

By providing this mechanism for applying the exception, the current law impliedly prohibits all transfers that do not contain the magic words applying the exception. Even if the transfer is a necessary (but secondary) result of a significant policy change, does provide for contingencies, or does achieve savings made possible by changes in program requirements or by greater efficiency of operations, the section by its terms would apply to prohibit scorekeepers from counting the savings.

The present language thus creates a trap for the unwary Senator. Unless the Senator knows about the section and thinks about the issue while drafting the legislation in question, the section stands as a snare waiting to catch the legislation. This result leads to increased disrespect for the budget process.

The second problem that the language of the current law creates is to invite overuse of the exception. As the exception requires simply that the subject legislation specify that it is for one of the good purposes listed in order to avoid the sanction of the prohibition, the exception has been applied to a number of shifts between years that clearly do not fall within the exception as intended. It has become an easily-avoided prohibition on budget gimmickry. Senator Sanford's bill S. 101⁹⁴¹ would repeal the exception.

Section 202(a) cannot be used to free up additional spending money, but applies only to prohibit the creation of spending room by artificial transfers. Congress made this intent evident in the title of the section and the description of the conference agreement for section 202 above, both of which use the word "savings." The drafters of the section never intended the section to be available as a shield against the counting of actions that increase the deficit.

⁹⁴¹ S. 101, 101st Cong., 1st Sess., 135 CONG. REC. S170, S425-29 (Jan. 25, 1989).