

[COMMITTEE PRINT]

COMPILATION OF LAWS AND RULES  
RELATING TO THE CONGRESSIONAL  
BUDGET PROCESS

AS AMENDED THROUGH NOVEMBER 30, 2008

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COMMITTEE ON THE BUDGET  
U.S. HOUSE OF REPRESENTATIVES



NOVEMBER 2008

**Serial No. CP-3**

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U.S. GOVERNMENT PRINTING OFFICE

41-884

WASHINGTON : 2008

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## INTRODUCTION AND OVERVIEW

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The congressional budget process is a framework of laws and rules that govern the consideration, adoption, and enforcement of spending, revenue, and debt limit legislation each year. This compilation includes those laws and rules in addition to other information relevant to federal budgeting.

### STATUTES ON THE CONGRESSIONAL BUDGET PROCESS THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

The Congressional Budget and Impoundment Control Act of 1974 (CBA and ICA) (Public Law 93-344; 2 U.S.C. 621 et seq.) is the law that set the foundation for the current congressional budget process. The CBA established the Committees on the Budget in the House and Senate and the Congressional Budget Office and outlined their functions and duties. The CBA established requirements for adopting concurrent resolutions on the budget and the optional reconciliation process. The ICA also added impoundment control provisions.

The CBA and ICA have been amended several times. Some amendments, however, are non-operative. For example, certain enforcement provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Enforcement Act of 1990 (BEA), have expired and the United States Supreme Court has ruled the Line Item Veto Act unconstitutional. Nevertheless, for historical and informative purposes, the full text of such legislation can be found in the Appendix of this compilation.

Definitions found in BBEDCA as amended by the BEA are included in the main text of this compilation since those definitions remain useful for practical purposes.

The amendments to the CBA are outlined below in order of enactment.

#### *Balanced Budget and Emergency Deficit Control Act*

The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), also known as the Gramm-Rudman-Hollings Act, was enacted as title II of Public Law 99-177 (2 U.S.C. 900 et seq.), which originated as a bill increasing the statutory debt limit. BBEDCA included several significant budget process changes including: the requirement of one only budget resolution each year (rather than two), the requirement that budget resolution reports

include committee allocations of spending, and points of order to enforce budget levels in an adopted budget resolution.

BBEDCA notably established deficit targets for fiscal years 1985 through 1990 and sequestration procedures to enforce those targets. The enforcement provisions were revised pursuant to the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 following the ruling in *Bowsher v. Synar* (478 U.S. 714) (1986) which found some aspects unconstitutional. However, in 1990, Congress effectively replaced deficit-target enforcement by adopting discretionary spending limits and Pay-As-You-Go rules pursuant to the Budget Enforcement Act of 1990.

#### *The Budget Enforcement Act of 1990*

The Budget Enforcement Act of 1990 (BEA) was enacted as title XIII of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508). The BEA added new points of order and procedures to the budget process which are included in this compilation, such as freestanding provisions on the off-budget status of Social Security and a five-year budget requirement under the CBA. It also incorporated a modified version of the Senate's reconciliation rule on extraneous matter (Byrd Rule) into the CBA.

The BEA also established Pay-As-You-Go (PAYGO) procedures, which required that direct spending increases and revenue decreases be offset with either direct spending decreases or revenue increases. In addition, the BEA established discretionary spending limits, which placed caps on appropriations. These provisions replaced the deficit-target procedures of BBEDCA. BEA enforcement was extended twice—first under title XIV of the Omnibus Reconciliation Act of 1993 (Public Law 103-66) and last under title X of the Balanced Budget Act of 1997 (Public Law 105-33)—before ultimately terminating in 2002.

#### *The Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) established procedures to consider federal unfunded mandates imposed on state and local governments (intergovernmental mandates) and the private sector. Sections of the Unfunded Mandates Reform Act are incorporated in title IV of the CBA. This compilation also includes several selected freestanding provisions of the Unfunded Mandates Reform Act.

#### *The Line Item Veto Act*

The Line Item Veto Act (Public Law 104-130) established procedures to allow the President to cancel specific budgetary provisions in laws signed by the President. The United States Supreme Court ruled the Line Item Veto Act unconstitutional in *Clinton, et al. v. City of New York, et al.*, 118 S.Ct. 2091 (1998). The Line Item Veto Act has not been repealed and therefore the law is included in the Appendix of this compilation.

### REQUIREMENTS OF THE PRESIDENT'S BUDGET

Title 31 of the United States Code (Money and Finance) was enacted on September 13, 1982; a principal component of this title stems from the Budget and Accounting Act of 1921, as amended,

which established the executive budget process. Chapter 11 of this title sets forth submission requirements for the President's budget. Selected provisions of chapter 11 of title 31 are included in this compilation.

SELECTED PROVISIONS OF THE EMERGENCY ECONOMIC STABILIZATION  
ACT OF 2008

The Emergency Economic Stabilization Act of 2008 (EESA) (Public Law 110-343) provides for the purchase of troubled mortgage-related assets by the federal government pursuant to the Troubled Assets Relief Program (TARP). EESA includes several budget-related provisions, such as providing that activities conducted under TARP be scored under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.) modified to use a risk-adjusted discount rate. It also includes a requirement that the Office of Management and Budget submit a proposal 5 years after enactment of the Act enabling Congress to recoup from the financial industry any losses to taxpayers and reporting requirements for the Office of Management and Budget and the Congressional Budget Office related to the Act.

BUDGET PROCESS RULES OF THE HOUSE OF REPRESENTATIVES  
AND THE SENATE

HOUSE RULES OF THE 110TH CONGRESS ON BUDGET ENFORCEMENT

At the beginning of 2007, the House of Representatives instituted several new provisions governing the consideration of budgetary legislation as part of H. Res. 6 (110th Congress). These provisions, which are reflected in House rule XXI and included in this compilation, consist of a Pay-As-You-Go rule which requires that mandatory spending increases and revenue decreases be offset, and a rule prohibiting reconciliation directives from increasing a deficit or decreasing a surplus. These rules were adopted in addition to standard House rules on budget process such as requirements that committees submit their views and estimates to the Committee on the Budget, requirements of budgetary information and cost estimates for committee reports, consideration of amendments to the concurrent resolution on the budget, and jurisdiction of the Committee on the Budget.

SELECTED HOUSE AND SENATE BUDGETARY PROVISIONS IN S. CON.  
RES. 21, THE FISCAL YEAR 2008 BUDGET RESOLUTION AND S. CON.  
RES. 70, THE FISCAL YEAR 2009 BUDGET RESOLUTION

The Senate and House of Representatives also established several budget process rules as part of the budget resolutions for fiscal years 2008 and 2009. For example, under S. Con. Res. 21, the fiscal year 2008 budget resolution, the Senate adopted PAYGO and reconciliation rules similar to those adopted by the House of Representatives under H. Res. 6 (110th Congress). The Senate also established rules on short- and long-term deficits in S. Con. Res. 70, the fiscal year 2009 budget resolution.

## JURISDICTION OF THE COMMITTEES ON THE BUDGET

The jurisdictions of the Committees on the Budget for the House of Representatives and the Senate are established under congressional rules and, also in the Senate, pursuant to a long standing agreement and a resolution adopted during the 108th Congress.

## APPENDIX

The Appendix of this compilation includes additional resources useful in understanding the congressional budget process.

## SELECTED PROVISIONS OF THE UNITED STATES CONSTITUTION

The Constitution of the United States is the fundamental law of the nation. Several provisions in the Constitution establish the “power of the purse,” which grants Congress authority to raise and spend money. The Constitution also includes a provision requiring that revenue measures originate in the House of Representatives rather than the Senate.

## SCOREKEEPING GUIDELINES

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

## ADVANCE APPROPRIATIONS

In recent years, the concurrent resolution on the budget has included limits on the amounts and uses of advance appropriations. The Appendix includes an overview of these limits.

## LAWS INCLUDED FOR HISTORICAL PURPOSES

The Appendix includes expired enforcement provisions of the Balanced Budget and Emergency Control Act of 1985, as amended by the Budget Enforcement Act of 1990, for historical purposes. The Appendix also includes the Line Item Veto Act which, although ruled unconstitutional by the United States Supreme Court, has yet to be repealed.



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

Public Law 93-344, July 12, 1974, 88 Stat. 297

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Major Amendments:

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

An Act increasing the statutory limit on the public debt; Public Law 100-119, Title II; September 29, 1987; 101 Stat. 754, 784.

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

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

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

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

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

Line Item Veto Act; Public Law 104-130; April 9, 1996; 110 Stat. 1200.

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

Transportation Equity Act for the 21st Century; Public Law 105–178; June 9, 1998; 112 Stat. 488.  
TEA 21 Restortation Act; Public Law 105–206; July 22, 1998; 115 Stat. 865.

[As Amended Through P.L. 106–554, Enacted December 21, 2000]

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. [2 U.S.C. 621 note] (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”. Parts A and B of title X may be cited as the “Impoundment Control Act of 1974”. Part C of title X may be cited as the “Line Item Veto Act of 1996”.<sup>1</sup>

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<sup>1</sup>The Line Item Veto Act of 1996 was declared unconstitutional by the United States Supreme Court but has not been repealed. See the Appendix for the text of the Line Item Veto Act.

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- Sec. 507. Effect on other laws.

[TITLE VI—REPEALED]

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- \* \* \* \* \*
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- \* \* \* \* \*

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

- \* \* \* \* \*
- Sec. 904. Exercise of rulemaking powers.
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## DECLARATION OF PURPOSES

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

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

## DEFINITIONS

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

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

(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

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

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

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

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

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

(B) LIMITATIONS ON BUDGET AUTHORITY.—With respect to the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account,

<sup>1</sup>The Line Item Veto Act of 1996 was declared unconstitutional by the United States Supreme Court but has not been repealed. See the Appendix for full text of the Line Item Veto Act.

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 re-appropriation; 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—

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

(B) the food stamp program.

(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. [2 U.S.C. 601] (a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

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

troller General, and the Librarian of Congress are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

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

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

(c) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—

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

additional information related to the foregoing as may be requested.

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

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

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

or

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

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

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

(e) REPORTS TO BUDGET COMMITTEES.—

(1) On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate, a report for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year, and (C) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline, as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating new budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or ap-

propriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

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

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

(g) STUDIES.—

(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

(2) FEDERAL MANDATE STUDIES.—

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

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

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

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

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

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

(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban

or rural or other types of communities, as appropriate.

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

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

(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

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

#### PUBLIC ACCESS TO BUDGET DATA

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

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

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

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

or

(2) which the Director determines will disclose—

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

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



(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; unless the portions containing such matters, information, or data have been excised.

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

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

### TITLE III—CONGRESSIONAL BUDGET PROCESS<sup>1</sup>

#### TIMETABLE

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

| <b>On or before:</b>                                   | <b>Action to be completed:</b>   |
|--|--|
| First Monday in February .....                         | President submits his budget.  |
| February 15 .....                                      | Congressional Budget Office submits report to Budget Committees.       |
| Not later than 6 weeks after President submits budget. | Committees submit views and estimates to Budget Committees.            |
| April 1 .....  | Senate Budget Committee reports concurrent resolution on the budget.   |
| April 15 .....   | Congress completes action on concurrent resolution on the budget.      |
| 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. [2 U.S.C. 632] (a)<sup>2</sup> 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

<sup>1</sup> 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.

<sup>2</sup> See also clause 10(b) of rule XVIII and rule XXII of the Rules of the House of Representatives.

year beginning on October 1 of such year and for at least each of the 4 ensuing fiscal years for the following—

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

The concurrent resolution shall not include the outlays and revenue totals of the old age,<sup>2</sup> 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;

<sup>1</sup> So in law. Probably should not be capitalized.

<sup>2</sup> So in law. Probably should be “old-age”.

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

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

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

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

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

(d)<sup>1</sup> 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, or at such time as may be requested by the Committee on the Budget, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) which relate to matters within the jurisdiction or functions of such committee. 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. Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, in-

<sup>1</sup> See also clauses 4(f) and 11(c)(3) of rule X of the Rules of the House of Representatives.

cluding any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.

(e) HEARINGS AND REPORT.—

(1) IN GENERAL.—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.

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

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

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

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

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

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

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

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

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

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

(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product

devoted to investment in the budget submitted by the President and in the resolution;

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

(E) other matters, relating to the budget and to fiscal policy, that the committee deems appropriate.

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

#### COMMITTEE ALLOCATIONS

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

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

(A) total new budget authority; and

(B) total outlays;

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

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

(3) FURTHER DIVISION OF AMOUNTS.—

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

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

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

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

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

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

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

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

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

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

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

(f) LEGISLATION SUBJECT TO POINT OF ORDER.—

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

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

(B) the adoption and enactment of such amendment;

or

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

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

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

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

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

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

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

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

(iii) the enactment of that bill or resolution in the form

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

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

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

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



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

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

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

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

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

- (1) first provides new budget authority for that fiscal year;
- (2) first provides an increase or decrease in revenues during that fiscal year;
- (3) provides an increase or decrease in the public debt limit to become effective during that fiscal year;
- (4) in the Senate only, first provides new entitlement authority for that fiscal year; or
- (5) in the Senate only, first provides for an increase or decrease in outlays for that fiscal year.

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

<sup>1</sup> So in law. Probably should read "Committee".

<sup>2</sup> In the House, the application of section 303 has been modified beginning with the 106th Congress, and currently with Sec. 511(a)(2) of H. Res. 6 (110th Congress), to clarify that, in the case of a reported bill or joint resolution considered pursuant to a special order, determinations under section 303 are for the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage. See text of Sec. 511(a)(2) of H. Res. 6 (110th Congress) in this compilation.

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

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

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

(3) to any bill or joint resolution unless it is reported by a committee.

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

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

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

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304.<sup>1</sup> [2 U.S.C. 635] At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 305. [2 U.S.C. 636] (a)<sup>2</sup> PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

(1) When a concurrent resolution on the budget has been reported by the Committee on the Budget of the House of Representatives and has been referred to the appropriate calendar of the House, it shall be in order on any day thereafter, subject to clause 2(1)(6) of rule XI<sup>3</sup> of the Rules of the House of Representatives, to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not

<sup>1</sup> See also rule XXII of the Rules of the House of Representatives.

<sup>2</sup> See also clause 10(a) of rule XVIII of the Rules of the House of Representatives.

<sup>3</sup> Recodified beginning with the 106th Congress as clause 4 of rule XIII.

more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

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

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

(5)<sup>1</sup> Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII<sup>2</sup> of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

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

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

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

<sup>1</sup> See also clause 10(c) of rule XVIII of the Rules of the House of Representatives.

<sup>2</sup> Recodified beginning with the 106th Congress as rule XVIII.

(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)<sup>1</sup> 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 described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

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

(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure

<sup>1</sup> So in law. Probably should read "section 304".

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. [2 U.S.C. 637] 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.

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

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

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET  
ACTIONS

SEC. 308. [2 U.S.C. 639] (a)<sup>1</sup> REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR PROVIDING AN INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

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

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

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

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

(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement

<sup>1</sup> See also clauses 3(c)(2) and (d)(2) of rule XIII of the Rules of the House of Representatives.

of managers to be proposed by the conferees in the case of technical disagreement on such bill or joint resolution provides new budget authority (other than continuing appropriations) or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the 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 joint resolutions providing new budget authority or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and joint resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

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

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

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

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

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

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

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

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

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

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

#### HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

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

#### RECONCILIATION

SEC. 310. [2 U.S.C. 641] (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—<sup>1</sup>

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

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

(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—<sup>1</sup>

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

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

<sup>1</sup>A dash was inadvertently omitted as a result of the amendment made by section 10111 of Public Law 105-33 (111 Stat. 685).

(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.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

(e) PROCEDURE IN THE SENATE.—

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

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

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

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

BUDGET-RELATED LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

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

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

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

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

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

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

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

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

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

(3) ENFORCEMENT OF SOCIAL SECURITY LEVELS IN THE SENATE.—After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in social security surpluses or an increase in social security deficits relative to the levels set forth in the applicable resolution for the first fiscal year or for the total of that fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a).

(b) SOCIAL SECURITY LEVELS.—

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

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

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

- (1) the enactment of that bill or resolution as reported;
  - (2) the adoption and enactment of that amendment; or
  - (3) the enactment of that bill or resolution in the form recommended in that conference report;
- would not cause the appropriate allocation of new budget authority made pursuant to section 302(a) for that fiscal year to be exceeded.

#### DETERMINATIONS AND POINTS OF ORDER

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

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

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

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

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

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

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

(e) 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 point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

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

#### EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION

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

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

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

(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F), 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.

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

#### ADJUSTMENTS

SEC. 314. [2 U.S.C. 645] (a) ADJUSTMENTS.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget of the House of Representatives or the Senate shall make the adjustments set forth in paragraph (2) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in subsection (b)) and the outlays flowing from that budget authority.

(2) MATTERS TO BE ADJUSTED.—The adjustments referred to in paragraph (1) are to be made to—

(A) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a); and

(C) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(b) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in subsection (a) shall be—

(1) an amount provided and designated as an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) an amount provided for continuing disability reviews subject to the limitations in section 251(b)(2)(C) of that Act;

(3) for any fiscal year through 2002, an amount provided that is the dollar equivalent of the Special Drawing Rights with respect to—



- (A) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or
- (B) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow);
- (4) an amount provided not to exceed \$1,884,000,000 for the period of fiscal years 1998 through 2000 for arrearages for international organizations, international peacekeeping, and multilateral development banks;
- (5) an amount provided for an earned income tax credit compliance initiative but not to exceed—
- (A) with respect to fiscal year 1998, \$138,000,000 in new budget authority;
- (B) with respect to fiscal year 1999, \$143,000,000 in new budget authority;
- (C) with respect to fiscal year 2000, \$144,000,000 in new budget authority;
- (D) with respect to fiscal year 2001, \$145,000,000 in new budget authority; and
- (E) with respect to fiscal year 2002, \$146,000,000 in new budget authority; or
- (6) in the case of an amount for adoption incentive payments (as defined in section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed \$20,000,000.
- (c) APPLICATION OF ADJUSTMENTS.—The adjustments made pursuant to subsection (a) for legislation shall—
- (1) apply while that legislation is under consideration;
- (2) take effect upon the enactment of that legislation; and
- (3) be published in the Congressional Record as soon as practicable.
- (d) REPORTING REVISED SUBALLOCATIONS.—Following any adjustment made under subsection (a), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations under section 302(b) to carry out this section.
- (e) DEFINITIONS FOR CDRS.—As used in subsection (b)(2)—
- (1) the term “continuing disability reviews” shall have the same meaning as provided in section 251(b)(2)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985; and
- (2) the term “new budget authority” shall have the same meaning as the term “additional new budget authority” and the term “outlays” shall have the same meaning as “additional outlays” in that section.

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

SEC. 315. [2 U.S.C. 645a] For purposes of a reported bill or joint resolution considered in the House of Representatives pursuant to a special order of business, the term “as reported” in this title or title IV shall be considered to refer to the text made in

order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

#### TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

##### PART A—GENERAL PROVISIONS

###### BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS

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

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

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

(3) new credit authority;

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

(b) LEGISLATION PROVIDING NEW ENTITLEMENT AUTHORITY.—

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

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new entitlement authority which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b)<sup>1</sup> 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 the Senate or may then be referred to the Committee on Appropriations of the House, as the case may be, with instructions to report it,

<sup>1</sup>In the House, section 401(b) was clarified by section 2(a)(2) of H. Res. 5 (106th Congress) on January 6, 1999, to explain that pending the adoption by the Congress of a concurrent resolution on the budget for fiscal year 2000, a provision in a reported bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes a specified or minimum level of compensation to be funded by annual discretionary appropriations should not be considered as providing new entitlement authority within the meaning of the Congressional Budget Act of 1974.

<sup>1</sup>So in law. Probably should have been amended to read "section 302(a)".

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

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

(c) EXCEPTIONS.—

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

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

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

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

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) 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.

#### ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 402.<sup>1</sup> [2 U.S.C. 653] The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years fol-

<sup>1</sup> See also clause 3(c)(3) of rule XIII of the Rules of the House of Representatives.

lowing such fiscal year, together with the basis for each such estimate;

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

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

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

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

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

OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

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

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

MEMBER USER GROUP

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

PART B—FEDERAL MANDATES<sup>1</sup>

## SEC. 421. [2 U.S.C. 658] DEFINITIONS.

For purposes of this part:

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

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

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

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

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

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

(C) shall be determined on the assumption that——

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

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

(D) shall not include——

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

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

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

<sup>1</sup>Part B was added to title IV of the Congressional Budget and Impoundment Control Act of 1974 by section 101(a)(2) of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4; 109 Stat. 50).

the same activity as is affected by that mandate;  
or

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

(I) compliance with the Federal mandate; or

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

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

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

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

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

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

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

(I) a condition of Federal assistance; or

(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B))<sup>1</sup>; or

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

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

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

<sup>1</sup> So in law. Second closing parenthesis probably should not appear.

extent that such government has not fully cooperated in the efforts of the Federal Government to locate, apprehend, and deport illegal aliens;

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

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

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

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

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

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

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

(i) a condition of Federal assistance; or

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

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

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

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

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

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

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

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

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

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

- (1) enforces constitutional rights of individuals;
- (2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;
- (3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;
- (4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;
- (5) is necessary for the national security or the ratification or implementation of international treaty obligations;
- (6) the President designates as emergency legislation and that the Congress so designates in statute; or
- (7) relates to the old-age, survivors, and disability insurance program under title II of the Social Security Act (including taxes imposed by sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986 (relating to old-age, survivors, and disability insurance)).

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

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

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

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

- (1) an identification and description of any Federal mandates in the bill or joint resolution, including the direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;
- (2) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal man-



dates (including the effects on health and safety and the protection of the natural environment); and

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

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

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

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

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

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

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

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

(f) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

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

which the statement relates if the statement is available at the time the report is printed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature

of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a Federal mandate not previously considered by either House or which contains an increase in the direct cost of a previously considered Federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in this subsection or a supplemental statement for the bill or joint resolution in that amended form.

**SEC. 425. [2 U.S.C. 658d] LEGISLATION SUBJECT TO POINT OF ORDER.<sup>1</sup>**

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

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

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

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

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

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

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

(iii)(I) provides that for any fiscal year the responsible Federal agency shall determine whether there are insufficient appropriations for that fiscal year to provide for the direct costs under clause (i) of such

<sup>1</sup> Clause 11(a) of Rule XVIII of the Rules of the House of Representatives provides for the enforcement of this section. Such paragraph provides as follows:

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

mandate, and shall (no later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

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

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

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

(III) provides that such mandate shall—

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

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

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

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

(c) **COMMITTEE ON APPROPRIATIONS.**—

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

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

(B) shall apply to—

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

(ii) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendment offered to a bill or resolution reported

by the Committee on Appropriations of the Senate or House of Representatives;

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

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

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

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

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

**SEC. 426. [2 U.S.C. 658e] PROVISIONS RELATING TO THE HOUSE OF REPRESENTATIVES.**

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

(b) DISPOSITION OF POINTS OF ORDER.—

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

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

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

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

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

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

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

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

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

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

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

(b) DIRECT COSTS.—

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

(2) AMOUNTS.—The amounts referred to under paragraph (1) are—

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

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

(3) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, in the case of legislation to extend

authorization of appropriations, the authorization level that would be provided by the extension shall be compared to the authorization level for the last year in which authorization of appropriations is already provided.

#### TITLE V—CREDIT REFORM

##### SEC. 500. SHORT TITLE.

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

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

The purposes of this title are to—

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

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

For purposes of this title—

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

(2) The term “direct loan obligation” means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

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

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

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

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

- (i) loan disbursements;



(ii) repayments of principal; and  
(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;  
including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

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

(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and  
(ii) payments to the Government including origination and other fees, penalties and recoveries;  
including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

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

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

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

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

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

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

(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without re-

course, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) authority is otherwise provided in appropriation Acts.

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

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

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

(d) BUDGET ACCOUNTING.—

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

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

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

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

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

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

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

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

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

(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the “Bank”) pursuant to section 406(b)<sup>1</sup>) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b)<sup>1</sup>, any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

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

<sup>1</sup> So in law. Probably should read “section 405(b)”.

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

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

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

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

(G) administrative expenses, if—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

【Title VI repealed by § 10118(a) of Public Law 105–33 (111 Stat. 695)】

**TITLE VII—PROGRAM REVIEW AND EVALUATION**

\* \* \* \* \*

**CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS**

**SEC. 703. [2 U.S.C. 623]** (a) The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a), together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.

\* \* \* \* \*

#### TITLE VIII

##### NOTE:

Title VIII, which addressed procedures for changing functional categories, was superseded by 31 USC § 1104(c). Title VIII provided that "Any change in the functional categories set forth in the Budget of the United States Government transmitted pursuant to section 201 of the Budget and Accounting Act, 1921, shall be made only in consultation with the Committee on Appropriations and the Budget of the House of Representatives and Senate." The relevant language in 31 USC § 1104(c) provides "\* \* \* the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress."

#### TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

\* \* \* \* \*

##### EXERCISE OF RULEMAKING POWERS

SEC. 904. [2 U.S.C. 621 note] (a) The provisions of this title and of titles I, III, IV, and V and the provisions of sections 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) WAIVERS.—

(1) PERMANENT.—Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) TEMPORARY.—Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I)<sup>1</sup>, 258B(f)(1), 258B(h)(1), 258(h)(3)<sup>2</sup>, 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

<sup>1</sup> So in law. Probably should read "258A(b)(3)(C)(i)".

<sup>2</sup> So in law. Probably should read "258B(h)(3)".

only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—

(1) PROCEDURE.—Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

(2) PERMANENT.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

(3) TEMPORARY.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I)<sup>1</sup>, 258B(f)(1), 258B(h)(1), 258(h)(3)<sup>2</sup>, 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS<sup>3</sup>.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.

\* \* \* \* \*

TITLE X—IMPOUNDMENT CONTROL

PART A—GENERAL PROVISIONS

DISCLAIMER

SEC. 1001. [2 U.S.C. 681] 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.

\* \* \* \* \*

<sup>3</sup>Section 205 of S. Con. Res. 21, the concurrent resolution on budget for fiscal year 2008 (110th Congress), extended subsections (c)(2) and (d)(3) of section 904 through September 30, 2017.



PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCIS-  
SIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

## DEFINITIONS

SEC. 1011. [2 U.S.C. 682] For purposes of this part—

(1) “deferral of budget authority” includes—

(A) withholding or delaying the obligations or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) “Comptroller General” means the Comptroller General of the United States;

(3) “rescission bill” means a bill or joint resolution which only rescinds in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President’s message is received by the Congress;

(4) “impoundment resolution” means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 1012, and the 25-day periods referred to in sections 1016 and 1017(b)(1). If a special message is transmitted under section 1012 during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and section 1012 (with respect to such message) shall commence on the day after such first day.

## RESCISSION OF BUDGET AUTHORITY

SEC. 1012. [2 U.S.C. 683] (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the determination of authorized projects or activities for

which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

#### PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. 1013. [2 U.S.C. 684] (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the period of time during which the budget authority is proposed to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) CONSISTENCY WITH LEGISLATIVE POLICY.—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. [2 U.S.C. 685] (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 1012 or 1013 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 1012 or 1013 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 1012 and 1013, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

- (1) in the case of a special message transmitted under section 1012, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and
- (2) in the case of a special message transmitted under section 1013, (A) the facts surrounding each proposed deferral of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such

proposed deferral is in accordance with existing statutory authority.

(c) TRANSMISSION OF SUPPLEMENTARY MESSAGES.—If any information contained in a special message transmitted under section 1012 or 1013 is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a). The Comptroller General shall promptly notify the House of Representatives and the Senate of any change in the information submitted by him under subsection (b) which may be necessitated by such revision.

(d) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 1012 or 1013, and any supplementary message transmitted under subsection (c), shall be printed in the first issue of the Federal Register published after such transmittal.

(e) CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.—

(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

(A) he has transmitted a special message under section 1012 with respect to a proposed rescission or a reservation; and

(B) he has transmitted a special message under section 1013 proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 1012 or 1013.

(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission.

#### REPORTS BY COMPTROLLER GENERAL

SEC. 1015. [2 U.S.C. 686] (a) FAILURE TO TRANSMIT SPECIAL MESSAGE.—If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 1012 or 1013; or

(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of this part shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by

the President under section 1012 or 1013, and, for purposes of this part, such report shall be considered a special message transmitted under section 1012 or 1013.

(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.—If the President has transmitted a special message to both Houses of Congress in accordance with section 1012 or 1013, and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.

#### SUITS BY COMPTROLLER GENERAL

SEC. 1016. [2 U.S.C. 687] If, under this title, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order, which may be necessary or appropriate to make such budget authority available for obligation. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

#### PROCEDURE IN HOUSE AND SENATE

SEC. 1017. [2 U.S.C. 688] (a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) DISCHARGE OF COMMITTEE.—

(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made

after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.—

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(d) FLOOR CONSIDERATION IN THE SENATE.—

(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between,

and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor in any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided, between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any

motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

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

PART C—LINE ITEM VETO <sup>1</sup>

**NOTE:**

**Constitutionality of Line Item Veto Act of 1996**

The United States Supreme Court, in *Clinton v. City of New York*, U.S. Dist. Col. 1998, 118 S.Ct. 2091, 141 L.Ed.2d 393, found that the Line Item Veto Act of 1996, Pub.L. 104-130, April 9, 1996, 110 Stat. 1200, which is part C of title X of the Congressional Budget and Impoundment Control Act of 1974, was unconstitutional as a violation of the Presentment Clause of the United States Constitution (Art. I, §7, cl. 2).

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<sup>1</sup>The Line Item Veto Act of 1996 has not been repealed. See Appendix for full text of the Line Item Veto Act.



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**SELECTED PROVISIONS OF THE BALANCED BUDGET  
AND EMERGENCY DEFICIT CONTROL ACT OF 1985**

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**SELECTED PROVISIONS OF THE BALANCED BUDGET  
AND EMERGENCY DEFICIT CONTROL ACT OF 1985**

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**SECTIONS 250(c) and 257 OF THE BALANCED BUDGET  
AND EMERGENCY DEFICIT CONTROL ACT OF 1985**

**SEC. 250. [2 U.S.C. 900] TABLE OF CONTENTS; STATEMENT OF BUDGET  
ENFORCEMENT THROUGH SEQUESTRATION; DEFINI-  
TIONS.**

(a) \* \* \*

\* \* \* \* \*

(c) DEFINITIONS.—

As used in this part:

(1) The terms “budget authority”, “new budget authority”, “outlays”, and “deficit” have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and “discretionary spending limit” shall mean the amounts specified in section 251 of this Act.

(2) The terms “sequester” and “sequestration” refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) The term “breach” means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category’s discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4)(A) The term “category” means the subsets of discretionary appropriations in section 251(c). Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.

(B) The term “highway category” refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users:

- (i) 69-8083-0-7-401 (Federal-Aid Highways).
- (ii) 69-8020-0-7-401 (Highway Traffic Safety Grants).

(iii) 69-8048-0-7-401 (National Motor Carrier Safety Program).

(iv) 69-8016-0-7-401 (Operations and Research NHTSA).

(v) 69-8362-0-7-401 (National Driver Registry).

(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).

(vii) 06-8158-0-7-401 (Motor Carrier Safety Grants).

(C) MASS TRANSIT CATEGORY.—The term “mass transit category” means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or for which appropriations are provided in accordance with authorizations contained in that Act:

(i) 69-1120-0-1-401 (Administrative Expenses).

(ii) 69-1134-0-1-401 (Capital Investment Grants).

(iii) 69-8191-0-7-401 (Discretionary Grants).

(iv) 69-1129-0-1-401 (Formula Grants).

(v) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).

(vi) 69-1125-0-1-401 (Job Access and Reverse Commute).

(vii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).

(viii) 69-1121-0-1-401 (Research, Training and Human Resources).

(ix) 69-8350-0-7-401 (Trust Fund Share of Expenses).

(x) 69-1137-0-1-401 (Transit Planning and Research).

(xi) 69-1136-0-1-401 (University Transportation Research).

(xii) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).

Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96-184 and Public Law 101-551.

(D) SPECIAL RULE.—(i) Any outlays in excess of the discretionary spending limit set forth in section 251(c) for the highway or mass transit category, as adjusted, for the budget year shall be considered nondefense category outlays or discretionary category outlays.

(ii) If the obligation limitations for accounts in the highway or mass transit category provided in an appropriation Act for a fiscal year exceed the obligation limitations set forth in section 8103 of the Transportation Equity Act for the 21st Century for that year, as adjusted, the estimated outlays flowing for each outyear from such excess obligations calculated pursu-

ant to clause (iii) shall be attributed to the discretionary category in that outyear.

(iii) For purposes of clause (ii), outlays from excess obligations shall be determined using the average of the spendout rates for that category in the baseline.

(E)<sup>1</sup> The term “conservation spending category” means discretionary appropriations for conservation activities in the following budget accounts or portions thereof providing appropriations to preserve and protect lands, habitat, wildlife, and other natural resources, to provide recreational opportunities, and for related purposes:

(i) 14–5033 Bureau of Land Management Land Acquisition.

(ii) 14–5020 Fish and Wildlife Service Land Acquisition.

(iii) 14–5035 National Park Service Land Acquisition and State Assistance.

(iv) 12–9923 Forest Service Land Acquisition.

(v) 14–5143 Fish and Wildlife Service Cooperative Endangered Species Conservation Fund.

(vi) 14–5241 Fish and Wildlife Service North American Wetlands Conservation Fund.

(vii) 14–1694 Fish and Wildlife Service State Wildlife Grants.

(viii) 14–0804 United States Geological Survey Surveys, Investigations, and Research, the State Planning Partnership programs: Community/Federal Information Partnership, Urban Dynamics, and Decision Support for Resource Management.

(ix) 12–1105 Forest Service State and Private Forestry, the Forest Legacy Program, Urban and Community Forestry, and Smart Growth Partnerships.

(x) 14–1031 National Park Service Urban Park and Recreation Recovery program.

(xi) 14–5140 National Park Service Historic Preservation Fund.

(xii) Youth Conservation Corps.

(xiii) 14–1114 Bureau of Land Management Payments in Lieu of Taxes.

(xiv) Federal Infrastructure Improvement (as established in title VIII of the Department of the Interior and Related Agencies Appropriations Act, 2001).

(xv) 13–1460 NOAA Procurement Acquisition and Construction, the National Marine Sanctuaries and the National Estuarine Research Reserve Systems.

(xvi) 13–1450 NOAA Operations, Research, and Facilities, the Coastal Zone Management Act programs, the National Marine Sanctuaries, the National Estuarine Research Reserve Systems, and Coral Restoration programs.

<sup>1</sup>So in law. Section 801 of P.L. 106–291 (114 Stat. 1026) amended this section by adding new subparagraphs (E) through (K). The margins of the new subparagraphs do not conform to existing subparagraphs.

(xvii) 13–1451 NOAA Pacific Coastal Salmon Recovery.

(F)<sup>1</sup> The term “Federal and State Land and Water Conservation Fund sub-category” means discretionary appropriations for activities in the accounts described in (E)(i)–(E)(iv) or portions thereof.

(G)<sup>1</sup> The term “State and Other Conservation sub-category” means discretionary appropriations for activities in the accounts described in (E)(v)–(E)(ix), with the exception of Urban and Community Forestry as described in (E)(ix), or portions thereof.

(H)<sup>1</sup> The term “Urban and Historic Preservation sub-category” means discretionary appropriations for activities in the accounts described in (E)(ix)–(E)(xii), with the exception of Forest Legacy and Smart Growth Partnerships as described in (E)(ix), or portions thereof.

(I)<sup>1</sup> The term “Payments in Lieu of Taxes sub-category” means discretionary appropriations for activities in the account described in (E)(xiii) or portions thereof.

(J)<sup>1</sup> The term “Federal Deferred Maintenance sub-category” means discretionary appropriations for activities in the account described in (E)(xiv) or portions thereof.

(K)<sup>1</sup> The term “Coastal Assistance sub-category” means discretionary appropriations for activities in the accounts described in (E)(xv)–(E)(xvii) or portions thereof.

(5) The term “baseline” means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(6) The term “budgetary resources” means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(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 that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget.

(10) The term “real economic growth”, with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(11) The term “account” means an item for which appropriations are made in any appropriation Act and, for items not

provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

(12) The term "budget year" means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(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 first 4 fiscal years that follow the budget year.

(15) The term "OMB" means the Director of the Office of Management and Budget.

(16) The term "CBO" means the Director of the Congressional Budget Office.

(17) As used in this part, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1997.

(18) The term "deposit insurance" refers to the expenses<sup>1</sup> the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

(19) The term "asset sale" means the sale to the public of any asset (except for those assets covered by title V of the Congressional Budget Act of 1974), whether physical or financial, owned in whole or in part by the United States.

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**SEC. 257. [2 U.S.C. 907] THE BASELINE.**

(a) **IN GENERAL.**—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

(b) **DIRECT SPENDING AND RECEIPTS.**—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) **IN GENERAL.**—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

(2) **EXCEPTIONS.**—(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring

<sup>1</sup> So in law. Probably should read "expenses of".

of such programs where there are differences<sup>1</sup> between CBO and OMB.

(ii) On the expiration of the suspension of a provision of law that is suspended under section 171 of Public Law 104-127 and that authorizes a program with estimated fiscal year outlays that are greater than \$50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.

(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(D) If any law expires before the budget year or any out-year, then any program with estimated current year outlays greater than \$50,000,000 that operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.

(3) HOSPITAL INSURANCE 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:

<sup>1</sup> So in law. Probably should read "differences".



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 domestic product chain-type price index for that fiscal year differs from the average of such estimated index for the current year.

(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be included in estimates under section 251, 252, or 253 if that sale would result in a financial cost to the Federal Government as determined pursuant to scorekeeping guidelines.

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**FREESTANDING PROVISIONS OF SUBTITLES C AND E OF  
THE BUDGET ENFORCEMENT ACT OF 1990**

Public Law 101-508, Nov. 5, 1990, 104 Stat. 1388-573, 1388-623

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**FREESTANDING PROVISIONS OF SUBTITLES C AND E OF  
THE BUDGET ENFORCEMENT ACT OF 1990**

[As Amended Through P.L. 102-590, Enacted November 10, 1992]

**Subtitle C—Social Security**

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

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

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

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: “The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.”.

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

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

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

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

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

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

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

sion 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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**SEC. 13305. EXERCISE OF RULEMAKING POWER.**

This title and the amendments made by it are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

**SEC. 13306. EFFECTIVE DATE.**

Sections 13301, 13302, and 13303 and any amendments made by such sections shall apply with respect to fiscal years beginning on or after October 1, 1990. Section 13304 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

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## Subtitle E—Government-sponsored Enterprises

### SEC. 13501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms “Government-sponsored enterprise” and “GSE” mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, and Federal Agricultural Mortgage Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

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#### (d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

#### (e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(4) The Congressional Budget Office shall be exempt from section 203 of the Congressional Budget Act of 1974 with re-



spect to any book, record, or information made available under this subsection and determined by the Director to be confidential under paragraph (1).

(f) PRESIDENT'S BUDGET.—The President's annual budget submission shall include an analysis of the financial condition of the GSEs and the financial exposure of the Government, if any, posed by GSEs.

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**SELECTED PROVISIONS OF CHAPTER 11 OF TITLE 31,  
UNITED STATES CODE**

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**CHAPTER 11 OF TITLE 31, UNITED STATES CODE**

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**SUBTITLE II—THE BUDGET PROCESS**

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**CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION**

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**§ 1105. Budget contents and submission to Congress**

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

- (1) information on activities and functions of the Government.
- (2) when practicable, information on costs and achievements of Government programs.
- (3) other desirable classifications of information.
- (4) a reconciliation of the summary information on expenditures with proposed appropriations.
- (5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.
- (6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—
  - (A) laws in effect when the budget is submitted; and
  - (B) proposals in the budget to increase revenues.
- (7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.
- (8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.
- (9) balanced statements of the—
  - (A) condition of the Treasury at the end of the prior fiscal year;
  - (B) estimated condition of the Treasury at the end of the current fiscal year; and

- (C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.
- (10) essential information about the debt of the Government.
- (11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.
- (12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—
- (A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and
- (B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.
- (13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.
- (14) an allowance for unanticipated uncontrollable expenditures for that year.
- (15) a separate statement on each of the items referred to in section 301(a)(1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)–(5)).
- (16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3))) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.
- (17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.
- (18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.
- (19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.
- (20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.
- (21) a horizontal budget showing—

- (A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);
- (B) specific aspects of the program of, and appropriations for, each agency; and
- (C) estimated goals and financial requirements.
- (22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—
- (A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and
- (B) the missions and basic programs.
- (23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).
- (24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.
- (25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.
- (26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.
- (27) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.
- (28) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.
- (29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.
- (30) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.
- (31) a separate statement of the amount of appropriations requested for the Chief Financial Officer in the Executive Office of the President.
- (32) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.
- (33)<sup>2</sup> a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each

<sup>2</sup> Another par. (33) is set out after par. (34).

academy maintained by the Council of the Inspectors General on Integrity and Efficiency.

(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.

(33)<sup>3</sup> (A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

(II) an estimate of the current service levels of homeland security spending;

(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 "Annual Report to Congress on Combatting Terrorism", the term "homeland security" refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.

(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

<sup>3</sup> So in original. Another par. (33) is set out preceding par. (34).



- (A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;
- (B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;
- (C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;
- (D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and
- (E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.
- (b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.
- (c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.
- (d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.
- (e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may

be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

(i) economic assumptions;

(ii) engineering standards;

(iii) estimates of spending for operation and maintenance;

(iv) estimates of expenditures for similar investments by State and local governments; and

(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

(A) roadways or bridges,

(B) airports or airway facilities,

(C) mass transportation systems,

(D) wastewater treatment or related facilities,

(E) water resources projects,

(F) hospitals,

(G) resource recovery facilities,

(H) public buildings,

(I) space or communications facilities,

(J) railroads, and

(K) federally assisted housing.

(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term “construction” includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term “acquisition” includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

(C) the term “rehabilitation” includes the alteration or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph (B), the term “advisory and assistance services” means the following services when provided by nongovernmental sources:

(i) Management and professional support services.

(ii) Studies, analyses, and evaluations.

(iii) Engineering and technical services.

(B) In paragraph (1), the term “advisory and assistance services” does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 1102 of title 40.

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

(h)(1) If there is a medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

(2) Paragraph (1) does not apply if, during the year in which the warning is made, legislation is enacted which eliminates excess general revenue medicare funding (as defined in section 801(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) for the 7-fiscal-year reporting period, as certified by the Board of Trustees of each medicare trust fund (as defined in section 801(c)(5) of such Act) not later than 30 days after the date of the enactment of such legislation.

#### § 1106. Supplemental budget estimates and changes

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.

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**§ 1109. Current programs and activities estimates**

(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading “Budget Authority and Outlays by Function and Agency”, by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year.

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**SELECTED PROVISIONS OF THE UNFUNDED MANDATES  
REFORM ACT OF 1995**

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**SELECTED PROVISIONS OF THE UNFUNDED MANDATES  
REFORM ACT OF 1995**

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**TITLE I—LEGISLATIVE  
ACCOUNTABILITY AND REFORM**

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**SEC. 103. [2 U.S.C. 1511] COST OF REGULATIONS.**

(a) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the cost estimates provided by the Congressional Budget Office will be carefully considered as regulations are promulgated.

(b) **STATEMENT OF COST.**—At the request of a committee chairman or ranking minority member, the Director shall, to the extent practicable, prepare a comparison between—

(1) an estimate by the relevant agency, prepared under section 202 of this Act, of the costs of regulations implementing an Act containing a Federal mandate; and

(2) the cost estimate prepared by the Congressional Budget Office for such Act when it was enacted by the Congress.

(c) **COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.**—At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by part B of title IV of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act).

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**SEC. 105. [2 U.S.C. 1512] CONSIDERATION FOR FEDERAL FUNDING.**

Nothing in this Act shall preclude a State, local, or tribal government that already complies with all or part of the Federal inter-governmental mandates included in the bill, joint resolution, amendment, motion, or conference report from consideration for Federal funding under section 425(a)(2) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act) for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the mandate.

**SEC. 106. [2 U.S.C. 1513] IMPACT ON LOCAL GOVERNMENTS.**

(a) **FINDINGS.**—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

**SEC. 107. [2 U.S.C. 1514] ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.**

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

“(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.”

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

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## TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

### SEC. 201. [2 U.S.C. 1531] REGULATORY PROCESS.

Each agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).

### SEC. 202. [2 U.S.C. 1532] STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Unless otherwise prohibited by law, before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement containing—

(1) an identification of the provision of Federal law under which the rule is being promulgated;

(2) a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, including the costs and benefits to State, local, and tribal governments or the private sector, as well as the effect of the Federal mandate on health, safety, and the natural environment and such an assessment shall include—

(A) an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance (or otherwise paid for by the Federal Government); and

(B) the extent to which there are available Federal resources to carry out the intergovernmental mandate;

(3) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future compliance costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandate upon any particular regions of the nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(4) estimates by the agency of the effect on the national economy, such as the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services, if and to the extent that the agency in its sole discretion determines that accurate estimates are reasonably feasible and that such effect is relevant and material; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (under section 204) of the affected State, local, and tribal governments;

(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency; and

(C) a summary of the agency's evaluation of those comments and concerns.

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required under subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

**SEC. 203. [2 U.S.C. 1533] SMALL GOVERNMENT AGENCY PLAN.**

(a) EFFECTS ON SMALL GOVERNMENTS.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(1) provide notice of the requirements to potentially affected small governments, if any;

(2) enable officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates; and

(3) inform, educate, and advise small governments on compliance with the requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to each agency to carry out the provisions of this section and for no other purpose, such sums as are necessary.

**SEC. 204. [2 U.S.C. 1534] STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.**

(a) IN GENERAL.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(b) MEETINGS BETWEEN STATE, LOCAL, TRIBAL AND FEDERAL OFFICERS.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to actions in support of intergovernmental communications where—

(1) meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

(2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to

public law that explicitly or inherently share intergovernmental responsibilities or administration.

(c) **IMPLEMENTING GUIDELINES.**—No later than 6 months after the date of enactment of this Act, the President shall issue guidelines and instructions to Federal agencies for appropriate implementation of subsections (a) and (b) consistent with applicable laws and regulations.

**SEC. 205. [2 U.S.C. 1535] LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.**

(a) **IN GENERAL.**—Except as provided in subsection (b), before promulgating any rule for which a written statement is required under section 202, the agency shall identify and consider a reasonable number of regulatory alternatives and from those alternatives select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, for—

(1) State, local, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate; and

(2) the private sector, in the case of a rule containing a Federal private sector mandate.

(b) **EXCEPTION.**—The provisions of subsection (a) shall apply unless—

(1) the head of the affected agency publishes with the final rule an explanation of why the least costly, most cost-effective or least burdensome method of achieving the objectives of the rule was not adopted; or

(2) the provisions are inconsistent with law.

(c) **OMB CERTIFICATION.**—No later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall certify to Congress, with a written explanation, agency compliance with this section and include in that certification agencies and rulemakings that fail to adequately comply with this section.

**SEC. 206. [2 U.S.C. 1536] ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.**

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

**SEC. 207. [2 U.S.C. 1537] PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.**

(a) **IN GENERAL.**—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

**SEC. 208. [2 U.S.C. 1538] ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE.**

No later than 1 year after the effective date of this title and annually thereafter, the Director of the Office of Management and Budget shall submit to the Congress, including the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, a written report detailing compliance by each agency during the preceding reporting period with the requirements of this title.

**SEC. 209. [2 U.S.C. 1531 nt] EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

### **TITLE III—REVIEW OF FEDERAL MANDATES**

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**SEC. 304. [2 U.S.C. 1554] ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.**

No later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing any Federal court case to which a State, local, or tribal government was a party in the preceding calendar year that required such State, local, or tribal government to undertake responsibilities or activities, beyond those such government would otherwise have undertaken, to comply with Federal statutes and regulations.

**SEC. 305. [2 U.S.C. 1555] DEFINITION.**

Notwithstanding section 3 of this Act, for purposes of this title the term “Federal mandate” means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

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### **TITLE IV—JUDICIAL REVIEW**

**SEC. 401. [2 U.S.C. 1571] JUDICIAL REVIEW.**

(a) AGENCY STATEMENTS ON SIGNIFICANT REGULATORY ACTIONS.—

(1) IN GENERAL.—Compliance or noncompliance by any agency with the provisions of sections 202 and 203(a) (1) and

(2) shall be subject to judicial review only in accordance with this section.

(2) LIMITED REVIEW OF AGENCY COMPLIANCE OR NON-COMPLIANCE.—(A) Agency compliance or noncompliance with the provisions of sections 202 and 203(a) (1) and (2) shall be subject to judicial review only under section 706(1) of title 5, United States Code, and only as provided under subparagraph (B).

(B) If an agency fails to prepare the written statement (including the preparation of the estimates, analyses, statements, or descriptions) under section 202 or the written plan under section 203(a) (1) and (2), a court may compel the agency to prepare such written statement.

(3) REVIEW OF AGENCY RULES.—In any judicial review under any other Federal law of an agency rule for which a written statement or plan is required under sections 202 and 203(a) (1) and (2), the inadequacy or failure to prepare such statement (including the inadequacy or failure to prepare any estimate, analysis, statement or description) or written plan shall not be used as a basis for staying, enjoining, invalidating or otherwise affecting such agency rule.

(4) CERTAIN INFORMATION AS PART OF RECORD.—Any information generated under sections 202 and 203(a) (1) and (2) that is part of the rulemaking record for judicial review under the provisions of any other Federal law may be considered as part of the record for judicial review conducted under such other provisions of Federal law.

(5) APPLICATION OF OTHER FEDERAL LAW.—For any petition under paragraph (2) the provisions of such other Federal law shall control all other matters, such as exhaustion of administrative remedies, the time for and manner of seeking review and venue, except that if such other Federal law does not provide a limitation on the time for filing a petition for judicial review that is less than 180 days, such limitation shall be 180 days after a final rule is promulgated by the appropriate agency.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1995, and shall apply only to any agency rule for which a general notice of proposed rulemaking is promulgated on or after such date.

(b) JUDICIAL REVIEW AND RULE OF CONSTRUCTION.—Except as provided in subsection (a)——

(1) any estimate, analysis, statement, description or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review; and

(2) no provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action.





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**SELECTED PROVISIONS OF THE EMERGENCY  
ECONOMIC STABILIZATION ACT OF 2008**

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**SELECTED PROVISIONS OF THE EMERGENCY  
ECONOMIC STABILIZATION ACT OF 2008**

**SEC. 123. CREDIT REFORM.**

1. (a) **IN GENERAL**—Subject to subsection (b), the costs of purchases of troubled assets made under section 101(a) and guarantees of troubled assets under section 102, and any cash flows associated with the activities authorized in section 102 and subsections (a), (b), and (c) of section 106 shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.).

(b) **COSTS**—For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

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**SEC. 134. RECOUPMENT.**

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office, shall submit a report to the Congress on the net amount within the Troubled Asset Relief Program under this Act. In any case where there is a shortfall, the President shall submit a legislative proposal that recoups from the financial industry an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the deficit or national debt.

**TITLE II—BUDGET-RELATED PROVISIONS**

**SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT AGENCIES.**

Upon request, and to the extent otherwise consistent with law, all information used by the Secretary in connection with activities authorized under this Act (including the records to which the Comptroller General is entitled under this Act) shall be made available to congressional support agencies (in accordance with their obligations to support the Congress as set out in their authorizing statutes) for the purposes of assisting the committees of Congress with conducting oversight, monitoring, and analysis of the activities authorized under this Act.

**SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET AND THE CONGRESSIONAL BUDGET OFFICE.**

(a) **REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET**—Within 60 days of the first exercise of the authority granted in section 101(a), but in no case later than December 31, 2008, and semi-annually thereafter, the Office of Management and Budget shall report to the President and the Congress—

(1) the estimate, notwithstanding section 502(5)(F) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(F)), as of the first business day that is at least 30 days prior to the issuance of the report, of the cost of the troubled assets, and guarantees of the troubled assets, determined in accordance with section 123;

(2) the information used to derive the estimate, including assets purchased or guaranteed, prices paid, revenues received, the impact on the deficit and debt, and a description of any outstanding commitments to purchase troubled assets; and

(3) a detailed analysis of how the estimate has changed from the previous report.

Beginning with the second report under subsection (a), the Office of Management and Budget shall explain the differences between the Congressional Budget Office estimates delivered in accordance with subsection (b) and prior Office of Management and Budget estimates.

(b) **REPORTS BY THE CONGRESSIONAL BUDGET OFFICE**—Within 45 days of receipt by the Congress of each report from the Office of Management and Budget under subsection (a), the Congressional Budget Office shall report to the Congress the Congressional Budget Office's assessment of the report submitted by the Office of Management and Budget, including—

(1) the cost of the troubled assets and guarantees of the troubled assets,

(2) the information and valuation methods used to calculate such cost, and

(3) the impact on the deficit and the debt.

(c) **FINANCIAL EXPERTISE**—In carrying out the duties in this subsection or performing analyses of activities under this Act, the Director of the Congressional Budget Office may employ personnel and procure the services of experts and consultants.

(d) **AUTHORIZATION OF APPROPRIATIONS**—There are authorized to be appropriated such sums as may be necessary to produce reports required by this section.

**SEC. 203. ANALYSIS IN PRESIDENT'S BUDGET.<sup>1</sup>**

(a) **IN GENERAL**—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

<sup>1</sup> See also section (35) of §1105 of Chapter 11 of Title 31 of the United States Code.

(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.'

(b) CONSULTATION—In implementing this section, the Director of Office of Management and Budget shall consult periodically, but at least annually, with the Committee on the Budget of the House of Representatives, the Committee on the Budget of the Senate, and the Director of the Congressional Budget Office.

(c) EFFECTIVE DATE—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2010 budget submission of the President.

#### **SEC. 204. EMERGENCY TREATMENT.**

All provisions of this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008 and rescissions of any amounts provided in this Act shall not be counted for purposes of budget enforcement.



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**HOUSE RULES OF THE 110th CONGRESS ON BUDGETARY  
ENFORCEMENT**

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**HOUSE RULES OF THE 110th CONGRESS ON BUDGETARY ENFORCEMENT**

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**RULE X.**

**ORGANIZATION OF COMMITTEES.**

\* \* \* \* \*

***General oversight responsibilities***

\* \* \* \* \*

2. (a) \* \* \*

\* \* \* \* \*

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plan for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible—

(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.

\* \* \* \* \*

***Additional functions of committees***

4. (a) \* \* \*

\* \* \* \* \*

***Budget Act responsibilities***

(f)(1) Each standing committee shall submit to the Committee on the Budget not later than six weeks after the President submits his budget, or at such time as the Committee on the Budget may request—

(A) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the

ensuing fiscal year that are within its jurisdiction or functions; and

(B) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(2) The views and estimates submitted by the Committee on Ways and Means under subparagraph (1) shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XXIII.

\* \* \* \* \*

**Permanent Select Committee on Intelligence**

11. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(3) Within six weeks after the President submits a budget under section 1105(a) of title 31, United States Code, or at such time as the Committee on the Budget may request, the select committee shall submit to the Committee on the Budget the views and estimates described in section 301(d) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

\* \* \* \* \*

RULE XIII.

CALENDARS AND COMMITTEE REPORTS.

\* \* \* \* \*

**Content of reports**

3. (a) \* \* \*

\* \* \* \* \*

(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) \* \* \*

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

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

\* \* \* \* \*

(d) Each report of a committee on a public bill or public joint resolution shall contain the following:

(1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);

(B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

\* \* \* \* \*

#### RULE XVIII.

#### THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION.

\* \* \* \* \*

#### ***Concurrent resolution on the budget***

10. (a) At the conclusion of general debate in the Committee of the Whole House on the state of the Union on a concurrent resolution on the budget under section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as read for amendment.

(b) It shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, unless the concurrent resolution, as amended by such amendment or amendments—

(1) would be mathematically consistent except as limited by paragraph (c); and

(2) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974.

(c)(1) Except as specified in subparagraph (2), it shall not be in order in the House or in the Committee of the Whole House on the state of the Union to consider an amendment to a concurrent resolution on the budget, or an amendment thereto, that proposes to change the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported.

(2) Amendments to achieve mathematical consistency under section 305(a)(5) of the Congressional Budget Act of 1974, if offered by direction of the Committee on the Budget, may propose to adjust the amount of the appropriate level of the public debt set forth in the concurrent resolution, as reported, to reflect changes made in other figures contained in the concurrent resolution.

\* \* \* \* \*

RULE XXI.

RESTRICTIONS ON CERTAIN BILLS.

\* \* \* \* \*

**General appropriation bills and amendments**

2. (a) \* \* \*

\* \* \* \* \*

(e) A provision other than an appropriation designated an emergency under section 251(b)(2) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, a rescission of budget authority, or a reduction in direct spending or an amount for a designated emergency may not be reported in an appropriation bill or joint resolution containing an emergency designation under section 251(b)(2) or section 252(e) of such Act and may not be in order as an amendment thereto.

\* \* \* \* \*

7. It shall not be in order to consider a concurrent resolution on the budget, or an amendment thereto, or a conference report thereon that contains reconciliation directives under section 310 of the Congressional Budget Act of 1974 that specify changes in law reducing the surplus or increasing the deficit for either the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year or the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year. In determining whether reconciliation directives specify changes in law reducing the surplus or increasing the deficit, the sum of the directives for each reconciliation bill (under section 310 of the Congressional Budget Act of 1974) envisioned by that measure shall be evaluated.

8. With respect to measures considered pursuant to a special order of business, points of order under title III of the Congressional Budget Act of 1974 shall operate without regard to whether the measure concerned has been reported from committee. Such points of order shall operate with respect to (as the case may be)——

(a) the form of a measure recommended by the reporting committee where the statute uses the term "as reported" (in the case of a measure that has been so reported);

(b) the form of the measure made in order as an original bill or joint resolution for the purpose of amendment; or

(c) the form of the measure on which the previous question is ordered directly to passage.

\* \* \* \* \*

10. It shall not be in order to consider any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the deficit or reducing the surplus for either the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year or the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year. The effect of such measure on the deficit or surplus shall be determined on the basis of estimates made by the Committee on the Budget relative to—

(a) the most recent baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 used in considering a concurrent resolution on the budget; or

(b) after the beginning of a new calendar year and before consideration of a concurrent resolution on the budget, the most recent baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

\* \* \* \* \*

## RULE XXVIII.

### STATUTORY LIMIT ON PUBLIC DEBT.

1. Upon adoption by Congress of a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974 that sets forth, as the appropriate level of the public debt for the period to which the concurrent resolution relates, an amount that is different from the amount of the statutory limit on the public debt that otherwise would be in effect for that period, the Clerk shall prepare an engrossment of a joint resolution increasing or decreasing, as the case may be, the statutory limit on the public debt in the form prescribed in clause 2. Upon engrossment of the joint resolution, the vote by which the concurrent resolution on the budget was finally agreed to in the House shall also be considered as a vote on passage of the joint resolution in the House, and the joint resolution shall be considered as passed by the House and duly certified and examined. The engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action.

2. The matter after the resolving clause in a joint resolution described in clause 1 shall be as follows: "That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting

in lieu thereof “\$\_\_\_\_\_’.”, with the blank being filled with a dollar limitation equal to the appropriate level of the public debt set forth pursuant to section 301(a)(5) of the Congressional Budget Act of 1974 in the relevant concurrent resolution described in clause 1. If an adopted concurrent resolution under clause 1 sets forth different appropriate levels of the public debt for separate periods, only one engrossed joint resolution shall be prepared under clause 1; and the blank referred to in the preceding sentence shall be filled with the limitation that is to apply for each period.

3. (a) The report of the Committee on the Budget on a concurrent resolution described in clause 1 and the joint explanatory statement of the managers on a conference report to accompany such a concurrent resolution each shall contain a clear statement of the effect the eventual enactment of a joint resolution engrossed under this rule would have on the statutory limit on the public debt.

(b) It shall not be in order for the House to consider a concurrent resolution described in clause 1, or a conference report thereon, unless the report of the Committee on the Budget or the joint explanatory statement of the managers complies with paragraph (a).

4. Nothing in this rule shall be construed as limiting or otherwise affecting—

(a) the power of the House or the Senate to consider and pass bills or joint resolutions, without regard to the procedures under clause 1, that would change the statutory limit on the public debt; or

(b) the rights of Members, Delegates, the Resident Commissioner, or committees with respect to the introduction, consideration, and reporting of such bills or joint resolutions.

5. In this rule the term “statutory limit on the public debt” means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code, and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), as determined under section 3101(b) of such title after the application of section 3101(a) of such title, that may be outstanding at any one time.

\* \* \* \* \*

#### H. RES. 6 (110th CONGRESS)

##### SEC. 511. SEPARATE ORDERS.

(a) BUDGET MATTERS—(1) During the One Hundred Tenth Congress, references in section 306 of the Congressional Budget Act of 1974 to a resolution shall be construed in the House of Representatives as references to a joint resolution.

(2) During the One Hundred Tenth Congress, in the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

(3) During the One Hundred Tenth Congress, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority under section 401 of the Congressional Budget Act of 1974.

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**SELECTED PROVISIONS IN S. CON. RES. 21,  
110TH CONGRESS**

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**SELECTED PROVISIONS IN S. CON. RES. 21,  
110TH CONGRESS**

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**TITLE II—BUDGET PROCESS**

**SEC. 201. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for either of the applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term “applicable time period” means either—

(A) the period of the current fiscal year, the budget year, and the ensuing 4 fiscal years following the budget year; or

(B) the period of the current fiscal year, the budget year, and the ensuing 9 fiscal years following the budget year.

(3) DIRECT SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term “direct spending legislation” means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms “direct spending legislation” and “revenue legislation” do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this subsection shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in

effect prior to September 30, 2002) for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) **PRIOR SURPLUS.**—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted in any bill pursuant to a reconciliation instruction since the beginning of that same calendar year shall never be made available on the pay-as-you-go ledger and shall be dedicated only for deficit reduction.

(b) **SUPERMAJORITY WAIVER AND APPEALS.**—

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

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

(c) **DETERMINATION OF BUDGET LEVELS.**—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Senate Committee on the Budget.

(d) **SUNSET.**—This section shall expire on September 30, 2017.

(e) **REPEAL.**—In the Senate, section 505 of H. Con. Res. 95 (108th Congress), the fiscal year 2004 concurrent resolution on the budget, shall no longer apply.

**SEC. 202. SENATE POINT OF ORDER AGAINST RECONCILIATION LEGISLATION THAT WOULD INCREASE THE DEFICIT OR REDUCE A SURPLUS.**

(a) **IN GENERAL.**—It shall not be in order in the Senate to consider any reconciliation bill, resolution, amendment, amendment between Houses, motion, or conference report pursuant to section 310 of the Congressional Budget Act of 1974 that would cause or increase a deficit or reduce a surplus in either of the following periods:

(1) The current fiscal year, the budget year, and the ensuing 4 fiscal years following the budget year.

(2) The current fiscal year, the budget year, and the ensuing 9 fiscal years following the budget year.

(b) **SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.**—

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

(2) **APPEAL.**—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be re-

quired in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of net deficit increases shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

\* \* \* \* \*

**SEC. 204. EMERGENCY LEGISLATION.**

(a) SENATE.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974 and sections 201, 203, and 207 of this resolution (relating to pay-as-you-go in the Senate, long-term deficits, and discretionary spending limits).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms “direct spending”, “receipts”, and “appropriations for discretionary accounts” mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

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

(B) SUPERMAJORITY WAIVER AND APPEALS.—

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

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and

the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

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

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this subsection, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this paragraph), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(7) REPEAL.—In the Senate, section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, shall no longer apply.

(b) HOUSE.—In the House, if any bill or joint resolution, or amendment offered or considered as adopted or conference report thereon, that makes appropriations for discretionary amounts, and such amounts are designated as necessary to meet emergency

needs, then the new budget authority and outlays resulting therefrom shall not be counted for the purposes of titles III and IV of the Congressional Budget Act of 1974.

**SEC. 205. EXTENSION OF ENFORCEMENT OF BUDGETARY POINTS OF ORDER IN THE SENATE.**

Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2017, and Section 403 of H. Con. Res. 95 (109th Congress) shall no longer apply in the Senate.

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**SELECTED PROVISIONS OF S. CON. RES. 70,  
110TH CONGRESS**

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**SELECTED PROVISIONS OF S. CON. RES. 70,  
110TH CONGRESS**

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**TITLE III—BUDGET ENFORCEMENT**

**SEC. 301. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS.**

(a) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS—

(1) CONTINUING DISABILITY REVIEWS AND SUPPLEMENTAL SECURITY INCOME REDETERMINATIONS—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates \$264,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, and provides an additional appropriation of up to \$240,000,000, and the amount is designated for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, the allocation to the Committee on Appropriations shall be increased by the amount of the additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(2) INTERNAL REVENUE SERVICE TAX COMPLIANCE—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates \$6,997,000,000 to the Internal Revenue Service and the amount is designated to improve compliance with the provisions of the Internal Revenue Code of 1986 and provides an additional appropriation of up to \$490,000,000, and the amount is designated to improve compliance with the provisions of the Internal Revenue Code of 1986, the allocation to the Committee on Appropriations shall be increased by the amount of the additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(3) HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates up to \$198,000,000 and the amount is designated to the health care fraud and abuse control program at the Department of Health and Human Services, the allocation to the Committee on Appropriations shall be increased by the amount of additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(4) UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACTIVITIES—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report making appropriations for fiscal year 2009 that appropriates \$10,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews for the Department of Labor and provides an additional appropriation of up to \$40,000,000, and the amount is designated for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews for the Department of Labor, the allocation to the Committee on Appropriations shall be increased by the amount of additional budget authority and outlays resulting from that budget authority for fiscal year 2009.

(b) COSTS OF OVERSEAS DEPLOYMENTS AND EMERGENCY NEEDS—

(1) OVERSEAS DEPLOYMENTS AND RELATED ACTIVITIES—

(A) In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for fiscal year 2008 or fiscal year 2009 for overseas deployments and related activities and such amounts are so designated pursuant to this subparagraph, then the allocation to the Committee on Appropriations may be adjusted by the amounts provided in such legislation for that purpose up to the amounts of budget authority specified in section 104(21) for fiscal year 2008 or fiscal year 2009 and the new outlays resulting therefrom.

(B) In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for fiscal year 2008 or fiscal year 2009 for overseas deployments and related activities above the amounts of budget authority and new outlays specified in subparagraph (A) and such amounts are so designated pursuant to this subparagraph, then new budget authority, outlays, or receipts resulting therefrom shall not count for the purposes of titles III and IV of the Congressional Budget Act of 1974.

(2) EMERGENCY NEEDS—In the House, if any bill, joint resolution, amendment, or conference report makes appropriations for discretionary amounts and such amounts are designated as necessary to meet emergency needs, then the new budget authority and outlays resulting therefrom shall not count for the purposes of titles III and IV of the Congressional Budget Act of 1974.

(c) PROCEDURE FOR ADJUSTMENTS—

(1) IN GENERAL—In the House, prior to consideration of any bill, joint resolution, amendment, or conference report, the Chairman of the Committee on the Budget shall make the adjustments set forth in subsection (a) for the incremental new budget authority in that measure and the outlays resulting from that budget authority if that measure meets the requirements set forth in subsection (a), except that no adjustment shall be made for provisions exempted for the purposes of titles III and IV of the Congressional Budget Act of 1974 under subsection (b) of this section.

(2) **MATTERS TO BE ADJUSTED**—The adjustments referred to in paragraph (1) are to be made to the allocations made under this concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974.

(d) **SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008**—In the House, if any measure making supplemental appropriations for fiscal year 2008 is enacted, the Chairman of the Committee on the Budget shall make the appropriate adjustments in allocations and aggregates to reflect the difference between such measure and the corresponding levels assumed in this resolution.

**SEC. 302. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.<sup>1</sup>**

(a) **In General**—In the House, except as provided in subsection (b), any bill, joint resolution, amendment, or conference report making a general appropriation or continuing appropriation may not provide for advance appropriations.

(b) **Exceptions**—In the House, an advance appropriation may be provided for fiscal year 2010 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers to accompany this resolution under the heading ‘Accounts Identified for Advance Appropriations’ in an aggregate amount not to exceed \$28,852,000,000 in new budget authority, and for 2011, accounts separately identified under the same heading.

(c) **Definition**—In this section, the term ‘advance appropriation’ means any new discretionary budget authority provided in a bill or joint resolution making general appropriations or any new discretionary budget authority provided in a bill or joint resolution continuing appropriations for fiscal year 2009 that first becomes available for any fiscal year after 2009.

**SEC. 311. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING LONG-TERM DEFICITS.**

(a) **CONGRESSIONAL BUDGET OFFICE ANALYSIS OF PROPOSALS.**—The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill and joint resolution reported from committee (except measures within the jurisdiction of the Committee on Appropriations), and amendments thereto and conference reports thereon, an estimate of whether the measure would cause, relative to current law, a net increase in deficits in excess of \$5,000,000,000 in any of the 4 consecutive 10-year periods beginning with the first fiscal year that is 10 years after the budget year provided for in the most recently adopted concurrent resolution on the budget.

(b) **POINT OF ORDER.**—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a net increase in deficits in excess of \$5,000,000,000 in any of the 4 consecutive 10-year periods described in subsection (a).

(c) **SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.**—

(1) **WAIVER.**—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

<sup>1</sup> See the Appendix for Advance Appropriations Summary.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels of net deficit increases shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(e) SUNSET.—This section shall expire on September 30, 2017.

(f) REPEAL.—In the Senate, subsections (a) through (d) and subsection (f) of section 203 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 312. DISCRETIONARY SPENDING LIMITS, PROGRAM INTEGRITY INITIATIVES, AND OTHER ADJUSTMENTS.**

(a) SENATE POINT OF ORDER—

(1) IN GENERAL—Except as otherwise provided in this section, it shall not be in order in the Senate to consider any bill or joint resolution (or amendment, motion, or conference report on that bill or joint resolution) that would cause the discretionary spending limits in this section to be exceeded.

(2) SUPERMAJORITY WAIVER AND APPEALS—

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

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

(b) SENATE DISCRETIONARY SPENDING LIMITS—In the Senate and as used in this section, the term ‘discretionary spending limit’ means—

(1) for fiscal year 2008, \$1,050,478,000,000 in new budget authority and \$1,094,944,000,000 in outlays; and

(2) for fiscal year 2009, \$1,011,718,000,000 in new budget authority and \$1,106,112,000,000 in outlays;

as adjusted in conformance with the adjustment procedures in subsection (c).

(c) ADJUSTMENTS IN THE SENATE—

(1) IN GENERAL—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, budgetary aggregates, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing therefrom; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED—Matters referred to in paragraph (1) are as follows:

(A) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates \$264,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, and provides an additional appropriation of up to \$240,000,000 for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed \$240,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates \$6,997,000,000 for the Internal Revenue Service for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) and provides an additional appropriation of up to \$490,000,000 for the Internal Revenue Service for enhanced tax enforcement to address the Federal tax gap, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed \$490,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(C) HEALTH CARE FRAUD AND ABUSE CONTROL—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates up to \$198,000,000 to the Health Care Fraud and Abuse Control program at the Department of Health and Human Services, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed \$198,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(D) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS—If a bill or joint resolution is reported making appropriations for fiscal year 2009 that appropriates \$10,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, and provides an additional appropriation of up to \$40,000,000 for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, then the discretionary spending limits, allocation to the Senate Committee on Appropriations, and

aggregates may be adjusted by the amounts provided in such legislation for that purpose, but not to exceed \$40,000,000 in budget authority and outlays flowing therefrom for fiscal year 2009.

(3) ADJUSTMENTS FOR OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES—The Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, allocations to the Senate Committee on Appropriations, and aggregates for one or more—

(A) bills reported by the Senate Committee on Appropriations or passed by the House of Representatives;

(B) joint resolutions or amendments reported by the Senate Committee on Appropriations;

(C) amendments between the Houses received from the House of Representatives or Senate amendments offered by the authority of the Senate Committee on Appropriations; or

(D) conference reports;

making appropriations for fiscal year 2008 or 2009 for overseas deployments and other activities, by the amounts provided in such legislation for those purposes (and so designated pursuant to this paragraph), up to the amounts of budget authority specified in section 104(21) for fiscal years 2008 and 2009 and the new outlays flowing therefrom.

(d) Supplemental Appropriations for Fiscal Year 2008- If legislation making supplemental appropriations for fiscal year 2008 is enacted, the Chairman of the Senate Committee on the Budget may make the appropriate adjustments in allocations, aggregates, discretionary spending limits, and other levels of new budget authority and outlays for 2008 and 2009 to reflect the difference between such measure and the corresponding levels assumed in this resolution.

(e) INAPPLICABILITY—In the Senate, subsections (a), (b), (c), (e), and (f) of section 207 of S. Con. Res. 21 (110th Congress) shall no longer apply.

#### SEC. 313. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.<sup>2</sup>

(a) IN GENERAL—

(1) POINT OF ORDER—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(2) DEFINITION—In this section, the term ‘advance appropriation’ means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2009 that first becomes available for any fiscal year after 2009, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2010, that first becomes available for any fiscal year after 2010.

(b) EXCEPTIONS—Advance appropriations may be provided—

(1) for fiscal years 2010 and 2011 for programs, projects, activities, or accounts identified in the joint explanatory state-

<sup>2</sup> See the Appendix for Advance Appropriations Summary.



ment of managers accompanying this resolution under the heading 'Accounts Identified for Advance Appropriations' in an aggregate amount not to exceed \$28,852,000,000 in new budget authority in each year; and

(2) for the Corporation for Public Broadcasting.

(c) SUPERMAJORITY WAIVER AND APPEAL—

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

(2) APPEAL—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

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

(e) CONFERENCE REPORTS—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) INAPPLICABILITY—In the Senate, section 206(a) of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 314. SENATE POINT OF ORDER AGAINST PROVISIONS OF APPROPRIATIONS LEGISLATION THAT CONSTITUTE CHANGES IN MANDATORY PROGRAMS WITH NET COSTS.**

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any appropriations legislation, including any amendment thereto, motion in relation thereto, or conference report thereon, that includes any provision which constitutes a change in a mandatory program producing net costs, as defined in subsection (b), that would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in legislation other than appropriations legislation. A point of order pursuant to this section shall be raised against such provision or provisions as described in subsections (e) and (f).

(b) CHANGES IN MANDATORY PROGRAMS PRODUCING NET COSTS.—A provision or provisions shall be subject to a point of order pursuant to this section if—

(1) the provision would increase budget authority in at least 1 of the 9 fiscal years that follow the budget year and over the period of the total of the budget year and the 9 fiscal years following the budget year;

(2) the provision would increase net outlays over the period of the total of the 9 fiscal years following the budget year; and

(3) the sum total of all changes in mandatory programs in the legislation would increase net outlays as measured over the period of the total of the 9 fiscal years following the budget year.

(c) DETERMINATION.—The determination of whether a provision is subject to a point of order pursuant to this section shall be made by the Committee on the Budget of the Senate.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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

(f) FORM OF THE POINT OF ORDER.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(g) EFFECTIVENESS.—This section shall not apply to any provision constituting a change in a mandatory program in appropria-

tions legislation if such provision has been enacted in each of the 3 fiscal years prior to the budget year.

(h) INAPPLICABILITY.—In the Senate, section 209 of S. Con. Res. 21 (110th Congress) shall no longer apply.

**SEC. 315. SENATE POINT OF ORDER AGAINST LEGISLATION INCREASING SHORT-TERM DEFICIT.**

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report (except measures within the jurisdiction of the Committee on Appropriations) that would cause a net increase in the deficit in excess of \$10,000,000,000 in any fiscal year provided for in the most recently adopted concurrent resolution on the budget unless it is fully offset over the period of all fiscal years provided for in the most recently adopted concurrent resolution on the budget.

(b) SUPERMAJORITY WAIVER AND APPEAL IN THE SENATE.—

(1) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(c) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels shall be determined on the basis of estimates provided by the Senate Committee on the Budget.

(d) SUNSET.—This section shall expire on September 30, 2017.

**SEC. 321. OVERSIGHT OF GOVERNMENT PERFORMANCE.**

All committees are directed to review programs within their jurisdiction to root out waste, fraud, and abuse in program spending, giving particular scrutiny to issues raised by Government Accountability Office reports. Based on these oversight efforts and committee performance reviews of programs within their jurisdiction, committees are directed to include recommendations for improved governmental performance in their annual views and estimates reports required under section 301(d) of the Congressional Budget Act of 1974 to the appropriate Committee on the Budget.

**SEC. 322. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.—In the House and Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committees on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

(b) SPECIAL RULE.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any off-budget discretionary amounts.

**SEC. 323. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.**

(a) APPLICATION—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

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

(b) Effect of Changed Allocations and Aggregates—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS—For purposes of this resolution, the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget.

(d) ADJUSTMENTS—The Chairmen of the Budget Committees in the House and the Senate may adjust the aggregates, allocations, and other levels in this resolution for legislation which has received final Congressional approval in the same form by the House of Representatives and the Senate, and is either waiting to be presented to the President or awaiting Presidential signature at the time of final consideration of this resolution.

**SEC. 324. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.**

Upon the enactment of any bill or joint resolution providing for a change in concepts or definitions, the Chairman of the appropriate Committee on the Budget may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

**SEC. 325. EXERCISE OF RULEMAKING POWERS.**

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate and as such they shall be considered as part of the rules of each House or of that House to which they specifically apply, and these rules shall supersede other rules only to the extent that they are inconsistent with other such rules; and

(2) with full recognition of the constitutional right of either the House of Representatives or the Senate to change those rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate.

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**JURISDICTIONS OF THE HOUSE AND SENATE  
BUDGET COMMITTEES**

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## JURISDICTION OF HOUSE BUDGET COMMITTEE

### RULE X.

#### ORGANIZATION OF COMMITTEES.

##### ***Committees and their legislative jurisdictions***

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

(a) \* \* \*

\* \* \* \* \*

##### **(d) Committee on the Budget.**

(1) Concurrent resolutions on the budget (as defined in section 3(4) of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

(2) Budget process generally.

(3) Establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

\* \* \* \* \*

##### ***Special oversight functions***

3. (a) \* \* \*

(b) The Committee on the Budget shall study on a continuing basis the effect on budget outlays of relevant existing and proposed legislation and report the results of such studies to the House on a recurring basis.

\* \* \* \* \*

##### ***Additional functions of committees***

4. (a) \* \* \*

(b) The Committee on the Budget shall—

(1) review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) hold hearings and receive testimony from Members, Senators, Delegates, the Resident Commissioner, and such appropriate representatives of Federal departments and agencies,

the general public, and national organizations as it considers desirable in developing concurrent resolutions on the budget for each fiscal year;

(3) make all reports required of it by the Congressional Budget Act of 1974;

(4) study on a continuing basis those provisions of law that exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and report to the House from time to time its recommendations for terminating or modifying such provisions;

(5) study on a continuing basis proposals designed to improve and facilitate the congressional budget process, and report to the House from time to time the results of such studies, together with its recommendations; and

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

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**JURISDICTION OF SENATE BUDGET COMMITTEE**

**RULE XXV**

**STANDING COMMITTEES**

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

(a) \* \* \*

\* \* \* \* \*

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

(2) Such committee shall have the duty—

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

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

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

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

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**UNANIMOUS CONSENT AGREEMENT OF JANUARY 30, 1975**

(as modified on April 11, 1986) with respect to Rescissions and Deferrals (which had the effect of adopting the language of Senate Resolution 45 which is set forth below)):

*Resolved,*

1. That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

2. That bills, resolutions and joint resolutions introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, and Budget Committee, and pending implementations of section 401 of the Congressional Budget and Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2)(A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

3. If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report the bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

(A) the time remaining under the act in the case of rescissions, or

(B) within 20 days in the case of deferrals.

4. The 20 day period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more than 3 days, to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate.

(Agreed to January 30, 1975 (94th Cong., 1st Sess.), found at page S1917 of the *Congressional Record* and as modified on April 11, 1986 (99th Cong., 2d Sess.), found on pages S7918-19 of the *Congressional Record*.)

### S. RES. 445 (108th CONGRESS) <sup>1</sup>

SEC. 101. (a) \* \* \*

(d) JURISDICTION OF BUDGET COMMITTEE—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are—

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional ac-

<sup>1</sup> Sections 101(d) and (e) of S. Res. 445 (108th Congress) superseded the Unanimous Consent Agreement of August 4, 1977, regarding legislation affecting the budget process.

tion on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as ‘rescissions’ and ‘deferrals’;

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) OMB NOMINEES—The Committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.



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**APPENDIX**

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**SELECTED PROVISIONS OF THE UNITED STATES  
CONSTITUTION**

***Article I, Section 7, First Clause***

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

***Article I, Section 8, First and Second Clauses***

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

***Article I, Section 9, Seventh Clause***

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

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## **SCOREKEEPING GUIDELINES OF THE CONGRESSIONAL BUDGET OFFICE AND THE OFFICE OF MANAGEMENT AND BUDGET<sup>1</sup>**

These budget scorekeeping guidelines are to be used by the House and Senate Budget Committees, the Congressional Budget Office, and the Office of Management and Budget (the “scorekeepers”) in measuring compliance with the Congressional Budget Act of 1974 (CBA), as amended, and GRH<sup>2</sup> as amended. The purpose of the guidelines is to ensure that the scorekeepers measure the effects of legislation on the deficit consistent with established scorekeeping conventions and with the specific requirements in those Acts regarding discretionary spending, direct spending, and receipts. These rules shall be reviewed annually by the scorekeepers and revised as necessary to adhere to the purpose. These rules shall not be changed unless all of the scorekeepers agree. New accounts or activities shall be classified only after consultation among the scorekeepers. Accounts and activities shall not be reclassified unless all of the scorekeepers agree.

### **1. CLASSIFICATION OF APPROPRIATIONS**

Following the guidelines (pages 1014—1053 of conference report) is a list of appropriations that are normally enacted in appropriations acts. The list identifies appropriated entitlements and other mandatory spending in appropriations acts, and it identifies discretionary appropriations by category.

### **2. OUTLAYS PRIOR**

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

### **3. DIRECT SPENDING PROGRAMS**

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels as defined in section 257 of GRH, unless Congressional action modifies the authorization legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee section 302(b) allocations in the House and the Senate. For the purpose of CBA scoring, direct spending savings that are included in both an appropriation bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriation bill. For scoring under sec-

<sup>1</sup> From the Joint Explanatory Statement of the Committee of Conference on H.R. 2015 (105th Congress) and Appendix A of Circular No. A-11.

<sup>2</sup> GRH refers to the Balanced Budget and Emergency Deficit Control Act of 1985, also known as the Gramm-Rudman-Hollings Act, which is included in the Appendix. Although GRH expired, certain sections of the law remain relevant for scorekeeping purposes.



tions 251 or 252 of GRH, such provisions will be scored to the first bill enacted.

4. TRANSFER OF BUDGET AUTHORITY FROM A MANDATORY ACCOUNT  
TO A DISCRETIONARY ACCOUNT

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory.

5. PERMISSIVE TRANSFER AUTHORITY

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of executive or congressional intent.

This guideline will apply both to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) and general transfer authority.

6. REAPPROPRIATIONS

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

7. ADVANCE APPROPRIATIONS

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

8. RESCISSIONS AND TRANSFERS OF UNOBLIGATED BALANCES

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the account from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amounts in the source accounts. For purposes of section 257 of GRH, such amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

9. DELAY OF OBLIGATIONS

Appropriation acts specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the act is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended.

#### 10. CONTINGENT LEGISLATION

If the authority to obligate is contingent on the enactment of a subsequent appropriation, new budget authority and outlays will be scored with the subsequent appropriation. If a discretionary appropriation is contingent on enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If a discretionary appropriation is contingent on the fulfillment of some action by the Executive Branch or some other event normally estimated, new budget authority will be scored with the appropriation and outlays will be estimated based on the best information about when (or if) the contingency will be met. Non-law making contingencies within the control of the Congress are not scoreable events.

#### 11. SCORING PURCHASES, LEASE-PURCHASES, CAPITAL LEASES, AND OPERATING LEASES

When a law provides the authority for an agency to enter into a contract for the purchase, lease-purchase, or lease of an asset, budget authority and outlays will be scored as follows:

For lease-purchases and capital leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount of the estimated net present value of the government's total estimated legal obligations over the life of the contract, except for imputed interest costs calculated at Treasury rates for marketable debt instruments of similar maturity to the lease period and identifiable annual operating expenses that would be paid by the government as owner (such as utilities, maintenance, and insurance). Property taxes will not be considered to be an operating cost. Imputed interest costs will be classified as mandatory and will not be scored against the legislation or for current level but will count for other purposes.

For operating leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount necessary to cover the government's legal obligations. The amount scored will include the estimated total payments expected to arise under the full term of a lease contract or, if the contract will include a cancellation clause, an amount sufficient to cover the lease payments for the first fiscal year during which the contract is in effect, plus an amount sufficient to cover the costs associated with cancellation of the contract. For funds that are self-insuring under existing authority, only budget authority to cover the annual lease payment is required to be scored.

Outlays for lease-purchase in which the Federal government assumes substantial risk—for example, through an explicit government guarantee of third party financing—will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for an operating lease, a capital lease, or a lease-purchase in which the private sector retains substantial risk, will be spread across the lease period. In all cases, the total amount of outlays scored over time against legislation will equal the amount of budget authority scored against that legislation.

No special rules apply to scoring purchases of assets (whether the asset is exiting or is to be manufactured or constructed). Budget authority is scored in the year in which the authority to purchase is first made available in the amount of the government's estimated legal obligations. Outlays scored will equal the estimated disbursements by the government based on the particular purchase arrangement, and over time will equal the amount of budget authority scored against that legislation.

Existing contracts will not be rescored.

To distinguish lease purchases and capital leases from operating leases, the following criteria will be used for defining an operating lease:

Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the government at or shortly after the end of the lease period.

The lease does not contain a bargain-price purchase option.

The lease term does not exceed 75 percent of the estimated economic lifetime of the asset.

The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the inception of the lease.

The asset is a general purpose asset rather than being for a special purpose of the government and is not built to unique specification for the government as lessee.

There is a private-sector market for the asset.

Risks of ownership of the asset should remain with the lessor.

Risk is defined in terms of how governmental in nature the project is. If a project is less governmental in nature, the private-sector risk is considered to be higher. To evaluate the level of private-sector risk associated with a lease-purchase, legislation and lease-purchase contracts will be considered against the following type of illustrative criteria, which indicate ways in which the project is less governmental:

There should be no provision of government financing and no explicit government guarantee of third party financing.

Risks of ownership of the asset should remain with the lessor unless the Government was at fault for such losses.

The asset should be a general purpose asset rather than for a special purpose of the Government and should not be built to unique specification for the Government as lessee.

There should be a private-sector market for the asset.

The project should not be constructed on Government land.

Language that attempts to waive the Anti-Deficiency Act, or to limit the amount or timing of obligations recorded, does not change

the government's obligations or obligational authority, and so will not affect the scoring of budget authority or outlays.

Unless language that authorizes a project clearly states that no obligations are allowed unless budget authority is provided specifically for that project in an appropriations bill in advance of the obligation, the legislation will be interpreted as providing obligation authority, in an amount to be estimated by the scorekeepers.

12. WRITE-OFFS OF UNCASHED CHECKS, UNREDEEMED FOOD STAMPS,  
AND SIMILAR INSTRUMENTS

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., cumulative balances that have built up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routing process shall be netted against outlays in the year in which the write-off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

13. RECLASSIFICATION AFTER AN AGREEMENT

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification of spending and revenues (e.g., from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

14. SCORING OF RECEIPT INCREASES OR DIRECT SPENDING REDUCTIONS FOR ADDITIONAL ADMINISTRATION OR PROGRAM MANAGEMENT EXPENSES

No increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administration or program management activities.

15. ASSET SALES

If the net financial cost to the government of an asset sale is zero or negative (a savings), the amount scored shall be the estimated change in receipts and mandatory outlays in each fiscal year on a cost basis. If the cost of the government is positive (a loss), the proceeds from the sale shall not be scored for the purposes of the CBA or GRH.

The net financial cost to the Federal government of an asset sale shall be the net present value of the cash flows from:

- (1) estimated proceeds from the asset sale;
- (2) the net effect on Federal revenues, if any, based on special tax treatments specified in the legislation;
- (3) the loss of future offsetting receipts that would otherwise be collected under continued government ownership (using baseline levels for the projection period and estimated levels thereafter); and
- (4) changes in future spending, both discretionary and mandatory, from levels that would otherwise occur under con-

tinued government ownership (using baseline levels for the projection period and at levels estimated to be necessary to operate and maintain the asset thereafter).

The discount rate used to estimate the net present value shall be the average interest rate on marketable Treasury securities of similar maturity to the expected remaining useful life of the asset for which the estimate is being made, plus 2 percentage points to reflect the economic effects of continued ownership by the Government.

16. INDEFINITE BORROWING AUTHORITY AND LIMITS ON OUTSTANDING DEBT

If legislation imposes or changes a limit on outstanding debt for an account financed by indefinite budget authority in the form of borrowing authority, the legislation will be scored as changing budget authority only if and to the extent the imposition of a limit or the change in the existing limit alters the estimated amount of obligations that will be incurred.

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## **ADVANCE APPROPRIATIONS SUMMARY**

An appropriation bill provides budget authority (BA) that allows the federal government to incur obligations that will result in money being spent (outlays). Typically, an appropriations bill provides funding that becomes available sometime during the fiscal year covered by the bill (for most accounts, on October 1). For example, an appropriations bill for fiscal year 2009 would include BA that becomes available to be spent on October 1, 2008, which is the first day of fiscal year 2009.

Advance appropriations are BA provided in a bill making appropriations for one year that first becomes available for a subsequent fiscal year, usually the year immediately after the one covered by the bill. Congress uses advance appropriations for programs that do not need the funding immediately, often for programs that follow an academic year and therefore use the bulk of their funding for the year following the fiscal year in which it is provided. For example, an education program's advance appropriations for fiscal year 2010 contained in a fiscal year 2009 appropriations bill become available on October 1, 2009, and are thus scored in fiscal year 2010 and not included in the bill's fiscal year 2009 score.

Recent congressional budget resolutions have limited advance appropriations to a specific total, and allowed their use only for programs listed in the Statement of Managers accompanying the budget conference agreement. The fiscal year 2009 budget resolution limits advance appropriations to no more than \$28.852 billion.

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**BALANCED BUDGET AND EMERGENCY DEFICIT  
CONTROL ACT OF 1985**

Public Law 99-177, December 12, 1985, 99 Stat. 1037

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Major Amendments:

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

Budget Enforcement Act of 1990; Public Law 101-508, Title XIV,  
Subtitle A, Part I; November 5, 1990; 104 Stat. 1388-573,  
1388-574.

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

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

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

Transportation Equity Act for the 21st Century; June 9, 1998; 112  
Stat. 488.

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

[As Amended Through P.L. 109–59, Enacted August 10, 2005]

**NOTE:**

**Expiration of Balanced Budget and Emergency Deficit Control Act of 1985**

As of September 30, 2006, all provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 expired. See section 275(b) of that Act.

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

**SEC. 250. [2 U.S.C. 900] TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS.**

(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. General and special sequestration rules.<sup>1</sup>
- Sec. 257. The baseline.
- Sec. 258. Suspension in the event of war or low growth.
- Sec. 258A. Modification of presidential order.
- Sec. 258B. Alternative defense sequestration.
- Sec. 258C. Special reconciliation process.

(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for budget enforcement as called for in House Concurrent Resolution 84 (105th Congress, 1st session).

(c) DEFINITIONS.—

As used in this part:

(1) The terms “budget authority”, “new budget authority”, “outlays”, and “deficit” have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and “discretionary spending limit” shall mean the amounts specified in section 251 of this Act.

(2) The terms “sequester” and “sequestration” refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) The term “breach” means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is

<sup>1</sup> Section 10208(a)(2) of Public Law 105–33 (111 Stat. 708) added this item to the table of contents, inadvertently adding it in all caps.



above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4)(A)<sup>1</sup> The term "category" means the subsets of discretionary appropriations in section 251(c). Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.

(B) The term "highway category" refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users:

- (i) 69-8083-0-7-401 (Federal-Aid Highways).
- (ii) 69-8020-0-7-401 (Highway Traffic Safety Grants).
- (iii) 69-8048-0-7-401 (National Motor Carrier Safety Program).
- (iv) 69-8016-0-7-401 (Operations and Research NHTSA).
- (v) 69-8362-0-7-401 (National Driver Registry).
- (vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).
- (vii) 06-8158-0-7-401 (Motor Carrier Safety Grants).

(C) MASS TRANSIT CATEGORY.—The term "mass transit category" means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or for which appropriations are provided in accordance with authorizations contained in that Act:

- (i) 69-1120-0-1-401 (Administrative Expenses).
- (ii) 69-1134-0-1-401 (Capital Investment Grants).
- (iii) 69-8191-0-7-401 (Discretionary Grants).
- (iv) 69-1129-0-1-401 (Formula Grants).
- (v) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).
- (vi) 69-1125-0-1-401 (Job Access and Reverse Commute).
- (vii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).
- (viii) 69-1121-0-1-401 (Research, Training and Human Resources).
- (ix) 69-8350-0-7-401 (Trust Fund Share of Expenses).

<sup>1</sup> See footnote to section 251(c).

(x) 69-1137-0-1-401 (Transit Planning and Research).

(xi) 69-1136-0-1-401 (University Transportation Research).

(xii) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).

Such term also refers to the Washington Metropolitan Transit Authority account (69-1128-0-1-401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96-184 and Public Law 101-551.

(D) SPECIAL RULE.—(i) Any outlays in excess of the discretionary spending limit set forth in section 251(c) for the highway or mass transit category, as adjusted, for the budget year shall be considered nondefense category outlays or discretionary category outlays.

(ii) If the obligation limitations for accounts in the highway or mass transit category provided in an appropriation Act for a fiscal year exceed the obligation limitations set forth in section 8103 of the Transportation Equity Act for the 21st Century for that year, as adjusted, the estimated outlays flowing for each outyear from such excess obligations calculated pursuant to clause (iii) shall be attributed to the discretionary category in that outyear.

(iii) For purposes of clause (ii), outlays from excess obligations shall be determined using the average of the spendout rates for that category in the baseline.

(E)<sup>1</sup> The term “conservation spending category” means discretionary appropriations for conservation activities in the following budget accounts or portions thereof providing appropriations to preserve and protect lands, habitat, wildlife, and other natural resources, to provide recreational opportunities, and for related purposes:

(i) 14-5033 Bureau of Land Management Land Acquisition.

(ii) 14-5020 Fish and Wildlife Service Land Acquisition.

(iii) 14-5035 National Park Service Land Acquisition and State Assistance.

(iv) 12-9923 Forest Service Land Acquisition.

(v) 14-5143 Fish and Wildlife Service Cooperative Endangered Species Conservation Fund.

(vi) 14-5241 Fish and Wildlife Service North American Wetlands Conservation Fund.

(vii) 14-1694 Fish and Wildlife Service State Wildlife Grants.

(viii) 14-0804 United States Geological Survey Surveys, Investigations, and Research, the State Planning Partnership programs: Community/Federal Information Partnership, Urban Dynamics, and Decision Support for Resource Management.

<sup>1</sup>So in law. Section 801 of P.L. 106-291 (114 Stat. 1026) amended this section by adding new subparagraphs (E) through (K). The margins of the new subparagraphs do not conform to existing subparagraphs.

(ix) 12–1105 Forest Service State and Private Forestry, the Forest Legacy Program, Urban and Community Forestry, and Smart Growth Partnerships.

(x) 14–1031 National Park Service Urban Park and Recreation Recovery program.

(xi) 14–5140 National Park Service Historic Preservation Fund.

(xii) Youth Conservation Corps.

(xiii) 14–1114 Bureau of Land Management Payments in Lieu of Taxes.

(xiv) Federal Infrastructure Improvement (as established in title VIII of the Department of the Interior and Related Agencies Appropriations Act, 2001).

(xv) 13–1460 NOAA Procurement Acquisition and Construction, the National Marine Sanctuaries and the National Estuarine Research Reserve Systems.

(xvi) 13–1450 NOAA Operations, Research, and Facilities, the Coastal Zone Management Act programs, the National Marine Sanctuaries, the National Estuarine Research Reserve Systems, and Coral Restoration programs.

(xvii) 13–1451 NOAA Pacific Coastal Salmon Recovery.

(F)<sup>1</sup> The term “Federal and State Land and Water Conservation Fund sub-category” means discretionary appropriations for activities in the accounts described in (E)(i)–(E)(iv) or portions thereof.

(G)<sup>1</sup> The term “State and Other Conservation sub-category” means discretionary appropriations for activities in the accounts described in (E)(v)–(E)(ix), with the exception of Urban and Community Forestry as described in (E)(ix), or portions thereof.

(H)<sup>1</sup> The term “Urban and Historic Preservation sub-category” means discretionary appropriations for activities in the accounts described in (E)(ix)–(E)(xii), with the exception of Forest Legacy and Smart Growth Partnerships as described in (E)(ix), or portions thereof.

(I)<sup>1</sup> The term “Payments in Lieu of Taxes sub-category” means discretionary appropriations for activities in the account described in (E)(xiii) or portions thereof.

(J)<sup>1</sup> The term “Federal Deferred Maintenance sub-category” means discretionary appropriations for activities in the account described in (E)(xiv) or portions thereof.

(K)<sup>1</sup> The term “Coastal Assistance sub-category” means discretionary appropriations for activities in the accounts described in (E)(xv)–(E)(xvii) or portions thereof.

(5) The term “baseline” means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(6) The term “budgetary resources” means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(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 that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget.

(10) The term “real economic growth”, with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(11) The term “account” means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President’s budget.

(12) The term “budget year” means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(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 first 4 fiscal years that follow the budget year.

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

(16) The term “CBO” means the Director of the Congressional Budget Office.

(17) As used in this part, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1997.

(18) The term “deposit insurance” refers to the expenses<sup>1</sup> the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

(19) The term “asset sale” means the sale to the public of any asset (except for those assets covered by title V of the Congressional Budget Act of 1974), whether physical or financial, owned in whole or in part by the United States.

<sup>1</sup> So in law. Probably should read “expenses of”.

**SEC. 251. [2 U.S.C. 901] ENFORCING DISCRETIONARY SPENDING LIMITS.**

(a) ENFORCEMENT.—

(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session 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(f), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(f) 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) ESTIMATES.—

(A) CBO ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation.

(B) OMB ESTIMATES AND EXPLANATION OF DIFFERENCES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the 2 estimates. If during the preparation of the report OMB determines that there is a significant difference between OMB and CBO, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation shall include, to extent practicable, written communication to those committees that affords such committees the opportunity to comment before the issuance of the report.

(C) ASSUMPTIONS AND GUIDELINES.—OMB estimates under this paragraph shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(D) ANNUAL APPROPRIATIONS.—For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for the current year (if any) and the budget year in accounts for which funding is provided in that legislation that result from previously enacted legislation.

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) PREVIEW REPORT.—

(A) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall in-

clude adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the committees<sup>1</sup> on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

(B) ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall make adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

(bb) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of receipts for that year.

(cc) OMB shall add one-half of the sum of the amount calculated under items (aa) and (bb) to the obligation limitations set forth in the section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and, using current estimates, calculate the outlay change resulting from the change in obligations for the budget year and the first outyear and the outlays flowing therefrom through subsequent fiscal years. After making the calculations under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year and the first outyear by adding one-half of the sum of the amount calculated under items (aa) and (bb) to each such year.

(II) The estimated level of highway receipts for the purposes of this clause are—

- (aa) for fiscal year 2005, \$31,562,000,000;
- (bb) for fiscal year 2006, \$33,712,000,000;
- (cc) for fiscal year 2007, \$34,623,000,000
- (dd) for fiscal year 2008, \$35,449,000,000; and
- (ee) for fiscal year 2009, \$36,220,000,000.

(III) In this clause, the term “highway receipts” means the governmental receipts credited to the highway account of the Highway Trust Fund.

(C) In addition to the adjustment required by subparagraph (B), when the President submits the budget under

<sup>1</sup> So in law. Probably should be “Committees”.

section 1105 of title 31, United States Code, for fiscal year 2007, 2008, or 2009, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

(ii) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

(D)(i) When OMB and CBO submit their final sequester report for fiscal year 2006, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2007 through 2010 from obligations at the levels specified in section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users using current assumptions.

(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, 2009, or 2010, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.

(2)<sup>1</sup> SEQUESTRATION REPORTS.—When OMB submits a sequestration report under section 254(e), (f), or (g) for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year, as follows:

(A) EMERGENCY APPROPRIATIONS.—If, for any fiscal year, 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 fiscal years from such appropriations. This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.

(B) 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 for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the sum of the adjusted discretionary spending limits on outlays for that fiscal year.

<sup>1</sup> See clause 2(e) of rule XXI of the Rules of the House of Representatives.



(C) CONTINUING DISABILITY REVIEWS.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for continuing disability reviews under the heading “Limitation on Administrative Expenses” for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

(I) for fiscal year 1998, \$290,000,000 in additional new budget authority and \$338,000,000 in additional outlays;

(II) for fiscal year 1999, \$520,000,000 in additional new budget authority and \$520,000,000 in additional outlays;

(III) for fiscal year 2000, \$520,000,000 in additional new budget authority and \$520,000,000 in additional outlays;

(IV) for fiscal year 2001, \$520,000,000 in additional new budget authority and \$520,000,000 in additional outlays; and

(V) for fiscal year 2002, \$520,000,000 in additional new budget authority and \$520,000,000 in additional outlays.

(ii) As used in this subparagraph—

(I) the term “continuing disability reviews” means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act and reviews and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

(II) the term “additional new budget authority” means the amount provided for a fiscal year, in excess of \$200,000,000, in an appropriations Act and specified to pay for the costs of continuing disability reviews under the heading “Limitation on Administrative Expenses” for the Social Security Administration; and

(III) the term “additional outlays” means outlays, in excess of \$200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading “Limitation on Administrative Expenses” for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).

(D) ALLOWANCE FOR IMF.—If an appropriation bill or joint resolution is enacted for a fiscal year through 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent of the Special Drawing Rights with respect to—

(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow).

(E) ALLOWANCE FOR INTERNATIONAL ARREARAGES.—

(i) ADJUSTMENTS.—If an appropriation bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in that measure and the outlays flowing in all fiscal years from that budget authority.

(ii) LIMITATIONS.—The total amount of adjustments made pursuant to this subparagraph for the period of fiscal years 1998 through 2000 shall not exceed \$1,884,000,000 in budget authority.

(F) EITC COMPLIANCE INITIATIVE.—If an appropriation bill or joint resolution is enacted for a fiscal year that includes an appropriation for an earned income tax credit compliance initiative, the adjustment shall be the amount of budget authority in that measure for that initiative and the outlays flowing in all fiscal years from that budget authority, but not to exceed—

(i) with respect to fiscal year 1998, \$138,000,000 in new budget authority and \$131,000,000 in outlays;

(ii) with respect to fiscal year 1999, \$143,000,000 in new budget authority and \$143,000,000 in outlays;

(iii) with respect to fiscal year 2000, \$144,000,000 in new budget authority and \$144,000,000 in outlays;

(iv) with respect to fiscal year 2001, \$145,000,000 in new budget authority and \$145,000,000 in outlays; and

(v) with respect to fiscal year 2002, \$146,000,000 in new budget authority and \$146,000,000 in outlays.

(G) ADOPTION INCENTIVE PAYMENTS.—Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted that specifies an amount for adoption incentive payments pursuant to this part for the Department of Health and Human Services—

(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed \$20,000,000; and

(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.

(H) CONSERVATION SPENDING.—(i) If a bill or resolution making appropriations for any fiscal year appropriates an amount for the conservation spending category that is less than the limit for the conservation spending category as specified in subsection (c), then the adjustment for new budget authority and outlays for the following fiscal year

for that category shall be the amount of new budget authority and outlays that equals the difference between the amount appropriated and the amount of that category specified in subsection (c).

(ii) If a bill or resolution making appropriations for any fiscal year appropriates an amount for any conservation spending sub-category that is less than the limit for that conservation spending sub-category as specified in subsections (c)(11)–(c)(16), then the adjustment for new budget authority for the following fiscal year for that sub-category shall be the amount of new budget authority that equals the difference between the amount appropriated and the amount of that sub-category specified in subsection (c)(11)–(c)(16).

(iii) The total amount provided for any conservation activity within the conservation spending category may not exceed any authorized ceiling for that activity.

(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term “discretionary spending limit” means—

(1) with respect to fiscal year 2005—

(A) for the highway category: \$31,277,000,000 in outlays;

(B) for the mass transit category: \$955,792,000 in new budget authority and \$6,674,000,000 in outlays;

(2) with respect to fiscal year 2006—

(A) for the highway category: \$33,942,000,000 in outlays;

(B) for the mass transit category: \$1,643,000,000 in new budget authority and \$7,359,000,000 in outlays;

(3) with respect to fiscal year 2007—

(A) for the highway category: \$36,960,000,000 in outlays;

(B) for the mass transit category: \$1,712,000,000 in new budget authority and \$8,120,000,000 in outlays;

(4) with respect to fiscal year 2008—

(A) for the highway category: \$39,123,000,000 in outlays;

(B) for the mass transit category: \$1,858,000,000 in new budget authority and \$8,742,000,000 in outlays;

(5) with respect to fiscal year 2009—

(A) for the highway category: \$40,660,000,000 in outlays;

(B) for the mass transit category: \$1,977,500,000 in new budget authority and \$9,180,000,000 in outlays;

(6) with respect to fiscal year 2005 for the conservation spending category: \$2,240,000,000, in new budget authority and \$2,192,000,000 in outlays;

(7) with respect to fiscal year 2006 for the conservation spending category: \$2,400,000,000, in new budget authority and \$2,352,000,000 in outlays;

(8) with respect to each fiscal year 2002 through 2006 for the Federal and State Land and Water Conservation Fund sub-category of the conservation spending category:

\$540,000,000 in new budget authority and the outlays flowing therefrom;

(9) with respect to each fiscal year 2002 through 2006 for the State and Other Conservation sub-category of the conservation spending category: \$300,000,000 in new budget authority and the outlays flowing therefrom;

(10) with respect to each fiscal year 2002 through 2006 for the Urban and Historic Preservation sub-category of the conservation spending category: \$160,000,000 in new budget authority and the outlays flowing therefrom;

(11) with respect to each fiscal year 2002 through 2006 for the Payments in Lieu of Taxes sub-category of the conservation spending category: \$50,000,000 in new budget authority and the outlays flowing therefrom;

(12) with respect to each fiscal year 2002 through 2006 for the Federal Deferred Maintenance sub-category of the conservation spending category: \$150,000,000 in new budget authority and the outlays flowing therefrom;

(13) with respect to fiscal year 2002 for the Coastal Assistance sub-category of the conservation spending category: \$440,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2003 for the Coastal Assistance sub-category of the conservation spending category: \$480,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2004 for the Coastal Assistance sub-category of the conservation spending category: \$520,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2005 for the Coastal Assistance sub-category of the conservation spending category: \$560,000,000 in new budget authority and the outlays flowing therefrom; and with respect to fiscal year 2006 for the Coastal Assistance sub-category of the conservation spending category: \$600,000,000 in new budget authority and the outlays flowing therefrom;

as adjusted in strict conformance with subsection (b).

**SEC. 252. [2 U.S.C. 902] ENFORCING PAY-AS-YOU-GO.**

(a) **PURPOSE.**—The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

(b) **SEQUESTRATION.**—

(1) **TIMING.**—Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 251 or 253, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

(2) **CALCULATION OF DEFICIT INCREASE.**—OMB shall calculate the amount of deficit increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d);

(B) the estimated amount of savings in direct spending programs applicable to budget year<sup>1</sup> resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration report for the current year.

(c) ELIMINATING A DEFICIT INCREASE.—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed and direct student loans) and 256(c) (foster care and adoption assistance) shall be made.

(C) THIRD.—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1)<sup>2</sup>; except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) ESTIMATES.—

(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB ESTIMATES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

<sup>1</sup> So in law. Probably should read "to the budget year".

<sup>2</sup> So in law. Probably should refer to subsection (b).

(C) an explanation of any difference between the 2 estimates.

(3) SIGNIFICANT DIFFERENCES.—If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each out-year excluding any amounts resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

(B) emergency provisions as designated under subsection (e).

(5) SCOREKEEPING GUIDELINES.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

(A) determine common scorekeeping guidelines; and

(B) in conformance with such guidelines, prepare estimates under this section.

(e)<sup>1</sup> EMERGENCY LEGISLATION.—If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d). This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.

#### SEC. 253. [2 U.S.C. 903] ENFORCING DEFICIT TARGETS.

(a) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 252, but after any sequestration required by section 251 (enforcing discretionary spending limits) or section 252 (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

(1) the maximum deficit amount for that year;

(2) the amounts for that year designated as emergency direct spending or receipts legislation under section 252(e); and

(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reestimate for that year, if any, calculated under subsection (h).

<sup>1</sup> See clause 2(e) of rule XXI of the Rules of the House of Representatives.

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 eco-



conomic and technical assumptions in the President's budget for that year.  
Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 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. [2 U.S.C. 904] REPORTS AND ORDERS.**

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

| <b>Date:</b>                                     | <b>Action to be completed:</b>  |
|--|---|
| January 21 .....                                 | Notification regarding optional adjustment of maximum deficit amount. |
| 5 days before the President's budget submission. | CBO sequestration preview report.                                     |
| The President's budget submission .....          | OMB sequestration preview report.                                     |
| August 10 .....                                  | Notification regarding military personnel.                            |
| August 15 .....                                  | CBO sequestration update report.                                      |
| August 20 .....                                  | OMB sequestration update report.                                      |
| 10 days after end of session .....               | CBO final sequestration report.                                       |
| 15 days after end of session .....               | OMB final sequestration report; Presidential order.                   |

(b) **SUBMISSION AND AVAILABILITY OF REPORTS.**—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

(c) **SEQUESTRATION PREVIEW REPORTS.**—

(1) **REPORTING REQUIREMENT.**—On the dates specified in subsection (a), OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

(2) **DISCRETIONARY SEQUESTRATION REPORT.**—The preview reports shall set forth estimates for the current year and each subsequent year through 2002 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<sup>1</sup> 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

<sup>1</sup> So in law. Probably should be "section".

have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

(D) The reductions required under sections 253(e)(1) and 253(e)(2).

(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

(d) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(f).

(e) SEQUESTRATION UPDATE REPORTS.—On the dates specified in subsection (a), OMB and CBO shall issue a sequestration update report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports.

(f) FINAL SEQUESTRATION REPORTS.—

(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 2002 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 out-year 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<sup>1</sup> 252(b), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequesterable<sup>2</sup> resources for any budget account to be reduced if such difference is greater than \$5,000,000.

(5) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(g) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph (f)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (f)(2) and (f)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(h) GAO COMPLIANCE REPORT.—Upon request of the Committee on the Budget of the House of Representatives or the Senate, the Comptroller General shall submit to the Congress and the President a report on—

(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

(i) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected

<sup>1</sup> So in law. Probably should be "section".

<sup>2</sup> So in law. Probably should be "sequestrable".

or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

(j) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

**SEC. 255. [2 U.S.C. 905] EXEMPT PROGRAMS AND ACTIVITIES.**

(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 Indemnities (36-0120-0-1-701);  
Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

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 (36-0120-0-1-701);

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);

Compensation (36-0153-0-1-701); and  
Pensions (36-0154-0-1-701).

Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36-0137-0-1-702);

Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36-0137-0-1-702);

Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36-1119-0-1-704);

Loan Guaranty Program Account (36-1025-0-1-704); and Direct Loan Program Account (36-1024-0-1-704).

(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) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) IN GENERAL.—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) LIMITATION.—The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.

(g) OTHER PROGRAMS AND ACTIVITIES.—

(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;

Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-806);

Alaska Power Administration, Operations and maintenance (89-0304-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Bureau of Indian Affairs, Indian land and water claims settlements and miscellaneous payments to Indians (14-2303-0-1-452);

Bureau of Indian Affairs Miscellaneous trust funds (14-9973-0-7-999);

Claims, judgments, and relief acts (20-1895-0-1-808);

Compact of Free Association (14-0415-0-1-808);

Compensation of the President (11-0001-0-1-802);

Conservation Reserve Program (12-2319-0-1-302);

Customs Service, miscellaneous permanent appropriations (20-9922-0-2-806);  
Comptroller of the Currency, Assessment funds (20-8413-0-8-373);  
Dual benefits payments account (60-0111-0-1-601);  
Exchange stabilization fund (20-4444-0-3-155);  
Farm Credit Administration, Limitation on Administrative Expenses (78-4131-0-3-351);  
Farm Credit System Financial Assistance Corporation, interest payment (20-1850-0-1-908);  
Farm Credit System Financial Assistance Corporation, interest payment (20-1850-0-1-351);  
Federal Deposit Insurance Corporation, Bank Insurance Fund (51-4064-0-3-373);  
Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51-4065-0-3-373);  
Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51-4066-0-3-373);<sup>1</sup>  
Federal Housing Finance Board (95-4039-0-3-371);  
Federal payment to the railroad retirement accounts (60-0113-0-1-601);  
Foreign military sales trust fund (11-8242-0-7-155);  
Health professions graduate student loan insurance fund program account (75-0340-0-1-552);  
Higher education facilities loans (91-0240-01-502);  
Internal Revenue collections for Puerto Rico (20-5737-0-2-806);  
Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;  
Panama Canal Commission, Panama Canal Revolving Fund (95-4061-0-3-403);  
Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-9931-0-3-550);  
National Credit Union Administration operating fund (25-4056-0-3-373);  
National Credit Union Administration, Central liquidity facility (25-4470-0-3-373);  
National Credit Union Administration, Credit union share insurance fund (25-4468-0-3-373);  
Office of Thrift Supervision (20-4108-0-3-373);  
Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);  
Payment to civil service retirement and disability fund (24-0200-0-1-805);  
Payment to Judiciary Trust Funds (10-0941-0-1-752);  
Payments to copyright owners (03-5175-0-2-376);  
Payments to health care trust funds (75-0580-0-1-571);  
Payments to military retirement fund (97-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-651);  
Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);  
Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;  
Payments to the United States territories, fiscal assistance (14-0418-0-1-806);  
Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801);  
Postal service fund (18-4020-0-3-372);  
Resolution Trust Corporation Revolving Fund (22-4055-0-3-373);  
Salaries of Article III judges;  
Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705);  
Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);  
Southwestern Power Administration, Operations and maintenance (89-0303-0-1-271);  
Tennessee Valley Authority fund, except non-power programs and activities (64-4110-0-3-999);  
Thrift Savings Fund;  
United States Enrichment Corporation (95-4054-0-3-271);  
Vaccine Injury Compensation (75-0320-0-1-551);  
Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551);  
United States Enrichment Corporation;  
Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);  
Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89-5068-0-2-271); and  
Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20-8144-0-7-601);  
Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);  
Civil service retirement and disability fund (24-8135-0-7-602);  
Comptrollers general retirement system (05-0107-0-1-801);  
Foreign service retirement and disability fund (19-8186-0-7-602);  
Judicial survivors' annuities fund (10-8110-0-7-602);  
Judicial Officers' Retirement Fund (10-8122-0-7-602);  
Claims Judges' Retirement Fund (10-8124-0-7-602);



Special workers compensation expenses, Longshoremen's and harborworkers' compensation benefits (16-9971-0-7-601);  
Military retirement fund (97-8097-0-7-602);  
National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);  
Pensions for former Presidents (47-0105-0-1-802);  
Railroad Industry Pension Fund (60-8011-0-7-601);  
Railroad<sup>1</sup> supplemental annuity pension fund (60-8012-0-7-602);  
Retired pay, Coast Guard (69-0241-0-1-403);  
Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);  
Special benefits, Federal Employees' Compensation Act (16-1521-0-1-600);  
Special benefits for disabled coal miners (75-0409-0-1-601); and  
Tax Court judges survivors annuity fund (23-8115-0-7-602).

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Biomass energy development (20-0114-0-1-271);  
United States Treasury check forgery insurance fund (20-4109-0-3-803);  
Credit liquidating accounts;  
Employees life insurance fund (24-8424-0-8-602);  
Energy security reserve (Synthetic Fuels Corporation) (20-0112-0-1-271);  
Federal Aviation Administration, Aviation insurance revolving fund (69-4120-0-3-402);  
Federal Crop Insurance Corporation fund (12-4085-0-3-351);  
Federal Emergency Management Agency, National flood insurance fund (58-4236-0-3-453);  
Federal Emergency Management Agency, National insurance development fund (58-4235-0-3-451);  
Geothermal resources development fund (89-0206-0-1-271);  
Homeowners assistance fund, Defense (97-4090-0-3-051);  
International Trade Administration, Operations and administration (13-1250-0-1-376);  
Low-rent public housing, Loans and other expenses (86-4098-0-3-604);  
Maritime Administration, War-risk insurance revolving fund (69-4302-0-3-403);  
Overseas Private Investment Corporation (71-4030-0-3-151);  
Pension Benefit Guaranty Corporation fund (16-4204-0-3-601);  
Rail service assistance (69-0122-0-1-401);

<sup>1</sup> So in law. Probably should not be indented.

Department of Veterans Affairs, Servicemen's group life insurance fund (36-4009-0-3-701).

(h) **LOW-INCOME PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

- Block grants to States for temporary assistance for needy families;<sup>1</sup>
- Child nutrition programs (with the exception of special milk programs) (12-3539-0-1-605);
- Temporary assistance for needy families (75-1552-0-1-609);
- Contingency fund (75-1522-0-1-609);
- Child care entitlement to States (75-1550-0-1-609);
- Commodity supplemental food program (12-3512-0-1-605);
- Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);
- Grants to States for Medicaid (75-0512-0-1-551);
- Supplemental Security Income Program (75-0406-0-1-609); and<sup>2</sup>
- Special supplemental nutrition program for women, infants, and children (WIC) (12-3510-0-1-605);<sup>3</sup>
- Family support payments to States (75-1501-0-1-609);<sup>4</sup>

(i) **IDENTIFICATION OF PROGRAMS.**—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998-Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.

**SEC. 256. [2 U.S.C. 906] GENERAL AND SPECIAL SEQUESTRATION RULES.**

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

- (1) Special milk program; and
- (2) 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.

(b) **STUDENT LOANS.**—For all student loans under part B or D of title IV of the Higher Education Act of 1965 made during the period when a sequestration order under section 254 is in effect as required by section 252 or 253, origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.

(c) **TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.**—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to pay-

<sup>1</sup> Superceded by temporary assistance for needy families as part of section 103 of the Personal Responsibility and Work Opportunity Act of 1996.

<sup>2</sup> So in law. The word "and" is extraneous.

<sup>3</sup> So in law. Probably should have the word "and" after the semicolon.

<sup>4</sup> So in law. Probably should end with a period.

ments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage. No State may, after the date of the enactment of this joint resolution, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

(1) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(e) COMMUNITY AND MIGRANT HEALTH CENTERS, INDIAN HEALTH SERVICES AND FACILITIES, AND VETERANS' MEDICAL CARE.—

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 254, shall be 2 percent.

(2) The accounts referred to in paragraph (1) are as follows:

- (A) Community health centers (75-0350-0-1-550).
- (B) Migrant health centers (75-0350-0-1-550).
- (C) Indian health facilities (75-0391-0-1-551).
- (D) Indian health services (75-0390-0-1-551).
- (E) Veterans' medical care (36-0160-0-1-703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government—Appendix.

(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 254 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(g) FEDERAL PAY.—

(1) IN GENERAL.—For purposes of any order issued under section 254—

(A) Federal pay under a statutory pay system, and  
(B) elements of military pay,  
shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system (as increased by any

amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

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

(A) The term “statutory pay system” shall have the meaning given that term in section 5302(1) of title 5, United States Code.

(B) The term “elements of military pay” means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term “uniformed services” shall have the meaning given that term in section 101(3) of title 37, United States Code.

(h) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 254, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this part.

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

- (A) Comptroller of the Currency.
- (B) Federal Deposit Insurance Corporation.
- (C) Office of Thrift Supervision.
- (D) National Credit Union Administration.
- (E) National Credit Union Administration, central liquidity facility.
- (F) Federal Retirement Thrift Investment Board.
- (G) Resolution Trust Corporation.
- (H) Farm Credit Administration.

(i) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—(1) For purposes of section 254—

(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments for loans or loan deficiencies made by the

Commodity Credit Corporation shall be subject to reduction under the order.

(B) Each loan contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this title, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 254 with respect to a fiscal year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order.

(5) DAIRY PROGRAM.—Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 254, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.

(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

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

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (5)<sup>1</sup>.

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.

**SEC. 257. [2 U.S.C. 907] THE BASELINE.**

(a) **IN GENERAL.**—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

(b) **DIRECT SPENDING AND RECEIPTS.**—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) **IN GENERAL.**—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

(2) **EXCEPTIONS.**—(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB,

<sup>1</sup> So in law. Probably should refer to paragraph (6).



CBO, and the Budget Committees shall consult on the scoring of such programs where there are differences<sup>1</sup> between CBO and OMB.

(ii) On the expiration of the suspension of a provision of law that is suspended under section 171 of Public Law 104-127 and that authorizes a program with estimated fiscal year outlays that are greater than \$50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.

(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(D) If any law expires before the budget year or any out-year, then any program with estimated current year outlays greater than \$50,000,000 that operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.

(3) HOSPITAL INSURANCE 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

<sup>1</sup> So in law. Probably should read "differences".

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 domestic product chain-type price index for that fiscal year differs from the average of such estimated index for the current year.

(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

(e) ASSET SALES.—Amounts realized from the sale of an asset shall not be included in estimates under section 251, 252, or 253 if that sale would result in a financial cost to the Federal Government as determined pursuant to scorekeeping guidelines.

**SEC. 258. [2 U.S.C. 907a] SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.**

(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(j)<sup>1</sup>, 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)<sup>1</sup> 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)<sup>1</sup> of the Balanced Budget and

<sup>1</sup> So in law. Probably should be section 254(i).

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.

(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. [2 U.S.C. 907b] 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. [2 U.S.C. 907c] FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.**

(a) Subject to subsections (b), (c), and (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 254 for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 254.

(b) No actions taken by the President under subsection (a) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

(c) The President may not exercise the authority provided by this paragraph<sup>1</sup> 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<sup>1</sup> 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.<sup>1</sup>

(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

<sup>1</sup> So in law. Probably should be "section".

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 amend-



ment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(i) Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under subsection (h), the vote on final passage of the joint resolution shall occur.

(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) shall be decided without debate.

(k) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(l) If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d), the Senate receives from the House of Representatives a joint resolution introduced under subsection (d), then the following procedures shall apply:

(1) The joint resolution of the House of Representatives shall not be referred to a committee.

(2) With respect to a joint resolution introduced under subsection (d) in the Senate—

(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

(m) If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

**SEC. 258C. [2 U.S.C. 907d] SPECIAL RECONCILIATION PROCESS.**

(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS 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. [2 U.S.C. 922] JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 254 violates the Constitution.

(2) Any Member of Congress, or any other person adversely affected by any action taken under this title, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief concerning the constitutionality of this title.

(3) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory and injunctive relief on the ground that the terms of an order issued under section 254 do not comply with the requirements of this title.

(4) A copy of any complaint in an action brought under paragraph (1), (2), or (3) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(5) Any action brought under paragraph (1), (2), or (3) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1), (2), or (3) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) NONCOMPLIANCE WITH SEQUESTRATION PROCEDURES.—

(1) If it is finally determined by a court of competent jurisdiction that an order issued by the President under section 254 for any fiscal year—

(A) does not reduce automatic spending increases under any program specified in section 256(a) if such increases are required to be reduced by part C of this title (or reduces such increases by a greater extent than is so required), or

(B) does not sequester the amount of budgetary resources which is required to be sequestered by such part (or sequesters more than that amount) with respect to any program, project, activity, or account, the President shall, within 20 days after such determination is made, revise the order in accordance with such determination.

(2) If the order issued by the President under section 254 for any fiscal year—

(A) does not reduce any automatic spending increase to the extent that such increase is required to be reduced by part C of this title,

(B) does not sequester any amount of new budget authority, new loan guarantee commitments, new direct loan obligations, or spending authority which is required to be sequestered by such part, or

(C) does not reduce any obligation limitation by the amount by which such limitation is required to be reduced under such part,

on the claim or defense that the constitutional powers of the President prevent such sequestration or reduction or permit the avoidance of such sequestration or reduction, and such claim or defense is finally determined by the Supreme Court of the United States to be valid, then the entire order issued pursuant to section 254 for such fiscal year shall be null and void.

(e) **TIMING OF RELIEF.**—No order of any court granting declaratory or injunctive relief from the order of the President issued under section 254, including but not limited to relief permitting or requiring the expenditure of funds sequestered by such order, shall take effect during the pendency of the action before such court, during the time appeal may be taken, or, if appeal is taken, during the period before the court to which such appeal is taken has entered its final order disposing of such action.

(f) **PRESERVATION OF OTHER RIGHTS.**—The rights created by this section are in addition to the rights of any person under law, subject to subsection (e).

(g) **ECONOMIC DATA, ASSUMPTIONS, AND METHODOLOGIES.**—The economic data and economic assumptions used by the Director of OMB in computing the figures specified in any report issued by the Director of OMB under section 254, shall not be subject to review in any judicial or administrative proceeding.

**SEC. 275. [2 U.S.C. 900 note] EFFECTIVE DATES.**

(a) **IN GENERAL.**—

(1) Except as provided in paragraph (2) and in subsections (b) and (c), this title and the amendments made by this title

shall become effective on the date of the enactment of this title and shall apply with respect to fiscal years beginning after September 30, 1985.

(2)(A) The amendment made by section 201(a)(2), and the amendment made by section 201(b) insofar as it relates to subsections (c), (f), and (g) of section 302 of the Congressional Budget Act of 1974 and to subsections (c), (d), and (g) of section 310 of that Act, shall become effective April 15, 1986.

(B) The amendment made by section 212 shall become effective February 1, 1986.

(b) EXPIRATION.—Sections 251, 253, 258B, and 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 2002. The remaining sections of part C of this title shall expire September 30, 2006.

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

## LINE ITEM VETO ACT OF 1996

### NOTE:

#### Constitutionality of Line Item Veto

The United States Supreme Court, in *Clinton v. City of New York*, U.S. Dist. Col. 1998, 118 S.Ct. 2091, 141 L.Ed.2d 393, found that the Line Item Veto Act of 1996, Pub.L. 104-130, April 9, 1996, 110 Stat. 1200, which is part C of title X of the Congressional Budget and Impoundment Control Act of 1974, was unconstitutional as a violation of the Presentment Clause of the United States Constitution (Art. I, § 7, cl. 2).

#### PART C—LINE ITEM VETO

##### LINE ITEM VETO AUTHORITY

SEC. 1021. [2 U.S.C. 691] (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

- (1) any dollar amount of discretionary budget authority;
  - (2) any item of new direct spending; or
  - (3) any limited tax benefit;
- if the President—
- (A) determines that such cancellation will—
    - (i) reduce the Federal budget deficit;
    - (ii) not impair any essential Government functions;

and

- (iii) not harm the national interest; and
- (B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

- (1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;
- (2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

#### SPECIAL MESSAGES

SEC. 1022. [2 U.S.C. 691a] (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

(b) CONTENTS.—

(1) The special message shall specify—

(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

(B) the determinations required under section 1021(a), together with any supporting material;

(C) the reasons for the cancellation;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable—

(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

(B) the specific States and congressional districts, if any, affected by the cancellation; and

(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar



day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

CANCELLATION EFFECTIVE UNLESS DISAPPROVED

SEC. 1023. [2 U.S.C. 691b] (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

DEFICIT REDUCTION

SEC. 1024. [2 U.S.C. 691c] (a) IN GENERAL.—

(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

#### EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

SEC. 1025. [2 U.S.C. 691d] (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under

this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding

time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

(e) CONSIDERATION IN THE SENATE.—

(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

(4) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

(i) to waive or suspend this paragraph; or

(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not

be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) LIMIT ON CONSIDERATION.—(A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(f) CONSIDERATION IN CONFERENCE.—

(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be

promptly appointed and a conference promptly convened, if necessary.

(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

#### DEFINITIONS

SEC. 1026. [2 U.S.C. 691e] As used in this part:

(1) APPROPRIATION LAW.—The term “appropriation law” means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

(2) CALENDAR DAY.—The term “calendar day” means a standard 24-hour period beginning at midnight.

(3) CALENDAR DAYS OF SESSION.—The term “calendar days of session” shall mean only those days on which both Houses of Congress are in session.

(4) CANCEL.—The term “cancel” or “cancellation” means—

(A) with respect to any dollar amount of discretionary budget authority, to rescind;

(B) with respect to any item of new direct spending—

(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

(5) DIRECT SPENDING.—The term “direct spending” means—

(A) budget authority provided by law (other than an appropriation law);

(B) entitlement authority; and

(C) the food stamp program.

(6) DISAPPROVAL BILL.—The term “disapproval bill” means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

(A) the title of which is as follows: “A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_”, the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

(B) which does not have a preamble; and

(C) which provides only the following after the enacting clause: “That Congress disapproves of cancellations \_\_\_\_\_”, the blank space being filled in with a list by reference number of one or more cancellations contained in the President’s special message, “as transmitted by the President in a special message on \_\_\_\_\_”, the blank space being filled in with the appropriate date, “regarding \_\_\_\_\_”, the blank space being filled in with the public law number to which the special message relates.

(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term “dollar amount of discretionary budget authority” means the entire dollar amount of budget authority—

(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

(B) The term “dollar amount of discretionary budget authority” does not include—

(i) direct spending;

(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

(iii) any existing budget authority rescinded or canceled in an appropriation law; or

(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

(8) ITEM OF NEW DIRECT SPENDING.—The term “item of new direct spending” means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(9) LIMITED TAX BENEFIT.—(A) The term “limited tax benefit” means—

(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

(iii) any difference in the treatment of persons is based solely on—



- (I) in the case of businesses and associations, the size or form of the business or association involved;
  - (II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;
  - (III) the amount involved; or
  - (IV) a generally-available election under the Internal Revenue Code of 1986.
- (C) A provision shall not be treated as described in subparagraph (A)(ii) if—
- (i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or
  - (ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.
- (D) For purposes of subparagraph (A)—
- (i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;
  - (ii) all qualified plans of an employer shall be treated as a single beneficiary;
  - (iii) all holders of the same bond issue shall be treated as a single beneficiary; and
  - (iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.
- (E) For purposes of this paragraph, the term “revenue-losing provision” means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—
- (i) the first fiscal year for which the provision is effective; or
  - (ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.
- (F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.
- (10) OMB.—The term “OMB” means the Director of the Office of Management and Budget.

#### IDENTIFICATION OF LIMITED TAX BENEFITS

SEC. 1027. [2 U.S.C. 691f] (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any

such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

(2) The separate section permitted under paragraph (1) shall read as follows: “Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall \_\_\_\_\_ apply to \_\_\_\_\_”, with the blank spaces being filled in with—

(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word “only” in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word “not” in the first blank space and the phrase “any provision of this Act” in the second blank space.

(c) PRESIDENT’S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.