

BUDGET ENFORCEMENT ACT OF 1990

EXCERPTS FROM TITLE XIII OF P.L. 101-508

In addition to adding titles V and VI to the Congressional Budget Act of 1974 (relating to credit reform and to budget agreement enforcement, respectively), the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508) also included these free-standing provisions addressing the budgetary treatment of social security.

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

- (1) the budget of the United States Government as submitted by the President,
- (2) the congressional budget, or
- (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

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SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

- (1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most

recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period,

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, together with the net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds \$250,000,000, and (C) such legislation under consideration does not provide at least a net increase, for the 5-year estimating period for such legislation under consideration, in OASDI taxes which, together with net increases in OASDI taxes resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net increase derived under subparagraph (B) exceeds \$250,000,000;

(3)(A) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net decrease, for such 75-year period, in OASDI benefits of the amount by which the net decrease in such taxes exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period, or

(4)(A) such legislation under consideration would provide for a net decrease in OASDI taxes (for the 5-year estimating period for such legislation under con-

sideration), (B) such net decrease, together with the net decreases in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds \$250,000,000, and (C) such legislation under consideration does not provide at least a net decrease, for the 5-year estimating period for such legislation under consideration, in OASDI benefits which, together with net decreases in OASDI benefits resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net decrease derived under subparagraph (B) exceeds \$250,000,000.

(b) APPLICATION.—In applying paragraph (3) or (4) of subsection (a), any provision of any bill or joint resolution, as reported, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in subsection (c)(2)(A) shall be disregarded if such bill, joint resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term “OASDI benefits” means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(2) The term “OASDI taxes” means—

(A) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(B) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(3) The term “medicare taxes” means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(4) The term “previous legislation” shall not include legislation enacted before fiscal year 1991.

(5) The term “5-year estimating period” means, with respect to any legislation, the fiscal year in which such legislation becomes or would become effective and the next 4 fiscal years.

(6) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in paragraph (2)(B) unless such provision changes the income tax treatment of OASDI benefits.

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For a discussion of the Federal budget process, including the current vitality of the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman), which sets forth executive budget enforcement mechanisms, see House Practice, ch. 7.

**“CONGRESSIONAL DISAPPROVAL”
PROVISIONS CONTAINED
IN PUBLIC LAWS**

“CONGRESSIONAL DISAPPROVAL” PROVISIONS CONTAINED IN PUBLIC LAWS

Congress has, from time to time, passed laws reserving to itself an absolute or limited right of review by approval or disapproval of certain actions of the executive branch or of independent agencies. These laws, known as “congressional disapproval” statutes, usually envision some form of congressional action falling into one of three general categories: (1) action by both Houses of Congress on a bill or joint resolution requiring presidential signature; (2) action by one or both Houses of Congress on a simple or concurrent resolution; and (3) action by a congressional committee. Although provisions in the first category remain viable, provisions in the latter two categories should be read in light of *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983). In that case the Supreme Court held unconstitutional as in violation of the presentment clause of article I, section 7, and the doctrine of separation of powers the provisions of the Immigration and Nationality Act contemplating disapproval of a decision of the Attorney General to allow an otherwise deportable alien to remain in the United States by simple resolution of one House. That same year, the Supreme Court summarily affirmed several lower court decisions invalidating provisions contemplating disapproval of executive actions by methods described in both categories (2) and (3) above. 463 U.S. 1216 (1983). Since then, Congress has amended several “congressional disapproval” statutes to convert provisions requiring simple or concurrent resolutions to provisions requiring joint resolutions.

Many “congressional disapproval” statutes prescribe special procedures for the House to follow when reviewing executive actions. These procedures, termed “privileged procedures,” technically are Rules of the House, enacted expressly or impliedly as an exercise of the House’s rule-making authority. At the beginning of each Congress, it is customary for the House to re-incorporate by reference in the resolution adopting its rules such “congressional disapproval” procedures as may exist in current law. Never-

theless, because the House retains the constitutional right to change its rules at any time, the Committee on Rules may report a resolution varying the statutorily prescribed procedures for the House.

Other “congressional disapproval” statutes prescribe no special procedures for the consideration of executive actions. As a result, those statutes contain no provisions that technically are rules of the House; and thus they are not carried in this Manual. For a recent listing of those statutes, see the House Rules and Manual for the 102d Congress (H. Doc. 101–256).

Below is a compilation of the various provisions in “congressional disapproval” statutes setting forth “privileged procedures” to be followed by the House when considering executive actions, together with any annotations of decisions of the Chair interpreting those provisions. Although some annotations provide pertinent legislative history, this compilation does not endeavor to provide a comprehensive record of legislative history for every provision. Excerpts of the Balanced Budget and Emergency Deficit Control Act, formerly carried after the Congressional Budget Act, have been scaled down and moved to this segment of the Manual for quick reference to the legislative procedures therein. The primary enforcement mechanisms in the statute (such as sequestration) are no longer carried because they are not legislative procedures. However, sections 250, 251, and 252 operate in conjunction with procedural provisions in title III of the Congressional Budget Act of 1974, *supra*. Sections 258, 258A, 258B, and 258C primarily provide for reporting and consideration of legislation in the Senate; therefore, only portions of those sections are carried here. A more thorough understanding of the statutory scheme requires the full statutory text (see 2 U.S.C. 900).

RESOLUTIONS PRIVILEGED FOR CONSIDERATION IN THE HOUSE

1. Executive Reorganization.
2. War Powers Resolution.
3. National Emergencies Act.
4. International Emergency Economic Powers Act.
5. District of Columbia Home Rule Act.
6. Title X of the Congressional Budget and Impoundment Control Act of 1974.
 - A. Impoundment Control.
 - B. Line Item Veto Authority.
7. Foreign Spent Nuclear Fuel.