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CONGRESSIONAL BUDGET

The Congressional Budget and Impoundment Control Act of 1974 was enacted to establish a congressional budget process for the determination of national budget priorities, the appropriate level of total revenues, expenditures and debt for each year, and for legislation review of impoundments proposed by the President.

The Act created new instrumentalities to serve Congress: Budget Committees in the Senate and House and a Congressional Budget Office. The Act gives the committees three major assignments: (1) to report the concurrent resolutions on the budget each year, and reconciliation bills when appropriate (2) to study the effects of existing and proposed legislation on the budget, and (3) to oversee the operations of the Congressional Budget Office.

Titles III and IV of the Act set out timetables and limitations for the consideration of certain types of measures. To this end, the Act defines budget authority, outlays, and spending authority (including entitlement authority), and imposes restrictions on the timing of their consideration and the effect of their enactment. Budget authority means the authority provided by Federal law to incur financial obligations. Appropriations are the most common form of budget authority. Outlays are expenditures (and net lending of funds) made under budget authority. Spending authority is often referred to as "backdoor spending" because by definition budget authority for it is not provided in advance by appropriations acts. It includes the following: authority to enter into contracts that obligate the United States to make outlays; borrowing authority which makes the United States liable for indebtedness; and entitlement authority "to make payments (including loans and grants) . . . to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

The Budget Act changed the fiscal year from July 1 through June 30, to October 1 through September 30. The Act prescribes deadlines for the completion of various congressional actions which establish the budgetary framework for the upcoming fiscal year. At the beginning of the calendar year, the Budget Committees receive the President's proposed budget, and soon thereafter they receive from each standing committee recommendations on their expected expenditure requirements for the upcoming fiscal year, as well as testimony from Members of Congress, officials of the executive branch, and other appropriate persons concerning the need for Federal expenditures. From this information, the Budget Committees report to their respective Houses a "concurrent resolution on the budget."

This budget resolution must set forth the appropriate level of total outlays and new budget authority, outlays and budget authority for each major functional category of the Government, total revenues, the deficit or surplus in the budget, the

public debt for the next fiscal year and for purposes of Senate enforcement, Social Security outlays and revenues. In addition to these required provisions, the resolution may contain "reconciliation instructions," which are directions to one or more of the committees of the Senate (and their House counterparts) to recommend changes in laws, bills, or resolutions within their jurisdictions to achieve a specified amount of budgetary savings. A budget resolution may also include certain other debt and trust fund displays, set forth pay-as-you-go procedures, and "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."

By precedent, budget resolutions and reconciliation bills are privileged for consideration. Under the terms of the Budget Act, time for debate on these measures and amendments thereto is limited, and amendments must be germane. Flexibility is allowed during the amendment process to permit the consideration of certain amendments which might otherwise be out of order (as amending the measure in more than one place or amending language previously agreed to), as long as the amendment makes or maintains mathematical consistency in the measure. Additional restrictions are imposed on amendments to reconciliation bills to aid the goal of budgetary savings and to prevent the inclusion of extraneous provisions.

The joint explanatory statement accompanying the conference report on the budget resolution sets out allocations of budget authority and outlays to each committee that has jurisdiction over legislation that provides budget or spending authority. Upon the adoption of the conference report, the Appropriations Committee must subdivide its allocation among its subcommittees, and other committees receiving allocations must subdivide their allocations among their subcommittees or among programs within their jurisdictions. These allocations (known as "crosswalks") guide Congress in its subsequent consideration of measures that provide budget or spending authority.

Compliance with congressional budgetary discipline is enforced through several points of order at various stages of the budget cycle. For example, a point of order will lie against the consideration of any bill or resolution that provides new budget authority, new entitlement authority, new credit authority, increases or decreases in the public debt limit or increases or decreases in revenues for a fiscal year, until the concurrent resolution on the budget for that fiscal year has been agreed to. Another point of order will lie under the Act as amended in 1990 against proposals providing budget authority, credit authority or entitlement authority within the jurisdiction of the Senate Appropriations Committee until that committee has subdivided this allocation as required above; and still another point of order will lie against a proposal which breaches these subdivisions or the allocations to the full committee (other than the Appropriations Committee). Also, any bill, resolution or amendment that if enacted would cause the total levels of outlays or budget authority to be exceeded, or would cause the appropriate level of revenues to be less than that set out in the latest budget resolution, would be subject to a point of order.

The Budget Act has provisions for the control of backdoor spending. Under these provisions, consideration of any bill or resolution or amendment that provides new contract or borrowing authority is subject to a point of order unless such authority

is to be effective in the amounts and to the extent provided for in appropriation Acts. Likewise, the consideration of new entitlement authority is also subject to a series of controls. Entitlements may not be proposed for a fiscal year until after the budget resolution for that year has been adopted, nor may they be proposed to be effective before the beginning of the fiscal year that begins during the calendar year in which the measure was reported. In addition, an entitlement that caused a breach in the aggregate totals or subdivisions mentioned above would be subject to a point of order.

The provisions of titles III and IV of the Budget Act may be waived by motion. In some cases a super majority vote of three-fifths of the Senators duly chosen and sworn has been required for the adoption of such a waiver, or to overturn a ruling of the Chair.

Title X of the Act also sets out a procedure for the control of impoundments. Pursuant to the Act, the President must notify Congress whenever he proposes a rescission or deferral of funds. If Congress does not pass a rescission bill within 45 days of continuous session, the President must release all funds proposed for rescission. The President may defer funding within a particular fiscal year, subject to the enactment of a measure disapproving the deferral.

Since the enactment of this law, two unanimous consent agreements adopted by the Senate have expanded upon the budget process: Impoundment legislation, under the January 30, 1975, agreement as modified on April 11, 1986, is referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee. The Budget Committees are to report their views, if any, to the Appropriations Committee within 20 days following the referral of such legislation. The unanimous consent agreement of August 4, 1977, requires all legislation affecting the congressional budget process to be referred jointly to the Committees on the Budget and Governmental Affairs.

Under the Act, committees that receive reconciliation instructions in a budget resolution must submit their recommendations to the Budget Committee by a specified date. That committee must then report these recommendations to the Senate (without substantive change) in the form of a reconciliation bill. The bill is considered under a statutory limitation of debate, and therefore is not subject to extended debate. The Act requires that amendments be germane, and that they not jeopardize the cause of budgetary savings instructed by the budget resolution.

Beginning in the early 1980's the reconciliation process began to play an increasingly important role in the legislative schedule of the Congress. Since reconciliation bills are not subject to unlimited debate, they became attractive vehicles for the inclusion by certain committees of provisions of particular interest to the majority of that committee, despite the fact that those provisions were unrelated to the instructions to those committees. Before 1986, there was no point of order against language contained in a bill (as opposed to language offered as an amendment). Therefore this matter unrelated to the reconciliation instructions was not subject to any point of order. Growing concern over the inclusion by committees of this extraneous matter prompted the Senate during the 99th Congress to adopt a rule (originally set to expire on January 2, 1988, extended until September 30, 1992, and now a permanent part of the Budget Act) to curb this abusive practice. The rule, referred to as the "Byrd

Rule," was enacted as Title XX of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), and was amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509), and section 205 of The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Pub. L. 100-119). The rule was further modified, made permanent, and codified as section 313 of the Budget Act by the Budget Enforcement Act of 1990 (title XIII of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508).

The rule as amended authorizes a point of order against any part of a title or provision of a reconciliation bill that contains material extraneous to the instructions to a given committee, and further prohibits the consideration of such material in amendments from the floor. The rule enumerates as "extraneous" provisions with no budgetary effect, provisions that lose revenues or increase spending if reported by a committee whose recommendations as a whole fail to achieve the requisite savings, provisions within the jurisdiction of another committee, provisions whose budgetary savings are merely incidental to the nonbudgetary aspects of the provision, and provisions that lose revenues or increase spending in a future year in excess of other savings in that future year. A vote of three-fifths of the Senators duly chosen and sworn is required to waive the rule or to overturn a ruling of the Chair interpreting it. As amended in 1990, the rule authorizes one point of order to be made against several provisions of a bill, amendment, resolution, motion or conference report.

Both the 99th and 100th Congresses enacted significant formal changes in the budget process. In the 99th Congress, the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177), commonly referred to as the Gramm-Rudman-Hollings Act streamlined and tightened the Congressional Budget Act, established deficit targets for 6 fiscal years (fiscal years 1986-1991), and created emergency procedures for deficit reduction, referred to as sequestration.

Under the 1985 Gramm-Rudman-Hollings Act, sequestration occurred when the Directors of the Office of Management and Budget and the Congressional Budget Office projected a deficit for a fiscal year that exceeded a maximum deficit amount set out in the Budget Act. The projected deficit was based on economic assumptions and the anticipated effects of legislation enacted up to the point the projection was made. If the projected deficit exceeded the maximum deficit amount by a certain specified margin, the President was required to issue an order cancelling an amount of spending sufficient to reach the maximum deficit amount. Half of the amount to be cancelled was to come from defense accounts, and half from non-defense accounts, with a uniform percentage reduction to occur in each account within these two major categories of accounts. Certain specified accounts were exempt from sequestration.

In September 1987, as part of a measure increasing the public debt limit, Congress enacted the Balanced Budget and Emergency Deficit Control Reaffirmation Act (Pub. L. 100-119). The 1987 Reaffirmation Act restored the so-called automatic trigger for sequestration (which had been invalidated by a ruling of the Supreme Court), by assigning to the Director of the Office of Management and Budget (OMB) responsibility for issuing the triggering reports to the President that led to a sequestration order. The Act also revised the deficit targets in the 1985 Balanced Budget Act, extended the goal of budgetary balance

by 2 years to fiscal year 1993, and made certain additional changes in the sequestration and budget processes. The Reaffirmation Act gave the President flexibility with respect to the savings to be achieved from certain defense accounts. Under the revised process, the President could choose to exempt some or all military personnel accounts from sequestration as long as he notified Congress in a timely manner. Further, he could propose changes that lessened or eliminated completely the reductions for some defense programs, projects, and activities (PPAs), as long as greater reductions were made in other defense PPAs so that the total amount of required outlay savings for defense were met. In the latter case, Congress could affirm the proposed changes through the enactment of a joint resolution.

As noted above, the budget process was altered again in 1990 with the enactment of the Budget Enforcement Act of 1990 (title XIII of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508). This Act revised and extended the existing process of sequestration through 1996. It also created a five year period of discipline by authorizing budget resolutions to cover five years, and by providing points of order against proposals that exceeded committee allocations both in the first year covered by a budget resolution, as well as the total of the five years.

For fiscal years 1991 through 1996, the Act established limits of discretionary spending by category. For fiscal years 1991 through 1993, separate limits were placed on discretionary spending in the following three categories: defense, international, and domestic. For fiscal years 1994 and 1995, a limit was placed on all discretionary spending. Should any of these limits be exceeded, sequestration was authorized within the relevant category. Sequestration would be ordered within 15 calendar days after the end of a session of Congress ("end of session sequestration"), 15 calendar days after a breach occurred in a category for a fiscal year in progress (but before July 1 of that fiscal year), or if a breach occurred within a category after July 1 of a fiscal year in progress, the limit for that category would be adjusted downward by a comparable amount for the next fiscal year.

For these five fiscal years, legislation affecting revenues and entitlements was placed on a pay-as-you-go basis. To the extent that such legislation increases the deficit, non-exempt direct spending programs were made subject to sequestration annually to offset the deficit increase.

Budget Act of 1974

(Provisions of Pub. L. 93-344 as amended by Pub. L. 95-523 (Humphrey-Hawkins Act), Pub. L. 99-177 (Balanced Budget and Emergency Deficit Control Act of 1985, known as the Gramm-Rudman-Hollings Act), Pub. L. 100-119 (Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, known as Gramm-Rudman-Hollings II), and Pub. L. 101-508 (Budget Enforcement Act of 1990))

Various provisions of the Budget Act of 1974, as amended, are omitted from the excerpts set forth below since they have been incorporated into the Standing Rules of the Senate or because their provisions do not affect Senate procedure.

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: TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—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" and title X may be cited as the "Impoundment Control Act of 1974".

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DEFINITIONS

SEC. 3. 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) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds or to collect offsetting receipts., except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government. The term includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V [1]

(2) [2] BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

(A) IN GENERAL.—The term 'budget authority' 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 Supple-

[1] So in law. Probably should have a period. The first sentence of this paragraph applies only through fiscal year 1991.

[2] This paragraph (2) was added by P.L. 101-508, sec. 13211, and is effective for fiscal year 1992 and subsequent fiscal years.

mentary 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

(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.

(6) The term "deficit" means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

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

(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" means spending authority described by section 401(c)(2)(C).

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

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TITLE II—CONGRESSIONAL BUDGET OFFICE

ESTABLISHMENT OF OFFICE

SEC. 201. (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 first appointed shall expire at noon on January 3, 1979, and the terms of Directors subsequently appointed shall expire at noon on January 3 of each fourth year thereafter. 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.

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(g) REVENUE ESTIMATES.—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.

(g) [3] 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. 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), and upon vouchers approved by the Director.

DUTIES AND FUNCTIONS

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the 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.

(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 Member of the House or Senate, the Office shall provide to such member any information compiled

[3] Section 13202 of P.L. 101-508 (Budget Enforcement Act of 1990) redesignated subsection (f) as subsection (g) and also transferred and redesignated section 273 of the same Act as subsection (g). It probably should have redesignated section 273 as subsection (f).

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) TRANSFER OF FUNCTIONS OF JOINT COMMITTEE ON REDUCTION OF FEDERAL EXPENDITURES.—

(1) The duties, functions, and personnel of the Joint Committee on Reduction of Federal Expenditures are transferred to the Office, and the Joint Committee is abolished.

(2) Section 601 of the Revenue Act of 1941 (55 Stat. 726) is repealed.

(f) 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), and (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. 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.

(g) 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 Administration 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.

(h) STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

PUBLIC ACCESS TO BUDGET DATA

SEC. 203. (a) RIGHT TO COPY.—Except as provided in subsections (c) and (d), 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.

TITLE III—CONGRESSIONAL BUDGET PROCESS [4]

TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
First Monday in February	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees. [5]
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET

SEC. 301. (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 planning levels for each of the two ensuing fiscal years, for the following—

(1) totals of new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments;

(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, budget outlays, direct loan obligations, and primary loan guarantee commitments for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1);

(5) the public debt;

(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

[4] Most points of order under this title may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members duly chosen or sworn. See sec. 904(c) for details.

[5] This item should have been amended to reflect the date set forth in section 301(d).

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.

(b) ADDITIONAL MATTERS IN 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;

(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 pay-as-you-go procedures for the Senate whereby—

(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately re-

vised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) to carry out this paragraph; and

(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives.

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(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, 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. The Joint Economic Committee shall submit to 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.

(e) HEARINGS AND REPORT.—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 and such appropriate representatives of Federal departments and agencies, 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. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, total direct loan obligations, total primary loan guarantee commitments, as set forth

in such concurrent resolution, with those estimated or requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

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

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives which the committee considered;

(6) projections (not limited to the following), for the period of five fiscal years beginning with such fiscal year, of the estimated levels of total budget outlays and total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

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

(8) 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 concurrent resolution;

(9) allocations described in section 302(a); and

(10) [6] an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

(A) the amount of borrowing by the Government in private credit markets;

(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

(C) net private domestic investment;

(D) the merchandise trade and current accounts;

(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.

[6] This paragraph is only effective for fiscal years 1989 through 1992.

(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946, 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.

(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.

(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, 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) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate 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.

COMMITTEE ALLOCATIONS

SEC. 302.[7] (a) ALLOCATION OF TOTALS.—

(1) For the House of Representatives, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority, and total entitlement authority among each committee of the House of Representatives which has jurisdiction over laws, bills and resolutions providing such new budget authority, or such entitlement authority. The allocation shall, for each committee, divide new budget authority, and entitlement authority between amounts provided or required by law on the date of such conference report (mandatory or uncontrollable amounts), and amounts not so provided or required (discretionary or controllable amounts), and shall make the same division for estimated outlays that would result from such new budget authority.

(2) For the Senate, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of social security outlays for the fiscal year of the resolution and for each of the 4 succeeding fiscal years, total budget outlays and total new budget authority among each committee of the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

[7] All references to credit authority in subsections (a), (b), (c), and (f) have been omitted to reflect the changes made by Public Law 101-508, effective for fiscal years beginning after September 30, 1991.

(2) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) POINT OF ORDER.—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, providing—

(1) new budget authority for a fiscal year; or

(2) new spending authority as described in section 401(c)(2) for a fiscal year;

within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to subsection (a) for such fiscal year, unless and until such committee makes the allocation or subdivisions required by subsection (b), in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

(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.—

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(2) IN THE SENATE.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 301(a) for a fiscal year, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that provides for budget outlays, new budget authority, [8] or new spending authority (as defined in section 401(c)(2)) in excess of (A) the appropriate allocation of such outlays or authority reported under subsection (a), or (B) the appropriate allocation (if any) of such outlays or authority reported under subsection (b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year or provides for social security outlays in excess of the appropriate allocation of social security outlays under subsection (a) for the fiscal year of the

[8] Effective January 1, 1991 and for fiscal year 1991 only insert "or new credit authority" after "new budget authority".

resolution or for the total of that year and the 4 succeeding fiscal years. Subparagraph (A) shall not apply to any bill, resolution, amendment, motion, or conference report that is within the jurisdiction of the Committee on Appropriations. In applying this paragraph—

(A) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget;

(B) estimated social security outlays shall be deemed increased by the shortfall of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

(C) 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 social security revenues unless such provision changes the income tax treatment of social security benefits.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).

(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority 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 the case may be.

CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, NEW CREDIT AUTHORITY, OR CHANGES IN REVENUES OR THE PUBLIC DEBT LIMIT IS CONSIDERED

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to the House or Senate which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

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

(4) new entitlement authority to become effective during a fiscal year;

(5) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

(6) in the Senate only, outlays,

until the concurrent resolution on the budget for such fiscal year (or, in the Senate, a concurrent resolution on the budget covering such fiscal year) has been agreed to pursuant to section 301.

(b) EXCEPTIONS.—

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(2) In the Senate, subsection (a) does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.

(c) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the 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. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304. (a) IN GENERAL.—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.

(b) ECONOMIC ASSUMPTIONS.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 305.

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(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(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(a) 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 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 de-

scribed 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 CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 306. No bill, resolution, amendment, motion, or conference report, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

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REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR NEW CREDIT 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 resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or 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—

(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) including an identification of any new spending authority described in section 401(c)(2) which is contained in such measure and a justification for the use of such financing method instead of annual appropriations;

(C) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, spending authority, revenues, tax expenditures, direct loan obligations, or primary loan guarantee commitments 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

(D) 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 resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2), or new credit authority, or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the 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.

(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 resolutions providing new budget authority, new spending authority described in section 401(c)(2), or new credit 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 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;

(4) entitlement authority for each fiscal year in such period; and

(5) credit authority for each fiscal year in such period.

HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

SEC. 309. 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.

RECONCILIATION

SEC. 310. (a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—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 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—

(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) 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 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, and

(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 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; 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)(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.

(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.

* * * * * * *

(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) [9] 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.

NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 311. (a)(1) LEGISLATION SUBJECT TO POINT OF ORDER.—Except as provided by subsection (b), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it

[9] The requirement in the Senate for three-fifths vote to sustain this point of order expires on September 30, 1995.

shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, 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 appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

(2)(A) After the Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause the appropriate level of total new budget authority or total budget outlays or social security outlays set forth for the first fiscal year in the most recently agreed to concurrent resolution on the budget covering such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues (or social security revenues to be less than the appropriate level of social security revenues) set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such concurrent resolution.

(B) In applying this paragraph—

(i)(I) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

(II) estimated social security revenues shall be deemed to be increased to the extent that estimated social security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of social security outlays in the most recently agreed to concurrent resolution on the budget; and

(ii)(I) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated social security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

(II) estimated social security revenues shall be deemed to be reduced by the excess of estimated social security outlays (including social security outlays provided for in the bill, resolution, amendment, or conference report with respect to which

this subsection is applied) above the appropriate level of social security outlays specified in the most recently adopted concurrent resolution on the budget; and

(iii) 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 social security revenues unless such provision changes the income tax treatment of social security benefits.

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 reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to section 302(b).

* * * * * * *

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, 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 of the Senate, as the case may be.

EFFECTS OF POINTS OF ORDER

SEC. 312. [10] POINTS 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 Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.

EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION

SEC. 313. (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

[10] So in law; "(a)" should have been added.

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; (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).

(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.

(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.

(c) [11] 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), 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 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.

(d) 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

[11] Section 13214(b)(2) and (3) of P.L. 101-508 inadvertently created two subsection (c)'s.

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.

(e) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, 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 Senate.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

BILLS PROVIDING NEW SPENDING AUTHORITY

SEC. 401. (a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2) (A) or (B), unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2) (A) or (B) is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(C) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) 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(b) 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 of that House 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) DEFINITIONS.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this Act, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts;

(C) 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 such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law;

(D) to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and

(E) to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by subparagraph (A), (B), (C), or (D), the budget authority for which is not provided in advance by appropriation Acts.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will 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 spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority 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) which is specifically exempted by law from compliance with any or all of the provisions 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.

LEGISLATION PROVIDING NEW CREDIT AUTHORITY

SEC. 402. (a) CONTROLS ON LEGISLATION PROVIDING NEW CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House, which provides new credit authority described in subsection (b)(1), unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) DEFINITION.—For purposes of this Act, the term "new credit authority" means credit authority (as defined in section 3(10) of this Act) not provided by law on the effective date of this section, including any increase in or addition to credit authority provided by law on such date.

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. (a) 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) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate;

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

(4) 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.

(b) For purposes of subsection (a)(2), the term "local government" has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

(c) For purposes of subsection (a)(2), the term "significant bill or resolution" is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

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OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

SEC. 406. (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.

(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.

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TITLE V—CREDIT REFORM

SEC. 500. SHORT TITLE.

This title may be cited as the "Federal Credit Reform Act of 1990".

SEC. 501. 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. 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. 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.

(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, 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 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.

(C) The cost of a loan guarantee shall be the net present value when a guaranteed loan is disbursed of the cash flow from—

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

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

(D) Any Government action that alters the estimated net present value of an outstanding direct loan or loan guarantee (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated

present value of the direct loan or loan guarantee at the time of modification.

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

(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 "Director" means the Director of the Office of Management and Budget.

SEC. 503. 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. 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) appropriations of budget authority to cover their costs are made in advance;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program is enacted; or

(3) authority is otherwise provided in appropriation Acts.

(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (b) 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 directly or indirectly alter the costs of outstanding direct loans and loan guarantees 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.

(3) All collections and payments of the financing accounts shall be a means of financing.

(e) MODIFICATIONS.—A direct loan obligation or loan guarantee commitment shall not be modified in a manner that increases its cost unless budget authority for the additional cost is appropriated, or is available out of existing appropriations or from other budgetary resources.

(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 differ-

ence 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. 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. The authorities described above shall not be construed to supercede 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.—If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said 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. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

(a) [12] IN GENERAL.—

(1) 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.

(2) 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.

(3) For the purposes of paragraph (2), 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. 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 [13]

SEC. 601. DEFINITIONS AND POINT OF ORDER.

(a) DEFINITIONS.—As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

(1) MAXIMUM DEFICIT AMOUNT.—The term "maximum deficit amount" means—

(A) with respect to fiscal year 1991, $327,000,000,000;
(B) with respect to fiscal year 1992, $317,000,000,000;
(C) with respect to fiscal year 1993, $236,000,000,000;
(D) with respect to fiscal year 1994, $102,000,000,000; and
(E) with respect to fiscal year 1995, $83,000,000,000;

[12] So in law. There is no subsection (b).
[13] This title applies only to fiscal years 1991 to 1995. See section 607.

as adjusted in strict conformance with sections 251, 252, and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) DISCRETIONARY SPENDING LIMIT.—The term "discretionary spending limit" means—

(A) with respect to fiscal year 1991—

(i) for the defense category: $288,918,000,000 in new budget authority and $297,660,000,000 in outlays;

(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

(B) with respect to fiscal year 1992—

(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

(C) with respect to fiscal year 1993—

(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays; and

(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays;

as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) [14] POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE, INTERNATIONAL, AND DOMESTIC DISCRETIONARY SPENDING.—

(1) Except as provided in paragraph (3), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995 (or amendment, motion, or conference report on such a resolution), or any appropriations bill or resolution (or amendment, motion, or conference report on such an appropriations bill or resolution) for fiscal year 1992 or 1993 that would exceed the allocations in this section or the suballocations made under section 602(b) based on these allocations.

(3) For purposes of this subsection, the levels of new budget authority and outlays for a fiscal year shall be determined on

[14] So in law. Paragraphs (3) and (4) should be redesignated as (2) and (3), respectively.

the basis of estimates made by the Committee on the Budget of the Senate.

(4) 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 has been enacted.

SEC. 602. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

(a) COMMITTEE SPENDING ALLOCATIONS.—

(1) HOUSE OF REPRESENTATIVES.—

(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

(i) total new budget authority,

(ii) total entitlement authority, and

(iii) total outlays;

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

(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

(C) FURTHER DIVISION OF AMOUNTS.—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 for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

(A) total new budget authority;

(B) total outlays; and

(C) social security outlays;

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

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

(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

(b) SUBALLOCATIONS BY COMMITTEES.—

(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution 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)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.

(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE.—Each other committee of the Senate to which an allocation under subsection (a)(2) is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 302(c) shall not apply in the Senate to committees other than the Committee on Appropriations.

(c) APPLICATION OF SECTION 302(f) TO THIS SECTION.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the fiscal year of the resolution or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget. In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.

(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in sections 302(c), (d), (e), (f), and (g) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).

(e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE.—[15] Section 302(f)(1) and, after April 15 of any calendar year section 303(a), 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—

(1) the enactment of such bill or resolution as reported;

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

(3) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases,

[15] So in law. "(1)" should have been inserted here and paragraphs (1), (2), and (3) should have been redesignated as subparagraphs (A), (B), and (C).

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.

(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 section 302(f)(1) but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may 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.

SEC. 603. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

(a) ADJUSTING SECTION ALLOCATION OF DISCRETIONARY SPENDING.—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, a section 602(a) allocation to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code. Such allocation shall include the full allowance specified under section 251(b)(2)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) As soon as practicable after a section 602(a) allocation is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

SEC. 604. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO IN THE HOUSE OF REPRESENTATIVES.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, subsections (b) through (d) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.

SEC. 605. APPLICATION OF SECTION 311; POINT OF ORDER.

(a) APPLICATION OF SECTION 311(a).—(1) In the House of Representatives, in the application of section 311(a)(1) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

(2) In the Senate, in the application of section 311(a)(2) to any bill, resolution, motion, or conference report, reference in section 311 to the appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate levels for that year and the 4 succeeding years.

(b) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—After Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would result in a deficit for the first fiscal year covered by that resolution that exceeds the maximum deficit amount specified for such fiscal year in section 601(a).

SEC. 606. 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

(a) 5-YEAR BUDGET RESOLUTIONS.—In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years for the matters described in section 301(a).

(b) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider any concurrent resolution on the budget for a fiscal year or conference report thereon under section 301 or 304 that exceeds the maximum deficit amount for each fiscal year covered by the concurrent resolution or conference report as determined under section 601(a), including possible revisions under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) 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 under section 301, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for the first fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal rev-

enues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 601(a), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal years as determined under section 601(a).

(d) ADJUSTMENTS.—(1) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 may set forth levels consistent with allocations increased by—

(A) amounts not to exceed the budget authority amounts in section 251(b)(2)(E)(i) and (ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in section 251(b)(1) of that Act.

(2) For purposes of congressional consideration of provisions described in sections 251(b)(2)(A), 251(b)(2)(B), 251(b)(2)(C), 251(b)(2)(D), and 252(e), determinations under sections 302, 303, and 311 shall not take into account any new budget authority, new entitlement authority, outlays, receipts, or deficit effects in any fiscal year of those provisions.

SEC. 607. EFFECTIVE DATE.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.

TITLE VII—PROGRAM REVIEW AND EVALUATION

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CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS

SEC. 703. (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.

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TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

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EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The provisions of this title (except section 905) and of titles I, III, IV, V, and VI (except section 601 (a)) 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.

(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) WAIVER.—Sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 310(d)(2), 310(f), 311(a), 313, 601(b), and 606(c) 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 in the Senate from the decisions of the Chair relating to any provisions 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. 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 sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d). 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 sections 301(i), 302(c), 302(f), 310(d)(2), 310(f), 311(a), 313, 601(b), and 606(c) 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 [16]

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TITLE X—IMPOUNDMENT CONTROL

PART A—GENERAL PROVISIONS

DISCLAIMER

SEC. 1001. Nothing contained in this Act, 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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PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

DEFINITIONS

SEC. 1011. 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 recinds 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

[16] So in law. A period was omitted.

forth in a special message transmitted by the President under section 1013; and

(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. (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. (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.—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.

(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. (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——

(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.

* * * * * * *

(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. (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.

SUITS BY COMPTROLLER GENERAL

SEC. 1016. 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, 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. (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.

* * * * * * *

(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 desig-

nee. No amendment that is not germane to the provisions of such amendments shall be received.

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

(Provisions of Pub. L. 99–177, as amended by Pub. L. 100–119 (Balanced Budget and Emergency Deficit Control and Reaffirmation Act of 1987), and Pub. L. 101–508 (Budget Enforcement Act of 1990))

Set out below are provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) which affect Senate procedure.

PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; 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.

(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for the enforcement of the deficit reduction assumed in House Concurrent Resolution 310 (101st Congress, second session) and the applicable deficit targets for fiscal years 1991 through 1995. Enforcement, as necessary, is to be implemented through sequestration—

(1) to enforce discretionary spending levels assumed in that resolution (with adjustments as provided hereinafter);

(2) to enforce the requirement that any legislation increasing direct spending or decreasing revenues be on a pay-as-you-go basis; and

(3) to enforce the deficit targets specifically set forth in the Congressional Budget and Impoundment Control Act of 1974 (with adjustments as provided hereinafter);

applied in the order set forth above.

(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 (but including the treatment specified in section 257(b)(3) of the Hospital Insurance Trust Fund) and the terms "maximum deficit amount" and "discretionary spending limit" shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 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 appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4) The term "category" means:

(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.

(B) For fiscal years 1994 and 1995, all discretionary appropriations.

Contributions to the United States to offset the cost of Operation Desert Shield shall not be counted within any category.

(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—

(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

(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 food stamp 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 submission of

the fiscal year 1992 budget that are not included with a budget submission, 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.

(13) The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(14) The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

(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) For purposes of sections 252 and 253, legislation enacted during the second session of the One Hundred First Congress shall be deemed to have been enacted before the enactment of this Act.

(18) 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 Omnibus Budget Reconciliation Act of 1990.

(19) The term "deposit insurance" refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

(20) The term "composite outlay rate" means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows:

(A) For the international category, 46 percent for the first year, 20 percent for the second year, 16 percent for the third year, and 8 percent for the fourth year.

(B) For the domestic category, 53 percent for the first year, 31 percent for the second year, 12 percent for the third year, and 2 percent for the fourth year.

(21) The sale of an asset means the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States. The term "prepayment of a loan" means

payments to the United States made in advance of the schedules set by law or contract when the financial asset is first acquired, such as the prepayment to the Federal Financing Bank of loans guaranteed by the Rural Electrification Administration. If a law or contract allows a flexible payment schedule, the term "in advance" shall mean in advance of the slowest payment schedule allowed under such law or contract.

SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) FISCAL YEARS 1991–1995 ENFORCEMENT.—

(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under section 252 and section 253, 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 baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(h) 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.

(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), 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) OMB 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. Within 5 calendar days after the 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 two estimates. For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for those years in accounts for which funding is provided in that legislation that result from previously enacted legislation. Those OMB estimates shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph for the purposes of this subsection. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by title XIII of the Omnibus Budget Reconciliation Act of 1990 or by any other changes in concepts and definitions 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 other

changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, Government Operations, and Governmental Affairs of the House of Representatives and Senate.

(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992, 1993, 1994, or 1995, the adjustments produced by changes in inflation shall equal the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators for the budget year only, multiplied by the inflation adjustment factor computed under clause (ii).

(ii) For a budget year the inflation adjustment factor shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below:

For 1990, 1.041
For 1991, 1.052
For 1992, 1.041
For 1993, 1.033

Inflation shall be measured by the average of the estimated gross national product implicit price deflator index for a fiscal year divided by the average index for the prior fiscal year.

(C) CREDIT REESTIMATES.—For a budget submitted for fiscal year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

(2) When OMB submits a sequestration report under section 254(g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), 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 through 1995, as follows:

(A) IRS FUNDING.—To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO baseline constructed in June 1990) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below—

(i) for fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays;

(ii) for fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays;

(iii) for fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays;

(iv) for fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays; and

(v) for fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority.

(B) DEBT FORGIVENESS.—If, in calendar year 1990 or 1991, an appropriation is enacted that forgives the Arab Republic of Egypt's foreign military sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States, the adjustment shall be the estimated costs (in new budget authority and outlays, in all years) of that forgiveness.

(C) IMF FUNDING.—If, in fiscal year 1991, 1992, 1993, 1994, or 1995 an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota as part of the International Monetary Fund Ninth General Review of Quotas, the adjustment shall be the amount provided by that appropriation.

(D) EMERGENCY APPROPRIATIONS.—(i) If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations.

(ii) The costs for operation Desert Shield are to be treated as emergency funding requirements not subject to the defense spending limits. Funding for Desert Shield will be provided through the normal legislative process. Desert Shield costs should be accommodated through Allied burden-sharing, subsequent appropriation Acts, and if the President so chooses, through offsets within other defense accounts. Emergency Desert Shield costs mean those incremental costs associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(E) SPECIAL ALLOWANCE FOR DISCRETIONARY NEW BUDGET AUTHORITY.—(i) For each of fiscal years 1992 and 1993, the adjustment for the domestic category in each year shall be an amount equal to 0.1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the domestic category);

(ii) for each of fiscal years 1992 and 1993, the adjustment for the international category in each year shall be an amount equal to 0.079 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the international category); and

(iii) if, for fiscal years 1992 and 1993, the amount of new budget authority provided in appropriation Acts exceeds the

discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for 1992 and 1993 together) equal to 0.042 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively).

(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment in outlays is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1991, 1992, or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995 less any of the outlay adjustments made under subparagraph (E) for a category for a fiscal year.

SEC. 252. ENFORCING PAY-AS-YOU-GO.

(a) FISCAL YEARS 1992–1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

(b) SEQUESTRATION; LOOK-BACK.—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 253, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any prior sequestration as provided by paragraph (2)). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

(1) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to those fiscal years, other than any amounts included in such estimates resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section, and

(B) emergency provisions as designated under subsection (e); and

(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's end-of-session sequestration report for that prior year.

(c) ELIMINATING A DEFICIT INCREASE.—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be ob-

tained 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 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 non-exempt 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) OMB ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation enacted after the date of enactment of this section, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO shall provide OMB with an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation, and an explanation of any difference between the two estimates. Those OMB estimates shall be made using current economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(e) EMERGENCY LEGISLATION.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, 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 through 1995 resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d).

SEC. 253. 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 (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, non-defense 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 maxiumum 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 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—

(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 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).

SEC. 254. REPORTS AND ORDERS.

(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

Date:	Action to be completed:
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.
30 days later	GAO compliance report.

(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) OPTIONAL ADJUSTMENT OF MAXIMUM DEFICIT AMOUNTS.—With respect to budget year 1994 or 1995, on the date specified in subsection (a) the President shall notify the House of Representatives and the Senate of his decision regarding the optional adjustment of the maximum deficit amount (as allowed under section 253(g)(1)(B)).

(d) 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 1995 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 REPORTS.—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.

(e) 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(h).

(f) 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.

(g) 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 1995 the applicable discretionary spending limits

for each category and an explanation of any adjustments in such limits under section 251.

(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 sequestrable 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 through 1995 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.

(h) 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 (g)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (g)(2) and (g)(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.

(i) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), 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.

(j) 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.

(k) 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. EXEMPT PROGRAMS AND ACTIVITIES.

(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, and benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, 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:

National Service Life Insurance Fund (36–8132–0–7–701);

Service-Disabled Veterans Insurance Fund (36–4012–0–3–701);

Veterans Special Life Insurance Fund (36–8455–0–8–701);

Veterans Reopened Insurance Fund (36–4010–0–3–701);

United States Government Life Insurance Fund (36–8150–0–7–701);

Veterans Insurance and Indemnity (36–0120–0–1–701);

Special Therapeutic and Rehabilitation Activities Fund (36–4048–0–3–703);

Veterans' Canteen Service Revolving Fund (36–4014–0–3–705);

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36-0137-0-1-702);

Veterans' compensation (36-0153-0-1-701); and

Veterans' pensions (36-0154-0-1-701).

(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) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 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.

(f) CERTAIN PROGRAM BASES.—Outlays for programs specified in paragraph (1) of section 257 shall be subject to reduction only in accordance with the procedures established in section 251(a)(3)(C) and 256(b).

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(h) [1] OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) 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) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

SEC. 256. EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.

(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

(1) National Wool Act;

(2) Special milk program; and

(3) 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.

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(l) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account other than a trust or special fund account shall be permanently cancelled.

(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

[1] Probably should have been designated as subsection (j).

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) Except as otherwise provided, sequestration in trust and special fund accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

SEC. 257. 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) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

(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.

(3) HOSPITAL INSURANCE TRUST 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.

(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 Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

(4) PAY ANNUALIZATION; OFFSET TO PAY ABSORPTION.—Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption) 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) 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 national product fixed-weight 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.

(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) The sale of an asset or prepayment of a loan shall not alter the deficit or produce any net deficit reduction in the budget baseline, except that the budget baseline estimate shall include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986; [2]

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SEC. 258. 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 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 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.

[2] So in law.

(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 or a joint resolution described in subsection (a)—

(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 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. MODIFICATION OF PRESIDENTIAL ORDER.

(a) INTRODUCTION OF JOINT RESOLUTION.—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 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 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. 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 confer-

ence 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. SPECIAL RECONCILIATION PROCESS.

(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

(1) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.—After the submission of an OMB sequestration update report under section 254 that envisions a sequestration under section 252 or 253, 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 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) LIMIT 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 RECEIVED 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.

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PART E—MISCELLANEOUS AND RELATED PROVISIONS

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SEC. 274. JUDICIAL REVIEW.

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(f) ALTERNATIVE PROCEDURES FOR THE JOINT REPORTS OF THE DIRECTORS.—

(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Director of CBO under section 251(a)(2)(A) or 251(c)(1) shall be transmitted to the joint committee established under this subsection.

(2) Upon the invalidation of any such procedure there is established a Temporary Joint Committee on Deficit Reduction, composed of the entire membership of the Budget Committees of the House of Representatives and the Senate. The Chairman of these two committees shall act as Co-Chairmen of the Joint Committee. Actions taken by the Joint Committee shall be determined by the majority vote of the members representing each House. The purposes of the Joint Committee are to receive the reports of the Director of CBO as described in paragraph (1), and to report (with respect to each such report of the Director of CBO) a joint resolution as described in paragraph (3).

(3) No later than 5 days after the receipt of a report of the Director of CBO in accordance with paragraph (1), the Joint Committee shall report to the House of Representatives and the Senate a joint resolution setting forth the contents of the report of the Director of CBO.

(4) The provisions relating to the consideration of a joint resolution under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to this subsection in the House of Representatives and the Senate, except that debate in each House shall be limited to two hours.

(5) Upon its enactment, the joint resolution shall be deemed to be the report received by the President under section 251 (a)(2)(B) or (c)(2) (whichever is applicable).

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SEC. 275. EFFECTIVE DATES.

(a) IN GENERAL.—

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(b) [3] EXPIRATION.—Part C of this title, section 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.

(c) OASDI TRUST FUNDS.—The amendments made by part D shall apply as provided in such part.

Allocations to Committees:

A point of order will lie under section 302(f) of the Congressional Budget Act of 1974 (as amended) against an amendment which provides new budget authority which would cause the appropriate allocation to a subcommittee reported under section 302(b) of that Act in conjunction with the budget resolution for the relevant fiscal year to be exceeded.[1]

A point of order will lie under section 302(f) of the Congressional Budget Act of 1974 against an amendment which by increasing an obligation ceiling would increase outlays, such that the appropriate level of outlays allocated under section 302(b) of that Act to the committee having jurisdiction over the subject matter of the amendment would be exceeded.[2]

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[3] P.L. 101-508 amended subsection (b) to read as follows, but also made the following unexecutable amendments to the then existing subsection (b):

In subparagraph (C), by striking the final word "and".

In subparagraph (D), by striking the final period and inserting "; and".

By inserting at the end the following new subparagraph: "(E) the second sentence of section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act.".

[1] Oct. 2, 1986, 99-2, *Record*, pp. 27916-17; Oct. 14, 1987, 100-1, *Record*, pp. S. 14237-39.

[2] Sept. 24, 1986, 99-2, *Record*, pp. 25758-60.

A point of order will lie under section 302(c) of the Congressional Budget Act of 1974 against an amendment which provides new budget authority or new direct spending authority if such amendment is within the jurisdiction of a committee which has received an allocation of such authority pursuant to section 302(a) of that Act, but which has not reported to the Senate a division of its allocation among its subcommittees or among programs within its jurisdiction as required by section 302(b) of that Act.[3]

A point of order will lie under section 302(c) of the Congressional Budget Act of 1974 against the consideration of an amendment which provides an entitlement within the jurisdiction of a committee which has received an allocation of such authority pursuant to section 302(a) of the Congressional Budget Act of 1974 if that committee has not subdivided such authority among its subcommittees or among programs within its jurisdiction.[4] It should be noted that in 1990, this point of order was made applicable only to the Appropriations Committee for fiscal years 1991 through 1995.[5]

A point of order will lie under section 302(c) of the Congressional Budget Act of 1974 against a bill which provides new budget authority or new direct spending authority (as defined in section 401(c)(2) of that Act) if such bill is within the jurisdiction of a committee which has received an allocation of such authority pursuant to section 302(a) of the Act, but which has not reported to the Senate its division of such allocation among its subcommittees or among programs within its jurisdiction, under section 302(b) of the Act. However, if under section 302(a) of the Congressional Budget Act of 1974, a committee has received an allocation of new budget authority or new direct spending authority (as defined in section 401(c)(2) of that Act), but has not filed with the Senate its division of such allocation among its subcommittees or among programs over which it has jurisdiction, no point of order will lie under section 302(f) of the Act for exceeding such suballocations because there is no basis from which to determine if the suballocations have been exceeded. The Chair does not keep a list of the committees that have filed

[3] July 31, 1986, 99-2, *Record*, pp. 18518.
[4] Aug. 1, 1986, 99-2, *Record*, pp. 18735-36.
[5] Pub. L. 93-344, sec. 602(b)(2), as added by the Budget Enforcement Act of 1990, Pub. L. 101-508, sec. 13111 (Nov. 5, 1990).

allocation divisions required by section 302(b) of the Congressional Budget Act.[6]

An amendment to the Treasury-Postal Service Appropriations Act, which would have provided appropriations for the employment of additional Internal Revenue Service personnel was ruled out of order under section 302(f) of the Budget Act, since the amendment would have caused the allocation of outlays to the Treasury Subcommittee of the Appropriations Committee to be exceeded.[7]

The Chair has sustained a point of order under sections 302(f) (and 311(a)) of the Budget Act against an amendment to a supplemental appropriations act, which would have provided funds for anti-drug programs, since the amendment would have caused breaches in the outlay allocations of several subcommittees (as well as a breach in the overall outlay ceiling for that year). An appeal from the ruling of the Chair was tabled.[8]

The Chair has sustained a point of order under section 302(f) of the Budget Act after a motion to waive that section was tabled, against an amendment to a supplemental appropriations act that proposed to rescind a certain amount of budget authority within the jurisdiction of one subcommittee of the Appropriations Committee, and provide the same amount of budget authority for a purpose within another subcommittee's jurisdiction, since the result would have been to exceed the level of budget authority and outlays allocated to that second subcommittee.[9] The Chair has sustained a point of order under section 302(f) of the Act (after a motion to waive that section had failed) against an amendment to a supplemental appropriations act that would have transferred budget authority among several subcommittees of the Appropriations Committee, since the adoption of that amendment would have caused one of those subcommittees to exceed its allocation of budget authority and outlays.[10]

The Chair sustained a point of order under sections 302(f) and 311(a) of the Budget Act against a deficit neutral amendment to a supplemental appropriations act, after the Senate tabled a motion to waive all the provisions of that Act for the consideration of the amendment.

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[6] Aug. 7, 1986, 99-2, *Record*, pp. 19796-98.
[7] Sept. 11, 1990, 101-2, *Record*, pp. S 12791, 12801-06.
[8] June 1, 1989, 101-1, *Record*, pp. S 5927, 5930-32.
[9] June 1, 1989, 101-1, *Record*, pp. S 5899, 5906.
[10] Apr. 30, 1990, 101-2, *Record*, pp. S 5296, 5351-52.

The amendment would have increased taxes and earmarked those revenues for anti-drug programs. This would have increased outlays, causing the allocation of outlays to the relevant subcommittee to be exceeded and breaching the aggregate outlay ceiling.[11]

Amendments Between Houses:

When the Senate is considering a motion to concur with an amendment in a House amendment to a Senate amendment relative to a reconciliation bill, time for debate is limited (to 30 minutes under section 305(c)(4) of the Congressional Budget Act of 1974) and when that time has expired no further debate is in order (unless a further amendment to the amendment contained in the motion is offered, or a preferential motion proposed).[12] Under the Act as amended in 1990, time for debate on debatable motions relating to a message between the Houses on budget resolutions and reconciliations bills is now limited to one hour.[13]

When the Senate is considering a motion to concur with an amendment in a House amendment to a Senate amendment relative to a reconciliation bill, time for debate is limited (to 30 minutes under section 305(c)(4) of the Congressional Budget Act of 1974) and must be used or yielded back before an amendment to the amendment is in order.[14]

When the Senate is considering a motion to concur with an amendment in a House amendment to a Senate amendment to a reconciliation bill, the matter before the Senate is technically not a bill, but a message from the House, and since no bill *per se* is pending, there is no debate time available from the bill.[15]

When the time on a budget resolution or reconciliation bill has expired, any motion relating thereto, such as a motion to instruct the conferees, is decided without debate.[16]

If the concurrent resolution on the budget for a fiscal year has been adopted, a point of order will lie against an

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[11] June 1, 1989, 101-1, *Record*, pp. S 5946, 5958.
[12] Mar. 14, 1986, 99-2, *Record*, pp. 4899-4900.
[13] Pub. L. 93-344, sec. 305(c)(2), as amended by the Budget Enforcement Act of 1990, Pub. L. 101-508, sec. 13209(2) (Nov. 5, 1990).
[14] Mar. 14, 1986, 99-2, *Record*, p. 4887.
[15] Mar. 14, 1986, 99-2, *Record*, p. 4891.
[16] July 14, 1981, 97-1, *Record*, pp. 15599-600.

amendment of the House to an amendment of the Senate to an appropriations bill, if that amendment increases outlays at a time when the appropriate level of outlays for that fiscal year has been breached, and on one occasion it was held that the effect of sustaining such a point of order was that the amendment of the House was no longer before the Senate, but retained its status as a House message at the desk.[17] However, under section 312(a) of the Budget Act as added in 1990, the sustaining of such a point of order against House language is now the equivalent of a decision by the Senate to disagree to the amendment of the House.[18]

Amendments to Budget Resolution:

See also "Budget Resolution," pp. 599–600.

The Congressional Budget Act of 1974 provides for the consideration of budget resolutions and reconciliation bills under conditions modeled after a unanimous consent agreement "in the usual form." In this regard, note the following precedents:

When proceeding with the consideration of an amendment to any budget resolution, debate is limited to two hours under the law, and an amendment to an amendment is not in order until the time on the first amendment has expired, except by unanimous consent.[19]

The Majority Leader is entitled to time in opposition to an amendment to a budget resolution, since the leader or his designee is the manager of all measures.[20]

The Presiding Officer has asked the manager of a concurrent resolution on the budget if he opposed an amendment, to ascertain whether the manager would control time in opposition to that amendment.[21]

When the Senate is considering a bill under the Congressional Budget Act, time in opposition to any amendment is under the control of the majority manager, but the minority manager may use the time he controls on the bill itself to debate the amendment.[22]

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[17] Mar. 13, 1986, 99-2, *Record*, pp. 4775–81.
[18] Pub. L. 93-344, sec. 312(a), as added by Pub. L. 102-508, sec. 13207(b)(1), (Nov. 5, 1990).
[19] Sept. 17, 1979, 96-1, *Record*, pp. 24797, 24803
[20] *See* May 10, 1985, 99-1, p. 11476.
[21] *See* May 1, 1985, 99-1, *Record*, pp. 10033–34.
[22] July 22, 1982, 97-2, *Record*, p. 17523.

During the consideration of an amendment to a concurrent resolution on the budget under section 305(b) of the Congressional Budget Act of 1974, if nobody yields time on an amendment, it is charged equally to both sides on the amendment.[23]

During the consideration of an amendment to a concurrent resolution on the budget under section 305(b) of the Congressional Budget Act of 1974, an order stacking votes prior to a time certain to occur back to back at that time resulted in the remaining time on a matter being forfeited.[24]

The Majority Leader or Minority Leader or their designees may yield from their time for debate on a concurrent resolution on the budget to another Senator so that latter Senator may offer an amendment, even after the leaders have designated another Senator to manage time on the resolution.[25]

When a Senator who has control of time on an amendment to a concurrent resolution on the budget yields that time to two other Senators, they are thereby authorized to seek recognition to use that time as they see fit, but they do not thereby gain the right of recognition over a member of the leadership.[26]

A unanimous consent agreement limiting time on an amendment to a concurrent resolution on the budget to "10 minutes equally divided" does not change the control of time on that amendment.[27]

When the Senate enters into an agreement on a specific amendment to a concurrent resolution on the budget which is silent on the question of time for amendments in the second degree, such second degree amendments are in order at the expiration of time on the first degree amendment, but not debatable, despite the general provision for debate on second degree amendments contained in the Budget Act.[28]

When the Senate is considering a matter such as a concurrent resolution on the budget under controlled debate time, a Senator who wishes to make a parliamentary inquiry must control time or have time yielded to him.[29]

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[23] May 20, 1982, 97-2, *Record*, p. 10892.
[24] May 20, 1982, 97-2, *Record*, pp. 10654-55, 10895.
[25] May 20, 1982, 97-2, *Record*, pp. 11032-33.
[26] *See* May 1, 1985, 99-1, *Record*, pp. 10033-34.
[27] May 9, 1985, 99-1, *Record*, p. 11410.
[28] May 20, 1982, 97-2, *Record*, p. 11033.
[29] *Ibid.*

Concurrent resolutions on the budget are not only open to amendments that are germane, but they are open to amendments to figures already agreed to "so as to make such concurrent resolution mathematically consistent, or so as to maintain such consistency." [30] Amendments which are adopted to a concurrent resolution on the budget under the Budget Act of 1974, are subject to further amendment if such further amendment makes or maintains mathematical consistency in the resolution pursuant to section 305(b)(6) of that act.[31] Thus amendments remain in order to a budget resolution even though a complete substitute for the resolution had already been agreed to, if such amendment makes or maintains mathematical consistency in the resolution.[32]

Divisible:

An amendment to a budget resolution that proposed to change twenty-three noncontiguous figures so as to increase defense spending for one year by a certain percentage and to increase that spending for other years by a different percentage, was divided to permit a vote first on those provisions affecting the first year, and then a vote on the remaining years.[33]

An amendment which is so tailored as to increase budget authority at one point in a bill while decreasing it at another, and which would be in order if it were considered en bloc, if divided, will be subject to points of order in regard to those divisions which increase budget authority.[34]

Germane to Concurrent Resolution:

Under section 305(b)(2): "No amendment that is not germane to the provisions of such concurrent resolutions shall be received." This has been interpreted in the same fashion that such prohibitions contained in unanimous consent agreements have been, and a point of order that an amendment is not germane to a concurrent resolution on the budget will bar neither the "receipt" of nor debate on the amendment, but such point of order will lie after

[30] Pub. L. 93-344, as amended, sec. 305(b)(6).
[31] May 20, 1982, 97-2, *Record*, p. 11037.
[32] *See* Sept. 18, 1979, 96-1, *Record*, pp. 24965-66.
[33] Sept. 18, 1979, 96-1, *Record*, pp. 24965-66, 25010-13.
[34] May 20, 1981, 97-1, *Record*, pp. 10436-38.

time for debate on the amendment has concluded.[35] Of course if a point of order is sustained against such an amendment as being nongermane, the amendment falls.[36]

Appeals From the Decision of the Chair:

Debate on appeals with respect to the consideration of budget resolutions and reconciliation bills and amendments and motions relating thereto is limited to one hour,[37] and the same limitation on debate also applies during the consideration of rescission bills.[38]

On June 21, 1976, when a point of order was made against an amendment as being contrary to the provisions of the Budget Act, the Chair sustained the point of order from which an appeal was taken, and the Chair informed the Senate pursuant to a parliamentary inquiry that an appeal from the ruling of the Chair was debatable.[39]

Borrowing Authority:

See "Contract and Borrowing Authority," pp. 603–604.

Budget Authority—When Not in Order:

See also "Points of Order," pp. 614–621.

Under section 303(a) of the Budget Act of 1974, it is not in order to consider legislation proposing new budget authority, either in a bill or a conference report, until "* * * the concurrent resolution on the budget for such year has been agreed to pursuant to section 301".[40]

In the House, an amendment which provided additional budget authority and caused additional budget outlays in excess of limitations contained in the concurrent resolution on the budget for a fiscal year was subject to a point of order under section 311 of the Congressional Budget Act, and this included an amendment which proposed to strike language in a bill, the adoption of which would have had this effect.[41]

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[35] April 1, 1981, 97–1, *Record*, p. 6039.
[36] Sept. 6, 1978, 95–2, *Record*, pp. 28021–23.
[37] Pub. L. 93–344, sec. 305(b)(2), 310(e)(1).
[38] Pub. L. 93–344, as amended, sec. 904(d).
[39] Pub. L. 93–344, sec. 305(b)(2) and 310(e)(1); June 21, 1976, 94–2, *Record*, pp. 19401–03.
[40] Pub. L. 93–344, sec. 303(a); Apr. 10, 1978, 95–2, *Record*, pp. 9383–9403.
[41] May 12, 1981, 97–1, *Record*, p. 9315.

Bills, or amendments thereto, which violate section 303(a) of the Budget Act are subject to points of order, but they may be considered by the Senate if waiver resolutions have been submitted and agreed to allowing such proposals to be in order.[42]

An amendment providing new budget authority for a fiscal year in advance of the fiscal year for which the budget resolution had been agreed to, was ruled out of order.[43] The sponsor of the amendment then offered the amendment modified to provide the budget authority for the current fiscal year (for which a budget resolution had been agreed to), and in response to an inquiry, the Chair indicated that as so altered the amendment was in order.[44]

An amendment which is so tailored as to increase budget authority at one point in a bill while decreasing it at another, and which would be in order if it were considered en bloc, if divided, will be subject to points of order in regard to those divisions which increase budget authority.[45]

The prohibition contained in section 303(a) of the Congressional Budget Act of 1974 against considering measures which provide new budget authority for a fiscal year before the concurrent resolution on the budget for that fiscal year has been agreed to is not self-enforcing, and requires a point of order from the floor for its enforcement.[46]

Amendments adopted during the consideration of a bill may bring the bill into compliance with section 311 of the Congressional Budget Act of 1974 if those amendments decrease the level of new budget authority or outlays in the bill.[47]

Budget Committee

Jurisdiction:

Rule XXV, paragraph 1(e)(1), defining the jurisdiction of the Committee on the Budget, is set forth below:

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[42] Nov. 3, 1977, 95-1, *Record*, pp. 36773-97.
[43] Oct. 1, 1976, 94-2, *Record*, p. 34550-51.
[44] *See* Oct. 1, 1976, 94-2, *Record*, p. 34552-53.
[45] May 20, 1981, 97-1, *Record*, pp. 10436-38.
[46] June 21, 1984, 98-2, *Record*, p. 17754.
[47] May 20, 1987, 100-1, *Record*, p. S 6855.

(e)(1) COMMITTEE ON THE BUDGET, to which committees 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.

The jurisdiction, defined in the rule above, was expanded as follows by two unanimous consent agreements:

(1) Under the January 30, 1975, agreement (as modified on April 11, 1986), impoundment legislation is referred concurrently to the Committee on Appropriations, the Committee on the Budget, and to the appropriate authorizing committee. The Budget Committee is to report its views, if any, to the Appropriations Committee within 20 days following the referral of such legislation. The report to the Senate is made by the Committee on Appropriations.

(2) The unanimous consent agreement of August 4, 1977, requires that all legislation affecting the congressional budget process be referred jointly to the Committees on Budget and Governmental Affairs.[48]

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[48] The first agreement of Jan. 30, 1975 (94th Cong., 1st sess.), found at page 1917 of the *Record* as modified on Apr. 11, 1986 (99-2, *Record*, pp. 7318-19) is as follows:

ORDER GOVERNING REFERRAL OF MATTERS DEALING WITH RESCISSIONS AND DEFERRALS

Mr. MCCLELLAN. Mr. President, I ask unanimous consent that all matters now being held at the desk dealing with the rescissions and deferrals be referred jointly to the Committee on Appropriations, the Committee on the Budget, and any other committee which may have legislative jurisdiction over programs dealt with in the matters so referred.

I also ask unanimous consent that future matters dealing with these subjects be dealt with in the manner, including the time sequences, specified in the Senate Resolution 45, which I have submitted this day.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCLELLAN. Mr. President, I wish to make this explanation: For a period of time, deferral and rescission messages have been held at the desk and not referred to any committee because of a question of appropriate jurisdiction. This matter has been worked out to the satisfaction of the Democrats in caucus, where the issue was discussed and where, afterward, Senator

Continued

Muskie, as chairman of the Budget Committee, and I, as chairman of the Appropriations Committee, worked out a solution, as reflected by the resolution which has been submitted. This resolution, this disposition of the matter, has the unanimous approval of the Democratic Caucus.

The language of S. Res. 45, to which reference is made above, is as follows:

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, the Budget Committee, and pending implementation of section 401 of the Congressional Budget 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 that 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.

The second agreement of Aug. 4, 1977 (95th Cong., 1st sess.), found at pages 26709–10 of the *Record*, is as follows:

JOINT REFERRAL OF LEGISLATION AFFECTING THE BUDGET PROCESS

Mr. MUSKIE. Mr. President, I send a unanimous-consent request to the desk.

Mr. President, I ask unanimous consent that 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 titles 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 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 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 VI of the act;

Sixth. The definitions of what constitutes impoundment—such as "rescissions" and "deferrals," as provided in the Impoundment Control Act, title X;

Continued

The Budget Committee has authority under section 311(c) of the Congressional Budget Act of 1974 to estimate levels of new budget authority, budget outlays, entitlement authority, and revenues for questions that arise under that section.[49]

Matters Not Reported by, Not Eligible for Consideration:

Section 306 of the Budget Act reads as follows: "No bill, resolution, amendment, motion, or conference report, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution."

Pursuant to the above section of the law, the Chair has ruled that no bill or resolution dealing with matters within the jurisdiction of the Budget Committee may be considered unless the Budget Committee has reported the same or the committee has been discharged therefrom.[50]

A floor amendment (to a bill within the jurisdiction of the Finance Committee) that would affect the concurrent resolution on the budget by removing Social Security trust funds from the unified budget, was ruled out of order as containing matter within the jurisdiction of the Budget Committee.[51]

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.

This consent agreement has been worked out carefully by Senator RIBICOFF, who is chairman of the Government Affairs Committee, by Senator PERCY, who is ranking Republican, by myself as chairman of the Committee on the Budget, and by Senator BELLMON as ranking member of the Budget Committee. The attempt is to divide between the two committees those legislative proposals which made an impact on the budget process without denigrating the Committee on Government Affairs general jurisdiction over such budgetary matters. It has been cleared by both committees. It has been examined by the majority leader. I ask for its approval.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

[49] *See* May 27, 1987, 100-1, *Record*, pp. S 7157-58.

[50] Dec. 10, 1979, 96-1, *Record*, pp. 35243-53; Dec. 5, 1979, 96-1, *Record*, pp. 34662-65.

[51] March 22, 1983, 98-1, *Record*, p. 6590.

An amendment offered from the floor to a measure not reported by the Budget Committee, which by proposing to amend the concurrent resolution on the budget for the upcoming fiscal year to reduce spending by 2 percent, involved matters within the jurisdiction of the Budget Committee, and fell on a point of order.[52]

An amendment to a tax bill which proposed that certain tax credits be accompanied by dollar for dollar spending reductions, was ruled out of order as violating section 306 of the Congressional Budget Act, and when a point of order was made against such an amendment, a motion then made to refer the bill to the Budget Committee was held not to be in order until the Chair had ruled on the point of order.[53] After the foregoing ruling by the Chair, a motion to refer the bill to the Budget Committee with instructions to report back forthwith with the amendment at issue was made and tabled (no Senator challenging either the motion or amendment thereto under section 306).[54]

A provision of a bill that requires that a report be made to Congress using specified actuarial methods does not affect the responsibility of the Budget Committee in scoring legislation providing spending authority, appropriations or authorizing legislation.[55]

The Chair has sustained a point of order under section 306 of the Budget Act (after a motion to waive that section was defeated) against an amendment to a House amendment to a Senate amendment to an appropriations bill that would have added to the Budget Act a title labeled Legislative Line-Item Veto Rescission Authority, on the grounds that the amendment dealt with a matter within the jurisdiction of the Budget Committee but was offered to a measure that was not reported by that committee.[56]

An amendment to an appropriations bill, reported by the Appropriations Committee to amend the Balanced Budget and Emergency Deficit Control Act of 1985 (known as the Gramm-Rudman-Hollings Act) relating to repayment of loans from the Federal Financing Bank to the Resolution Trust Corporation, was stricken on a point of order pursuant to section 306 of the Budget Act, since

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[52] July 31, 1987, 100-1, *Record*, pp. 11023-25.
[53] June 18, 1976, 94-2, *Record*, pp. 19093-98.
[54] June 18, 1976, 94-2, *Record*, pp. 19089-98.
[55] *See* May 23, 1985, 99-1, *Record*, p. 13549.
[56] Nov. 9, 1989, 101-1, *Record*, pp. S 15336, 15356-58.

the amendment dealt with matters within the jurisdiction of the Budget Committee.[57]

An amendment to the Budget Act which would have granted the President a legislative line-item veto, offered to a bill reported from the Commerce Committee fell on a point of order under section 306 of the Budget Act, since the subject matter of the amendment was in the jurisdiction of the Budget Committee.[58]

Budget Resolution:

Under section 300 of the Budget Act as amended, the Budget Committee is scheduled to report the concurrent resolution on the budget by April 1,[59] and under section 301(a) of the Act, Congress is scheduled to complete action thereon by April 15.[60]

If the Budget Committee has not reported a budget resolution by the deadline set out in the act, the committee will be discharged from such a resolution if one had been referred to it.[61] When the Budget Committee has not reported a concurrent resolution on the budget for a fiscal year by the deadline in section 300 of the Budget Act, a concurrent resolution on the budget for that fiscal year which is submitted thereafter will be referred to that committee, immediately discharged, and placed on the Calendar.[62]

Congress has on several occasions failed to complete action on the concurrent resolution on the budget by the deadline set out in the Act,[63] and the Chair has stated, in

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[57] May 1, 1990, 101-2, *Record*, pp. S 5383-5405.

[58] June 6, 1990, 101-2, *Record*, pp. S 7457-78.

[59] Pub. L. 93-344, sec. 300, as amended by Pub. L. 99-177 (Dec. 12, 1985). Under this section as originally enacted, the deadline was April 15.

[60] Pub. L. 93-344, sec. 301(a), as amended by Pub. L. 99-177 (Dec. 12, 1985). Under this section as originally enacted, the deadline was May 15.

[61] *See* H. Con. Res. 91, Apr. 15, 1983, 98-1, *Record*, p. 8721 and H. Con. Res. 280, Apr. 18, 1984, 98-2, *Journal*, p. 216. H. Con. Res. 280 was discharged even though the Senate Budget Committee did report a budget resolution on the same date (S. Con. Res. 106), since the Senate was in adjournment on April 15 and therefore H. Con. Res 280 could not have been discharged on that date. It was discharged as soon thereafter as was possible, authority having been given in advance for committees to report measures on April 18, notwithstanding the adjournment of the Senate. *See also* S. Con. Res. 110, Apr. 2, 1990 (Apr. 1 being a Sunday), 101-2, *Record*, p. S 3696.

[62] Apr. 5, 1990, 101-2, *Record*, p. S 4287.

[63] *See for example,* the following budget resolutions, which were adopted when the deadline was May 15: S. Con. Res. 19, 95-1, (May 17, 1977); S. Con. Res. 80, 95-2, (May 17, 1978); H. Con. Res. 107, 96-1, (May 24, 1979); H. Con. Res. 307, 96-2, (June 12, 1980); H. Con. Res. 115, 97-1, (May 21, 1981); S. Con. Res. 92, 97-2 (June 23, 1982); H. Con. Res. 91, 98-1, (June 23, 1983); H. Con. Res. 280, 98-2, (Oct. 1, 1984); and S. Con. Res. 32, 99-1, (Aug. 1, 1985), *see also* the following which were adopted after the deadline was ad-

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response to a parliamentary inquiry, that the failure of Congress to complete action on the budget resolution by this deadline would have no effect on points of order relating to allocations to committees.[64]

A concurrent resolution on the budget pursuant to the Congressional Budget Act of 1974 is a privileged matter which need not lie over one legislative day for consideration, and which may be brought up by a nondebatable motion to proceed.[65]

Concurrent resolutions on the budget are open to amendments to figures already agreed to if the proposed changes would make the provisions of the concurrent resolution "mathematically consistent or maintain such consistency," [66] even though a complete substitute for the resolution had already been agreed to.[67]

Conferees and Conference Reports:

See also "Conference Reports," pp. 449–493.

Set forth below are subsections 305(c) and (d) of the Budget Act defining the procedures for the consideration of conference reports under the Act:

(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

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vanced to April 15 (pursuant to Pub. L. 99–177, Dec. 12, 1985): H. Con. Res. 337, 99–2, (May 15, 1986); H. Con. Res. 93, 100–1, (June 25, 1987); and H. Con. Res. 268, 100–2, (June 6, 1988); H. Con. Res. 106, 101–1, (May 18, 1989); and H. Con. Res. 310, 101–2, (Oct. 9, 1990).

[64] *See* Aug. 7, 1986, 99–2, *Record*, pp. 19796–98.

[65] *See* May 12, 1981, 97–1, *Record*, p. 9455.

[66] Pub. L. 93–344, sec. 305(b)(6).

[67] Sept. 18, 1979, 96–1, *Record*, pp. 24965–66.

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.

Under the Budget Act and practices of the Senate, conference reports on budget resolutions and rescission measures were anticipated.[68]

When a concurrent resolution on the budget is in conference, the consideration and adoption of a resolution to instruct the conferees is in order.[69]

Under the Congressional Budget Act, the time for debate on a conference report is 10 hours, but the Chair has stated in response to an inquiry that this time may be reduced by a nondebatable motion.[70]

The 10 hours of debate provided for by section 305(c)(2) of the Budget Act of 1974 on conference reports on concurrent resolutions on the budget are available even when the conferees have reported in total disagreement.[71]

When conferees have before them a complete substitute, they may add matter to their report that is not en-

[68] Mar. 27, 1979, 96-1, *Record*, pp. 6386-87.
[69] *See* Sept. 13, 1978, 95-2, *Record*, p. 29157.
[70] *See* Aug. 19, 1982, 97-2, *Record*, p. 22398.
[71] June 22, 1982, 97-2, *Record*, p. 14689.

tirely irrelevant to the subject matter contained in either the bill or the substitute.[72]

The conferees on the concurrent resolution on the budget did not exceed their authority to include matters not entirely irrelevant to the subject matter contained in either version of that resolution, when they included a provision in their report directing the Committees on Finance and Ways and Means to report an increase in the public debt limit as part of their reconciliation instructions, since the resolution as it passed the Senate specified a figure for the public debt limit and also contained reconciliation instructions to the Finance Committee.[73]

Conference reports were not explicitly included in section 303 of the Budget Act as originally enacted in 1974.[74] However, on three occasions statements by the Chair or actions of the Senate reflected the belief that section 303 was applicable to conference reports.

In 1978, the Chair stated in response to an inquiry that a conference report containing amendments made in conference would be subject to a section 303 point of order under the Congressional Budget Act if those amendments contained matter that violated that section.[75] In that instance, a motion was made and adopted under section 904(b) of the Act to waive section 303(a) for the consideration of the conference report at issue.[76]

On another occasion, the Chair stated that a conference report which would have resulted in a change in revenues for the upcoming fiscal year would be subject to a point of order under section 303(a) of the Congressional Budget Act of 1974, since the concurrent resolution for that fiscal year had not yet been adopted by Congress.[77]

On a third occasion, a motion was made and adopted under section 904(b) of the Act to waive section 303(a) for the consideration of a conference report that contained entitlements which were to first become effective in a fiscal year after the fiscal year to which the most recently agreed to concurrent resolution on the budget applied.[78]

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[72] Aug. 19, 1982, 97-2, *Record*, pp. 22398-22400.
[73] June 24, 1987, 100-1, *Record*, pp. S 8550-53.
[74] Pub. L. 93-344, sec. 303, as enacted (July 12, 1974).
[75] *See* Apr. 10, 1978, 95-2, *Record*, p. 9390.
[76] *See* Apr. 10, 1978, 95-2, *Record*, pp. 9383-9403.
[77] *See* May 16, 1985, 99-1, *Record*, p. 12354.
[78] *See* Oct. 16, 1986, 99-2, *Record*, pp. 32375-76, 32408-09.

The belief in evidence in the three foregoing cases was codified when section 303 was amended in 1990 to explicitly include conference reports.[79]

A conference report which would cause the appropriate level of total budget outlays set forth in the concurrent resolution on the budget for a fiscal year to be exceeded is subject to a point of order under section 311(a) of the Congressional Budget Act of 1974.[80]

After the adoption of the concurrent resolution on the budget for a fiscal year, a point of order would lie against a conference report which resulted in a loss of revenues for that fiscal year if the level of revenues for that fiscal year was below the level set out in the most recently agreed to concurrent resolution on the budget for that fiscal year.[81]

A conference report which would result in a loss in revenues for a fiscal year for which the concurrent resolution on the budget had been adopted, is subject to a point of order under section 311 of the Congressional Budget Act of 1974, when revenues for that fiscal year are below the level for such revenues contained in that budget resolution.[82]

During the consideration of a revenue bill (H.R. 5263 of the 95th Congress), a proviso found in section 1054(a) of the bill relative to conference reports, which the Chair held upon inquiry would have no effect on the rules of the Senate, on agreement, was stricken from the bill.[83]

Contract and Borrowing Authority:

Proposed legislation to provide new spending authority, as described in section 401(c)(2) (A) or (B) (contract or borrowing authority respectively) is not in order, unless the bill, resolution, or amendment provides that the authority is to be effective for any fiscal year, only to such extent, or in such amounts as provided in appropriation acts.[84]

Under section 401(a) of the Congressional Budget Act, contract authority must be budgeted and appropriated

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[79] Pub. L. 93-344, sec. 303(a), as amended by the Budget Enforcement Act of 1990, sec. 13207(a)(1)(C), Pub. L. 101-508 (Nov. 5, 1990).
[80] Nov. 17, 1987, 100-1, *Record*, p. S 16363.
[81] Oct. 1, 1985, 99-1, *Record*, p. 25358.
[82] *See* May 16, 1985, 99-1, *Record*, p. 12354.
[83] Oct. 25, 1977, 95-2, *Record*, pp. 34903-04.
[84] Nov. 3, 1975, 94-1, *Record*, pp. 34725, 34732-33.

for, and provisions of any bills not satisfying the requirements of section 401 of the Act are out of order and subject to a point of order. Provisions of a bill authorizing the Secretary of the Treasury to enter into a contract under which the United States is obligated to make outlays, when the new spending authority is not provided for in advance by appropriations Acts, create contract authority in violation of section 401(a) of the Budget Act, and would be subject to a point of order, and that the point of order could be made at any time before the bill is passed.[85]

Debate:

Included below is a table on the debate of resolutions, bills, amendments, and motions taken from the various provisions of the Budget Act:

[85] *See* July 28, 1978, 95-2, *Record*, p. 23229-34.

Debate of measures considered under the provisions of the Congressional Budget and Impoundment Control Act of 1974 [1]

[Length of time for debate designated in hours]

	General debate [2]	Amendments to [3]	Amendments to amendments [3]	Debatable motions and appeals [3]	Recommit [4]	Conference Report [5]	Motions and appeals [3]	Amendments in disagreement [6]	Request for further conference [7]
Concurrent Resolution on budget (305(b)) [8]	50	2	1	1	1	10	1	½	1
Revised Concurrent Resolution on budget (304(a))	15	2	1	1	1	10	1	½	1
Reconciliation bill	20	2	1	1	1	10	1	½	1
Reconciliation resolution	20	2	1	1	1	10	1	½	1
Waiver resolution (303(b))	1	[9] 0	[9] 0	⅓	⅓	NA	⅓	NA	NA
Rescission bills	10	2	1	1	1	2	½	½	1
Deferral resolution	10	[9] 0	[9] 0	1	[9] 0	NA	[9] 0	NA	NA

[1] Further limitations on time for debate by motion in order and not debatable.
[2] Definition in each instance includes debate on all amendments thereto (when in order) and debatable motions and appeals in connection therewith and time to be divided between the majority and minority leaders or their designee.
[3] Time divided between mover and manager of the measure except if manager in favor thereof the time goes to the minority leader. All amendments must be germane.
[4] Recommit out of order unless instructions for not to exceed 3 days, except in case of waiver resolutions with debate divided as in [3].
[5] General debate divided between majority and minority leaders or their designees.
[6] Time for debate equally divided between manager and minority leader and any amendment must be germane. Time used counts against 10 hours.
[7] Debate divided between manager and minority leader. Debate on instructions to conferees is limited to ½ hour with amendments thereto at 20 minutes with the time equally divided between the mover and the manager of the measure, except if the manager favors the proposition the time goes to the minority leader.
[8] Under the Budget Act as amended by Public Law 95-523, Humphrey-Hawkins Act, following the opening statements on the First Concurrent Resolution on the budget by the chairman and ranking minority member of the Senate Budget Committee, there shall be a period of up to 4 hours for debate on economic goals and policies.
[9] Not in order.

A motion to waive a section of the Budget Act, pursuant to section 904(b) of that Act, was held by the Chair to be debatable.[86]

A point of order that a bill violates the Congressional Budget Act of 1974 is not debatable, but a motion to waive that Act or specific sections thereof for the consideration of a bill is a debatable proposition.[87]

After debate has concluded on an amendment which was considered under a time agreement which was silent on the question of debatable motions, a motion to waive certain provisions of the Budget Act made in response to a point of order, is not debatable.[88]

When proceeding with the consideration of amendments to any of the budget resolutions, debate on amendments is limited to two hours, and under the Budget Act, any amendment to an amendment is not in order until the time for debate on the first amendment has expired, except by unanimous consent.[89]

The time for a quorum call during the consideration of an amendment to a congressional budget resolution is taken from the time allowed on that amendment, the same procedure utilized when the Senate is considering business under unanimous consent agreements; unanimous consent could be granted for it not to be counted.[90]

When the Senate is considering a bill under the Congressional Budget Act, time for debate on an appeal or motion is controlled by the appellant or moving Senator and the majority leader or his designee.[91]

When the time on a budget resolution or reconciliation bill has expired, any motion relating thereto, such as a motion to instruct the conferees, is decided without debate.[92]

Deferral of Budget Authority:

Deferrals and rescissions of budget authority are governed by the Impoundment Control Act of 1974 (which is title X of the Congressional Budget and Impoundment Control Act of 1974).

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[86] *See* June 18, 1976, 94-2, *Record*, pp. 19087-88.
[87] *See* May 7, 1987, 100-1, *Record*, pp. 11653-11655.
[88] May 20, 1981, 97-1, *Record*, pp. 10436-38.
[89] Sept. 17, 1979, 96-1, *Record*, pp. 24797-803.
[90] Sept. 19, 1979, 96-1, *Record*, pp. 25183-84.
[91] July 20, 1982, 97-2, *Record*, pp. 16997-99.
[92] July 14, 1981, 97-1, *Record*, pp. 15599-600.

Deferrals of budget authority may occur 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" and the President notifies Congress of such deferral.[93] However, such deferrals "shall be permissible only to provide for contingencies; to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or as specifically provided by law * * * and, no officer or employee of the United States may defer any budget authority for any other purpose." [94] A deferral may not extend beyond the fiscal year in which it is proposed, and Congress notified.[95]

Under the Impoundment Control Act as originally enacted in 1974, any deferral of budget authority was subject to disapproval by the adoption of an impoundment resolution by either House of Congress, in which case the amount of budget authority proposed to be deferred would be made available for expenditure.[96] However, disapprovals of executive proposals by one House of Congress were ruled unconstitutional by the Supreme Court in 1983,[97] and the provision of the Impoundment Control Act of 1974 which required that amounts deferred be made available for obligation if either House adopted an impoundment resolution [98] was then ruled unconstitutional in 1987 by the Court of Appeals.[99] This section was subsequently amended later that year to conform to these court rulings. The amendment deleted the requirement to make available budget authority proposed to be deferred if either House adopted an impoundment resolution, and inserted the provision noted above permitting deferrals only under certain circumstances.[100] The language of the original Impoundment and Control Act which provided expedited consideration of such impoundment resolutions [101] was

[93] Pub. L. 99-344, sec. 1013(a).
[94] Pub. L. 99-344, sec. 1013(b), as amended by Pub. L. 100-119, sec. 206, (Sept. 29, 1987).
[95] Pub. L. 99-344, sec 1013(a).
[96] Pub. L. 99-344, sec. 1013(b), as enacted (July 12, 1974).
[97] *Chadha* v. *Immigration and Naturalization Service,* 462 U.S. 919 (1983).
[98] Pub. L. 99-344, sec. 1013(b), as enacted (July 12, 1974).
[99] *City of New Haven* v. *United States (D.C. Cir. 1987).*
[100] Pub. L. 99-344, sec. 1013(b), as amended by Pub. L. 100-119, sec. 206, (Sept. 29, 1987).
[101] Pub. L. 99-344, sec. 1017.

not changed to conform to the court rulings, since such language could provide expedited consideration of a joint resolution of the two Houses, which would be constitutionally sufficient to disapprove a proposed deferral of budget authority.

Direct Spending Authority:

The adoption of an amendment which would provide that specified sections of a bill "shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts" would correct Budget Act problems which would otherwise lie against a bill for providing direct spending authority as described in section 401(c)(2) of the Congressional Budget Act of 1974.[102]

Entitlements:

Section 402(c)(2)(C) of the Budget Act as referenced by section 3(9) of that Act, defines an entitlement as a type of spending 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 such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law." [103] An amendment that provides for benefits to qualifying individuals, but which stipulates that "no payments shall be made except subject to appropriations," does not create an entitlement as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.[104]

Entitlements begin in the year in which payments are to be made, not when the benefits are earned.[105]

An amendment which creates a new entitlement which would begin in a fiscal year before the budget resolution for that fiscal year had been adopted would be out of order under section 303(a) of the Act.[106] An amendment that proposes the creation of an entitlement that would become effective during a fiscal year before the first concurrent resolution on the budget for that fiscal year has

[102] Aug. 7, 1986, 99-2, *Record*, p. 19808.
[103] Pub. L. 99-344, as amended, sec. 3(9), sec. 402(c)(2)(C).
[104] June 13, 1984, 98-2, *Record*, pp. 16101-02, 16104.
[105] June 13, 1984, 98-2, *Record*, pp. 16101-02, 16104.
[106] Pub. L. 93-344, sec. 303(a); Aug. 15, 1978, 95-2, *Record*, pp. 26106-08.

been agreed to, is not in order under section 303(a) of the Congressional Budget Act of 1974, and does not fall within the exceptions contained in section 303(b) of that Act.[107]

An entitlement which begins in a year subsequent to the year for which the concurrent resolution on the budget applies (an "out year") is out of order under section 303 of the Congressional Budget Act of 1974.[108]

A point of order would lie against a conference report under section 303(a) of the Congressional Budget Act of 1974, if that report contained entitlements which were to first become effective in a fiscal year after the fiscal year to which the most recently agreed to concurrent resolution on the budget applied.[109]

It is not in order to consider a proposed entitlement if that proposed legislation "is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported." [110] Thus an amendment which creates a new entitlement which would begin before the start of the fiscal year which begins in the calendar year in which the measure at issue was reported violates section 401(b)(1) of the Budget Act.[111]

Under section 401(b)(2) of the Congressional Budget Act, a bill or resolution which as reported by any of the Senate committees contains new spending authority which creates an entitlement which would result in the appropriate allocation of new budget authority under section 302(b) to be exceeded must be referred to the Committee on Appropriations before it is eligible for consideration.[112] The Chair has stated that for a reference to be made to the Appropriations Committee under section 401(b)(2), it would take a point of order to enforce the law; "The law is not self-enforcing." [113]

Under Section 401(b)(2) of the Budget Act, a bill containing refundable tax credits which would have caused the appropriate allocation of new budget authority under section 302(b) of the budget act to be exceeded will be referred to the Senate Appropriations Committee to con-

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[107] Pub. L. 93-344, sec. 303(b); July 13, 1983, 98-1, *Record*, pp. 18991, 19011, 19018.
[108] June 13, 1984, 98-2, *Record*, pp. 16101-02, 16104.
[109] *See* Oct. 16, 1986, 99-2, *Record*, p. 32375.
[110] Pub. L. 93-344, sec. 401(b)(1); *see also* June 30, 1977, 95-1, *Record*, pp. 21797-99, 21773.
[111] Aug. 15, 1978, 95-2, *Record*, pp. 26106-08.
[112] Pub. L. 93-344, sec. 401(b)(2).
[113] Oct. 28, 1977, 95-2, *Record*, pp. 35764, 35769-70.

sider those refundable tax credits upon a point of order to that effect being made.[114] A bill as reported which did not cause allocations of new budget authority under section 302(b) to be exceeded would not have to be referred to the Committee on Appropriations under section 401(b)(2), since section 401(b)(2) does not apply to amendments offered on the floor and adopted, but only "reported bills or resolutions." [115]

On September 30, 1976, when the Senate had under consideration a bill to amend the Central Intelligence Agency Retirement Act, the Presiding Officer in response to an inquiry informed the Senate that this particular entitlement did not need a waiver.[116]

The Senate has waived section 401 of the Congressional Budget Act for the consideration of an amendment to be effective on the last day of the current fiscal year, which would provide an entitlement to trade adjustment assistance for certain workers.[117]

A point of order raised in April 1976 under section 303(a) of the Congressional Budget Act of 1974 was not sustained against a bill that provided new entitlement authority to become effective in the current fiscal year (for which the relevant budget resolution had been adopted) when a point of order under section 401(b) was discussed but not asserted.[118]

The Senate has adopted a motion to waive section 303(a) of the Budget Act for the consideration of a committee amendment which created an entitlement to begin in a fiscal year before the concurrent resolution on the budget for that fiscal year had been agreed to.[119]

House Language:

If the concurrent resolution on the budget for a fiscal year has been adopted, a point of order will lie against an amendment of the House to an amendment of the Senate to an appropriations bill, if that amendment increases outlays at a time when the appropriate level of outlays for that fiscal year has been breached, and on one occasion it was held that the effect of sustaining such a point of order

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[114] *See* Oct. 28, 1977, 95-1, *Record*, pp. 35764-71.
[115] Oct. 27, 1977, 95-1, *Record*, pp. 35509-10.
[116] Sept. 30, 1976, 94-2, *Record*, p. 33824.
[117] June 6, 1986, 99-2, *Record*, p. 12862.
[118] Apr. 5, 1976, 94-2, *Record*, pp. 9382-90.
[119] Sept. 29, 1989, 101-1, *Record*, pp. S 12217, 12224-25.

was that the amendment of the House was no longer before the Senate, but retained its status as a House message at the desk.[120] Under section 312(a) of the Budget Act as added in 1990, the sustaining of such point of order is now the equivalent of a decision by the Senate to disagree to the amendment of the House.[121]

Leaders Control Time:

The Majority Leader is entitled to time in opposition to an amendment to a measure (such as those considered under the Congressional Budget Act of 1974), since the leader or his designee is the manager of all measures.[122]

Maximum Deficit Amount:

The Chair has sustained a point of order under section 311(a) of the Budget Act against a bill which would have reduced revenues for the fiscal year in progress by $3.9 billion, thereby causing the maximum deficit amount for that year to be exceeded. The bill, which had not been reported by a committee but which had been introduced and placed directly on the calendar, was returned to the Calendar when the point of order was sustained.[123] However, under section 312(b) of the Budget Act as added in 1990, the sustaining of a point of order against a bill under the Budget Act now requires that the bill be sent to the committee of appropriate jurisdiction for further consideration.[124]

The Senate has agreed to a motion to waive section 311(a) of the Budget Act for the consideration of an amendment that repealed a provision of law imposing an obligation ceiling on certain State Department operating accounts, that had the effect of breaching the maximum deficit amount for that fiscal year.[125]

The Budget Enforcement Act of 1990 removed the maximum deficit amount provisions from section 311,[126] and placed them in section 605(b).[127]

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[120] Mar. 13, 1986, 99-2, *Record*, pp. 4775-81.
[121] Pub. L. 93-344, sec. 312(a), as added by Pub. L. 101-508, sec. 13207(b)(1), (Nov. 5, 1990).
[122] *See* May 9, 1985, 99-1, *Record*, p. 11476.
[123] Oct. 10, 1990, 101-2, *Record*, pp. S 14851-56.
[124] Pub. L. 93-344, sec. 312(b), as added by Pub. L. 101-508, sec. 13207(b)(1), (Nov. 5, 1990).
[125] Apr. 26, 1990, 101-2, *Record*, pp. S 5107-15.
[126] Pub. L. 101-508, sec. 13112(a)(10), (Nov. 5, 1990).
[127] Pub. L. 93-344, sec. 605(b), as added by Pub. L. 101-508, sec. 13111 (Nov. 5, 1990).

Modify Committee Amendment:

A committee amendment which would increase or decrease revenues for a fiscal year, offered before the concurrent resolution on the budget has been adopted, is subject to a point of order under section 303(a)(2) of the Budget Act, unless the change in revenues first becomes effective in a fiscal year following the fiscal year to which the concurrent resolution applies. Pending the ruling by the Chair in this instance, the Chairman of the committee which had reported the measure was authorized by a poll of that committee to modify the committee amendment to change the effective date of the revenue provisions at issue from October 1, 1978 (the first day of fiscal year 1979) to September 30, 1978 (the last day of fiscal year 1978), thereby removing the basis for the point of order (since Congress had adopted a budget resolution for fiscal year 1978).[128]

Outlays:

If the concurrent resolution on the budget for a fiscal year has been adopted, a point of order will lie against an amendment of the House to an amendment of the Senate to an appropriations bill, if that amendment increases outlays at a time when the appropriate level of outlays for that fiscal year has been breached, and on one occasion it was decided that the effect of sustaining such a point of order was that the amendment of the House was no longer before the Senate, but retained its status as a House message at the desk.[129] However, under section 312(a) of the Budget Act as added in 1990, the sustaining of such a point of order against House language is now the equivalent of a decision by the Senate to disagree to the amendment of the House.[130]

In the House, an amendment which provided additional budget authority and caused additional budget outlays in excess of limitations contained in the concurrent resolution on the Budget for a fiscal year or any revision thereof was subject to a point of order under section 311 of the Congressional Budget Act, and this included an amend-

[128] Oct. 25, 1977, 95-1, *Record*, pp. 34903-04.
[129] Mar. 13, 1986, 99-2, *Record*, pp. 4775-81.
[130] Pub. L. 93-344, sec. 312(a), as added by Pub. L. 101-508, sec. 13207(b)(1), (Nov. 5, 1990).

ment which proposed to strike language in a bill, the adoption of which would have had this effect.[131]

An amendment which would have required that revenue sharing payments to the States occur by the fifth day after the beginning of each quarter instead of by the fifth day after the end of the quarter was ruled out of order under section 311 of the Budget Act of 1974, since the amendment would have increased outlays for the current fiscal year at a time when the ceiling for such outlays set out in the concurrent resolution on the budget for that fiscal year had been reached.[132]

Amendments adopted during the consideration of a bill may bring the bill into compliance with section 311 of the Congressional Budget Act of 1974 if those amendments decrease the level of new budget authority or outlays in the bill.[133]

A point of order will lie under section 302(f) of the Congressional Budget Act of 1974 against an amendment which by increasing an obligation ceiling would increase outlays, such that the appropriate level of outlays allocated under section 302(b) of that act to the committee having jurisdiction over the subject matter of the amendment would be exceeded.[134]

The Chair has sustained a point of order under section 311(a) of the Budget Act against an amendment that would have required certain off-budget borrowing by the Treasury authorized by the pending bill to be placed on budget (after a motion to waive that section of the Act failed), because that adoption of the amendment would have caused the ceiling of outlays for that fiscal year to be exceeded.[135]

The Chair has sustained a point of order under sections 302(f) and 311(a) of the Budget Act against an amendment to provide funds for anti-drug programs, since the amendment would have caused breaches in the outlay allocations of several subcommittees, as well as a breach in the overall outlay ceiling for that year. An appeal from the ruling of the Chair was tabled.[136] Later that same day, the Senate tabled a motion made by a Senator to waive all

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[131] May 12, 1981, 97-1, *Record*, p. 9315.
[132] Mar. 22, 1983, 98-1, *Record*, p. 6753.
[133] *See* May 20, 1987, 100-1, *Record*, p. S 6855.
[134] Sept. 24, 1986, 99-2, *Record*, pp. 25758-60.
[135] Apr. 18, 1989, 101-1, *Record*, pp. S 4115, 4121-25.
[136] June 1, 1989, 101-1, *Record*, pp. S 5927, 5930-32.

the provisions of the Budget Act for the consideration of his amendment that would have increased certain taxes, and used the resulting revenues to fund anti-drug programs. A point of order was then made and sustained under sections 302(f) and 311(a) of the Budget Act, since the increased outlays would have exceeded the allocation of such outlays to the relevant subcommittee of the Appropriations Committee, and would have breached the aggregate outlay ceiling as well.[137]

Points of Order:

See also "Budget Authority," pp. 593–594, "Contract and Borrowing Authority," pp. 603–604, "Entitlements," pp. 608–610, "Outlays," pp. 612–614, and "Revenue Bills and Amendments Under the Budget Act," pp. 631–635.

An amendment in violation of section 311 of the Budget Act is subject to a point of order, even though the bill is being considered under cloture.[138]

[137] June 1, 1989, 101–1, *Record*, pp. S 5946, 5958.
[138] Oct. 9, 1978, 95–2, *Record*, pp. 34786–92.

POINTS OF ORDER UNDER THE CONGRESSIONAL BUDGET ACT As amended through Public Law 101-508			
Section	**Basis for Point of Order**	**Vote**	**Application**
301(g)(1)	Amounts and levels in budget resolution based on more than one set of assumptions.	Majority	Budget resolution; amendments to, conference report thereon
301(i)	Budget resolution decreases the excess of social security revenues over social security outlays in any of the fiscal years covered.	3/5 duly chosen and sworn	Budget resolution, as reported.
302(c)	Measure provides new budget authority or new spending authority in the jurisdiction of a committee which has received its allocation under 302(a), but has not made its 302(b) suballocations. NOTE: Applicable only to the Appropriaions Committee through FY 1995.	3/5 duly chosen and sworn	bill, joint resolution, amendment, motion, or conference report
302(f)	Measure provides budget outlays, new budget authority, new spending authority in excess of the appropriate allocation reported under: 1) 302(a), or 2) 302(b), or provides social security outlays in excess of such outlays under 302(a). NOTE: Subparagraph 1) not applicable to Appropriations Committee	3/5 duly chosen and sworn	bill, joint resolution, amendment, motion, or conference report
303(a)	Measure provides new budget authority, change in revenues, change in public debt, new entitlement authority, new spending authority, or outlays, prior to adoption of a budget resolution.	Majority	bill, joint resolution, amendment, motion, or conference report as reported
304(b)	Amounts and levels in revised budget resolution based on more than one set of assumptions.	Majority	revised budget resolution; amendment to, or conference report thereon
305(b)(2)	Amendments not germane to the provisions of the budget resolution.	3/5 duly chosen and sworn	amendment to: budget resolution, or reconciliation bill

305(b)(4)	Amendment relating to economic goals (re Employment Act of 1946), unless the budget resolution sets forth such goals.	Majority	amendment to: budget resolution, or reconciliation bill
305(c)(4)	Amendment not germane to the provisions of an amendment in disagreement accompanying a conference report on the budget resolution.	3/5 duly chosen and sworn	amendment to: budget resolution, or reconciliation bill
305(d)	Budget resolution or a conference report thereon, if the figures are not mathematically consistent.	Majority	budget resolution, or reconciliation bill; conference report thereon
306	Measure contains matter within the jurisdiction of the Budget Committee, unless it is a bill or resolution reported (or discharged) from the Budget Committee, or it is an amendment to such a bill or resolution.	3/5 duly chosen and sworn	bill, resolution, amendment, motion, or conference report
310(d)(2)	Amendment decreases any specific outlay reductions or reduces revenue increases provided in the reconciliation instructions, and there is no offset.	3/5 duly chosen and sworn	amendment to reconciliation measure
310(e)	The provisions of section 305 concerning Senate consideration of budget resolutions, and conference reports thereon, shall also apply to Senate consideration of reconciliation measures, and conference reports thereon.		
310(g)	Recommendations concerning old-age, survivors, and disability insurance under Title II of Social Security Act.	3/5 duly chosen and sworn	reconciliation measure, or joint resolution under 258C of Gramm-Rudman; amendments to, or conference reports thereon
311(a)(1)	Measure provides new budget authority or new entitlement authority, or loses revenues, such that the levels for the totals of those items in the budget resolution are breached.	3/5 duly chosen and sworn	bill as reported, joint resolution as reported, amendment, motion, or conference report
311(a)(2)	Measure causes level of total new budget authority, budget outlays, or social security outlays set forth in the budget resolution to be exceeded, or causes revenues or social security revenues set forth in the budget resolution to be reduced.	3/5 duly chosen and sworn	bill, resolution, amendment, motion, or conference report

313(a)	Reconciliation measure contains material extraneous to the reconciliation instructions to a committee.	3/5 duly chosen and sworn	amendments to reconciliation bill;
313(c)	Conference report on reconciliation measure contains certain material extraneous to the reconciliation instructions.	3/5 duly chosen and sworn	conference report on reconciliation, amendment between Houses on reconciliation
313(d)	Reconciliation measure contains several provisions contain extraneous material.	3/5 duly chosen and sworn	reconciliation; amendments thereto, conference report thereon, amendments between Houses on
401(a)	Measure provides new spending authority, and does not make that spending subject to appropriation.	Majority	bill, joint resolution, amendment, motion, or conference report, as reported
401(b)	Measure provides new spending authority which becomes effective before the first day of the fiscal year which begins during the calendar year in which the bill or resolution is reported.	Majority	bill, joint resolution, amendment, motion, or conference report, as reported
402(a)	Measure provides new credit authority, and does not provided that such authority is subject to appropriations.	Majority	bill, joint resolution, amendment, motion, or conference report, as reported
NOTE: Title VI of the Budget Enforcement Act of 1990 applies during Fiscal Years 1991 - 1995.			
601(b)	Measure exceeds the allocations (discretionary spending limits for a category) in 601(a) or suballocations made under section 602(b) based on these allocations.	3/5 duly chosen and sworn	budget resolution FY 1992 - 1995, or appropriations FY 1992 or 1993; amendment thereto, or motion, or conference report thereon
602(c)	Applies 302(f), except that references to 302(b) allocations are deemed references to allocation under 602(a) or suballocation under 602(b), as applicable, for the FY of the budget resolution or for the total of all FYs made by the joint explanatory statement.		
605(b)	Measure results in a deficit for the first fiscal year covered by the budget resolution that exceeds the MDA for such fiscal year.	Majority	bill, resolution, amendment, motion, or conference report

606(c)	Level of total budget outlays in budget resolution for the first fiscal year set forth, exceeds, or would exceed, the recommended levels of revenues set forth for that year by an amount that is greater than the MDA for such fiscal ear under 601(a).	3/5 duly chosen and sworn	budget resolution for a FY; amendment, thereto, or a conference report thereon

An amendment that is so tailored as to increase budget authority at one point in a bill while decreasing it at another, and which would be in order if it were considered en bloc, if divided, will be subject to points of order in regard to those divisions which increase budget authority.[139]

After a ruling by the Chair that an amendment to a tax bill which would require tax credits to be offset by government-wide spending cuts was out of order under section 306 of the Budget Act since that bill had not been reported by the Budget Committee, a motion to refer the bill to the Budget Committee with instructions to report back forthwith with the amendment at issue included was made and tabled (no Senator having challenged either the motion or the amendment thereto under section 306).[140]

A significant precedent occurred with respect to what is known as the "out-year exception" contained in section 303(b) of the Budget Act to the restrictions contained in section 303(a) of the Act, against the consideration of proposals with specified budgetary consequences before adoption of the budget resolution for the relevant fiscal year. On October 5, 1978, the Chair sustained a point of order under section 303(a) of the Budget Act, against an amendment which provided for a decrease in revenues to become effective during a fiscal year before the adoption of the concurrent resolution on the budget for such year, after the Chair determined that the amendment was not excepted by section 303(b), which provides that: "subsection (a) does not apply to any bill or resolution * * * increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies." On appeal, the decision of the Chair was overruled.[141] This "out-year exception" was

[139] May 20, 1981, 97-1, *Record*, pp. 10436-38.
[140] June 18, 1976, 94-2, *Record*, pp. 19093-98.
[141] Oct. 5, 1978, 95-2, *Record*, pp. 33945-52.

changed in 1990 to apply only to a "bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.[142]

The provisions of the Congressional Budget Act, which are in the form of a unanimous consent agreement in the usual form, are interpreted using the precedents which apply to such agreements. Therefore the language regarding nongermane amendments stating that they "shall not be received" permits points of order against such amendments only when the time on the amendment has expired, and does not authorize the Chair to rule on such amendments on his own initiative at any time.[143]

The prohibition contained in section 303(a) of the Congressional Budget Act of 1974 against considering measures which provide new budget authority for a fiscal year before the relevant concurrent resolution on the budget for that fiscal year has been agreed to is not self-enforcing, and requires a point of order from the floor for its enforcement.[144]

Although section 303 did not mention conference reports until it was amended by the Budget Enforcement Act of 1990,[145] the folllowing three occurrences that predate this amendment indicate the belief that prevailed in the Senate that section 303 applied to conference reports: In 1978, the Chair stated in response to an inquiry that if new matter added in a conference report would violate section 303(a) of the Budget Act, then the report would violate that section. A motion was made and adopted under section 904(b) of the Act to waive section 303(a).[146] Several years later, the Chair stated in response to an inquiry that a conference report which would result in a change in revenues for the upcoming fiscal year would be subject to a point of order under section 303(a) of the Congressional Budget Act of 1974, since the relevant concurrent resolution on the budget for that fiscal year had not been adopted by Congress.[147] The following year, a

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[142] Pub. L. 93-344, sec. 303(b), as amended by the Budget Enforcement Act of 1990, sec. 13205(b)(1), Pub. L. 101-508, (Nov. 5, 1990).

[143] Apr. 1, 1981, 97-1, *Record*, p. 6039.

[144] June 21, 1984, 98-2, *Record*, p. 17754.

[145] Budget Enforcement Act of 1990, sec. 13207(a)(1)(C), Pub. L. 101-508, (Nov. 5, 1990).

[146] *See* Apr. 10, 1978, 95-2, *Record*, pp. 9383-9403.

[147] *See* May 16, 1985, 99-1, *Record*, p. 12354.

motion to waive section 303(a) was made under section 904(b) of the Act during the consideration of conference report that contained entitlements which were to first become effective in a fiscal year after the fiscal year to which the most recently agreed to concurrent resolution on the budget applied.[148]

Prior to the adoption of the concurrent resolution on the budget for the upcoming fiscal year (which begins in October of the current year), a bill which would result in a loss of revenues for the upcoming fiscal year is subject to a point of order under section 303 of the Congressional Budget Act of 1974, despite the fact that a complete substitute with no such revenue impact was pending thereto.[149]

Amendments adopted during the consideration of a bill may bring the bill into compliance with section 311 of the Congressional Budget Act of 1974 if those amendments decrease the level of new budget authority or outlays in the bill.[150]

On one occasion, it was held that if the Chair sustained a point of order that a bill violated section 302(f), 303(a), or 311(a) of the Congressional Budget Act, the bill would fall and be placed back on the Calendar.[151] However, under section 312(b) of the Budget Act as added in 1990, the sustaining of a point of order against a bill under the Budget Act now requires that the bill be sent to the committee of appropriate jurisdiction for further consideration.[152]

If the concurrent resolution on the budget for a fiscal year has been adopted, a point of order will lie against an amendment of the House to an amendment of the Senate to an appropriations bill, if that amendment increases outlays at a time when the appropriate level of outlays for that fiscal year has been breached, and on one occasion it was decided that the effect of sustaining such a point of order was that the amendment of the House was no longer before the Senate, but retained its status as a House message at the desk.[153] However, under section

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[148] *See* Oct. 16, 1986, 99-2, *Record*, p. 32375.
[149] Jan. 27, 1986, 99-2, *Record*, pp. 549-50.
[150] *See* May 20, 1987, 100-1, *Record*, p. S 6855.
[151] *See* May 8 and 12, 1987, 100-1, *Record*, pp. S 6262, S 6288-89.
[152] Pub. L. 93-344, sec. 312(b), as added by Budget Enforcement Act of 1990, sec. 13207(b)(1), Pub. L. 101-508, (Nov. 5, 1990).
[153] Mar. 13, 1986, 99-2, *Record*, pp. 4775-81.

312(a) of the Budget Act as added in 1990, the sustaining of such point of order is now the equivalent of a decision by the Senate to disagree to the amendment of the House.[154]

A point of order will lie against a motion to recommit a bill to a committee with instructions that the bill be reported back forthwith with specified amendments, if the effect of the motion is to produce a violation of section 311(a) of the Budget Act of 1974 (in this case to cause revenues to fall below the floor specified in the concurrent resolution on the budget for the relevant fiscal year). If such point of order were raised, a motion to waive the Budget Act could be made, and that motion would be debatable.[155]

Quorum:

The time for a quorum call during the consideration of an amendment to a concurrent resolution on the budget is taken from the time allotted on an amendment, just as when the Senate is operating under a unanimous consent agreement, unless unanimous consent is granted for it not to be counted.[156]

Recommit:

Under the Budget Act, a motion to recommit a budget resolution is not in order unless it contains instructions "to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session." [157]

A point of order will lie against a motion to recommit a bill to a committee with instructions that the bill be reported back forthwith with specified amendments, if the effect of the motion is to produce a violation of section 311(a) of the Budget Act of 1974 (in this case to cause revenues to fall below the floor specified in the concurrent resolution on the budget for the relevant fiscal year). If such point of order were raised, a motion to waive the

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[154] Pub. L. 93-344, sec. 312(a), as added by Pub. L. 101-508, sec. 13207(b)(1), (Nov. 5, 1990).

[155] Apr. 20, 1983, 98-1, *Record*, p. 9151.

[156] Sept. 19, 1979, 96-1, *Record*, pp. 25183-84.

[157] *See* sec. 305(b)(5), a ruling pursuant to this provision was made on Dec. 15, 1975, 94-1, *Record*, pp. 40545-46.

Budget Act could be made, and that motion would be debatable.[158]

When a measure considered under the Congressional Budget Act is recommitted, and that measure is again before the Senate, the time for debate on the measure is that which remained at the time of recommittal.[159]

Reconciliation Bills:

Section 310(d) of the Budget Act as enacted in 1974 required completion of the reconciliation process by September 25 preceding the upcoming fiscal year.[160] Furthermore, under section 310(f) of the original Act, both Houses of Congress were prohibited from adjourning *sine die* if Congress had not completed action on a reconciliation bill or resolution, if such were required by the relevant concurrent resolution on the budget.[161] This provision was amended in 1985 to require completion of the reconciliation process by June 15 of each year, and to remove the Senate from the application of the prohibition against adjourning before completion of the reconciliation process.[162] These deadlines were often missed.[163] The Budget Enforcement Act of 1990 removed the June 15 deadline for completion of the reconciliation process.[164]

On December 15, 1975, the Senate began consideration of H.R. 5559, which as passed by the House was not a reconciliation bill, and which contained only one substantive provision (to exclude from income certain earnings derived from payments by common carriers for use of railroad rolling stock owned by foreign corporations). After the Senate began its consideration, and the chairman of the Finance Committee asserted that the bill as reported with a substitute was intended to carry out the reconciliation instructions contained in the most recently adopted

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[158] Apr. 20, 1983, 98-1, *Record*, p. 9151.

[159] May 12, 1983, 98-1, *Record*, p. 12099.

[160] Pub. L. 93-344, sec. 310(d), as enacted (July 12, 1974).

[161] Pub. L. 93-344, sec. 310(f), as enacted (July 12, 1974).

[162] Pub. L. 93-344, sec. 310(f), as amended by Pub. L. 99-177, sec. 201(b), (Dec. 12, 1985).

[163] *See for example,* the following reconciliation bills which were passed after the September 25 deadline in the original Act: H.R. 7765, 96-2, (Dec. 3, 1980); and H.R. 7765, 98-1, (Apr. 5, 1984); *see also,* the following reconciliation bills which were passed after the deadline was changed to June 15 (pursuant to Pub. L. 99-177, Dec. 12, 1985): H.R. 3128, 99-1, (Mar. 20, 1986); H.R. 5300, 99-2, (Oct. 17, 1986); H.R. 3545, 100-1, (Dec. 22, 1987); H.R. 3299, 101-1, (Nov. 22, 1989); and H.R. 5835, 101-2, (Oct. 27, 1990).

[164] Pub. L. 93-344, sec. 310(f), as amended by Pub. L. 101-508, sec. 13210(2), (Nov. 5, 1990).

concurrent resolution on the budget, the Chair stated that there would be 20 hours debate on the bill, 2 hours on first degree amendments, 1 hour on second degree amendments and motions, and that amendments (except those specified in an earlier unanimous consent agreement) would have to be germane. These were the conditions specified in the Budget Act for the consideration of reconciliation bills.[165]

The remedy for non-compliance by a committee with its instructions to report savings to be placed in a reconciliation bill is a motion to recommit with instructions to report back forthwith with an amendment that achieves those savings.[166]

So long as a preponderance of its subject matter has a budgetary impact, a reconciliation bill could contain non-budgetary amendments to substantive law, and still be protected under the Budget Act.[167]

Reconciliation Bills, Budgetary Effect of Amendments:

Section 310(d)(2) of the Budget Act, as amended by the first Gramm-Rudman-Hollings Act, provides a point of order against an amendment to a reconciliation bill that "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, 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." [168]

The Chair sustained a point of order under section 310(d)(2) against an amendment to a reconciliation bill

[165] Pub. L. 93-344, secs. 305(b)(2) and 310(e)(1); *See* Dec. 15, 1975, 94-1, *Record*, p. 40540.
[166] *See* June 17, 1981, 97-1, *Record*, p. 12692.
[167] *See* June 22, 1981, 97-1, *Record*, pp. 13209-11.
[168] Sec. 310(d)(2), Budget Act of 1974, as amended by Pub. L. 99-177, (Dec. 12, 1985).

that would have excluded charitable contributions from the overall limitation on itemized deductions (after a motion to waive that section was defeated), since the amendment would have caused a loss of revenues over 5 years of $2.5 billion and would have resulted in the savings attributed to the Finance Committee to be insufficient to meet its reconciliation instructions.[169] Later that day, the Chair sustained a point of order under the same section against an amendment that would have reduced the savings attributable to two committees by an amount less than the surplus of aggregate savings then contained in the reconciliation bill, since the amendment would have reduced savings attributed to the Agriculture Committee below the level it was instructed to achieve without making offsetting savings in other provisions.[170]

Reconciliation Bills, Extraneous Matters:

Reconciliation bills have at times contained matters extraneous to the instructions to the various committees whose recommendations in response to those instructions comprise a reconciliation bill. In two cases, a joint leadership amendment was adopted to strike material identified to be extraneous.[171] Until 1985, the only recourse of a Senator who opposed the inclusion of such extraneous matter was a motion to strike, since no point of order authorized by the rules or precedents of the Senate was available to strike a provision from a measure.

On October 24, 1985, by a vote of 96–0, the Senate adopted an amendment offered by Mr. Robert C. Byrd, of West Virginia, authorizing points of order against any part of a reconciliation bill not within the jurisdiction of the committee reporting it, or extraneous to the instructions given to that committee.[172] The provisions of this amendment as ultimately enacted became known as the "Byrd Rule."[173] The Senate adopted two resolutions applying

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[169] Oct. 18, 1990, 101-2, *Record*, pp. S 15798-804, 15807.

[170] Oct. 18, 1990, 101-2, *Record*, pp. S 15813-16.

[171] *See* June 22, 1981, 97-1, *Record*, pp. 13209-11; *see also* Oct. 13, 1989, 101-1, *Record*, pp. S 13349-57.

[172] Senate amendment No. 878, adopted to S. 1730, the Reconciliation Bill of 1986, Oct. 24, 1985, 99-1, *Record*, pp. 28968-74.

[173] The Senate incorporated the provisions of S. 1730 into H.R. 3128, and this measure was enacted as the Consolidated Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-272, with a modified version of the provisions of Senator Byrd's amendment included as sec. 20001 (Apr. 7, 1986). This section was amended by the Omnibus Reconciliation Act of 1986, Pub. L. 99-509, sec. 7006, (Oct. 21, 1986), and further amended by

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portions of this rule to conference reports and amendments between the Houses on reconciliation bills.[174]

A section of a reconciliation bill reported by the Budget Committee was stricken on a point of order that it was extraneous, because such provision would result in increased outlays thus causing the committee having jurisdiction over its subject matter to fall from compliance with its reconciliation instruction.[175]

A subsection of a reconciliation bill was stricken as extraneous on a point of order under subparagraph (d)(1)(C) of the Byrd Rule,[176] on the grounds that the provision in question (a reapportioning of highway funds between states) was not within the jurisdiction of the Finance Committee, which had included it in response to its reconciliation instruction.[177]

A point of order was sustained against an amendment offered from the floor to a reconciliation bill to provide for risk assessment for deposit insurance, on the grounds that it violated subparagraph (d)(1)(A) of the Byrd Rule in that it did not produce a change in either outlays or revenues, after a motion to waive that rule was defeated on a voice vote.[178]

The Chair considered en bloc (no objection being heard) a point of order made under subparagraph (d)(1)(D) of the Byrd Rule, against provisions of a reconciliation bill which would have imposed criminal penalties for violations of certain rules under the Occupational Health and Safety Act. The point of order was made against subsections (a) and (b) of section 10201 of the bill, but specifically excluded paragraph ten of subsection (a), (and was therefore two points of order). The Chair sustained the points of order on the grounds that these proposals would have a budgetary impact merely incidental to their nonbudgetary impact.[179]

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the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. 100-119, sec. 205, (Sept. 29, 1987). This section was further amended and codified as sec. 313 of the Budget Act by the Budget Enforcement Act of 1990, Pub. L. 101-508, sec. 13214 (Nov. 5, 1990).

[174] S. Res. 286, adopted Dec. 19, 1985, 99-1, *Record*, pp. 38559-60, as amended by S. Res. 509, adopted Oct. 16, 1986, 99-2, *Record*, pp. 32372-73.

[175] Sept. 19, 1986, 99-2, *Record*, p. 24907.

[176] Pub. L. 99-272, sec. 20001(d)(1)(C) as amended by Pub. L. 99-509, sec. 7006 (Oct. 21, 1986). This provision was codified as sec. 313(b)(1)(C) of the Budget Act by the Budget Enforcement Act of 1990, Pub. L. 101-508, sec. 13214 (Nov. 5, 1990).

[177] Oct. 17, 1990, 101-2, *Record*, pp. S 15462-75.

[178] Oct. 18, 1990, 101-2, *Record*, pp. S 15731-38.

[179] Oct. 18, 1990, 101-2, *Record*, p. S 15771.

The Chair sustained a point of order under subparagraph (d)(1)(A) of the Byrd Rule against sixteen contiguous sections of a reconciliation bill affecting the management if the Tongass National Forest in Alaska, on the grounds that these provisions had no budgetary impact.[180]

The Chair sustained a point of order against an amendment to require the deposit of increased motor fuel taxes in the Highway Trust Fund under subparagraph (d)(1)(A) of the Byrd Rule, since the amendment had no budgetary effect.[181]

In response to a point of order, the Senate by a vote of 69 yeas, 39 nays, waived subparagraph (d)(1)(A) of the Byrd Rule for the consideration of aviation policy legislation having no budgetary effect, contained in a reconciliation bill.[182]

Reconciliation Bills, Germaneness:

An amendment which is germane to a reconciliation bill or any of the amendments thereto reported by the committee is germane.[183]

An amendment that would have limited a proposed increase in a tax contained in a reconciliation bill, but also proposed to increase another tax not contained in the bill was held out of order as nongermane.[184]

During the consideration of measures under the Budget Act (whose provisions are modeled after a unanimous consent agreement) amendments reported by or offered by authority of the committee of jurisdiction are germane *per se*, and such amendments form part of the basis for determining germaneness. Therefore, a floor amendment to a reconciliation bill which was ruled out of order as being nongermane was reoffered on behalf of the committee which had reported the measure and since no point of order would then lie against it, none was made.[185]

An amendment which is either germane to an amendment for which the germaneness requirement of the Con-

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[180] Oct. 18, 1990, 101-2, *Record*, p. S 15782.
[181] Oct. 18, 1990, 101-2, *Record*, pp. S 15808-10, 15815.
[182] Oct. 18, 1990, 101-2, *Record*, p. S 15821.
[183] July 20, 1982, 97-2, *Record*, pp. 16997-99.
[184] July 22, 1982, 97-2, *Record*, pp. 17514, 17516-17.
[185] July 22, 1982, 97-2, *Record*, p. 17649.

gressional Budget Act of 1974 was waived or germane to the bill itself, would be considered germane.[186]

The Chair sustained points of order under section 305(b)(2) of the Budget Act against two amendments proposing alternative revenue provisions to those reported by the Finance Committee in a reconciliation bill, the Senate having voted down motions to waive that section of the Act in both cases, on the grounds that each amendment was nongermane.[187]

The Chair sustained a point of order under section 305(b)(2) of the Budget Act against an amendment to a reconciliation bill which proposed to prescribe standards for deposit insurance, on the grounds that the amendment was nongermane, after the Senate rejected a motion to waive that section of the Act.[188]

After the Senate defeated a motion to waive section 305(b)(2) of the Budget Act for the consideration of an amendment to a reconciliation bill to impose a surtax on individuals with taxable incomes over $1 million, the Chair sustained a point of order that the amendment was nongermane, since there was nothing in the bill on the tax rate for individuals.[189] The Chair also sustained a point of order under section 305(b)(2) of the Act against an amendment to a reconciliation bill which proposed to reinstate the windfall profits tax, after the failure of a motion to waive, on the same grounds.[190]

The Senate has voted 75 yeas, 25 nays, to waive the germaneness requirement in section 305(b)(2) of the Budget Act for the consideration of an amendment to a reconciliation bill, which proposed budget process and enforcement reforms.[191]

Reconciliation Instructions:

The Congressional Budget Act authorizes the Budget Committee to report reconciliation instructions to committees which specify the total amount by which budget authority, spending authority or revenue figures are to be changed, but does not authorize the Budget Committee to

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[186] Sept. 19, 1986, 99-2, *Record*, p. 24843.
[187] Oct. 17, 1990, 101-2, *Record*, pp. S 15491-92, 15522-24; Oct. 18, 1990, 101-2, *Record*, pp. 15740, 15756.
[188] Oct. 18, 1990, 101-2, *Record*, pp. S 15727-31, 15737.
[189] Oct. 18, 1990, 101-2, *Record*, pp. S 15785, 15792, 15806-07.
[190] Oct. 18, 1990, 101-2, *Record*, pp. S 15810-12, 15815.
[191] Oct. 18, 1990, 101-2, *Record*, pp. S 15822-39.

instruct a committee to increase revenues from certain types of programs.[192]

Reconciliation instructions to a committee under the Congressional Budget Act of 1974 may not direct which laws or "line items" must change in order to achieve the purposes set forth in the instructions.[193]

In response to a parliamentary inquiry, the Chair indicated that since the Senate had chosen to permit outyear reconciliation instructions in a previous year, no point of order would lie against outyear reconciliation instructions.[194]

The remedy for noncompliance by a committee with its instructions to report savings to be placed in a reconciliation bill is a motion to recommit with instructions to report back forthwith with an amendment that achieves those savings.[195]

Reference:

Under section 401(b)(2) of the Budget Act, when a measure as reported by a committee contains new spending authority that creates an entitlement which would result in the appropriate allocation of new budget authority under section 302(b) to be exceeded, it shall be referred to the Committee on Appropriations.[196] The Chair has stated that for such a referral to be made to the Appropriations Committee, it would take a point of order to enforce the law, since "The law is not self-enforcing." [197] However, a bill which as reported did not cause allocations of new budget authority to a committee under section 302(b) to be exceeded would not have to be referred to the Committee on Appropriations under section 401(b)(2), since that section does not apply to floor amendments, but only "reported bills or resolutions." [198]

If a bill as reported contains refundable tax credits (an entitlement under section 401(c)(2)(C) of the Budget Act), which would cause the appropriate allocation of new budget authority under section 302(b) of the Budget Act to be exceeded, it will be referred pursuant to section

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[192] *See* May 19, 1982, 97-2, *Record*, p. 10603.
[193] May 9, 1985, 99-1, *Record*, pp. 11435-39.
[194] *See* Mar. 26, 1981, 97-1, *Record*, p. 5469.
[195] *See* June 17, 1981, 97-1, *Record*, p. 12692.
[196] *See* Oct. 27, 1977, 95-1, *Record*, pp. 35509-10.
[197] *See* Oct. 28, 1977, 95-2, *Record*, p. 35770.
[198] *See* Oct. 27, 1977, 95-1, *Record*, p. 35510.

401(b)(2) of the Budget Act to the Senate Appropriations Committee to consider those refundable tax credits, upon a point of order to that effect being made.[199]

If a point of order were made against the consideration of an amendment, a motion then made to refer the underlying bill to committee would not be in order until the Chair had ruled on that point of order.[200]

The Senate has by unanimous consent adopted en bloc four resolutions reported by the Budget Committee, three of which waived section 303(a) of the Budget Act for the consideration of certain amendments to a specified bill, and one of which proposed to add a new section at the end of an unspecified bill. The resolutions were submitted by individual senators and referred to the Budget Committee, and were not original resolutions reported by the committee of the Senate that had reported the measure in question, and then referred to the Budget Committee pursuant to section 303(c).[201]

Rescissions:

See also "Deferral of Budget Authority," pp. 606–608.

The provisions of the Congressional Budget Act of 1974 supplement rather than supplant Senate procedure, and therefore they are not the exclusive means to achieve the purposes for which they were enacted. Thus in response to a parliamentary inquiry involving the right of the Senate to act on proposed legislation on rescissions when the time for the consideration of a rescission bill specified in the Act had expired, the Chair informed the Senate "that it is conceded that the timeframe provided for in the Congressional Budget and Impoundment Control Act of 1974 has elapsed, and in fact had elapsed before this body considered the bill. Notwithstanding this, it is the Chair's view that Congress nevertheless has the power to act on a rescission bill irrespective of the Act, as the Act itself states in section 1001:

'Nothing contained in this Act, or in any amendment made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President; . . .'

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[199] *See* Oct. 28, 1977, 95–1, *Record*, pp. 35764, 35769–70.
[200] June 18, 1976, 94–2, *Record*, pp. 19093–98.
[201] *See* Nov. 3, 1977, 95–1, *Record*, pp. 36795–97.

"Therefore, it is the Chair's view that this is simply a regular bill and conference report thereon and it is proper for the Senate to act on them, but that the provisions of the act relative to rescission bills and conference reports thereon do not obtain." [202] Thus rescission bills can either be defined under the Congressional Budget Act, in which case they are considered under the special procedures, or under Rule XXV, as amended, in which case they are treated as any other bill.[203]

During the consideration of a bill on military construction appropriations for 1977, the Chair had an occasion, an amendment having been called up to the bill, to state to the Senate that rescissions offered in the form of an amendment from the floor are legislation on an appropriation bill. The Chair further asserted that the Appropriations Committee could have put it in a rescinding provision, but an amendment offered from the floor to do that would be held to be legislation on an appropriation bill.

For that reason, he said, the point of order was sustained.

The Chair further stated that under the Budget and Impoundment Act, the Appropriations Committee is given the jurisdiction over rescissions, but this jurisdiction does not waive Rule XVI, paragraph 4, which precludes legislation on appropriation bills.[204]

An amendment to restore the funding of medical schools involving appropriations enacted into law a previous year in a rescission bill does not give rise to a point of order under the Congressional Budget Act.[205]

However, an amendment which would have stricken a proposed rescission was held (in the House) to provide additional budget authority and to cause additional budget outlays in excess of limitations contained in the concurrent resolution on the budget for a fiscal year and was therefore subject to a point of order under section 311 of the Congressional Budget Act.[206]

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[202] Mar. 26, 1975, 94-1, *Record*, p. 8672.
[203] *Ibid.*
[204] June 26, 1976, 94-2, *Record*, pp. 20815, 20824-25.
[205] Mar. 14, 1979, 96-1, *Record*, p. 4987.
[206] May 12, 1981, 97-1, *Record*, p. 9315.

Revenue Bills and Amendments Under the Budget Act:

See also "Points of Order," pp. 614–621.

Bills, resolutions, and amendments on revenue will be ruled out of order, if a point of order is made and sustained, to the effect that such proposals do not comply with the requirements of the Budget Act. Such proposed legislative measures have been ruled out of order by the Chair because they failed to comply with sections 303, 306, and 311 of the Budget Act, as follows:

An amendment (in this case, a committee amendment) which would increase or decrease revenues for a fiscal year, offered before the concurrent resolution on the budget had been adopted, is subject to a point of order under section 303(a)(2) of the Budget Act, unless the change in revenues first becomes effective in a fiscal year following the fiscal year to which the concurrent resolution applies. Pending the ruling by the Chair in this instance, the chairman of the committee which had reported the measure was authorized by a poll of that committee to modify the committee amendment to change the effective date of the revenue provisions at issue from October 1, 1978, (the first day of fiscal 1979) to September 30, 1978 (the last day of fiscal 1978), thereby removing the basis for the point of order (since Congress had adopted a Budget Resolution for fiscal 1978).[207]

On October 5, 1978, the Chair sustained a point of order under section 303(a) of the Budget Act, against an amendment which provided for a decrease in revenues to become effective during a fiscal year before the adoption of the concurrent resolution on the budget for such year. The Chair had determined that the amendment did not come under the "outyear" exception contained in section 303(b), which provides that: "subsection (a) does not apply to any bill or resolution * * * increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies." An appeal was taken from the decision of the Chair and the Chair was overruled.[208] Section 303(b) was amended in 1990 to limit the "outyear" exception to only a "bill or resolution making advance appropriations for

[207] Oct. 25, 1977, 95-1, *Record*, pp. 34903–04.
[208] Oct. 5, 1978, 94-2, *Record*, pp. 33945–52.

the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years." [209]

Under section 311, an amendment which would cause revenues to be less than the appropriate level set out in the budget resolution is subject to a point of order.[210]

Amendments which would reduce revenue offered after the adoption of the concurrent resolution on the budget at a time when the revenue estimate is not as high as the level set out in the concurrent resolution are not in order.[211] After the adoption of the budget resolution for fiscal year 1979, an amendment which would have reduced revenues for that fiscal year below the revenue floor of the budget resolution was ruled out of order on a point of order under section 311 of the Budget Act, because legislation enacted in prior years or passed during that session of Congress and sent to the President for signature, as well as the pending substitute as amended to that date, had left no room above the revenue floor.[212] Later that same day, an amendment that would have stricken provisions of a committee substitute which proposed to repeal sections of the Internal Revenue Code (permitting the deduction from federal taxes of certain state gasoline taxes), was ruled out of order since the effect of the amendment was to lose the proposed increase in revenues.[213]

Under section 311(a) the consideration of any amendment reducing revenues even negligibly is subject to a point of order if estimated revenues for the fiscal year in question are below the appropriate level set out in the budget resolution for that year.[214]

The Senate has by a three-fifths majority waived section 311 of the Congressional Budget Act for the consideration of a committee amendment to a supplemental appropriations bill which would limit the use of funds in the instant or any other act for the purpose of implementing a certain Internal Revenue Service regulation with a resulting loss of revenues in a fiscal year at a time when

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[209] Pub. L. 99-344, sec. 303(b), as amended by the Budget Enforcement Act of 1990, sec. 13205(b)(1), Pub. L. 101-508 (Nov. 5, 1990).
[210] Oct. 9, 1978, 94-2, *Record*, pp. 34772-75.
[211] Oct. 1, 1976, 94-2, *Record*, pp. 34554-55.
[212] Oct. 9, 1978, 95-2, *Record*, pp. 34772-75.
[213] Oct. 9, 1978, 95-2, *Record*, pp. 34786-92.
[214] Oct. 1, 1976, 94-2, *Record*, pp. 34554-57.

revenues for that fiscal year were below the level set out in the applicable budget resolution for that year.[215]

Prior to the adoption of the concurrent resolution on the budget a fiscal year (which begins in October of the current year), a bill which would result in a loss of revenues for that fiscal year is subject to a point of order under section 303 of the Congressional Budget Act of 1974, despite the fact that a complete substitute with no such revenue impact was pending thereto.[216]

When Congress has adopted the concurrent resolution on the budget for a fiscal year required by the Congressional Budget Act of 1974, it is not in order to consider an amendment that would result in a loss of revenue for that fiscal year if revenues for that year are at or below the appropriate level set out in that resolution. However, a bill that was revenue neutral as reported will not be subject to a point of order under section 311 of the Congressional Budget Act of 1974 as reducing revenues below the level set forth in the concurrent resolution on the budget adopted by Congress for that fiscal year, because of the adoption of an amendment which would reduce revenues.[217]

An amendment that results in a loss of revenues in a fiscal year for which Congress has not adopted the concurrent resolution on the Budget required by the Congressional Budget Act of 1974 (the resolution being in conference), is subject to a point of order under section 303 of that Act, unless that decrease in revenues is to first become effective in a fiscal year following the fiscal year to which such concurrent resolution applies.[218]

After the adoption of the concurrent resolution on the budget for a fiscal year, a point of order would lie against a conference report which resulted in a loss of revenues for a fiscal year if the level of revenues for that fiscal year was at or below the level set out in the most recently agreed to concurrent resolution on the budget for that fiscal year.[219]

A conference report which would result in a loss in revenues for a fiscal year for which the concurrent resolution on the budget had been adopted, is subject to a point

[215] June 5, 1986, 99-2, *Record*, p. 12731.
[216] Jan. 27, 1986, 99-2, *Record*, pp. 549-50.
[217] June 26, 1985, 99-1, *Record*, pp. 17301-02, 17307.
[218] *Ibid.*
[219] Oct. 1, 1985, 99-1, *Record*, p. 25358.

of order under section 311 of the Congressional Budget Act of 1974, when revenues for that fiscal year are below the level for such revenues contained in that budget resolution. A conference report which would result in a change in revenues for a fiscal year is subject to a point of order under section 303(a) of the Congressional Budget Act of 1974, if the concurrent resolution for that fiscal year had not been adopted by Congress.[220]

An amendment which would have delayed the scheduled implementation of the withholding of taxes on interest and dividend income was ruled out of order under section 311 of the Budget Act of 1974, since the effect of the amendment would have been to reduce revenues for a fiscal year for which the concurrent resolution on the budget had been adopted at a time when revenues for that year were at or below the floor set by that resolution.[221]

An amendment which would repeal a provision of the Internal Revenue Code not currently producing revenues (and which therefore appeared not to result in actual revenue losses at the time of its proposal) would violate section 311 of the Congressional Budget Act if the effect of that amendment was to cause anticipated revenues to fall below the level set out in the budget resolutions for years for which the required concurrent resolution on the Budget had been adopted.[222]

An amendment specified in a unanimous consent agreement is subject to points of order under the Congressional Budget Act of 1974, and if such amendment changes revenues for a fiscal year at a time when there is no concurrent resolution on the budget for that year, it violates section 303(a) of the Budget Act.[223]

After the concurrent resolution on the budget has been adopted for a fiscal year, an amendment to strike from a bill a provision which raises revenues to offset the revenue loss under other provisions of the bill, the effect of which would be to reduce revenues below the appropriate level of total revenues set forth in the budget resolution, is subject to a point of order under the Congressional Budget Act of 1974.[224]

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[220] May 16, 1985, 99-1, *Record*, p. 12354.
[221] Mar. 22, 1983, 98-1, *Record*, p. 6573.
[222] July 31, 1986, 99-2, *Record*, p. 18477.
[223] June 24, 1986, 99-2, *Record*, pp. 14992-94.
[224] Sept. 8, 1988, 100-2, *Record*, p. S 11988.

The Chair sustained a point of order made under section 311(a) of Budget Act, after a motion to waive that section had failed to obtain the 60 votes necessary for adoption (56 yeas, 42 nays), against an amendment which proposed to delay for one year the effective date of a section of the Internal Revenue Code, which was producing revenues in the current fiscal year, since this would have caused revenues to fall further below the revenue floor for that fiscal year.[225]

The Chair sustained a point of order under section 311(a) of the Budget Act (after a motion to waive that section was defeated), against an amendment to delay for one year the implementation of medicare catastrophic coverage, because the adoption of that amendment would have increased the amount by which revenues were below the level specified in the budget resolution for that fiscal year.[226]

The Senate has waived the provisions of titles III and IV of the Budget Act, after a point of order was made under section 311(a) of the Act against the consideration of a bill (that had been introduced and placed on the Calendar without being referred to a committee) which would have caused a further breach in the revenue floor for that fiscal year.[227]

A point of order will lie against a motion to recommit a bill to a committee with instructions that the bill be reported back forthwith with specified amendments, if the effect of the motion is to produce a violation of section 311(a) of the Budget Act of 1974 (in this case to cause revenues to fall below the floor specified in the concurrent resolution on the budget for the relevant fiscal year). If such point of order were raised, a motion to waive the Budget Act could be made, and that motion would be debatable.[228]

Rulemaking Power:

See also "Rescission Bills," pp. 629–630.

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[225] Apr. 12, 1989, 101-1, *Record*, pp. S 3714-19.
[226] July 27, 1989, 101-1, *Record*, pp. S 8920, 8933-42.
[227] Oct. 6, 1989, 101-1, *Record*, pp. S 12828, 12836.
[228] April 20, 1983, 98-1, *Record*, p. 9151.

The Congress has, on several occasions, missed deadlines set out in the Budget Act for the adoption of either budget resolutions [229] or reconciliation bills.[230]

Sequester Resolution:

In response to a parliamentary inquiry, the Chair indicated that at midnight that day the Chair would put the question on the passage of a sequester resolution, regardless of whether the Senate was then on another (privileged) matter.[231] Later that day, the Chair on its own initiative put the question on the passage of a sequester resolution, the vote on passage of which was required by statute to occur by the end of a certain calendar day, immediately after announcing the result of a roll call vote which began before midnight on that day, and which concluded at approximately 12:10 a.m. on the following day.[232]

For a discussion of how sequestration would affect certain full-year appropriations, see the colloquy which occurred between the ranking minority members of the Committees on Appropriations and Budget.[233]

Table, Motion To Waive:

Motions to waive titles III and IV may be tabled.[234]

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[229] *See for example,* the following budget resolutions, which were adopted when the deadline was May 15: S. Con. Res. 19, 95-1, (May 17, 1977); S. Con. Res. 80, 95-2, (May 17, 1978); H. Con. Res. 107, 96-1, (May 24, 1979); H. Con. Res. 307, 96-2, (June 12, 1980); H. Con. Res. 115, 97-1, (May 21, 1981); S. Con. Res. 92, 97-2 (June 23, 1982); H. Con. Res. 91, 98-1, (June 23, 1983); H. Con. Res. 280, 98-2, (Oct. 1, 1984); and S. Con. Res. 32, 99-1, (Aug. 1, 1985); and the following which were adopted after the deadline was advanced to April 15 (pursuant to Pub. L. 99-177, Dec. 12, 1985): H. Con. Res. 337, 99-2, (May 15, 1986); H. Con. Res. 93, 100-1, (June 25, 1987); H. Con. Res. 268, 100-2, (June 6, 1988); H. Con. Res. 106, 101-1, (May 18, 1989); and H. Con. Res. 310, 101-2, (Oct. 9, 1990).

[230] *See for example* the following reconciliation bills which were passed after the September 25 deadline in the original Act: H.R. 7765, 96-2, (Dec. 3, 1980); and H.R. 7765, 98-1, (Apr. 5, 1984); *see also,* the following reconciliation bills which were passed after the new deadline of June 15 (pursuant to Pub. L. 99-177, Dec. 12, 1985): H.R. 3128, 99-1, (Mar. 20, 1986); H.R. 5300, 99-2, (Oct. 17, 1986); H.R. 3545, 100-1, (Dec. 22, 1987); H.R. 3299, 101-1, (Nov. 22, 1989); and H.R. 5835, 101-2, (Oct. 27, 1990).

[231] *See* Sept. 19, 1986, 99-2, *Record,* p. 24807.

[232] Sept. 19, 1986, 99-2, *Record,* pp. 24947-51. The sequestration resolution was considered pursuant to the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (the Gramm-Rudman-Hollings Act), Pub. L. 99-177, sec. 254(a)(4)(A), 99 Stat. 1079, as incorporated by sec. 274(f)(4), 99 Stat. 1100.

[233] *See* Sept. 23, 1987, 100-1, *Record,* pp. S 12562-63.

[234] Dec. 5, 1979, 96-1, *Record,* pp. 34662-65; Dec. 10, 1979, 96-1, *Record,* pp. 35243-53.

Waive Budget Act by Resolution and Motion:

A motion to waive any of the provisions of titles III or IV of the Congressional Budget Act of 1974 (in this instance section 311) may be made after a point of order under that section has been made, is debatable, stays a ruling on the point of order, and if agreed to the point of order is not ruled upon but the amendment is disposed of on its merits.[235]

A motion to waive any provision of titles III or IV of the Congressional Budget Act may be made under section 904(b) of that act, and is privileged and debatable.[236] A motion to waive or suspend a provision of the Budget Act, as provided for under section 904(b) is a debatable motion.[237] A motion to waive a provision of the Congressional Budget Act of 1974 under section 904(b) of that Act for the consideration of a conference report is debatable without a general statutory time limitation.[238] However, after debate has concluded on an amendment which was considered under a time agreement which was silent on the question of debatable motions, a motion to waive certain provisions of the Budget Act made in response to a point of order, is not debatable.[239]

A motion to waive a provision of the Congressional Budget Act of 1974 for the consideration of an amendment may not be made while time remains on that amendment.[240] However, once a point of order has been ruled on by the Chair, it is too late to move to waive the provision of the Budget Act upon which the point of order was based.[241]

A Senator who was recognized by the Chair in his own right does not lose the floor upon making a parliamentary inquiry, so another Senator may not move to waive a provision of the Congressional Budget Act of 1974 upon hearing the answer to the inquiry if the first Senator wishes to hold the floor.[242]

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[235] June 5, 1986, 99-2, *Record*, p. 12731.
[236] Dec. 6, 1982, 97-2, *Record*, p. 28803.
[237] Apr. 10, 1978, 95-2, *Record*, pp. 9383-9403; June 18, 1976, 94-2, *Record*, pp. 19087-88.
[238] Oct. 16, 1986, 99-2, *Record*, pp. 32375-76.
[239] May 20, 1981, 97-1, *Record*, pp. 10436-38.
[240] Dec. 10, 1987, 100-1, *Record*, p. S 17598; Sept. 19, 1986, 99-2, *Record*, p. 24850.
[241] July 22, 1982, 97-2, *Record*, pp. 17514, 17516-17; Sept. 19, 1986, 99-2, *Record*, p. 24907.
[242] July 31, 1986, 99-2, *Record*, p. 18518.

A motion to waive provisions of the Congressional Budget Act of 1974 pursuant to section 904(b) of that Act may be modified by its sponsor as a matter of right, if no Senate action has occurred thereon.[243] Such motion could only be modified by its sponsor, and only by unanimous consent if the yeas and nays had been ordered on it.[244]

A motion made under section 904(b) of the Budget Act is amendable.[245]

A motion under section 904(b) of the Congressional Budget Act of 1974 made in response to a point of order against an amendment, which was drafted to waive the germaneness requirement of the Budget Act without specifying the object of that motion, would waive that requirement without restriction. If a motion to waive the germaneness provision of the Congressional Budget Act of 1974 for the consideration of "the pending amendment" were agreed to, it would be in order thereafter to consider an amendment to that amendment that was germane either to it or the bill,[246] since an amendment which is either germane to an amendment for which the germaneness requirement of the Congressional Budget Act of 1974 was waived or germane to the bill itself, would be considered germane.[247]

The Chair has stated in response to a parliamentary inquiry that a motion to waive a section of the Budget Act for the consideration of a measure would apply to the bill "as it is now before the Senate." In response to a further inquiry, the Chair indicated that if new budget or spending authority were proposed in an amendment, an additional waiver would be necessary.[248]

A single waiver resolution can waive more than one section of the Congressional Budget Act.[249]

A motion under section 904(b) of the Congressional Budget Act of 1974 may waive provisions of that Act for a bill and "any amendments thereto," [250] or for a bill and "any relevant amendments thereto." [251]

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[243] Jan. 27, 1986, 99-2, *Record*, p. 556.
[244] Oct. 24, 1985, 99-1, *Record*, p. 28951.
[245] *Ibid.*
[246] *Ibid.*
[247] Sept. 19, 1986, 99-2, *Record*, p. 24843.
[248] *See* Apr. 5, 1976, 94-2, *Record*, p. 9385.
[249] Dec. 10, 1982, 97-2, *Record*, p. 29905; June 1, 1981, 97-1, *Record*, p. 10993.
[250] June 21, 1984, 98-2, *Record*, p. 17754.
[251] June 11, 1987, 100-1, *Record*, p. S 8043.

A motion under section 904(b) of the Congressional Budget Act of 1974 may be phrased to waive "the relevant portions" of titles III and IV of that Act, and need not refer to a specific section [252] A motion to waive provisions of the Budget Act of 1974 made under section 904(b) of that Act is subject to amendment to extend the effect of the waiver to "any other bill considered by the Senate" in that session of Congress.[253] A motion made under section 904(b) of the Budget Act of 1974 may waive more than one provision of that act and may be directed at several matters.[254] A motion to waive provisions of the Budget Act for consideration of a bill may be general or identify specific sections to be waived.[255] A motion to waive under this section has been subject to an amendment to make the motion applicable to the pending amendment as well as an amendment to be offered.[256]

A single motion has been made to waive various provisions of title III of the Congressional Budget Act of 1974 and a provision of law which provided for a point of order against inclusion of extraneous matter in reconciliation bills (the "Byrd Rule") for the consideration of three separate amendments to a reconciliation bill.[257]

Although motions to waive generally require a majority vote for their adoption, a motion to waive section 302(f) of the Congressional Budget Act of 1974, as amended, requires a vote of three-fifths of the Senators duly chosen and sworn.[258] A vote of three-fifths of the Senators duly chosen and sworn is also required to waive the germaneness requirement contained in section 305(b)(2) of the act, as amended.[259] In addition, a vote of three-fifths of the Senators duly chosen and sworn is required to adopt a motion to waive various sections of the Budget Act when some sections require a majority vote and other sections require three-fifths for their respective waivers.[260]

When a motion is made under section 904(b) of the Budget Act to waive provisions of titles III and IV of that

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[252] June 13, 1984, 98-2, *Record*, p. 16096.
[253] Apr. 20, 1983, 98-1, *Record*, pp. 9155-56.
[254] Apr. 20, 1983, 98-1, *Record*, p. 9151.
[255] May 7, 1987, 100-1, *Record*, p. S 6188.
[256] July 23, 1987, 100-1, *Record*, p. S 10578.
[257] Dec. 10, 1987, 100-1, *Record*, pp. S 17598-600.
[258] Sept. 29, 1986, 99-2, *Record*, pp. 26938-39.
[259] Sept. 19, 1986, 99-2, *Record*, p. 24843.
[260] May 28, 1987, 100-1, *Record*, pp. S 7236-42.

Act in response to a point of order, the withdrawal of the point of order renders the motion to waive moot.[261]

It is permissible to move pursuant to section 904(b) of the Congressional Budget Act of 1974 to waive the requirement of germaneness of amendments offered to reconciliation bills. During the consideration of a reconciliation bill, a motion to waive provisions of the Budget Act offered in response to a point of order is debatable for 1 hour under the Act.[262] A motion under section 904(b) of the Congressional Budget Act of 1974 when made during the consideration of a reconciliation bill, is debatable for 1 hour as specified by sections 310(e) and 305(b) of that Act, and is subject to a motion to table when that time has expired or been yielded back.[263]

A point of order will lie against a motion to recommit a bill to a committee with instructions that the bill be reported back forthwith with specified amendments, if the effect of the motion is to produce a violation of section 311(a) of the Budget Act of 1974 (in this case to cause revenues to fall below the floor specified in the second concurrent resolution on the budget for the relevant fiscal year). If such point of order were raised, a motion to waive the Budget Act could be made, and that motion would be debatable.[264]

Note the following instances where attempts were made to waive certain sections of the Budget Act:

Any bill or amendment which violates section 303(a) of the Budget Act is subject to a point of order, but can be considered by the Senate if waiver resolutions have been submitted and agreed to.[265] When a Senator calls up an amendment which meets the definition of an entitlement under section 401(c)(2)(C) of the Budget Act, and it violates section 303(a) of the act, he may move under section 904(b) of the Act that the provisions of section 303(a) be waived in order that his amendment might be considered.[266] On one occasion, waiver resolutions submitted by individual Senators (not reported by other committees for reference to the Budget Committee), were referred to the Budget Committee, and after being reported were adopted by the

[261] May 20, 1981, 97-1, *Record*, pp. 10436-38.
[262] July 23, 1980, 96-2, *Record*, p. 19192.
[263] Oct. 24, 1985, 99-1, *Record*, p. 28946.
[264] Apr. 20, 1983, 98-1, *Record*, p. 9151.
[265] Nov. 3, 1977, 95-1, *Record*, pp. 36773-97.
[266] Aug. 15, 1978, 95-2, *Record*, pp. 26109-12.

Senate to waive section 303(a) of the Act to permit the consideration of specified amendments to one or more of several specified bills.[267]

Under section 904(b) of the Budget Act, section 306 of the Act is subject to a motion to waive, but such a motion to waive may be tabled, and if it is tabled the Chair must then rule on a point of order made against an amendment on the grounds that it contained subject matter within the jurisdiction of the Budget Committee.[268]

Section 311 of the Budget Act as originally enacted was waived by a majority vote in order to consider a Food Stamp Supplemental Appropriations Act, the waiver being necessary because the bill would have caused a breach in the outlay ceiling for the current fiscal year.[269] After the act was amended to require a supermajority to waive section 311, the Senate by a three-fifths majority waived that section for the consideration of a committee amendment to a supplemental appropriations bill which would have limited the use of funds in the instant bill or any other act for the purpose of implementing a certain Internal Revenue Service regulation with a resulting loss of revenues in a fiscal year at a time when revenues for that fiscal year were below the level set out in the applicable budget resolution for that year.[270]

The Senate has waived section 401(b) of the Congressional Budget Act for the consideration of an amendment to be effective on the last day of the current fiscal year, which would provide an entitlement to trade adjustment assistance for certain workers.[271]

The Chair sustained a point of order made under section 311(a) of Budget Act, after a motion to waive that section had failed to obtain the 60 votes necessary for adoption (56 yeas, 42 nays), against an amendment which proposed to delay for one year the effective date of a section of the Internal Revenue Code, which was producing revenues in the current fiscal year, since this would have caused revenues to fall further below the revenue floor for that fiscal year.[272]

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[267] Nov. 3, 1977, 95-1, *Record*, pp. 36795-97.
[268] Dec. 10, 1979, 96-1, *Record*, pp. 35243-53; Dec. 5, 1979, 96-1, *Record*, pp. 34662-65.
[269] May 14, 1980, 96-2, *Record*, pp. 11226-32.
[270] June 5, 1986, 99-2, *Record*, p. 12731.
[271] June 6, 1986, 99-2, *Record*, p. 12862.
[272] Apr. 12, 1989, 101-1, *Record*, pp. S 3714-19.

The Senate has adopted a motion to waive titles III and IV of the Budget Act for the consideration of a bill.[273] The Senate has adopted a motion to waive section 303(a) of the Budget Act for the consideration of a committee amendment which created an entitlement to begin in a fiscal year before the concurrent resolution on the budget for that fiscal year had been agreed to.[274]

The Senate has waived the provisions of titles III and IV of the Budget Act, after a point of order was made under section 311(a) of the Act against the consideration of a bill (that had been introduced and placed on the Calendar without being referred to a committee) which would have caused a further breach in the revenue floor for that fiscal year.[275]

The Senate adopted a motion to waive the relevant sections of the Budget Act, in response to a point of order made against a bill granting a pay increase to Members of the House of Representatives and Federal judges.[276]

The Senate agreed to a motion to waive section 311(a) of the Budget Act for the consideration of an amendment that repealed a provision of law imposing an obligation ceiling on certain State Department operating accounts, that had the effect of breaching the maximum deficit amount for that fiscal year.[277]

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[273] Apr. 18, 1989, 101-1, *Record*, pp. S 4134-35.
[274] Sept. 29, 1989, 101-1, *Record*, pp. S 12217, 12224-25.
[275] Oct. 6, 1989, 101-1, *Record*, pp. S 12828, 12836.
[276] Nov. 17, 1989, 101-1, *Record*, pp. S 15984-86.
[277] Apr. 26, 1990, 101-2, *Record*, pp. S 5107-15.