

EARLY ORGANIZATION OF THE HOUSE

[2 U.S.C. 29a]

(a) Caucus or conference for incumbent Members reelected to and Members-elect of ensuing Congress; time and procedure for calling

(1) The majority leader or minority leader of the House of Representatives after consultation with the Speaker may at any time during any even-numbered year call a caucus or conference of all incumbent Members of his or her political party who have been reelected to the ensuing Congress and all other Members-elect of such party, for the purpose of taking all steps necessary to achieve the prompt organization of the Members and Members-elect of such party for the ensuing Congress.

§ 1126. Organizing caucuses.

(2) If the majority leader or minority leader calls an organizational caucus or conference under paragraph (1), he or she shall file with the Clerk of the House a written notice designating the date upon which the caucus or conference is to convene. As soon as possible after the election of Members to the ensuing Congress, the Clerk shall furnish each Member-elect of the party involved with appropriate written notification of the caucus or conference.

(3) If a vacancy occurs in the office of majority leader or minority leader during any even-numbered year (and has not been filled), the chairman of the caucus or conference of the party involved for the current Congress may call an organizational caucus or conference under paragraph (1) by filing written notice thereof as provided by paragraph (2).

(b) Payment and reimbursement for travel and per diem expenses for Members attending caucus or conference; exceptions; regulations governing payments and reimbursements; reimbursement vouchers

(1)(A) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under subsection (a) of this

section, and each incumbent Member reelected to the ensuing Congress who attends any such caucus or conference convening after the adjournment sine die of the Congress in the year involved, shall be paid for one round trip between his or her place of residence in the district which he or she represents and Washington, District of Columbia, for the purpose of attending such caucus or conference. Payment shall be made through the issuance of a transportation request form to each such Member-elect or incumbent Member by the Finance Office of the House before such caucus or conference.

(B) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under subsection (a) of this section shall in addition be reimbursed on a per diem or other basis for expenses incurred in connection with his or her attendance at such caucus or conference.

(2) Payments and reimbursements to Members-elect under paragraph (1) shall be made as provided (with respect to Members) in the regulations prescribed by the Committee on House Administration with respect to travel and other expenses of committees and Members. Reimbursements shall be paid on special voucher forms prescribed by the Committee on House Administration.

(c) Availability of applicable accounts of House

The applicable accounts of the House of Representatives are made available to carry out the purposes of this section.

(d) Orientation programs for new Members

With the approval of the majority leader (in the case of a Member or Member-elect of the majority party) or the minority leader (in the case of a Member or Member-elect of the minority party), subsections (b) and (c) of this section shall apply with respect to the attendance of a Member or Member-elect at a program conducted by the Committee on House Administration for the orientation of new Members in the same manner as such provisions apply to the attendance of the Member or Member-elect at the organizational caucus or conference.

These provisions were originated by a resolution of the 93d Congress (sec. 202, H. Res. 988, Oct. 8, 1974), which was enacted into permanent law (effective Jan. 2, 1975) shortly thereafter (P.L. 93-554, Dec. 27, 1974, 88 Stat. 1777). They are codified in section 29a of title 2, United States Code. Amendments were effected in the 104th Congress (sec. 202, P.L. 104-186, Aug. 20, 1996, 110 Stat. 1725), when the House renamed the

committee concerned as the Committee on House Oversight (now House Administration) and converted references to its “contingent fund” to “applicable accounts of the House.” Further amendments were effected at the end of the 108th Congress (to apply with respect to the One Hundred Tenth Congress and each succeeding Congress) to permit organizational activity to be scheduled for any period after the general election and before the onset of the new Congress and to include orientation programs (sec. 107, div. G, P.L. 108–447, Dec. 8, 2004, 118 Stat. 3176).

Under the former form of the statute, contemplating organizational activity in the month of December, the House occasionally adopted resolutions allowing earlier convening of an organizational caucus or conference (*e.g.*, H. Res. 666, 106th Cong., Nov. 3, 2000, p. 25993; H. Res. 590, 107th Cong., Oct. 16, 2002, p. 20812; H. Res. 824, 108th Cong., Oct. 6, 2004, p. ___).

[2 U.S.C. 43b-2]

Staff expenses for House Members attending organizational caucus or conference

(a) In general

Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under section 29a(a) of this title, and each incumbent Member reelected to the ensuing Congress who attends any such caucus or conference convening after the adjournment sine die of the Congress in the year involved, shall be entitled to designate one staff person to be paid for one round trip between that person’s place of residence, provided such place of residence is in the district which the Member-elect or incumbent Member represents, and Washington, District of Columbia, for the purpose of accompanying that Member-elect or incumbent Member to such caucus or conference.

(b) Per diem expenses of staff person

Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under such section 29a(a) of this title shall be entitled to designate one staff person who shall in addition be reimbursed on a per diem or other basis for expenses incurred in accompanying the Member-elect at the time of such caucus or conference.

(c) Orientation programs for new Members

With the approval of the majority leader (in the case of a Member or Member-elect of the majority party) or the minority leader (in the case of a Member or Member-elect of the minority party), subsections (a) and (b) of this section shall apply with respect to the attendance of a Mem-

ber or Member-elect at a program conducted by the Committee on House Administration for the orientation of new Members in the same manner as such provisions apply to the attendance of the Member or Member-elect at the organizational caucus or conference.

These provisions were originated by a resolution of the 94th Congress (H. Res. 10, Jan. 14, 1975), which was then enacted into permanent law (sec. 201, P.L. 94-59, July 25, 1975, 89 Stat. 282). They are codified in section 43b-2 of title 2, United States Code. Amendments were effected at the end of the 108th Congress (to apply with respect to the One Hundred Tenth Congress and each succeeding Congress) to conform to the permissible scheduling of organizational activity for any period after the general election and before the onset of the new Congress and to include orientation programs (sec. 107, div. G, P.L. 108-447, Dec. 8, 2004, 118 Stat. 3176).

[2 U.S.C. 43b-3]

Payments and reimbursements for certain House staff expenses

(a) Payments and reimbursements to staff persons under section 43b-2 of this title shall be made as provided (with respect to staff) in the regulations prescribed by the Committee on House Administration with respect to travel and other expenses of staff. Reimbursements shall be paid on special voucher forms prescribed by the Committee on House Administration.

(b) Additional funds, if any, for staff allowances and office space for use by Members-elect (other than an incumbent Member reelected to the ensuing Congress) shall be authorized by the Committee on House Administration.

These provisions were originated by a resolution of the 94th Congress (H. Res. 10, Jan. 14, 1975), which was then enacted into permanent law (sec. 201, P.L. 94-59, July 25, 1975, 89 Stat. 282). They are codified in section 43b-3 of title 2, United States Code. Amendments were effected in the 104th Congress (sec. 202, P.L. 104-186, Aug. 20, 1996, 110 Stat. 1725), when the House renamed the committee concerned as the Committee on House Oversight. (The committee has since been returned to its earlier name).

CONGRESSIONAL BUDGET ACT
BUDGET ENFORCEMENT ACT

CONGRESSIONAL BUDGET ACT

EXCERPTS RELATING TO LEGISLATIVE PROCEDURE FROM THE
CONGRESSIONAL BUDGET ACT OF 1974 (2 U.S.C. 601 et seq.)

DECLARATION OF PURPOSES

SEC. 2. 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. 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, any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

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

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

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

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

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

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

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

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

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

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

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

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

(A)(i) has a Federal charter authorized by law;

(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

(iv) is a financial institution with power to—

(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

(II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and

(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);

(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.

(9) The term “entitlement authority” means—

(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.

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508) modified paragraphs (2) and (6) of this section and added paragraphs (7) and (8). Two separate sections of the 1990 Act amended paragraph (2): section 13201 added a new sentence at the end of the paragraph; section 13211 rewrote the paragraph entirely, effective for fiscal years after 1991. The text depicted here attempts to harmonize the two; but see 2 U.S.C. 622(2). The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II of P.L. 99-177) added paragraphs (9) and (10). The Budget Enforcement Act of 1997 (sec. 10101 of P.L. 105-33) amended the definition of “entitlement authority” in paragraph (9) in conjunction with amendments to section 401.

Amounts of liquidating cash provided in the annual bill making appropriations for the Department of Transportation are not new budget authority within the meaning of this section, but are merely funds to liquidate contractual obligations previously incurred pursuant to new discretionary contract authority previously reported from and scored against allocations to the Committee on Public Works and Transportation (now Transportation and Infrastructure) as the authority to enter into obligations that will result in immediate or future outlays (July 30, 1986, p. 18154).

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TITLE III—CONGRESSIONAL BUDGET PROCESS

TIMETABLE

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

On or before:	Action to be completed:
First Monday in February	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
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.

On or before:	Action to be completed:
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

The date for committees' submissions of views and estimates was amended by the Budget Enforcement Act of 1997 (sec. 10104, P.L. 105-33).

ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET

SEC. 301. (a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year and 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 purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and
- (7) for purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social

Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

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

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

(2) include reconciliation directives described in section 310;

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

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

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

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

(7) set forth 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.

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) added paragraphs (6) and (7) and a new last sentence to subsection (a), added paragraphs (5)–(8) to subsection (b), and added former section 606 (repealed by the Budget Enforcement Act of 1997 (sec. 10118, P.L. 105–33)), requiring that a concurrent resolution on the budget set forth appropriate levels for five fiscal years for the matters described in subsection (a). Title III had previously been comprehensively amended by the Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177). Sections 301(a) and 301(b) were amended by the Budget Enforcement Act of 1997 (sec. 10105, P.L. 105–33) to extend the requirement that the term of budget resolutions be at least five years and to eliminate the requirement that budget resolutions contain direct loan and loan guarantee levels.

The prescribed content of a concurrent resolution on the budget under the prior version of section 301 evolved over time. Pursuant to the authority to include other “appropriate procedures” under then section 301(b)(2) of the Budget Act, the first concurrent resolution on the budget for fiscal year 1981 (which also contained the third concurrent resolution on the budget for fiscal year 1980, budget targets for fiscal years 1981 and 1983, and other related matters) contained new provisions directing House and Senate committees to report to their respective Budget Committees reconciliation legislation reducing spending for fiscal year 1981 (H. Con. Res. 307, 96th Cong.). Under rule XXVIII the final adoption of that concurrent resolution has the effect of triggering the automatic engrossment of a joint resolution setting the public debt limit (see § 1104, *supra*). The first concurrent resolution on the budget for fiscal year 1982, in addition to other new “appropriate procedures,” included in its reconciliation instructions directions to several House and Senate committees to report reductions in both entitlement spending authority and discretionary authorization programs sufficient to reduce budget authority and outlays separately for each of three fiscal years, and included a “deferred enrollment” procedure relating to bills containing new budget authority and entitlement spending authority in excess of allocations to committees (H. Con. Res. 115, 97th Cong.). The first concurrent resolution on the budget for fiscal year 1983, in addition to other new “appropriate procedures,” included a binding Federal credit budget for two fiscal years, containing not only aggregate and functional category targets for new direct loan obligations and new primary and secondary loan guarantee commitments, but also (1) prohibiting consideration of bills authorizing new loan obligations or new loan guarantee commitments not subject to the appropriations process with certain exceptions (now section 402(a)), and (2) establishing a ceiling on total new direct loan obligations and new primary or secondary loan guarantee commitments for the ensuing fiscal year upon adoption of the second concurrent resolution on the budget for that year (similar to the section 311 ceiling for direct budget authority). Also included was a prohibition against consideration in either House of measures providing new budget or entitlement authority until the reporting committee filed a report in the House con-

cerning its section 302(b) allocation (now section 302(c)) and a direction that if a second concurrent resolution on the budget for fiscal year 1983 was not finally adopted by October 1, then the aggregate amounts in that first concurrent resolution would become the spending ceilings and revenue floor for the purposes of section 311 (S. Con. Res. 92, 97th Cong.). The first concurrent resolution on the budget for fiscal year 1984 likewise contained the latter provision, but also provided that a point of order under section 311 of the Budget Act would not apply if spending contained in a bill remained within the reporting committee's discretionary allocation under section 302 (section 311(b) contains a similar exception). The 1984 resolution also contained a new provision reserving specific amounts of budget authority and outlays for subsequent allocation to committees by the Budget Committee (H. Con. Res. 91, 98th Cong.; see also Mar. 6, 1984, p. 4621, for a statement by Speaker O'Neill describing the operation and effect of the latter provision). The first concurrent resolution on the budget for fiscal year 1985 included a similar provision that it be treated as the second budget resolution for that year on October 1, 1984, for the purposes of the section 311 spending ceilings and revenue levels, but that a point of order not apply where the committee in question had not exceeded its section 302(a) allocations. The resolution also provided that legislation providing budget authority, entitlement authority, or credit authority not be considered until the reporting committee filed the requisite report concerning its section 302(b) allocations (H. Con. Res. 280, 98th Cong.).

In 1986, the first concurrent resolution on the budget since the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the recommended deficit level for fiscal year 1987 was below the maximum deficit amount as then specified, thus permitting consideration of the conference reported amendment in disagreement pursuant to then section 301(i) without a waiver by three-fifths vote in either House (June 26, 1986, p. 15740). That concurrent resolution also contained a "contingency fund" for deficit reduction and unmet critical needs, additional general revenue-sharing funding beyond levels contained therein if deficits were not increased and authorization enacted, and a provision authorizing a report to be filed by the chair of the House Budget Committee by a date certain to be printed and to constitute allocations of new budget authority and outlays required by section 302(a) (where the conferees did not have time to prepare allocations prior to filing of the conference report).

The concurrent resolution on the budget for fiscal years 1988-1990 contained a provision permitting the first concurrent resolution to "become" a second binding concurrent resolution only at the beginning of the fiscal year. It also contained a provision encouraging sales of Government assets to non-Government buyers but providing that amounts realized not be treated as revenues, receipts, or negative outlays for purposes of specified budget enforcement and scorekeeping procedures (H. Con. Res. 93, 100th Cong.). The concurrent resolutions on the budget for fiscal years 1989-1991 and for fiscal years 1990-1992, respectively, each contained a section

stating that, for purposes of allocations and points of order under section 302, amounts realized from asset sales and prepayments of loans would not be allocated or scored as affecting budget authority or outlays (H. Con. Res. 268, 100th Cong.; H. Con. Res. 106, 101st Cong.). The concurrent resolution on the budget for fiscal years 1989–1991 also contained a section providing for a subsequent allocation of budget authority and outlays for fiscal year 1989 upon the reporting by appropriate committees of an anti-drug initiative (H. Con. Res. 268, 101st Cong.). The concurrent resolution on the budget for fiscal years 1995–1999 included provisions (1) adjusting allocations of budget authority, new entitlement authority, and outlays and adjusting total levels of budget authority, outlays, and revenues for health care reform in the House (within a maximum aggregate deficit for fiscal years 1995–1999), and (2) adjusting committee allocations, budget aggregates, and the maximum deficit amount contingent on certain IRS compliance initiatives (H. Con. Res. 218, 103d Cong.). The concurrent resolution on the budget for fiscal years 1996–2002 established a budget surplus allowance contemplating tax reductions only as part of a legislative package producing a balanced budget by fiscal year 2002; corrected a disparity that had arisen under the Federal Credit Reform Act of 1990 for the scoring of student loans; and established a process for certifying a balanced budget before the House could consider a reconciliation bill reducing taxes (H. Con. Res. 67, 104th Cong.).

Concurrent resolutions on the budget have included reconciliation instructions that contemplated reductions in revenues (*e.g.*, H. Con. Res. 95, 109th Cong.), including one that contemplated two bills reducing revenues (H. Con. Res. 178, 104th Cong.).

The concurrent resolutions on the budget for fiscal years 2000 and 2001 included a point of order against consideration in the House or Senate of a concurrent resolution on the budget for the next fiscal year, or any amendment thereto or conference report thereon, that sets forth a deficit for any fiscal year (as determined by the Budget Committee) (sec. 201, H. Con. Res. 68, 106th Cong.; sec. 201, H. Con. Res. 290, 106th Cong.).

The concurrent resolution on the budget for fiscal year 2001 also included points of order against consideration in the House of a reported bill or joint resolution, or any amendment thereto or conference report thereon: (1) that would cause a surplus for fiscal year 2001 to be less than the level established in the resolution; and (2) that, until January 1, 2001, contained a directed scorekeeping provision (secs. 202, 203, H. Con. Res. 290, 106th Cong.).

Budget resolutions have established a point of order against a measure that would cause the total level of discretionary advance appropriations to exceed a set amount (secs. 202, 203, H. Con. Res. 290, 106th Cong.; sec. 201, H. Con. Res. 83, 107th Cong.; sec. 301, H. Con. Res. 353, 107th Cong., deemed in place by H. Res. 428, 107th Cong., May 22, 2002, pp. 8675, 8676, and by sec. 3(a)(4), H. Res. 5, 108th Cong., Jan. 7, 2003, p. 10; sec. 501, H. Con. Res. 95, 108th Cong.; sec. 401, S. Con. Res. 95, 108th

Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __; sec. 401, H. Con. Res. 95, 109th Cong.; sec. 206, S. Con. Res. 21, 110th Cong.; sec. 302, S. Con. Res. 70, 110th Cong.).

Budget resolutions have provided that new budget authority, new entitlement authority, outlays, and receipts designated as an emergency in bills, joint resolutions, amendments, or conference reports are not cognizable under specified sections of titles III and IV of the Budget Act. The budget resolutions also have required to be included in a committee report, joint statement of managers, or the Congressional Record an explanation of how an emergency item meets certain criteria (sec. 502, H. Con. Res. 95, 108th Cong.; sec. 402, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __; sec. 402, H. Con. Res. 95, 109th Cong.; sec. 204, S. Con. Res. 21, 110th Cong.; sec. 301, S. Con. Res. 70, 110th Cong.). The concurrent resolution on the budget for fiscal year 2005 also provided that new budget authority, new entitlement authority, and outlays contained in a supplemental appropriation bill for fiscal year 2005 for overseas contingency operations related to the war or terrorism were not cognizable under sections 302, 303 and 401 of the Budget Act (sec. 403, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __). Budget resolutions have also provided that new budget authority, outlays, or receipts resulting from appropriations for overseas deployments and related activities are not cognizable under titles III and IV of the Budget Act (sec. 207, S. Con. Res. 21, 110th Cong.; sec. 301, S. Con. Res. 70, 110th Cong.).

The concurrent resolution on the budget for fiscal year 2006 included a provision permitting the chair of the Budget Committee to make adjustments to levels and allocations to conform to changes in concepts or definitions and a provision providing for a section 302(b) suballocation to the full Appropriations Committee for appropriations for the Legislative Branch (secs. 406, 410, H. Con. Res. 95, 109th Cong.).

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

Section 301(d) was amended by the Budget Enforcement Act of 1997 (sec. 10105, P.L. 105-33) to permit the Budget Committees to set an alternate deadline for submission of committee views and estimates.

(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 rep-

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 goals 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.

The contents required of a report accompanying a budget resolution were modified by the Budget Enforcement Act of 1997 (sec. 10105, P.L. 105-33).

(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 esti-

mates, 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 or 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 COMMITTEE'S 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.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) modified this portion of section 301 by: (1) inserting a new subsection on referral of budget resolutions to the Rules Committee; (2) amending and redesignating existing subsections (c), (d), and (e) as (d), (e), and (f), respectively; and (3) adding new subsections (g) (which was amended by Public Law 100-119) and (h). It also added a former subsection (i), which precluded consideration of a concurrent resolution on the budget exceeding the pertinent maximum deficit amount absent a three-fifths vote. That point of order was amended by Public Law 100-119 and was eliminated by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508). The Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418) added paragraph (10) to subsection (e), effective only for fiscal years 1989 through 1992. Previously, the Full Employment and Balanced Growth Act of 1978 (P.L. 95-523) amended this section by: (1) adding a new paragraph (6) to subsection (a) and redesignating the succeeding paragraph (both of which were later repealed by P.L. 99-177); (2) adding a new second sentence to subsection (c) (now contained in subsection (d)); and (3) adding a new subsection (e) (now designated as (f)), relating to the review of the Economic Report as part of the congressional budget process, and allowing the inclusion in the budget resolution of a timetable for achieving unemployment goals under the Employment Act of 1946. The last sentence of subsection (d) was added by the Unfunded Mandates Reform Act of 1995 (sec. 102(2), P.L. 104-4; 109 Stat. 62). The Social Security point of order contained in paragraph (i) was added by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508) and later expanded by the Budget Enforcement Act of 1997 (sec. 10105, P.L. 105-33).

The House and Senate completed final action on the first concurrent resolution on the budget considered under the Congressional Budget Act by adopting a conference report thereon on May 14, 1975 (p. 14329). That concurrent resolution contained aggregate figures only for revenues, budget authority, budget outlays, deficit and public debt, because the Budget Committee had not implemented the functional categories provisions of the Act for fiscal year 1976.

On May 13, 1976, the House and Senate completed final action on the first concurrent resolution for fiscal year 1977, the first year of full implementation of title III of the Congressional Budget Act (p. 13776).

COMMITTEE ALLOCATIONS

SEC. 302. (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 pe-

riod 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 rev-

enue 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 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.

Section 302 was amended by the Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) to: (1) add appropriate levels of total entitlement authority and total credit authority to the allocations required by subsection (a), with all levels further divided into mandatory and discretionary amounts; (2) add new credit authority to the subdivisions required of the Appropriations Committees by subsection (b)(1); (3) redesignate subsection (c) as (d); and (4) add new subsections (c), (e), (f), and (g). The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) removed credit authority from the purview of points of order under this section by deleting all references to credit authority in subsections (a), (b), (c), and (f), effective for fiscal years beginning after September 30, 1991. That law also amended subsections (c) and (f) to standardize their application to bills, joint resolutions, amendments, motions, or conference reports. Section 302 was further amended by the Budget Enforcement Act of 1997 (sec. 10106, P.L. 105–33) to: (1) permanently extend the requirement that allocations to the authorizing committees cover at least a five-year period and to revert the temporary allocations under former section 602 into section 302; (2) permit a further allocation among defense, nondefense, and violent crime reduction funding; (3) modify the Appropriation Committee's default allocation; and (4) clarify the Appropriation Committee's suballocations to its subcommittees.

Clause 8 of rule XXI, adopted in the 110th Congress, provides that points of order under title III of the Budget Act apply to unreported measures (sec. 403, H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)). Previously, a point of order under section 302(f) operated with respect to a bill or joint resolution in its reported state and thus did not lie against consideration of an unreported measure (Mar. 21, 1995, p. 8491). The budget resolution deemed in place for fiscal year 2005 provided that, for purposes of titles II and III of the Budget Act, the term “amendment” or “amendment thereto” means an amendment offered or an amendment made in order as original text or considered as adopted by special order of the House (sec. 406, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __).

Points of order under section 302(c) apply separately to the consideration of bills and amendments, and thus a waiver of points of order against consideration of an appropriation bill before the filing of a report from the Appropriations Committee allocating new budget authority among its subcommittees does not extend to an amendment providing new budget authority in addition to the amounts contained in the bill (July 13, 1987, p. 19514). Where the House deemed the adoption of section 302(a) allocations for the 108th Congress (sec. 3, H. Res. 5, Jan. 7, 2003, p. 10), the Chair sustained a point of order under section 302(c) against an amendment providing new budget authority where the Appropriations Committee

had not reported section 302(b) suballocations (Jan. 8, 2003, p. 225; Jan. 28, 2003, p. 2009 (both sustained by tabling of appeal)).

By way of example, the Chair has held the following as providing new budget authority in excess of the relevant allocations under section 302(a), as authoritatively estimated by the Budget Committee pursuant to section 312(a), in violation of section 302(f): (1) a motion to recommit a bill establishing a Medicare prescription drug benefit program with instructions to report forthwith an amendment in the nature of substitute containing a different program (sustained by tabling of appeal) (June 28, 2000, pp. 12736, 12751); (2) an amendment extending eligibility for Foster Care Maintenance Payments to a new class (Sept. 14, 2005, p. __); (3) an amendment delaying the imposition of a monetary penalty resulting in a loss of offsetting receipts (July 18, 1991, p. 18860).

An amendment that proposes offsetting increases and decreases in new budget authority is not subject to a point of order under section 302(f) (May 9, 1995, p. 12175). Amendments to an appropriation bill making a series of figure changes intended to offset one another and considered en bloc are subject to points of order under section 302(f) where the intended reductions in new discretionary budget authority fail to offset increases in such authority, so that the net effect of the amendments is to cause the bill to exceed the appropriate allocation of new discretionary budget authority made pursuant to section 302(b) for the fiscal year (July 30, 1986, p. 18154).

Where a Senate amendment proposed to increase certain loan guarantees that were estimated by the Budget Committee to breach the subcommittee subdivision of new credit authority (as then required by this section), the Chair sustained a point of order under section 302(f) against a motion to concur therein (Oct. 20, 1990, p. 31517).

Where a limitation on funds in a general appropriation bill was estimated under former section 302(g) (current section 312(a)) to provide negative new budget authority in an amount sufficient to avoid a breach of the pertinent allocation of such authority, an amendment striking the limitation from the bill was held to provide new budget authority causing such a breach, in violation of section 302(f) (June 26, 1991, p. 16474; June 13, 2000, p. 10501). An amendment proposing to strike from a general appropriation bill a proviso stating that a specified increment of new discretionary budget authority ostensibly provided by the bill would “become available for obligation only upon the enactment of future appropriations legislation” was held to cause the bill to provide additional new discretionary budget authority in that incremental amount, in breach of the pertinent allocation under sections 302 and 602, and therefore in violation of section 302(f) (June 26, 1996, p. 15563). An amendment proposing to strike from a general appropriation bill a rescission scored as negative budget authority was held to provide new budget authority in excess of the relevant allocation under section 302(b) (June 20, 2001, pp. 11248, 11249). The Chair relies on authoritative estimates from the Budget Committee

pursuant to section 312(a) to determine whether an amendment to a general appropriation bill provides new budget authority in excess of the relevant allocation under section 302(b) in violation of section 302(f) (e.g., June 8, 2000, pp. 9942, 9943; June 12, 2000, pp. 10377, 10378; Apr. 2, 2004, p. __).

For a point of order against the motion to rise and report an appropriation bill to the House where the bill, as proposed to be amended, exceeds an applicable allocation of new budget authority under section 302(b) of the Congressional Budget Act of 1974, and procedures in the Committee of the Whole in the event that the point of order is sustained, see § 1044b, *infra*.

The 104th Congress authorized the chair of the Budget Committee to revise existing allocations under this section among committees of the House to reflect changes in jurisdiction under clause 1 of rule X and to publish the revised allocations in the Congressional Record, to the end that the revised allocations be effective in the House as though made pursuant to sections 302(a) and 602(a) of the Congressional Budget Act of 1974 (sec. 202(c), H. Res. 6, Jan. 4, 1995, p. 467). The House has adopted resolutions to deem budget resolutions, or portions thereof, to be in place for temporary enforcement (H. Res. 231, July 24, 1985, p. 20181; H. Res. 413, June 19, 1990, p. 14612; H. Res. 477, June 19, 1998, p. 12991; sec. 2(a), H. Res. 5, Jan. 6, 1999, p. 47; H. Res. 428, May 22, 2002, pp. 8675, 8676; sec. 3(a)(4), H. Res. 5, Jan. 7, 2003, p. 10; H. Res. 649, May 19, 2004, p. __; sec. 3(a)(4), H. Res. 5, Jan. 4, 2005, p. __; sec. 2(a), H. Res. 818, May 18, 2006, p. __; sec. 511(a)(4), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)). The budget resolution deemed adopted for fiscal year 2003 established a reserve fund in the House to support an extra allocation for propositions providing for specified increases in obligation levels for highway spending, with a special application of section 302(f) to enforce levels of outlays (as well as budget authority) in that area, and provided for a separate, exclusive section 302(a) allocation for medicare spending (on one-year and 10-year bases) (sec. 204, H. Con. Res. 353, 107th Cong., deemed in place by H. Res. 428, 107th Cong., May 22, 2002, pp. 8675, 8676, and by sec. 3, H. Res. 5, 108th Cong., Jan. 7, 2003, p. 10). The special allocation for surface transportation was carried in the budget resolution for fiscal year 2004 (sec. 501, H. Con. Res. 95, 108th Cong.) and in the budget resolution deemed in place for fiscal year 2005 (sec. 401, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __). Budget resolutions have established reserve funds in the House to support extra allocations for various propositions covering a broad range of subjects (e.g., secs. 201–220, S. Con. Res. 70, 110th Cong.).

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

SEC. 303. (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—

- (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 appropria-

tions for the first or second fiscal year after the year the allocation referred to in that paragraph is made.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) amended subsection 303(a) by: (1) adding the phrase “as reported to the House or Senate”; (2) modifying paragraph (4) to apply to new entitlement authority; and (3) adding a paragraph (5) relating to new credit authority. The same law amended subsection (b) by adding the May 15th exception for general appropriation bills. The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) amended subsection (a) to standardize its application to bills, joint resolutions, amendments, motions, and conference reports, and by deleting the reference in paragraph (5) to new credit authority. That law also subdivided subsection (b) into paragraphs relating to exceptions in the House and Senate. Section 303 was rewritten by the Budget Enforcement Act of 1997 (sec. 10107, P.L. 105–33) to simplify the section, drop obsolete provisions, make certain conforming changes, and eliminate references to “new entitlement authority” in the House and “new credit authority.”

Clause 8 of rule XXI, adopted in the 110th Congress, provides that points of order under title III of the Budget Act apply to unreported measures (sec. 403, H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)). Previously, a point of order under section 303(a) operated with respect to a bill or joint resolution in its reported state and thus did not lie against consideration of an unreported measure (Mar. 21, 1995, p. 8491), although it did lie against consideration of an amendment to an unreported measure (July 24, 1998, p. 17278). The budget resolution deemed in place for fiscal year 2005 provided that, for purposes of titles II and III of the Budget Act, the term “amendment” or “amendment thereto” means an amendment offered or an amendment made in order as original text or considered as adopted by special order of the House (sec. 406, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __).

A conference report containing revenue-sharing provisions in the form of new entitlement authority as described in section 401(c)(2)(C) of the Budget Act to become effective in fiscal years 1978 through 1980 in amounts greater than the amount in fiscal year 1977 was ruled out on a point of order under section 303(a), because the first concurrent resolution on the budget for those future fiscal years had not yet been adopted and the increased entitlements could not be considered mere continuations of entitlement authority that became effective in fiscal year 1977 (for which a concurrent resolution had been adopted), and because the section 303(b) exception permitting certain advance budget authority does not apply in the case of new entitlement authority (Speaker Albert, Sept. 30, 1976, p. 34074). An amendment providing new budget authority for a fiscal year before adoption of a budget resolution for that year was held to violate section 303, where points of order under that section had been waived

against the pending bill but not against amendments (Aug. 1, 1984, p. 21871; July 17, 1985, pp. 19435, 19463 (amendment contained in motion to recommit with instructions)).

To a bill providing eligibility for certain entitlement benefits to become effective in the fiscal year for which a budget resolution had been adopted, an amendment allowing a deduction in computing household income to determine eligibility effective in the next following fiscal year, to reflect changes in shelter and utility costs, was ruled out as providing new entitlement authority to become effective in a fiscal year for which a concurrent resolution on the budget had not been adopted, in violation of section 303(a)(4) (July 27, 1977, p. 25222).

To a bill partially replacing an existing mandatory student loan (entitlement) program with a new discretionary program, an amendment reducing the discretionary program and commensurately restoring the mandatory program was held to violate section 303(a) by providing new entitlement authority for the ensuing fiscal year before the adoption of a concurrent resolution on the budget for that fiscal year (Mar. 26, 1992, p. 7173). Amendments enlarging the class of persons eligible for, or increasing the amount of, a Government subsidy (lower interest payments on student loans) have been held to violate section 303(a) by providing new entitlement authority for the ensuing fiscal year before the adoption of a concurrent resolution on the budget for that fiscal year (Mar. 26, 1992, pp. 7184, 7186, 7227, 7231, 7236).

An amendment repealing an agricultural marketing (entitlement) program for peanuts over a five-year period was nevertheless held to provide new budget authority for the ensuing fiscal year before the adoption of the budget resolution for that year, in violation of section 303(a), where the Chair was persuaded by estimates from the Congressional Budget Office that economic conditions under that repeal would result in decreased receipts and increased Federal outlays during that first fiscal year (July 25, 1990, p. 19155).

An amendment imposing fees on generated electric energy, to be deposited in a trust fund, and effective in the ensuing fiscal year, was held to violate section 303(a) by increasing revenues effective in the ensuing fiscal year, for which a budget resolution had yet to be adopted (July 23, 1985, p. 20041). An amendment striking a revenue provision in a pending unreported bill and proposing to insert an alternative revenue provision was held to violate section 303(a) (July 24, 1998, p. 17278).

The Budget Committee of the House determined, as stated in its second report on the implementation of congressional budget procedures for fiscal year 1976 (H. Rept. No. 94-457, Oct. 8, 1975), that the section 303(b) exemption for certain advance budget or revenue authority ceases to apply with the beginning of the fiscal year in question. Therefore, on or after October 1, 1975, the beginning of fiscal year 1976, budget authority or revenue measures to become effective in fiscal year 1977, could no longer be considered under the 303(b) exception but would have to await the final

adoption in May of the first concurrent resolution on the budget for fiscal year 1977. But the Senate in the 95th Congress overruled a decision of its presiding officer holding that the section 303(b) exemption ceased to apply after the beginning of the fiscal year preceding the fiscal year for which revenue changes were proposed (Oct. 5, 1978, pp. 33945–50).

In the 106th through 111th Congresses, the House adopted an order to enforce a 303(a) point of order against a reported bill or joint resolution considered under a special order of business on the basis of text made in order as original text (sec. 2(a)(3), H. Res. 5, Jan. 6, 1999, p. 47; sec. 3(b)(2), H. Res. 5, Jan. 3, 2001, p. 24; sec. 3(a)(2), H. Res. 5, Jan. 7, 2003, p. 10; sec. 3(a)(2), H. Res. 5, Jan. 4, 2005, p. __; sec. 511(a)(2), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007); sec. 3(a)(2), H. Res. 5, Jan. 6, 2009, p. __).

The House has adopted resolutions to deem budget resolutions, or portions thereof, to be in place for temporary enforcement (July 24, 1985, p. 20181; June 19, 1990, p. 14612; June 19, 1998, p. 12991; sec. 2(a)(1), H. Res. 5, Jan. 6, 1999, p. 47; May 22, 2002, pp. 8675, 8676; sec. 3(a)(4), H. Res. 5, Jan. 7, 2003, p. 10; May 19, 2004, p. __; sec. 3(a)(4), H. Res. 5, Jan. 4, 2005, p. __; May 18, 2006, p. __; sec. 511(a)(4), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)).

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 304. 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.

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) deleted a subsection (b), relating to maximum deficit amount requirements for revised budget resolutions, that had been added by the Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177), and redesignated the subsection on economic assumptions, originally added by Public Law 100–119, as (b). The latter subsection (b) was deleted by the Budget Enforcement Act of 1997 (sec. 10108, P.L. 105–33).

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT
RESOLUTIONS ON THE BUDGET

SEC. 305. (a) 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 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 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) 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 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.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) amended section 305 in several places, with the most important changes being the reduction in the availability requirement for the committee report on a budget resolution to five days (from 10) and the addition of a one-day availability requirement for any report thereon from the Rules Committee. The Full Employment and Balanced Growth Act of 1978 (P.L. 95-523) amended this subsection by adding subparagraphs (3) and (4) and making conforming changes relating to debate and amendments on economic goals and policies during consideration of the first concurrent resolution on the budget in the House. A similar addition relating to Senate procedure was made in subparagraphs (3) and (4). The Budget Enforcement Act of 1997 (sec. 10109, P.L. 105-33) amended section 305(a)(1) to provide a three-day layover requirement for the concurrent resolution on the budget.

General debate on economic goals and policies under subsection (a)(3) must be confined to that subject (Apr. 23, 1980, p. 8815). Clause 10 of rule XVIII (former clause 8 of rule XXVIII), as added in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53-70) requires that any concurrent resolution on the budget (consisting of both aggregate totals and functional categories) be considered as read and open to amendment at any point, and unanimous consent is required to read such a concurrent resolution by section in order to allow amendments to aggregates to be considered before amendments to functional categories (May 2, 1978, pp. 12074, 12075). Clause 10 of rule XVIII (former clause 8 of rule XXIII) was further amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) to require that amendments to budget resolutions achieve mathematical consistency and contain all the matter set forth in subsections 301(a)(1) through (5). On one occasion,

the chair of the Budget Committee offered a “mathematical consistency” amendment in Committee of the Whole, rather than in the House (Apr. 29, 1976, p. 11916).

A concurrent resolution on the budget is subject to a demand for a division of the question if, for example, the resolution grammatically and substantively relates to different fiscal years (May 7, 1980, pp. 10185–87) or includes a separate, hortatory section having its own grammatical and substantive meaning (Mar. 5, 1992, p. 4675).

Where a perfecting amendment changing several figures in a concurrent resolution on the budget was pending in Committee of the Whole, the Chair indicated that adoption of that amendment would preclude a further amendment merely changing those figures but would not preclude a more comprehensive amendment changing other (unamended) portions of the resolution (Apr. 28, 1976, p. 11599).

Although under this paragraph there can be up to five hours of debate on a conference report on a concurrent resolution on the budget, where the conferees report in total disagreement, debate on the motion to dispose of the amendment in disagreement is under the “hour rule” and is equally divided and controlled between the majority and minority parties under clause 8(d) of rule XXII (former clause 2 of rule XXVIII) (May 13, 1976, p. 13756; Sept. 16, 1976, p. 30182).

A concurrent resolution on the budget providing for the production of three separate reconciliation bills, including a reconciliation bill that lowers revenues, is privileged in the Senate under section 305(b) (May 21, 1996, pp. 11937–41).

In the 96th Congress, for the first time, the Rules Committee reported and the House adopted a special order permitting only certain designated amendments to be offered to a concurrent resolution on the budget (H. Res. 642, Apr. 23, 1980, p. 8789). The House has adopted similar “modified-closed rules” for the consideration of concurrent resolutions on the budget in each subsequent Congress. In the 98th Congress, a special order (H. Res. 144, Mar. 22, 1983, p. 6503) waiving the existing 10-day layover requirement of section 305(a)(1) was construed not to have waived the separate three-day layover requirement of clause 4 of rule XIII (former clause 2(1)(6) of rule XI, amended in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39) to conform to the five-day layover requirement of this section). The House has adopted resolutions to deem budget resolutions, or portions thereof, to be in place for temporary enforcement (July 24, 1985, p. 20181; June 19, 1990, p. 14612; June 19, 1998, p. 12991; sec. 2(a)(1), H. Res. 5, Jan. 6, 1999, p. 47; May 22, 2002, pp. 8675, 8676; sec. 3(a)(4), H. Res. 5, Jan. 7, 2003, p. 10; May 19, 2004, p. __; sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __; May 18, 2006, p. __; sec. 511(a)(4), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)).

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

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

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

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

(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as 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 ger-

mane fashion in order to be consistent with the goals proposed in such amendment.

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

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

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

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

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

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named,

debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

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

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

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

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

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508) deleted a subsection (d), which required action by budget conferees within seven days, and redesignated the succeeding subsection.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED
BY BUDGET COMMITTEES

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

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101-508) amended this section by standardizing its application to any bill, resolution, amendment, motion, or conference report. In the 107th through 111th Congresses,

the House adopted orders construing the term “resolution” as “joint resolution” (sec. 3(b), H. Res. 5, Jan. 3, 2001, p. 24; sec. 3(a)(1), H. Res. 5, Jan. 7, 2003, p. 10; sec. 3(a)(1), H. Res. 5, Jan. 4, 2005, p. __; sec. 511(a)(1), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007); sec. 3(a)(1), H. Res. 5, Jan. 6, 2009, p. __). The 104th and 105th Congresses expanded the legislative jurisdiction of the Budget Committee (sec. 202(a), H. Res. 6, Jan. 4, 1995, p. 463; sec. 5, H. Res. 5, Jan. 7, 1997, p. 121). See clause 1(e) of rule X, *supra*.

A special order of business adopted by the House providing for consideration of an unreported concurrent resolution on the budget upon the Speaker’s declaration that the House be resolved into the Committee of the Whole has the effect of discharging the Budget Committee when so announced by the Speaker, and need not contain the term “discharge” or waive points of order under this section, because the concurrent resolution is effectively discharged consistent with, and not in violation of, this section (Mar. 13, 1986, p. 4638).

The following were held to violate this section: (1) an amendment directing that certain lease-purchase agreements be scored on an annual basis for budget purposes (July 19, 1999, p. 16615); and (2) an amendment designating an appropriation as “emergency spending” within the meaning of the budget-enforcement laws (Sept. 8, 1999, p. 20930).

In the Senate, to an omnibus revenue bill reported from the Senate Committee on Finance containing certain tax credits, an amendment expressing the sense of Congress that under the Congressional Budget Act process the continuation of tax credits would be offset by reductions in Federal spending was held to violate section 306 and was ruled out of order (June 18, 1976, pp. 19089–97). In the Senate, to a bill making comprehensive amendments to the Social Security Act, an amendment removing social security trust funds from the “unified budget” and establishing separate aggregate and functional categories in all concurrent resolutions on the budget for social security trust funds was held to be a matter within the jurisdiction of the Senate Budget Committee and ruled out of order under section 306 (Mar. 22, 1983, p. 6590).

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

SEC. 307. 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.

This section was rewritten by the Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) to establish June 10th as the annual target date for completion of House committee action on all regular appropriation bills.

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET
ACTIONSSEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW
BUDGET AUTHORITY OR PROVIDING AN INCREASE OR DE-
CREASE 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 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.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) expanded the scope of subsection (a) to apply not only to reports on legislation providing budget authority and tax expenditures but also to reports on legislation providing new spending authority, new credit authority, and changes in revenues. That law also added the requirement that the same information be available to Members before consideration of conference reports or amendments in disagreement on such legislation, as well as subsections (b) and (c). The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) made conforming changes to subsections (a) and (b) to reflect the advent of five-year budget resolutions. Certain technical and conforming changes were made to this section by the Budget Enforcement Act of 1997 (sec. 10110, P.L. 105–33).

Section 308(a)(1) does not apply either to the consideration or to the adoption of a special order reported from the Rules Committee “self-executing” the adoption in the House of an amendment providing new budget authority, because the amendment is not separately before the House during consideration of the special order (but only when the bill of which it becomes a part is before the House), and because it is the amendment itself, and not the special order resolution, that provides the new budget authority (Feb. 24, 1993, p. 3543). A committee cost estimate identifying certain spending authority as recurring annually and indefinitely was held necessarily to address the five-year period required by this section (Nov. 20, 1993, p. 31354).

HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS

SEC. 309. It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall peri-

odically advise the Speaker as to changes in jurisdiction among its various subcommittees.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) added this section. See also section 310(f), *infra*.

RECONCILIATION

SEC. 310. (a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

(1) specify the total amount by which—

(A) new budget authority for such fiscal year;

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

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

(D) credit authority for such fiscal year,

contained in laws, bills, and resolutions within the jurisdiction of a committee is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

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

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

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

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

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

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

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

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

(A) if—

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

(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—

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

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

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

(2)(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 amend-

ment 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.

Until the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) this section required the Congress to complete action on a concurrent resolution on the budget, normally the second for that fiscal year, reaffirming or revising the most recently agreed to concurrent resolution on the budget. It also permitted the second budget resolution to implement the reconciliation process (instructions to committees to make changes in law necessary to achieve the changes in spending or revenues contemplated by the budget resolution). The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) amended

subsection (a) to eliminate the requirement for subsequent budget resolutions and specified the reconciliation process in greater detail by adding paragraph (1)(D) to subsection (a) along with new subsections (b) through (g). The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) amended subsection (c), relating to adjustments to allocations in the Senate, and deleted from subsection (f) a June 15 deadline for congressional action on reconciliation. The Budget Enforcement Act of 1997 (sec. 10111, P.L. 105–33) amended section 310(c)(1)(A) to clarify that committees, in meeting their reconciliation targets, may alternatively substitute revenue and spending changes by up to 20 percent of the sum of the absolute value of reconciled changes as long as the result does not increase the deficit relative to the reconciliation instructions. Clause 7 of rule XXI, adopted in the 110th Congress, places restrictions on reconciliation directives relative to the surplus or deficit (sec. 402, H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)).

BUDGET-RELATED LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 311. (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.

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) amended subsection (a) by: (1) standardizing its application to any bill, joint resolution, amendment, motion, or conference report; (2) adding the exception for the case of a declaration of war; and (3) adding a new paragraph (2) relating to Senate procedure. The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) made important changes in this section by codifying in subsection (b) the exception for the House that previously had appeared in the budget resolution, and by adding subsection (c). The Budget Enforcement Act of 1997 (sec. 10112, P.L. 105–33) further amended this section by: (1) eliminating references to “new entitlement authority”; (2) modifying Senate procedure; and (3) enforcing the revenue level for the same multiyear period covered by the allocations under section 302(a).

Clause 8 of rule XXI, adopted in the 110th Congress, provides that points of order under title III of the Budget Act apply to unreported measures (sec. 403, H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)). Previously, a point of order under section 311(a) operated with respect to a bill or joint resolution in its reported state and thus did not lie against consideration of an unreported measure (Mar. 21, 1995, p. 8491). The budget resolution deemed in place for fiscal year 2005 provided that, for purposes of titles II and III of the Budget Act, the term “amendment” or “amendment thereto” means an amendment offered or an amendment made in order as original text or considered as adopted by special order of the House (sec. 406, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __). The House has adopted resolutions to deem budget resolutions, or portions thereof, to be in place for temporary enforcement (H. Res. 231, July 24, 1985, p. 20181; H. Res. 413, June 19, 1990, p. 14612; H. Res. 477, June 19, 1998, p. 12991; sec. 2(a)(1), H. Res. 5, Jan. 6, 1999, p. 47; H. Res. 428, May 22, 2002, pp. 8675, 8676; sec. 3(a)(4), H. Res. 5, Jan. 7, 2003, p. 10; H. Res. 649, May 19, 2004, p. __; sec. 3(a)(4), H. Res. 5, Jan. 4, 2005, p. __; sec. 2(a), H. Res. 818, May 18, 2006, p. __; sec. 511(a)(4), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)).

To an appropriation bill already containing new budget outlays in excess of the total level permitted by the second concurrent resolution on the budget for that fiscal year, where the bill was considered under a waiver of section 311(a) of the Budget Act, an amendment striking out a proposed rescission of existing budget authority that had the effect of causing the net total of new budget authority in the bill to be increased was ruled out in the House as in violation of section 311(a), as further exceeding

the total budget outlay ceiling in the second concurrent resolution on the budget (May 12, 1981, pp. 9314, 15). An amendment that provides no new budget authority or outlays but instead results in outlay savings is not subject to a point of order under section 311(a) (June 30, 1987, p. 18308).

The Chair relied on estimates furnished by the Budget Committee to hold that a motion to amend a Senate amendment providing new budget authority for official mail costs to be available immediately violated section 311(a) because the appropriate level of new budget authority contained in the budget resolution had already been exceeded and because the Appropriations Committee had exceeded its section 302(a) allocation (thereby rendering the section 311(b) exception inapplicable) (Sept. 28, 1989, p. 22267).

In the Senate, the Chair sustained a point of order (later withdrawn) against an amendment that had the effect of reducing revenues for fiscal year 1977 below the total level of revenues contained in the final concurrent resolution on the budget for that year, in violation of section 311(a) (Oct. 1, 1976, p. 34557). Similarly, a motion in the Senate to recommit a bill with instructions to report it back with an amendment to the Internal Revenue Code delaying the implementation of withholding on interest and dividends was held (in response to a parliamentary inquiry) to be subject to a point of order because the amendment would cause revenues to be less than the appropriate level provided in the budget resolution for that year (where S. Con. Res. 92 of the 97th Congress, the first budget resolution for fiscal year 1985, provided that if a second budget resolution was not adopted by October 1, 1982, then section 311 would be enforced based on the aggregate figures contained in that resolution) (Apr. 20, 1983, pp. 9131, 9151). A point of order was sustained (and upheld on appeal) in the Senate against consideration of an amendment reducing the amount of a rescission of appropriated funds where the effect was to increase the net amount of total budget outlays contained in the bill to a level that, when taken together with other spending actions already completed by Congress, exceeded the total amount of budget outlays provided for the current fiscal year in the third budget resolution, in violation of section 311 (June 27, 1980, pp. 17478, 17479). Also in the Senate, to a bill making comprehensive changes in the Social Security Act being considered at a time when the revenue floor established by the second concurrent resolution on the budget for that fiscal year had already been breached, an amendment to the Internal Revenue Code to delay interest and dividend withholding during that fiscal year was held to constitute a further revenue reduction and to violate section 311 (Vice President Bush, Mar. 22, 1983, p. 6573). An amendment in the Senate to a Defense Department authorization bill, providing a new entitlement program of educational assistance to members and veterans of the armed forces, to become effective in a future fiscal year or at any earlier time if so determined by the President, was held to allow new entitlement spending for the current fiscal year

and to breach the applicable budget total, in violation of section 311 (July 13, 1983, p. 19018).

DETERMINATIONS AND POINTS OF ORDER

SEC. 312. (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.

Section 312 was added by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508). The section was amended by the Budget Enforcement Act of 1997 (sec. 10113, P.L. 105–33) to: (1) clarify the responsibility of the Budget Committee to provide estimates to the Chair upon which points of order under the Congressional Budget Act are evaluated; and (2) modify Senate procedure. The concurrent resolution on the budget for fiscal year 2000 included a point of order against consideration in the House or Senate of a concurrent resolution on the budget for fiscal year 2001, or any amendment thereto or conference report thereon, that sets forth a deficit for any fiscal year (as determined by the Budget Committee) (sec. 201, H. Con. Res. 68, 106th Cong., Apr. 13, 1999, p. 6337). Clause 10 of rule XXI, adopted in the 110th Congress, provides for estimates from the Committee on the Budget on the effect of a measure on the surplus or deficit.

EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION

SEC. 313. (a) IN GENERAL.—When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 (whether that bill or resolution originated in the Senate or the House) or section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title 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) EXTRANEIOUS 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.

Section 313, popularly known as the “Byrd Rule,” was added by the Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508). The Budget Enforcement Act of 1997 effected a technical correction to this section (sec. 10113, P.L. 105–33). Changes in outlays or revenues are not rendered incidental under this section simply by their insusceptibility to measurement (Aug. 6, 1993, p. 19764). A provision that achieved a net reduction in revenue beyond the 10-year directive of the concurrent resolution on the budget was stricken under this section (July 28, 1999, pp. 18172, 18178). An amendment expressing the sense of the Senate presents nonbinding lan-

guage with no budgetary effect and is, therefore, in violation of this section (Oct. 27, 1995, p. 30379).

ADJUSTMENTS

SEC. 314. (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.

This section was added by the Budget Enforcement Act of 1997 (sec. 10114, P.L. 105–33). Subsection (b)(6) was added by the Adoption and Safe Families Act of 1997 (sec. 201(b), P.L. 105–89). Emergency designations for discretionary budget authority under section 314 are ineffectual because section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 has expired pursuant to § 275 of that Act. Budget resolutions have provided that new budget authority, new entitlement authority, outlays, and receipts designated as an emergency in bills, joint resolutions, amendments, or conference reports are not cognizable under specified sections of title III and IV of the Budget Act. The budget resolutions also have required to be included in a committee report, joint statement of managers, or the Congressional Record an explanation of how an emergency item meets certain criteria (sec. 502, H. Con. Res. 95, 108th Cong.; sec. 402, S. Con. Res. 95, 108th Cong., May 19, 2004, deemed in place by H. Res. 649, 108th Cong., May 19, 2004, p. __, and by sec. 3(a)(4), H. Res. 5, 109th Cong., Jan. 4, 2005, p. __; sec. 402, H. Con. Res. 95, 109th Cong.; sec. 204, S. Con. Res. 21, 110th Cong.; sec. 301, S. Con. Res. 70, 110th Cong.). The budget resolution adopted by the House in 2006 provided a specific amount of emergency spending that, to be exceeded, would require a vote of the Committee on the Budget to raise the relevant 302 allocation (sec. 501, H. Con. Res. 376, 109th Cong., May 18, 2006).

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

SEC. 315. 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.

This section was added by the Budget Enforcement Act of 1997 (sec. 10115, P.L. 105–33). In the 106th, 107th, 108th, 109th, and 110th Congresses, the House adopted an order to enforce a 303(a) point of order against a reported bill or joint resolution considered under a special order of business on the basis of text made in order as original text (sec. 2(a)(3), H. Res. 5, Jan. 6, 1999, p. 47; sec. 3(b)(2), H. Res. 5, Jan. 3, 2001, p. 24; sec. 3(a)(2), H. Res. 5, Jan. 7, 2003, p. 10; sec. 3(a)(2), H. Res. 5, Jan. 4, 2005, p. __; sec. 511(a)(2), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)). See clause 8 of rule XXI for similar treatment of unreported bills under title III.

The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) established a new title VI that placed temporary limits on discretionary spending and provided mechanisms for enforcement that included those found in title

III of the Congressional Budget Act, which was extended by the Omnibus Budget Reconciliation Act of 1993 (tit. XIV, P.L. 103–66). Title VI was repealed by the Budget Enforcement Act of 1997 (sec. 10118, P.L. 105–33). For the text of title VI, see the House Rules and Manual for the 104th Congress (H. Doc. 103–342).

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

PART A—GENERAL PROVISIONS

BUDGET-RELATED LEGISLATION NOT SUBJECT TO APPROPRIATIONS

SEC. 401. (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.

- (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) in con-

nection 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, 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 authority described in those subsections if outlays from that new authority [will]¹ flow—

(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

¹ Paragraph (4)(A) of section 10116(a) of Public Law 105-33 amended this provision as shown above. However, the word "will" probably should have appeared in the matter proposed to be stricken by that public law.

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.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) amended subsection (a) by substituting the phrase “spending authority” for “contract or borrowing authority” and extended the point of order to conference reports, consistent with House precedent. The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) left the subsection entitled “exceptions” intact except to clarify the application of section 401 to Government corporations created after December 12, 1985. The Budget Enforcement Act of 1990 (tit. XIII, P.L. 101–508) amended subsections (a) and (b)(1) to standardize their application to any bill, joint resolution, amendment, motion, or conference report. The Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33): (1) repealed section 402, collapsing the point of order under that section into section 401; (2) repealed the definition of “new spending authority,” while shifting the definition of new entitlement authority to section 3; and (3) converted the mandatory referral of measures providing new entitlement authority to the Appropriations Committee to discretionary referral of such measures.

Language in a bill authorizing receipts from loans under certain legislation to be made available for designated purposes was held not to be “new spending authority” that would prohibit the consideration of the bill under section 401(a) of the Congressional Budget Act, where it was shown from the term “authorized” and from the committee report on the bill that the amounts of repaid loans must again be appropriated in appropriation acts before the funds could be expended (Speaker Albert, Sept. 10, 1975, p. 28270). A point of order under section 401(a) operates with respect to a bill or joint resolution in reported state and thus does not lie against consideration of an unreported measure (Mar. 21, 1995, p. 8491). Section 401(a) prohibits the consideration of a bill or amendment, including a conference report, containing new spending authority to incur indebtedness for the repayment of which the United States is primarily liable, the budget authority for which is not provided in advance by appropriation acts. Thus a conference report authorizing a Secretary to borrow funds by issuing Government notes as a public debt transaction to make payments in connection with defaults on loans by medical students, not subject to amounts specified in advance by appropriation acts, was ruled out of order as violating section 401(a) (Sept. 27, 1976, pp. 32655–704).

A point of order under section 401(b) operates with respect to a bill or joint resolution in reported state and thus does not lie against consideration of an unreported measure (Mar. 21, 1995, p. 8491). A conference report (filed in 1976 to accompany a bill originally reported in the House in calendar year 1975) requiring the Secretary of Agriculture to pay a cost of transporting agricultural commodities to major disaster areas upon the date of enactment was held to constitute new spending "entitlement" authority that could become effective before the fiscal year beginning during the calendar year in which the bill had been reported from conference, in violation of section 401(b)(1), and the conference report was ruled out of order (Speaker Albert, Sept. 23, 1976, pp. 3209, 3210). A Senate amendment providing new spending "entitlement" authority for adjustment assistance under the Trade Act of 1974, by requiring the Secretary of Labor to certify a new group of workers as eligible beginning on the day before to the start of the ensuing fiscal year, was conceded to violate section 401(b)(1), and a motion to concur was ruled out on that point of order (June 26, 1986, p. 15729). Where an amendment contained new entitlement authority in the form of retirement benefits to certain Federal employees, the Chair contemplated immediate enactment in his determination that the new entitlement authority became effective before the fiscal year beginning during the calendar year in which the pending bill was reported (May 9, 1995, p. 12178).

Where a committee had not yet filed with the House a report subdividing among its subcommittees or by programs new entitlement authority allocated to that committee in the joint statement accompanying a conference report on a concurrent resolution on the budget, formerly required under section 302(a), the Speaker under section 401(b) referred to the Appropriations Committee for the 15-day period a bill reported by that committee that exceeded the total entitlement authority allocated to that committee in the joint statement, and also referred a subsequent bill reported by that committee that contained new entitlement authority (Speaker Albert, May 17, 1976, p. 14093; Aug. 25, 1976, p. 27775). During the efficacy of title VI, section 401(b)(2) had no practical effect because that section remained linked to section 302 rather than the overriding section 602. Before consideration of a bill in Committee of the Whole, the Speaker may discharge from the Union Calendar and refer to the Appropriations Committee for 15 days, pursuant to section 401(b), a bill that has been reported providing new entitlement authority in excess of the total amount allocated to the reporting committee (Speaker O'Neill, Sept. 8, 1977, p. 28153; Sept. 8, 1978, p. 28543) even if the bill was reported before final adoption of the first budget resolution (Speaker O'Neill, July 19, 1978, pp. 21786, 21787; May 21, 1981, p. 10622). A bill reported from the Committee on Agriculture amending the Food and Agriculture Act to increase certain commodity target prices of 1979 crops, thereby providing new entitlement authority for fiscal year 1980 in excess of the amount allocated to that committee under the first budget resolution, and a bill reported from the

Committee on Ways and Means increasing eligibility and payments for child welfare and social services under the Social Security Act, providing new entitlement authority in excess of the net amount of such authority allocated to that committee under the first budget resolution, were discharged from the Union Calendar by the Speaker and referred to the Appropriations Committee pursuant to section 401(b) (Speaker O'Neill, June 5, 1979, p. 13385; June 6, 1979, p. 13665). The Speaker may exercise the referral authority under section 401(b), whether or not the committee has filed its report under section 302(b) of the Budget Act, where the budget authority for the entitlement bill has been assumed in the budget resolution and would be included in the committee's 302(b) report, but where the budget authority for such bill exceeds the net amount of such authority allocated to the reporting committee, because the budget resolution assumes the reporting of other legislation, decreasing other programs for the year in question, that has yet to be reported (Speaker O'Neill, June 6, 1979, p. 13665).

Although the former definition of new spending authority in section 401(c)(2) did not include the authority to insure or guarantee the repayment of indebtedness incurred by another person or government (as where the authority to incur contractual obligations to insure or guarantee another person's debt is a contingent liability of the United States), the authority to make payments in connection with defaults that have already occurred was conceded to constitute a primary liability of the United States to incur indebtedness and to require budget authority in advance in appropriation acts (Sept. 27, 1976, pp. 32655–704). A provision that requires payments to individuals meeting certain qualifications, but that also contains an authorization for appropriations to make such payments and a provision that if sums appropriated pursuant thereto are insufficient to make payments, then payments be ratably reduced to the amounts of appropriations actually made, does not constitute new entitlement authority (Sept. 13, 1983, p. 23884). An amendment establishing a new executive position at compensation level II but subjecting its salary to the appropriation process was held not to provide new entitlement authority (Mar. 26, 1992, p. 7203). The 106th Congress adopted a temporary rule excluding Federal compensation from the definition of entitlement authority (sec. 2(a)(2), H. Res. 5, Jan. 6, 1999, p. 47), which expired upon the adoption of the budget resolution for fiscal year 2000. The 107th, 108th, and 111th Congresses adopted that rule for the entire Congress (sec. 3(b)(3), H. Res. 5, Jan. 3, 2001, p. 24; sec. 3(a)(3), H. Res. 5, Jan. 7, 2003, p. 10; sec. 3(a)(3), H. Res. 5, Jan. 6, 2009, p. __). The 109th and 110th Congresses adopted that rule for the entire Congress but limited its applicability to section 401 (sec. 3(a)(3), H. Res. 5, Jan. 4, 2005, p. __; sec. 511(a)(3), H. Res. 6, Jan. 4, 2007, p. __ (adopted Jan. 5, 2007)).

The former definition of new entitlement authority did not include revenue-sharing spending authority in the form of entitlements, because the exception from the definition of new spending authority for revenue-shar-

ing programs did not apply to new entitlement authority for future fiscal years (Speaker Albert, Sept. 30, 1976, pp. 34074–100).

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 402. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

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

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

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

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

* * * * *

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99–177) amended this section by adding paragraph (4) to subsection (a), along with a conforming change to the second sentence of that subsection. Public Law 97–108 previously amended section 403 by adding subsections (a)(2), (b), and (c). The Unfunded Mandates Reform Act of 1995 deleted from this section a requirement that the Director estimate costs incurred by State and local governments, in favor of a more particularized requirement in section 424, *infra* (sec. 104, P.L. 104–4; 109 Stat. 62). The Budget Enforcement Act of 1997 (sec. 10116, P.L. 105–33) redesignated this section, formerly section 403, as section 402. A committee cost estimate identifying certain spending authority as recurring annually and indefinitely was held necessarily to address the five-year period required by section 308 (Nov. 20, 1993, p. 31354).

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

SEC. 404. 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.

This section, formerly section 405, was redesignated by the Budget Enforcement Act of 1997 (sec. 10116, P.L. 105-33). The General Accounting Office is now designated the Government Accountability Office (31 U.S.C. 702 note).

OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES

SEC. 405. (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.

This section, formerly section 406, was redesignated by the Budget Enforcement Act of 1997 (sec. 10116, P.L. 105-33).

MEMBER USER GROUP

SEC. 406. 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.

The Balanced Budget and Emergency Deficit Control Act of 1985 (tit. II, P.L. 99-177) added sections 405, 406, and 407 as new sections at the end of title IV. This section, formerly section 407, was redesignated by the Budget Enforcement Act of 1997 (sec. 10116, P.L. 105-33).

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PART B—FEDERAL MANDATES

SEC. 421. 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 the same activity as is affected by that mandate; or

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

(I) compliance with the Federal mandate;

or

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

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

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

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

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

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

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

(I) a condition of Federal assistance; or

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

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

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

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

(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. 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. 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 Congres-

sional Budget Office and shall identify to the Director any Federal mandates contained in the bill or resolution.

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

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

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

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

(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; and

(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.

(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. 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) 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 en-

sure, 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. LEGISLATION SUBJECT TO POINT OF ORDER.

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

(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 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. 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. 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. 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.

Part B of title IV was added by the Unfunded Mandates Reform Act of 1995 (sec. 101(a), P.L. 104–4; 109 Stat. 50–60). That Act explicitly declared that the new part was enacted as an exercise of congressional rule-making powers (sec. 108; 109 Stat. 63–64).

Pursuant to section 426, a Member raising a point of order under section 425 or 426 must specify the precise language upon which the point of order is based (see *e.g.*, May 23, 1996, p. 12283; May 14, 2008, p. __), and the content of estimates prepared under section 424 is a matter for debate (June 8, 2006, p. __). A point of order under section 426 raised against consideration of a resolution providing a special order of business must specify the precise language upon which the point of order is based (see *e.g.*, June 10, 1998 p. 11853; June 26, 2001, p. 11906), which may include a waiver of points of order against amendments (Jan. 28, 2009, p. __), must be made when the special order is called up and comes too late after the resolution has been adopted (July 18, 1996, p. 17668), and may be raised against a resolution that, by hereby adopting legislative text, effectively waives the application of section 425 (Feb. 1, 2006, p. __). A point of order under section 425 against consideration of a bill is properly raised pending the Speaker's declaration that the House resolve into the Committee of the Whole for such consideration (Oct. 29, 1997, p. 23712). A statutorily privileged joint resolution of approval may be subject to a point of order under section 425 (May 8, 2002, p. 7145). Debate on the point of order is on the question of considering the underlying text that is the subject of the point of order (May 14, 2008, p. __). The Members controlling debate on the point of order may reserve their time (Mar. 28, 1996, p. 6932), and a manager of a measure who controls time for debate against the point of order has the right to close debate (June 10, 1998, p. 11854). Under clause 11 of rule XVIII an amendment may be offered in the Committee of the Whole that proposes only to strike an unfunded mandate unless precluded by specific terms of a special order of the House (§ 991, *supra*).

TITLE VII—PROGRAM REVIEW AND EVALUATION

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CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS

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

- (1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;
 - (2) improving analytical and systematic evaluation of the effectiveness of existing programs;
 - (3) establishing maximum and minimum time limitations for program authorization; and
 - (4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.
- (b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a), together with its recommendations.
- (c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.

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TITLE IX—MISCELLANEOUS PROVISIONS;
EFFECTIVE DATES

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EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The provisions of this title 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), 258B(f)(1), 258B(h)(1), 258(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—

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

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

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

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

Section 904 was amended by the Budget Enforcement Act of 1997 (sec. 10119, P.L. 105–33) to clarify points of order in the Senate that may be waived by a supermajority vote. Pursuant to this section, and under its

authority contained in clause 5 of rule XIII (former clause 4(b) of rule XI) to report on rules and the order of business, the Rules Committee may report as privileged a resolution recommending the temporary waiver of the provisions of section 401 of the Congressional Budget Act during the consideration of designated legislation in the House (Speaker Albert, Mar. 20, 1975, p. 7676). A point of order against consideration of a resolution reported from the Rules Committee providing for consideration of a concurrent resolution on the budget does not lie based upon alleged violation of a statute that merely reaffirms the congressional commitment towards achieving balanced Federal budgets (P.L. 96-389), because the statute does not constitute a rule of the House and because section 904 of the Budget Act acknowledges the constitutional authority of either House to change its rules at any time (June 10, 1982, pp. 13352, 13353). A unanimous-consent agreement that only permits a (nonprivileged) bill to be considered in the House before three-day availability of the report thereon, but that does not specifically waive points of order against consideration, does not preclude a point of order against consideration of the bill when called up based upon an alleged violation of the Budget Act (Feb. 4, 1982, p. 845).