
DEFINITIONS

§ 3 **SEC. 3.²⁶ IN GENERAL. —** For purposes of this Act —

§ 3(1) **(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority²⁷ during such year.²⁸**

§ 3(2) **(2)²⁹ BUDGET AUTHORITY AND NEW BUDGET AUTHORITY. —**

§ 3(2)(A) **(A) IN GENERAL. — The term "budget authority" means the authority provided by Federal law to incur financial obligations, as follows:**

²⁶ Section 3 is codified as amended at 2 U.S.C. § 622 (1988 & Supp. IV 1992).

What is now section 3 was originally section 3(a). An Act to Abolish the Joint Committee on Atomic Energy, Pub. L. No. 95-110, 91 Stat. 884 (1977), repealed section 3(b). For the text of section 3(b) as originally enacted in 1974, see *infra* note 47.

²⁷ Section 3(2) defines "budget authority." See *infra* pp. 11-13.

²⁸ Note that section 406(a), regarding off-budget agencies, programs, and activities (see *infra* pp. 270-271), requires that certain items be included in budget outlays.

²⁹ Section 13211(a) of the Budget Enforcement Act amended subsection (2) to read as it does now (with the exception of the last sentence) for fiscal years beginning with fiscal year 1992. See *infra* p. 732. Note, however, the ambiguity with regard to the last sentence. See *infra* note 31.

Before enactment of the Budget Enforcement Act, and for fiscal years through fiscal year 1991, subsection (2) read as follows:

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds or to collect offsetting receipts, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

Section 13211(b) of the Budget Enforcement Act sets forth the 1992 effective date. See *infra* p. 733.

§ 3(2)(A)(i) (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;

§ 3(2)(A)(ii) (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;

§ 3(2)(A)(iii) (iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

§ 3(2)(A)(iv) (iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

§ 3(2)(B) (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.

§ 3(2)(C) (C) NEW BUDGET AUTHORITY. — The term “new budget authority” means, with respect to a fiscal year —

§ 3(2)(C)(i) (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

§ 3(2)(C)(ii)

(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.³⁰ [The term includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V]³¹

§ 3(3)

(3) The term "tax expenditures" means those reve-

³⁰ Section 13211(a) of the Budget Enforcement Act amended subsection (2) to read as it does up to this point. See *infra* p. 732.

³¹ See *infra* pp. 273-298.

There is no final period in the original. Section 13201(b)(1) of the Budget Enforcement Act added this last sentence. See *infra* p. 713. The Office of the Law Revision Counsel of the House of Representatives omitted this last sentence from 2 U.S.C. § 622(2) (Supp. IV 1992). Section 13211(a) of the Budget Enforcement Act amended subsection (2) to read as it does now (with the exception of the last sentence) for fiscal years beginning with fiscal year 1992. See *infra* p. 732. The Law Revision Counsel apparently reasoned that Congress meant the amendments made by section 13211 to replace this section as amended by section 13201(b)(1) of the Budget Enforcement Act for fiscal years beginning with fiscal year 1992. As title V (to which this last sentence refers) is a permanent addition to the Act, the better reading is that Congress intended that this reference remain as a permanent allusion. The intent of title V is unmistakable, nonetheless, to the effect that the cost for direct loan and loan guarantee programs constitutes budget authority.

Note that section 406(a), regarding off-budget agencies, programs, and activities (see *infra* pp. 270-271), and section 504(d)(1), regarding the budgetary accounting for credit (see *infra* p. 290), also require that certain items be included in budget authority.

Note that the statement of managers accompanying the conference report on the Budget Enforcement Act set forth scorekeeping guidelines that affect what constitutes budget authority. See *infra* note 1245. Prior to the resolution of those scorekeeping guidelines, a colloquy during the debate on the budget resolution for fiscal year 1991 set forth the Budget Committee's policy for scoring of budget authority resulting from lease-purchases. See 136 CONG. REC. S8019-20 (daily ed. June 14, 1990) (statements of Sen. DeConcini and Chairman Sasser).

nue 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.³²

§ 3(4) (4) The term "concurrent resolution on the budget" means —

§ 3(4)(A) (A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301;³³

³² See generally STAFF OF SENATE COMM. ON THE BUDGET, 102D CONG, 2D SESS., TAX EXPENDITURES: COMPENDIUM OF BACKGROUND MATERIAL ON INDIVIDUAL PROVISIONS (Comm. Print 1992) (S. Print No. 102-119) (prepared by the Congressional Research Service); STAFF OF SENATE COMM. ON THE BUDGET, 99TH CONG, 2D SESS., TAX EXPENDITURES: RELATIONSHIPS TO SPENDING PROGRAMS AND BACKGROUND MATERIAL ON INDIVIDUAL PROVISIONS (Comm. Print 1986) (S. Print No. 99-159) (prepared with the Joint Committee on Taxation, the Congressional Budget Office, and the Congressional Research Service); STAFF OF SENATE COMM. ON THE BUDGET, 97TH CONG, 2D SESS., TAX EXPENDITURES: RELATIONSHIPS TO SPENDING PROGRAMS AND BACKGROUND MATERIAL ON INDIVIDUAL PROVISIONS (Comm. Print 1982) (prepared with the Joint Committee on Taxation, the Congressional Budget Office, and the Congressional Research Service).

³³ For section 301, see *infra* pp. 50-87. For budget resolutions pursuant to section 301, see Concurrent Resolution Setting Forth the Congressional Budget for the United States Government for the Fiscal Years 1994, 1995, 1996, 1997, and 1998, H. Con. Res. 64, 103d Cong., 1st Sess., 139 CONG. REC. H1747 (daily ed. Mar. 31, 1993) (adopted); Concurrent Resolution on the Budget — Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess. 138 CONG. REC. H3602 (daily ed. May 20, 1992) (1992) (adopted); Concurrent Resolution on the Budget — Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., 105 Stat. 2414 (1991); Concurrent Resolution on the Budget — Fiscal Year 1991, H. Con. Res. 310, 101st Cong., 2d Sess., 104 Stat. 5163 (1990); Concurrent Resolution on the Budget — Fiscal Year 1990, H. Con. Res. 106, 101st Cong., 1st Sess., 103 Stat. 2540 (1989); Concurrent Resolution on the Budget — Fiscal Year 1989, H. Con. Res. 268, 100th Cong., 2d Sess., 102 Stat. 4875 (1988); Concurrent Resolution on the Budget — Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., 101 Stat. 1986 (1987); Concurrent Resolution on the Budget — Fiscal Year 1987, S. Con. Res. 120, 99th Cong., 2d Sess., 100 Stat. 4354 (1986); First Concurrent Resolution on the Budget — Fiscal Year 1986, S. Con. Res. 32, 99th Cong., 1st Sess., 99 Stat. 1941 (1985); First Concurrent Resolution on the Budget — Fiscal Year 1985, H. Con. Res. 280, 98th Cong., 2d Sess., 98 Stat. 3484 (1984); First Concurrent Resolution (continued...)

and

§ 3(4)(B)

(B)³⁴ any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.³⁵

³³(...continued)

on the Budget — Fiscal Year 1984, H. Con. Res. 91, 98th Cong., 1st Sess., 97 Stat. 1501 (1983); First Concurrent Resolution on the Budget — Fiscal Year 1983, S. Con. Res. 92, 97th Cong., 2d Sess., 96 Stat. 2647 (1982); First Concurrent Resolution on the Budget — Fiscal Year 1982, H. Con. Res. 115, 97th Cong., 1st Sess., 95 Stat. 1743 (1981); First Concurrent Resolution on the Budget — Fiscal Year 1981, H. Con. Res. 307, 96th Cong., 2d Sess., 94 Stat. 3655 (1980); First Concurrent Resolution on the Budget — Fiscal Year 1980, H. Con. Res. 107, 96th Cong., 1st Sess., 93 Stat. 1413 (1979); First Concurrent Resolution on the Budget, Fiscal Year 1979, S. Con. Res. 80, 95th Cong., 2d Sess., 92 Stat. 3870 (1978); First Concurrent Resolution on the Budget: Fiscal Year 1978, S. Con. Res. 19, 95th Cong., 1st Sess., 91 Stat. 1670 (1977); First Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 109, 94th Cong., 2d Sess., 90 Stat. 3029 (1976); First Concurrent Resolution on the Budget — Fiscal Year 1976, H. Con. Res. 218, 94th Cong., 1st Sess., 89 Stat. 1197 (1975).

³⁴ Section 232(b) of Gramm-Rudman-Hollings repealed what was then subparagraph (B) and redesignated what was then subparagraph (C) as subparagraph (B). *See infra* p. 430. As originally enacted in 1974, subparagraph (B) referred to the second concurrent resolution on the budget and read as follows:

(B) a concurrent resolution reaffirming or revising the congressional budget for the United States Government for a fiscal year as provided in section 310; . . .

³⁵ For section 304, *see infra* p. 117. For examples of second and revised budget resolutions, *see* Second Concurrent Resolution on the Budget, 1982, S. Con. Res. 50, 97th Cong., 1st Sess., 95 Stat. 1778 (1981); Second Concurrent Resolution on the Budget — Fiscal Year 1981, H. Con. Res. 448, 96th Cong., 2d Sess., 94 Stat. 3680 (1980); Third Concurrent Resolution on the Budget, Fiscal Year 1980, S. Con. Res. 53, 96th Cong., 1st Sess., 93 Stat. 1428 (1979); Second Concurrent Resolution on the Budget — Fiscal Year 1980, S. Con. Res. 36, 96th Cong., 1st Sess., 125 CONG. REC. 30,796 (1979) (adopted); Second Concurrent Resolution on the Budget — Fiscal Year 1979, H. Con. Res. 683, 95th Cong., 2d Sess., 92 Stat. 3878 (1978); Second Concurrent Resolution on the Budget — Fiscal Year 1978, H. Con. Res. 341, 95th Cong., 1st Sess., 91 Stat. 1683 (1977); Third Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 10, 95th Cong., 1st Sess., 91 Stat. 1666 (1977); Second Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 139, 94th Cong., 2d Sess., 90 Stat. 3044 (1976); Second Concurrent Resolution on the Budget — Fiscal Year 1976, H. Con. Res. 466, 94th Cong., 1st Sess., 89 Stat. 1209 (1975).

§ 3(5) (5) The term "appropriation Act" means an Act referred to in section 105 of title 1, United States Code.³⁶

§ 3(6) (6) The term "deficit" means, with respect to a fiscal year, the amount by which outlays³⁷ exceeds receipts during that year.³⁸

³⁶ Section 105 of title 1 of the United States Code provides:

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

1 U.S.C. § 105 (1988).

Section 506 of the Congressional Budget Act as it was originally enacted amended section 105 of title 1 by striking out "June 30" and inserting "September 30." *See infra* note 840.

³⁷ Section 3(1) defines "budget outlays." *See supra* p. 11.

³⁸ Section 13112(a)(2)(A) of the Budget Enforcement Act amended section 3(6) to read as it does now. *See infra* p. 708. Before the enactment of the Budget Enforcement Act, section 3(6) read as follows:

(6) The term "deficit" means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act (notwithstanding section 710(a) of the Social Security Act), for any fiscal year, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year shall be included in total revenues for such fiscal year, and the disbursements of each such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year. Notwithstanding any other provision of law except to the extent provided by section 710(a) of the Social Security Act, the receipts, revenues, disbursements, budget authority, and outlays of each off-budget Federal entity for a fiscal year shall be included in total budget authority, total budget outlays, and total revenues and the amounts of budget authority and outlays set forth set forth for each major functional category, for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by a department, agency, or instrumen-

(continued...)

- § 3(7) (7)³⁹ The term "surplus" means, with respect to a fiscal year, the amount by which receipts exceeds outlays⁴⁰ during that year.
- § 3(8) (8)⁴¹ The term "government-sponsored enterprise"⁴² means a corporate entity created by a law of the United States that —
- § 3(8)(A)(i) (A)(i) has a Federal charter authorized by law;

³⁹(...continued)

tality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.

³⁹ Section 13112(a)(2)(A) of the Budget Enforcement Act amended section 3(7) to read as it does now. *See infra* p. 708. Before the enactment of the Budget Enforcement Act, the Congressional Budget Act did not define the term "surplus," and section 3(7) defined maximum deficit amounts. For the text of the old section 3(7), *see infra* note 857.

⁴⁰ Section 3(1) defines "budget outlays." *See supra* p. 11.

⁴¹ Section 13112(a)(2)(A) of the Budget Enforcement Act amended section 3(8) to read as it does now. *See infra* p. 708. Before enactment of the Budget Enforcement Act, section 3(8) read as follows:

(8) The term "off-budget Federal entity" means any entity (other than a privately-owned Government-sponsored entity) —

(A) which is established by Federal law, and

(B) the receipts and disbursements of which are required by law to be excluded from the totals of —

(i) the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, or

(ii) the budget adopted by the Congress pursuant to title III of this Act.

⁴² Note that section 13501 of the Budget Enforcement Act also addresses the financial safety and soundness of Government-sponsored enterprises (*see infra* pp. 771-779) and that section 13501(a) of the Budget Enforcement Act provides a different definition of "Government-sponsored enterprise" for the purposes of that section only. *See infra* p. 772.

- § 3(8)(A)(ii) (ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;
- § 3(8)(A)(iii) (iii) is under the direction of a board of directors, a majority of which is elected by private owners;
- § 3(8)(A)(iv) (iv) is a financial institution with power to —
- § 3(8)(A)(iv)(I) (I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and
- § 3(8)(A)(iv)(II) (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
- § 3(8)(B)(i) (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);
- § 3(8)(B)(ii) (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
- § 3(8)(B)(iii) (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.
- § 3(9) (9)⁴³ The term “entitlement authority” means

⁴³ Section 201(a)(1) of Gramm-Rudman-Hollings added paragraphs (9) and (10). See *infra* p. 413.

spending authority described by section 401(c)(2)(C).⁴⁴

§ 3(10)

(10)⁴⁵ The term "credit authority"⁴⁶ means authority to incur direct loan obligations or to incur primary loan guarantee commitments.⁴⁷

⁴⁴ Section 401(c)(2)(C) describes authority:

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

See infra pp. 252-253. For a discussion of language that ensures that authority will not constitute entitlement authority, *see infra* note 652.

⁴⁵ Section 201(a)(1) of Gramm-Rudman-Hollings added paragraphs (9) and (10). *See infra* p. 413.

⁴⁶ Section 402(b) defines "new credit authority":

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

See infra p. 261. Note that title V of the Congressional Budget Act addresses the issue of credit accounting. *See infra* pp. 273-298.

⁴⁷ An Act to Abolish the Joint Committee on Atomic Energy, Pub. L. No. 95-110, 91 Stat. 884 (1977), repealed section 3(b). As originally enacted in 1974, section 3(b) read as follows:

(b) JOINT COMMITTEE ON ATOMIC ENERGY. — For purposes of titles II, III, and IV of this Act, the Members of the House of Representatives who are members of the Joint Committee on Atomic Energy shall be treated as a standing committee of the House, and the Members of the Senate who are members of the Joint Committee shall be treated as a standing committee of the Senate.

