RELATED AGENCIES**

DEPARTMENT OF THE INTERIOR

Payments in Lieu of Taxes	14-1114	010-95-1114	Section 403 of P.L. 110-343, the Emergency Economic Stabilization Act of 2008, amended 31 U.S.C. Chapter 69 to direct that the spending be treated as if it was an appropriated entitlement and mandatory program from 2008-2012. Mandatory spending was extended through 2014.
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**LABOR, HEALTH AND HUMAN SERVICES,  
EDUCATION, AND RELATED AGENCIES**

DEPARTMENT OF LABOR

Administrative Expenses, Energy Employees Occupational Illness Compensation Act	16-1524	012-15-1524	<p>Authorized by the Energy Occupational Illness Compensation Program Act, 42 U.S.C. Chapter 84 Subchapter XVI, this fund pays for the compensation associated with its authorizing act.</p> <p>This is considered an appropriated mandatory program through directed scoring language that was included in Section 151(b) of the FY 2001 Appropriations bill for DOL (P.L. 106-554) until all appropriated money is spent.</p>
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ACCOUNT TITLE	TAFS	OMB ACCOUNT	COMMENT
<b>LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES (CONTINUED)</b>			
SOCIAL SECURITY ADMINISTRATION			
Special benefits for certain WWII Veterans	28-0401	016-00-0401	Pursuant to the provisions of title VIII of the Social Security Act as added by P.L. 106- 169, enacted December 14, 1999, this program pays for the monthly benefits of WWII starting after September 2000 (42 U.S.C. 1001-2).
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
CDC-wide Activities and Program Support	75-0943	009-20-0943	This was on a list prepared by the Congressional Budget Office.
<b>COMMERCE, JUSTICE, SCIENCE AND RELATED AGENCIES</b>			
DEPARTMENT OF JUSTICE			
United States Trustee System Fund	15-5073		This was on a list prepared by the Congressional Budget Office, but since it is interest earned on investments, OMB is uncertain as to how it should be classified.





