
TITLE VI BUDGET AGREEMENT ENFORCEMENT PROVISIONS⁸⁵¹

§ 601 SEC. 601.⁸⁵² DEFINITIONS AND POINT OF ORDER.

§ 601(a) (a) DEFINITIONS. — As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

§ 601(a)(1) (1) MAXIMUM DEFICIT AMOUNT. — The term “maximum deficit amount” means —

§ 601(a)(1)(A) (A) with respect to fiscal year 1991,
\$327,000,000,000;

§ 601(a)(1)(B) (B) with respect to fiscal year 1992,
\$317,000,000,000;

§ 601(a)(1)(C) (C) with respect to fiscal year 1993,
\$236,000,000,000;

⁸⁵¹ Section 13111 of the Budget Enforcement Act repealed the original title heading of title VI and added what is now title VI. See *infra* p. 707. For legislative history of title VI as added by the Budget Enforcement Act, see *infra* note 936 (at the end of this title). As originally enacted in 1974, the title heading for title VI read as follows:

TITLE VI
AMENDMENTS TO
BUDGET AND
ACCOUNTING ACT, 1921

⁸⁵² Section 601 is codified at 2 U.S.C. § 665 (Supp. IV 1992), amended by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002, 107 Stat. 312 (1993). For legislative history of section 601, see *infra* note 870 (at the end of this section).

§ 601(a)(1)(D) (D) with respect to fiscal year 1994,
\$102,000,000,000; and

§ 601(a)(1)(E) (E) with respect to fiscal year 1995,
\$83,000,000,000;

as adjusted⁸⁵³ in strict conformance with sections 251,⁸⁵⁴
252,⁸⁵⁵ and 253⁸⁵⁶ of the Balanced Budget and Emergen-
cy Deficit Control Act of 1985.⁸⁵⁷

⁸⁵³ Pursuant to section 253(g) of Gramm-Rudman-Hollings (*see infra* pp. 528-533), Presidential budget submissions have adjusted these targets. *See* OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1994, 137 (1993); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1993: SUPPLEMENT, FEBRUARY 1992, pt. 4, at 9 (1992); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1993, app. 2, at 10 (1992); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1992, pt. 5, at 10 (1991).

⁸⁵⁴ *See infra* pp. 475-502.

⁸⁵⁵ *See infra* pp. 509-517.

⁸⁵⁶ *See infra* pp. 523-533.

⁸⁵⁷ Before enactment of the Budget Enforcement Act, section 3(7) of the Congressional Budget Act defined the term "maximum deficit amount." (Section 13112(a)(2)(A) of the Budget Enforcement Act repealed the old section 3(7). *See infra* p. 708.) Before enactment of the Budget Enforcement Act, section 3(7) read as follows:

(7) The term "maximum deficit amount" means —

(A) with respect to the fiscal year beginning October 1, 1985,
\$171,900,000,000;

(B) with respect to the fiscal year beginning October 1, 1986,
\$144,000,000,000;

(C) with respect to the fiscal year beginning October 1, 1987,
\$144,000,000,000;

(D) with respect to the fiscal year beginning October 1, 1988,
\$136,000,000,000;

(E) with respect to the fiscal year beginning October 1, 1989,
(continued...)

§ 601(a)(2) (2) DISCRETIONARY SPENDING LIMIT. — The term "discretionary spending limit" means —

§ 601(a)(2)(A) (A) with respect to fiscal year 1991—

§ 601(a)(2)(A)(i) (i) for the defense category: \$288,918,000,000 in new budget authority⁸⁵⁸ and \$297,660,000,000 in outlays;⁸⁵⁹

§ 601(a)(2)(A)(ii) (ii) for the international category: \$20,100,000,000 in new budget authority and \$18,600,000,000 in outlays; and

§ 601(a)(2)(A)(iii) (iii) for the domestic category: \$182,700,000,000 in new budget authority and \$198,100,000,000 in outlays;

§ 601(a)(2)(B) (B) with respect to fiscal year 1992 —

§ 601(a)(2)(B)(i) (i) for the defense category: \$291,643,000,000 in new budget authority and \$295,744,000,000 in outlays;

§ 601(a)(2)(B)(ii) (ii) for the international category: \$20,500,000,000 in new budget authority and

⁸⁵⁷(...continued)

\$100,000,000,000;

(F) with respect to the fiscal year beginning October 1, 1990, \$64,000,000,000;

(G) with respect to the fiscal year beginning October 1, 1991, \$28,000,000,000; and

(H) with respect to the fiscal year beginning October 1, 1992, zero.

⁸⁵⁸ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁵⁹ Section 3(1) defines "outlays." *See supra* p. 11.

\$19,100,000,000 in outlays; and

§ 601(a)(2)(B)(iii) (iii) for the domestic category:
\$191,300,000,000 in new budget authority and
\$210,100,000,000 in outlays;

§ 601(a)(2)(C) (C) with respect to fiscal year 1993 —

§ 601(a)(2)(C)(i) (i) for the defense category:
\$291,785,000,000 in new budget authority and
\$292,686,000,000 in outlays;

§ 601(a)(2)(C)(ii) (ii) for the international category:
\$21,400,000,000 in new budget authority and
\$19,600,000,000 in outlays; and

§ 601(a)(2)(C)(iii) (iii) for the domestic category:
\$198,300,000,000 in new budget authority and
\$221,700,000,000 in outlays;

§ 601(a)(2)(D) (D) with respect to fiscal year 1994, for the
discretionary category: **\$510,800,000,000 in new**
budget authority and \$534,800,000,000 in outlays;

§ 601(a)(2)(E) (E) with respect to fiscal year 1995, for the
discretionary category: **\$517,700,000,000 in new**
budget authority and \$540,800,000,000 in outlays;
and

§ 601(a)(2)(F) (F) with respect to fiscal years 1996, 1997, and
1998, for the discretionary category, the amounts set
forth for those years in section 12(b)(1) of House
Concurrent Resolution 64 (One Hundred Third
Congress);⁸⁶⁰

⁸⁶⁰ That is, the Concurrent Resolution Setting Forth the Congressional Budget for the United States Government for the Fiscal Years 1994, 1995, 1996, 1997, and 1998, H. Con. (continued...)

as adjusted⁸⁶¹ in strict conformance with section 251⁸⁶² of the Balanced Budget and Emergency Deficit Control Act of 1985.

§ 601(b)

**(b) POINT OF ORDER IN THE SENATE ON
AGGREGATE ALLOCATIONS FOR DEFENSE, INTER-
NATIONAL, AND DOMESTIC DISCRETIONARY SPEND-**



⁸⁶⁰(...continued)

Res. 64, 103d Cong., 1st Sess. § 12(b)(1), 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). Section 14002(a)(2) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(a)(2), 107 Stat. 312 (1993), added this subparagraph. For legislative history of the change, see *infra* note 870. The joint statement of managers accompanying that Act sets forth the resulting limits:

DISCRETIONARY SPENDING LIMITS: FISCAL YEARS 1994-1998
(in billions of dollars)

	Fiscal Year—				
	1994	1995	1996	1997	1998
....					
Conference agreement					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	536.952	547.263	547.346	547.870

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 945-46 (1993), *reprinted in* 139 CONG. REC. H5792, H6039 (daily ed. Aug. 4, 1993).

⁸⁶¹ Pursuant to section 251(b) of Gramm-Rudman-Hollings (*see infra* pp. 493-502), Presidential budget submissions have adjusted these limits. *See* OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1994, 133-37 (1993); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1993: SUPPLEMENT, FEBRUARY 1992, pt. 4, at 3-7 (1992); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1993, app. 2, at 5-8 (1992); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1992, pt. 5, at 3-7 (1991).

⁸⁶² *See infra* pp. 475-502.

ING.⁸⁶³ —

§ 601(b)(1) (1) Except as otherwise provided in this subsection,⁸⁶⁴ it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.⁸⁶⁵

⁸⁶³ Section 904(c) provides that the Senate may waive or suspend section 601(b) only by the affirmative vote of three-fifths of the Members, duly chosen and sworn — that is, 60 Senators. *See infra* pp. 361-363. Section 275(b) of Gramm-Rudman-Hollings provides that this supermajority requirement expires on September 30, 1995. *See infra* p. 690.

Note also the provisions for the suspension of title VI under certain circumstances after the declaration of war or a recession pursuant to section 258 of Gramm-Rudman-Hollings. *See infra* pp. 619-630.

⁸⁶⁴ This is a reference to paragraph (4) below (*see infra* p. 306), regarding declarations of war and joint resolutions pursuant to section 258 of Gramm-Rudman-Hollings. Paragraph (4) should have been renumbered to appear as paragraph (3).

⁸⁶⁵ For the discretionary spending limits, see section 601(a)(2) *supra* pp. 301-303.

Section 14002(b) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(b), 107 Stat. 312 (1993), amended this paragraph to read as it does now. The joint statement of managers accompanying that Act states in connection with this language:

The conferees note that in the context of the other changes made by the conference agreement, the extension of section 601(b)(1) will codify a point of order in the Senate identical in effect to that created by section 12(b)(2) of the concurrent resolution adopted in April of 1993. (H.Con.Res. 64, 103rd Cong., 1st Sess., section 12(b)(2), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993)(adopted)).

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993), *reprinted in* 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For further legislative history of this amendment, *see infra* note 870. Section 12(b)(2) of the fiscal year 1994 budget resolution provides:

(2) POINT OF ORDER IN THE SENATE. —

(A) Except as provided in subparagraph (B), it shall not be in order in the Senate to consider any concurrent resolution on the
(continued...)

§ 601(b)(3)

(3)⁸⁶⁶ [(2)] For purposes of this subsection, the

⁸⁶⁶(...continued)

budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.

(B) 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.

H. Con. Res. 64, 103rd Cong., 1st Sess., § 12(b)(2), 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). The joint statement of managers accompanying the budget resolution explains: "Section 11 of the Senate amendment contains new enforcement procedures to extend the system of discretionary spending limits as they apply to budget resolutions in the Senate for fiscal years 1996, 1997, and 1998" H.R. CONF. REP. NO. 103-48, 103d Cong., 1st Sess. 47 (1993), *reprinted in* 139 CONG. REC. H1747, H1760 (daily ed. Mar. 31, 1993).

Before enactment of the Omnibus Budget Reconciliation Act of 1993, section 601(b)(1) read as follows:

(1) Except as provided in paragraph (3), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995 (or amendment, motion, or conference report on such a resolution), or any appropriations bill or resolution (or amendment, motion, or conference report on such an appropriations bill or resolution) for fiscal year 1992 or 1993 that would exceed the allocations in this section or the suballocations made under section 602(b) based on these allocations.

In this, older version of section 601(b)(1), the reference to paragraph (3) was actually a reference to the paragraph that appears as paragraph (4) below, which should have been renumbered to appear as paragraph (3). Instead of "the allocations in this section," this paragraph should have referred to "the discretionary spending limits in this section" to conform to the term used in subsection (a)(2). *See supra* pp. 301-303.

Under this section as originally enacted, a point of order thus lay against a concurrent resolution on the budget that exceeded the levels in this section, an appropriations bill that exceeded the levels in this section, or an appropriations bill or resolution that exceeded the suballocations made based on these levels.

It was not necessary to extend the application of this paragraph to appropriations acts, as the discretionary spending limits for the relevant fiscal years apply only to the aggregate amount allocated to the Appropriations Committees, and a point of order enforcing that limit would be redundant to that provided by section 602(c). *See infra* p. 317.

levels of new budget authority⁸⁶⁷ and outlays⁸⁶⁸ for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

§ 601(b)(4) (4)⁸⁶⁹ [(3)] 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.⁸⁷⁰

⁸⁶⁶ (...continued)

⁸⁶⁶ This is so in the original; this should be paragraph (2).

⁸⁶⁷ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

⁸⁶⁸ Section 3(1) defines "outlays." See *supra* p. 11.

⁸⁶⁹ This is so in the original; this should be paragraph (3).

⁸⁷⁰ Section 14002 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002, 107 Stat. 312 (1993), extended the discretionary spending limits of this section. Section 14001(2) of that Act states: "The Congress declares that it is essential to . . . extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974." The joint statement of managers accompanying that Act explains:

OVERVIEW

The Conference Agreement on the Omnibus Budget Reconciliation Act of 1993 is a carefully crafted, rational and constructive compromise which implements the basic objectives of both the House and the Senate bills. . . . It confirms and extends those budget process changes enacted in the Budget Enforcement Act of 1990 which have exercised effective discipline over the Federal budget.

....

Every policy change in the conference agreement is specific and enforceable. It . . . establishes new caps on discretionary spending to ensure that appropriations do not exceed the levels established in the budget resolution.

....

More than half of the deficit reduction is made on the spending side. The conference agreement mandates \$88 billion in net entitlement cuts. The
(continued...)

⁸⁰⁰(...continued)

caps on discretionary spending will reduce outlays by \$102 billion compared with a continuation of current policies. Debt service savings, changes in debt management and miscellaneous effects will account for another \$65 billion.

....

**DISCRETIONARY SPENDING LIMITS,
THE PAY-AS-YOU-GO REQUIREMENT,
AND RELATED PROCEDURES**

Summary

Subtitles A and B of Title XV (Budget Process) of the House-passed bill amend the Balanced Budget and Emergency Deficit Control Act of 1985, more commonly known as the Gramm-Rudman-Hollings (GRH) Act, and the Congressional Budget Act (CBA) of 1974. The purpose of the amendments is to extend the discretionary spending limits[,] . . . enforced by sequestration, through fiscal year 1998, and to make other changes in the budget process. Subtitle A, called the Budget Enforcement Act (BEA) of 1993, revises the procedures under the Gramm-Rudman-Hollings Act for enforcement of the discretionary spending limits Subtitle B revises and extends the discretionary spending limits in the Congressional Budget Act of 1974 (and makes other changes . . .).

Title XIV (Enforcement Procedures) of the Senate amendment extends the discretionary spending limits . . . through fiscal year 1998, and makes minor modifications in the procedures for enforcing them, by amending the Congressional Budget Act and the Gramm-Rudman-Hollings Act[.]

In conference, the House recedes to the Senate. As noted, both the House and the Senate extend the discretionary caps and the pay-as-you-go requirement through 1998. Both chambers consider this extension to be important for enforcing the overall budget and economic plan. Thus, the conference disposition of title XV, subtitle A, of the House bill and title XIV of the Senate bill is consistent with the intent of both chambers.

Background

....

Congress fundamentally revised the sequestration process with the Budget Enforcement Act (BEA) of 1990 (title XIII of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, tit. XIII, 104 Stat. 1388, 1388-573 to -630 (Nov. 5, 1990) (codified as amended in scattered sections of 2 U.S.C. and at 15 U.S.C. § 1022 (Supp. II 1990))). First, the Act extended the process through fiscal year 1995 Third, the Act established adjustable

(continued...)

⁸⁷⁰(...continued)

discretionary spending limits to control the growth of annual appropriations The act also made these latter . . . procedures (in effect through fiscal year 1995) enforceable by sequestration. Congress intended that the appropriations caps . . . would control subsequent legislation, so that Congress and the President would not undo the deficit reduction that the 1990 budget summit agreement accomplished. Congress has the same purpose for extending the appropriations caps . . . in this Act — to prevent future legislation from undoing the spending cuts and revenue increases agreed to in the budget resolution and the other titles of this Act, the Omnibus Budget Reconciliation Act (OBRA) of 1993.

The Congressional Budget Act of 1974 is linked to the procedures under the Gramm-Rudman-Hollings Act in various ways. In particular, the Congressional Budget Act of 1974 sets forth the deficit targets and discretionary spending limits used for purposes of sequestration.

. . . .

2. DISCRETIONARY SPENDING LIMITS (SECTION 251 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

The Budget Enforcement Act of 1990 established discretionary spending limits for fiscal years 1991 through 1995 in section 601(a)(2) of the Congressional Budget Act of 1974. The limits on discretionary budget authority and discretionary outlays are used for spending control under section 251 of the Gramm-Rudman-Hollings Act and are enforceable by the sequestration process. The Budget Enforcement Act of 1990 divides total discretionary spending into three categories — defense, international, and domestic — for fiscal years 1991 through 1993. For fiscal years 1994 and 1995, the limits apply to total discretionary budget authority and total discretionary outlays.

Additionally, section 601(b) of the Congressional Budget Act of 1974 creates a point of order in the Senate against the consideration of any budget resolution or appropriations bill that violates the discretionary spending limits.

Section 251 of the Gramm-Rudman-Hollings Act sets forth a detailed procedure for the periodic, automatic adjustment of the discretionary spending limits. Adjustments are made for various factors, including (among others) changes in accounting concepts and inflation, quota increases for the International Monetary Fund, funding increases for the compliance initiative of the Internal Revenue Service, and emergency spending if so designated by the President and Congress.

(continued...)

⁸⁷⁸(...continued)

Section 251 also provides: (1) that a within-session sequester may occur prior to July 1 during a fiscal year, but after that date the amount of the breach is dealt with in the subsequent fiscal year; and (2) that sequestration reductions must be applied uniformly (at the account and, if appropriate, activity level).

House Bill

The House bill continues the use of adjustable discretionary limits ("caps"). . . .

....

Current law, the House bill, and the Senate amendment have the same outlay limits for fiscal years 1994 and 1995. In the table below, the current and Senate outlay limits appear lower than those in the House bill only because they do not yet reflect the outlays from the "Special Budget Authority Allowance," an adjustment that will be made at the end of the session. The House bill and Senate amendment have the same budget authority and outlay limits for fiscal years 1996-1998.

....

Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides that "[t]he Senate declares that it is essential to . . . extend the system of discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974." H. Con. Res. 64, 103d Cong., 1st Sess. § 12(a)(2), 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). Section 12(b) set forth those limits for fiscal years 1996 through 1998 and created a point of order in the Senate to enforce them. *See id.* § 12(b).

In furtherance of the budget resolution, section 14002 of the Senate amendment continues the use of adjustable discretionary spending limits through fiscal year 1998. Unlike the House bill, the Senate amendment retains the current limits for fiscal years 1994 and 1995 without change and establishes new limits for fiscal years 1996 through 1998. (See table below.) Section 14002 provides that the discretionary spending limits for fiscal years 1996 through 1998 are those set forth in section 12(b)(1) of the budget resolution, which the House also used. As is the case for fiscal years 1994 and 1995 under current law, the Senate amendment establishes separate limits each year for total discretionary budget authority and total discretionary outlays.

(continued...)

⁷⁷⁰(...continued)

The Senate amendment retains, with minor technical and conforming changes, the current law's procedures for periodically adjusting the discretionary spending limits.

Conference Agreement

The conference agreement contains the Senate language.

The table below sets forth the proposed discretionary spending limits in the House bill, the Senate amendment, and the conference agreement.

DISCRETIONARY SPENDING LIMITS: FISCAL YEARS 1994-1998
[in billions of dollars]

	Fiscal Year—				
	1994	1995	1996	1997	1998
Current law¹					
Budget authority	509.920	517.398	—	—	—
Outlays	537.254	538.952	—	—	—
House bill					
Budget authority	500.964	506.287	519.142	528.079	530.639
Outlays	538.668	541.137	547.263	547.346	547.870
Senate amendment					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870
Conference agreement					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870

¹ Discretionary spending limits under current law are the "preview report discretionary limits" in the "Budget of the United States Government, Fiscal Year 1994, 135 (1993)". Current law provides, and the Senate amendment retains, a "Special Budget Authority Allowance" through fiscal year 1995 that will increase the limits on budget authority and outlays for those years when the end-of-session sequestration reports are prepared. Including that adjustment as currently estimated, the outlay limits for 1994 and 1995 are the same in current law, the House bill, and the Senate amendment.

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 399, 402, 936-37, 939-46 (1993), reprinted in 139 CONG. REC. H5792, H5890-91, H5893, H6036-39 (daily ed. Aug. 4, 1993). For additional legislative history of the extension of title VI, see *infra* note 936 (at the end of title VI).

Section 13111 of the Budget Enforcement Act added what is now section 601. See *infra* p. 707. For excerpts from the statement of managers accompanying the conference (continued...)

⁸⁷⁹(...continued)

report on the Budget Enforcement Act, see *infra* note 936.

Public Law 97-258 repealed the section 601 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original section 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 601 read as follows:

MATTERS TO BE INCLUDED IN PRESIDENT'S BUDGET

SEC. 601. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsections:

"(d) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth separately the items enumerated in section 301(a)(1)-(5) of the Congressional Budget Act of 1974.

"(e) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth the levels of tax expenditures under existing law for such fiscal year (the tax expenditure budget), taking into account projected economic factors, and any changes in such existing levels based on proposals contained in such Budget. For purposes of this subsection, the terms "tax expenditures" and "tax expenditures budget" have the meanings given to them by section 3(a)(3) of the Congressional Budget Act of 1974.

"(f) The Budget transmitted pursuant to subsection (a) for each fiscal year shall contain —

"(1) a comparison, for the last completed fiscal year, of the total amount of outlays estimated in the Budget transmitted pursuant to subsection (a) for each major program involving uncontrollable outlays and the total amount of outlays made under each such major program during such fiscal year;

"(2) a comparison, for the last completed fiscal year, of the total amount of revenues estimated in the Budget transmitted pursuant to subsection (a) and the total amount of revenues received during such year, and, with respect to each major revenue source, the amount of revenues estimated

(continued...)

⁸⁷⁰(...continued)

in the Budget transmitted pursuant to subsection (a) and the amount of revenues received during such year; and

"(3) an analysis and explanation of the difference between each amount set forth pursuant to paragraphs (1) and (2) as the amount of outlays or revenues estimated in the Budget submitted under subsection (a) for such fiscal year and the corresponding amount set forth as the amount of outlays made or revenues received during such fiscal year.

"(g) The President shall transmit to the Congress, on or before April 10 and July 15 of each year, a statement of all amendments to or revisions in the budget authority requested, the estimated outlays, and the estimated receipts for the ensuing fiscal year set forth in the Budget transmitted pursuant to subsection (a) (including any previous amendments or revisions proposed on behalf of the executive branch) that he deems necessary and appropriate based on the most current information available. Such statement shall contain the effect of such amendments and revisions on the summary data submitted under subsection (a) and shall include such supporting detail as is practicable. The statement transmitted on or before July 15 of any year may be included in the supplemental summary required to be transmitted under subsection (b) during such year. The Budget transmitted to the Congress pursuant to subsection (a) for any fiscal year, or the supporting detail transmitted in connection therewith, shall include a statement of all such amendments and revisions with respect to the fiscal year in progress made before the date of transmission of such Budget.

"(h) The Budget transmitted pursuant to subsection (a) for each fiscal year shall include information with respect to estimates of appropriations for the next succeeding fiscal year for grants, contracts, or other payments under any program for which there is an authorization of appropriations for such succeeding fiscal year and such appropriations are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

"(i) The Budget transmitted pursuant to subsection

(continued...)

⁸⁷⁰(...continued)

(a) for each fiscal year, beginning with the fiscal year ending September 30, 1979, shall contain a presentation of budget authority, proposed budget authority, outlays, proposed outlays, and descriptive information in terms of —

"(1) a detailed structure of national needs which shall be used to reference all agency missions and programs;

"(2) agency missions; and

"(3) basic programs.

To the extent practicable, each agency shall furnish information in support of its budget requests in accordance with its assigned missions in terms of Federal functions and subfunctions, including mission responsibilities of component organizations, and shall relate its programs to agency missions."

§ 602 **SEC. 602.⁸⁷¹ COMMITTEE ALLOCATIONS
AND ENFORCEMENT.**

§ 602(a) **(a) COMMITTEE SPENDING ALLOCATIONS. —**

§ 602(a)(1) **(1) HOUSE OF REPRESENTATIVES. —**

§ 602(a)(1)(A) **(A) ALLOCATION AMONG COMMITTEES. — The
joint explanatory statement accompanying a confer-
ence report on a budget resolution shall include
allocations, consistent with the resolution recom-
mended in the conference report, of the appropriate
levels (for each fiscal year covered by that resolution
and a total for all such years) of —**

§ 602(a)(1)(A)(i) **(i) total new budget authority,⁸⁷²**

⁸⁷¹ Section 602 is codified at 2 U.S.C. § 665a (Supp. IV 1992). Section 13111 of the Budget Enforcement Act added what is now section 602. *See infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Public Law 97-258 repealed the section 602 originally enacted in the Congressional Budget Act of 1974. *See* An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 602 read as follows:

MIDYEAR REVIEW

SEC. 602. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by striking out "on or before June 1 of each year, beginning with 1972" and inserting in lieu thereof "on or before July 15 of each year".

⁸⁷² Section 3(2) defines "budget authority." *See supra* pp. 11-13.

§ 602(a)(1)(A)(ii) (ii) total entitlement authority;⁸⁷³ and

§ 602(a)(1)(A)(iii) (iii) total outlays;⁸⁷⁴

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

§ 602(a)(1)(B) (B) NO DOUBLE COUNTING. — Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

§ 602(a)(1)(C) (C) FURTHER DIVISION OF AMOUNTS. — 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 for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

§ 602(a)(2) (2) SENATE ALLOCATION AMONG COMMITTEES. — The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of —

§ 602(a)(2)(A) (A) total new budget authority;⁸⁷⁵

⁸⁷³ Section 3(9) (*see supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (*see supra* p. 252).

⁸⁷⁴ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁷⁵ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

§ 602(a)(2)(B) (B) total outlays;⁸⁷⁶ and

§ 602(a)(2)(C) (C) social security outlays;⁸⁷⁷

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

§ 602(a)(3)(A) (3) AMOUNTS NOT ALLOCATED. — (A) In the House of Representatives, if a committee receives no allocation of new budget authority,⁸⁷⁸ entitlement authority,⁸⁷⁹ or outlays,⁸⁸⁰ that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

§ 602(a)(3)(B) (B) In the Senate, if a committee receives no allocation of new budget authority,⁸⁸¹ outlays,⁸⁸² or social security outlays,⁸⁸³ that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

§ 602(b) (b) SUBALLOCATIONS BY COMMITTEES. —

⁸⁷⁶ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁷⁷ Section 301(a)(6) implicitly defines the term "social security outlays" as "outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act." *See supra* note 143.

⁸⁷⁸ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁷⁹ Section 3(9) (*see supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (*see supra* p. 252).

⁸⁸⁰ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁸¹ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁸² Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁸³ Section 301(a)(6) implicitly defines the term "social security outlays" as "outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act." *See supra* note 143.

§ 602(b)(1)

(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES. — As soon as practicable after a budget resolution 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)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.⁸⁸⁴

§ 602(b)(2)

(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE. — Each other committee of the Senate to which an allocation under subsection (a)(2) is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 302(c) shall not apply in the Senate to committees other than the Committee on Appropriations.

§ 602(c)

(c) APPLICATION OF SECTION 302(f) TO THIS SECTION. — In fiscal years through 1995,⁸⁸⁵ reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any sub-allocation made under subsection (b), as applicable, for the fiscal year of the resolution or for the total of all fiscal years

⁸⁸⁴ See, e.g., S. REP. NO. 103-59, 103d Cong., 2d Sess. (June 17, 1993) (fiscal year 1994); S. REP. NO. 102-296, 102d Cong., 2d Sess. (June 17, 1992) (fiscal year 1993).

⁸⁸⁵ This should read "1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), reprinted in 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget.⁸⁸⁶ In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.⁸⁸⁷

⁸⁸⁶ By excepting the Appropriations Committee from subparagraph 302(f)(2)(A), the drafters of the Budget Enforcement Act intended that an appropriations bill would be subject to the point of order for exceeding the appropriate subcommittee allocation under section 302(b), but not for exceeding the full committee's allocation under section 302(a). See *supra* note 276. The drafters intended this result notwithstanding this language of section 602(c), which could be read to cause some ambiguity on this point.

⁸⁸⁷ In addition to the point of order applied by this section, section 12(c) of the budget resolution for fiscal year 1994 provides further enforcement:

(c) ENFORCING PAY-AS-YOU-GO. — At any time after the enactment of the reconciliation bill pursuant to section 7 of this resolution, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that would increase the deficit in this resolution for any fiscal year through fiscal year 1998 or would increase the deficit for any other fiscal year through fiscal year 2003, as measured by the sum of —

(1) all applicable estimates of direct spending and receipts legislation applicable to that fiscal year, other than any amounts resulting from —

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; and

(B) emergency provisions as designated under section 252(e) of that Act; and

(2) the estimated amount of savings in direct spending programs applicable to that fiscal year resulting from the prior year's sequestration under that Act, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year).

(d) WAIVER. — This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(e) APPEALS. — Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An
(continued...)

§ 602(d)

(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.⁸⁸⁸ — In the case of concurrent resolu-⁸⁸⁷(...continued)

affirmative vote of three-fifths of the Members of the Senate, 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 this section.

(f) DETERMINATION OF BUDGET LEVELS. — For purposes of this section, the levels of new budget authority, outlays, and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

H. Con. Res. 64, 103rd Cong., 1st Sess. § 12, 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted).

Section 12(a) of the resolution makes clear the purpose of the new point of order:

(a) PURPOSE. — The Senate declares that it is essential to —

(1) ensure compliance with the deficit reduction goals embodied in this resolution;

...

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill pursuant to section 7 of this resolution will create under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985

Id. § 12(a). The joint statement of managers accompanying the budget resolution explains: "Section 11 of the Senate amendment contains new enforcement procedures to . . . prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill will create." H.R. CONF. REP. NO. 103-48, 103d Cong., 1st Sess. 47 (1993), reprinted in 139 CONG. REC. H1747, H1760 (daily ed. Mar. 31, 1993).

Note that this point of order will apply in at least two situations not covered by sections 602(c) and 311(a). First, the budget resolution point of order will prohibit measures — such as a back-loaded tax cut or a late-starting entitlement — that would worsen the deficit in any of fiscal years 1999 through 2003. Second, the budget resolution point of order would prohibit cutting the taxes used to fund the spending provided for through the use of a reserve fund.

⁸⁸⁸ This should read "1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), (continued...)

tions on the budget for fiscal years 1992 through 1995,⁸⁸⁹ allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in sections 302(c), (d), (e), (f), and (g) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604⁸⁹⁰) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604⁸⁹¹).

§ 602(e) (e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE. [(1)]⁸⁹² — Section 302(f)(1) and, after April 15 of any calendar year section 303(a), 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 —

§ 602(e)(1) (1)⁸⁹³ the enactment of such bill or resolution as reported;

⁸⁸⁹ (...continued)

extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), reprinted in 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

⁸⁹⁰ This should read "1998." See *supra* note 888.

⁸⁹¹ See *infra* pp. 325-327.

⁸⁹² See *infra* pp. 325-327.

⁸⁹³ The original lacks this initial paragraph number, but the presence of paragraph (2) below makes it apparent that this should be "(1)." The subparagraphs of this paragraph now numbered (1), (2), and (3), should be redesignated (A), (B), and (C).

⁸⁹⁴ The presence of paragraph (2) below makes it apparent that this should be "(A)."

§ 602(e)(2) (2)⁸⁹⁴ the adoption and enactment of such amendment; or

§ 602(e)(3) (3)⁸⁹⁵ the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay⁸⁹⁶ 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.

§ 602(e)(2) (2)⁸⁹⁷ REVISED ALLOCATIONS. —

§ 602(e)(2)(A) (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 section 302(f)(1) but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may file with the House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

⁸⁹⁴ The presence of paragraph (2) below, *infra* p. 321, makes it apparent that this should be "(B)."

⁸⁹⁵ The presence of paragraph (2) below makes it apparent that this should be "(C)."

⁸⁹⁶ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁹⁷ Note the presence of another paragraph (2) above, *supra* p. 321, which should be numbered section 602(e)(1)(B).

§ 602(e)(2)(B)

(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.

§ 603

SEC. 603.⁸⁹⁸ CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

§ 603(a)

(a) **ADJUSTING SECTION [602]⁸⁹⁹ ALLOCATION OF DISCRETIONARY SPENDING.** — 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, a section 602(a) allocation to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title

⁸⁹⁸ Section 603 is codified at 2 U.S.C. § 665b (Supp. IV 1992). Section 13111 of the Budget Enforcement Act added what is now section 603. See *infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Public Law 97-258 repealed the section 603 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 603 read as follows:

FIVE-YEAR BUDGET PROJECTIONS

SEC. 603. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended —

(1) by inserting after "ensuing fiscal year" in paragraph (5) "and projections for the four fiscal years immediately following the ensuing fiscal year";

(2) by striking out "such year" in paragraph (5) and inserting in lieu thereof "such years"; and

(3) by inserting after "ensuing fiscal year" in paragraph (6) "and projections for the four fiscal years immediately following the ensuing fiscal year".

⁸⁹⁹ This section number reference is missing from the original, but the first sentence of the section makes clear the intent that this reference be to section 602.

31, United States Code. Such allocation shall include the full allowance specified under section 251(b)(2)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

§ 603(b) (b) As soon as practicable after a section 602(a) allocation is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

§ 604 **SEC. 604.⁹⁰⁰ RECONCILIATION DIRECTIVES
REGARDING PAY-AS-YOU-GO REQUIRE-
MENTS.**

§ 604(a) **(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO IN
THE HOUSE OF REPRESENTATIVES. —** If legislation providing
for a net reduction in revenues in any fiscal year (that, within
the same measure, is not fully offset in that fiscal year by
reductions in direct spending) is enacted, the Committee on the
Budget of the House of Representatives may report, within 15
legislative days during a Congress, a pay-as-you-go reconcilia-

⁹⁰⁰ Section 604 is codified at 2 U.S.C. § 665c (Supp. IV 1992). Section 13111 of the Budget Enforcement Act added what is now section 604. *See infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Public Law 97-258 repealed the section 604 originally enacted in the Congressional Budget Act of 1974. *See* An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 604 read as follows:

**ALLOWANCES FOR SUPPLEMENTAL BUDGET AUTHORITY AND UNCONTROLLA-
BLE OUTLAYS**

SEC. 604. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is further amended —

- (1) by striking out "and" at the end of paragraph (11);
- (2) by striking out the period at the end of paragraph (12)
and inserting in lieu thereof "; and"; and
- (3) by adding at the end thereof the following new para-
graph:

"(13) an allowance for additional estimated expenditures and proposed appropriations for the ensuing fiscal year, and an allowance for unanticipated uncontrollable expenditures for the ensuing fiscal year."

tion directive⁹⁰¹ in the form of a concurrent resolution —

§ 604(a)(1) (1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

§ 604(a)(2) (2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

§ 604(b) (b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION IN THE HOUSE OF REPRESENTATIVES. — In the House of Representatives, subsections (b) through (d) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.⁹⁰²

⁹⁰¹ Section 310 sets forth the reconciliation process in the context of Congress's annual cycle of concurrent resolutions on the budget. *See supra* pp. 158-177. For other budget process legislation dealing with reconciliation, see Congressional Budget Act section 300, *supra* p. 47 (budget timetable, including that for reconciliation); section 301(b)(2) & (3), *supra* pp. 58-60 (empowering budget resolutions to include reconciliation instructions, as well as a provision providing for delayed enrollment of legislation pending completion of reconciliation); section 305, *supra* pp. 120-142 (procedures for budget resolutions and reconciliation bills); section 313, *supra* pp. 198-228 (the Byrd Rule prohibiting extraneous matter in reconciliation); section 904(c) & (d), *infra* pp. 361-368 (supermajority requirements for points of order and appeals, including those for reconciliation); Gramm-Rudman-Hollings section 258C, *infra* pp. 658-662 (providing a special Gramm-Rudman-Hollings reconciliation process to achieve savings in lieu of an impending sequester); section 5 of Executive Order 12857, *infra* pp. 826-827 (reconciliation recommendations in special direct spending message); and section 16005 of H.R. 2264, 103d Cong., 1st Sess., 139 CONG. REC. H3029, H3199-201 (daily ed. May 27, 1993) (as passed by the House of Representatives), as applied to the House by H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993)), *infra* pp. 844-848 (reconciliation procedures in response to special direct spending message).

⁹⁰² During the debate on the conference report on legislation of which the Budget Enforcement Act formed a part, the Chairman and Ranking Republican Member of the Senate Budget Committee discussed the relevance of this section to the Senate:

(continued...)

⁹⁰³(...continued)

REVENUE SHORTFALL

Mr. DOMENICI. Mr. President, section 13111 of this bill adds a new title VI to the Congressional Budget Act. Section 604 of this new title provides a new fast-track reconciliation procedure in the House of Representatives to allow for the consideration of reconciliation bills to meet revenue shortfalls. The conference report does not apply this procedure to the Senate.

I wonder if the distinguished chairman of the Budget Committee could respond to a question on the application of section 310 of the Budget Act to a bill passed by the House under this procedure?

If the House passed a measure under this procedure that was deemed to be a reconciliation bill, would all the provisions of the Budget Act regarding reconciliation legislation, including subsection 310(g) of the Budget Act and the Byrd rule, apply in the Senate?

Mr. SASSER. I would be happy to respond to the distinguished ranking member of the Budget Committee.

Let me start by saying that the conferees on the budget process for the Senate, as the Senator of New Mexico well knows, did not view this special procedure to be of much merit. After all, procedures already exist under section 304 of the Congressional Budget Act whereby Congress may revise budget resolutions and create new reconciliation instructions calling for new deficit reduction. That is one of many reasons why we did not seek to have a similar provision applied to the Senate. But the conferees on the part of the House insisted on having this rule in the House, so that is why the provision is there.

So what would happen if the House of Representatives passed a concurrent resolution under this section? At the outset we have to acknowledge that it is unclear whether the Presiding Officer would treat it like a budget resolution in the Senate. As it deals with matter that would normally be addressed in budget resolutions, I would expect that the Presiding Officer would refer it to the Budget Committee.

If the Budget Committee reported out the concurrent resolution under this section, it is unclear whether the Presiding Officer would view it as being constrained by the 50-hour or 15-hour time limits for budget resolutions.

If both Houses passed the resolution, however, and a bill in the nature of a reconciliation bill resulted, the next question would be whether the Senate would give it all the protections that normally go to a reconciliation bill.

(continued...)

§ 605 **SEC. 605.⁹⁰³ APPLICATION OF SECTION 311;
POINT OF ORDER.**

§ 605(a)(1) **(a) APPLICATION OF SECTION 311(a). — (1) In the House of Representatives, in the application of section 311(a)(1) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority⁹⁰⁴ or total budget outlays⁹⁰⁵ or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.**

§ 605(a)(2) **(2) In the Senate, in the application of section 311(a)(2)⁹⁰⁶ to any bill, resolution, motion, or conference**

⁹⁰³(...continued)

As I saw it, the conferees on the budget process intended that all the points of order and restrictions that ordinarily apply to reconciliation bills would apply in this case as well. In particular, the points of order against putting Social Security changes and other extraneous matter in reconciliation should apply in this case. That is, the conferees on the part of the Senate fully expected that the provisions of section 310(g) of the Congressional Budget Act and of the Byrd rule should apply to this reconciliation bill, as well.

So, in sum, we are not sure that the product of this new procedure should be put on a fast track if it comes over here to the Senate. But if it is put on such a fast track, then it was the intent of the conferees that it would not provide a fast track for extraneous matter.

136 CONG. REC. S17,539 (daily ed. Oct. 27, 1990) (statements of Sens. Domenici & Sasser).

⁹⁰³ Section 605 is codified at 2 U.S.C. § 665d (Supp. IV 1992). For legislative history of section 605, see *infra* note 907 (at the end of this section).

⁹⁰⁴ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

⁹⁰⁵ Section 3(1) defines "outlays." See *supra* p. 11.

⁹⁰⁶ This should read 311(a).

report, reference in section 311 to the appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate levels for that year and the 4 succeeding years.

§ 605(b)

(b) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE. — After Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would result in a deficit for the first fiscal year covered by that resolution that exceeds the maximum deficit amount specified for such fiscal year in section 601(a).⁹⁰⁷



⁹⁰⁷ See *supra* p. 299.

Section 13111 of the Budget Enforcement Act added what is now section 605. See *infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Before enactment of the Budget Enforcement Act, the Congressional Budget Act addressed this subject, sometimes called the "MDA point of order," in section 311(a), which used to read as follows:

**NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE
LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS**

SEC. 311. (a) LEGISLATION SUBJECT TO POINT OF ORDER. — Except as provided by subsection (b), after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, or any conference report on any such bill or resolution, if —

- (1) the enactment of such bill or resolution as reported;
- (2) the adoption and enactment of such amendment; or

(continued...)

⁶⁰⁷(...continued)

(3) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the appropriate level of total budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution or, *in the Senate, would otherwise result in a deficit for such fiscal year that —*

(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); and

(B) for fiscal year 1988 or 1989, exceeds the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus \$23,000,000,000 for fiscal year 1988 or \$36,000,000,000 for fiscal year 1989;

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection.

(emphasis added).

Section 13112(a)(10) of the Budget Enforcement Act struck the italicized portion of what used to be section 311(a) (as well as the clause that followed it). See *infra* p. 709. (Section 13112(a)(10) of the Budget Enforcement Act substituted another clause providing an exception for wartime. See *supra* pp. 178-192.)

Note that whereas section 311(a) appears on the list of points of order requiring 60 votes to waive, the Budget Enforcement Act neglected to add section 605(b) to the list. See *supra* pp. 361-363. Consequently, while violating the maximum deficit amount in this context used to require a supermajority, it no longer does.

Public Law 97-258 repealed the section 605 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 605 read as follows:

BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES
(continued...)

⁹⁰⁷(...continued)

SEC. 605. (a) On or before November 10 of each year (beginning with 1975), the President shall submit to the Senate and the House of Representatives the estimated outlays and proposed budget authority which would be included in the Budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for the ensuing fiscal year if all programs and activities were carried on during such ensuing fiscal year at the same level as the fiscal years in progress and without policy changes in such programs and activities. The estimated outlays and proposed budget authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency"), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying the estimated outlays and proposed budget authority, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated outlays and proposed budget authority so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each year.

§ 606 **SEC. 606.⁹⁰⁸ 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.**

§ 606(a) (a) **5-YEAR BUDGET RESOLUTIONS.** — In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995,⁹⁰⁹ that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years for the matters described in section 301(a).

⁹⁰⁸ Section 606 is codified at 2 U.S.C. § 665e (Supp. IV 1992). Section 13111 of the Budget Enforcement Act added what is now section 606. *See infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Section 223 of Gramm-Rudman-Hollings repealed the original section 606. *See infra* p. 422. As originally enacted in 1974, section 606 read as follows:

STUDY OF OFF-BUDGET AGENCIES

SEC. 606. The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis those provisions of law which exempt agencies of the Federal Government, or any of their activities or outlays, from inclusion in the Budget of the United States Government transmitted by the President under section 201 of the Budget and Accounting Act, 1921. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

⁹⁰⁹ This should read "1995, 1996, 1997, or 1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), reprinted in 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

§ 606(b) (b) **POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.** — It shall not be in order in the House of Representatives to consider any concurrent resolution on the budget for a fiscal year or conference report thereon under section 301 or 304 that exceeds the maximum deficit amount for each fiscal year covered by the concurrent resolution or conference report as determined under section 601(a), including possible revisions under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

§ 606(c) (c) **POINT OF ORDER IN THE SENATE.**⁹¹⁰ — It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays⁹¹¹ for the first fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 601(a), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal years as determined



⁹¹⁰ Section 904(c) provides that the Senate may waive or suspend section 606(c) only by the affirmative vote of three-fifths of the Members, duly chosen and sworn — that is, 60 Senators. *See infra* pp. 361-363. Section 275(b) of Gramm-Rudman-Hollings provides that this supermajority requirement expires on September 30, 1995. *See infra* p. 690.

Note also the provisions for the suspension of title VI under certain circumstances after the declaration of war or a recession pursuant to section 258 of Gramm-Rudman-Hollings. *See infra* pp. 619-630.

For legislative history of section 606(c), *see infra* note 912 (at the end of this subsection).

⁹¹¹ Section 3(1) defines "outlays." *See supra* p. 11.

under section 601(a).⁹¹²

⁹¹² Section 606(c) now addresses the matter that the old section 301(i) used to address. Section 13303(b) of the Budget Enforcement Act repealed what used to be section 301(i). See *infra* p. 756. Before enactment of the Budget Enforcement Act, section 301(i) read as follows:

(i) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED. —

(1)(A) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under this section, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7).

(B) In the House of Representatives the point of order established under subparagraph (A) with respect to the consideration of a conference report or with respect to the consideration of a motion to concur, with or without an amendment or amendments, in a Senate amendment, the stage of disagreement having been reached, may be waived only by a vote of three-fifths of the Members present and voting, a quorum being present.

(2)(A) Paragraph (1) of this subsection shall not apply if a declaration of war by the Congress is in effect.

(B) Paragraph (1) shall not apply to the consideration of any concurrent resolution on the budget for fiscal year 1988 or fiscal year 1989, or any amendment thereto or conference report thereon, if such concurrent resolution or conference report provides, or in the case of an amendment if the concurrent resolution as changed by the adoption of such amendment would provide for deficit reduction from a budget baseline estimate as specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year (based on laws in effect on January 1 of the calendar year during which the fiscal year begins) equal to or greater than the maximum amount of unachieved deficit reduction for such fiscal year

(continued...)

§ 606(d)(1) (d) ADJUSTMENTS. — (1) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995⁹¹³ under section 301⁹¹⁴ or 304⁹¹⁵ may set forth levels consistent with allocations increased by —

§ 606(d)(1)(A) (A) amounts not to exceed the budget authority⁹¹⁶ amounts in section 251(b)(2)(E)(i)⁹¹⁷ and (ii)⁹¹⁸ of the Balanced Budget and Emergency Deficit Control Act of 1985 and the composite outlays⁹¹⁹ per category⁹²⁰ consis-

⁹¹²(...continued)

as specified in section 251(a)(3)(A) of such Act.

(C) For purposes of the application of subparagraph (B), the amount of deficit reduction for a fiscal year provided for in a concurrent resolution, or amendment thereto or conference report thereon, 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.

⁹¹³ This should read "1995, 1996, 1997, and 1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), reprinted in 139 CONG. REC. H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

⁹¹⁴ See *supra* pp. 50-87.

⁹¹⁵ See *supra* pp. 117-119.

⁹¹⁶ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

⁹¹⁷ See *infra* p. 499. Section 251(b)(2)(E)(i) of Gramm-Rudman-Hollings provides the special allowance for discretionary new budget authority for the domestic category.

⁹¹⁸ See *infra* p. 500. Section 251(b)(2)(E)(ii) of Gramm-Rudman-Hollings provides the special allowance for discretionary new budget authority for the international category.

⁹¹⁹ Section 250(c)(20) of Gramm-Rudman-Hollings defines "composite outlay rate." See *infra* p. 447.

tent with them; and

§ 606(d)(1)(B) (B) the budget authority⁹²¹ and outlay⁹²² amounts in section 251(b)(1)⁹²³ of that Act.

§ 606(d)(2) (2) For purposes of congressional consideration of provisions described in sections 251(b)(2)(A),⁹²⁴ 251(b)(2)(B),⁹²⁵ 251(b)(2)(C),⁹²⁶ 251(b)(2)(D),⁹²⁷ and 252(e),⁹²⁸ determinations under sections 302,⁹²⁹ 303,⁹³⁰ and 311⁹³¹ shall not take

⁹²⁰ (...continued)

⁹²⁰ Section 250(c)(4) of Gramm-Rudman-Hollings defines "category." See *infra* p. 441.

⁹²¹ Section 3(2) defines "budget authority." See *supra* pp. 11-13.

⁹²² Section 3(1) defines "outlays." See *supra* p. 11.

⁹²³ See *infra* pp. 493-496. Section 251(b)(1) of Gramm-Rudman-Hollings provides for adjustments to discretionary spending limits for changes in concepts and definitions, changes in inflation, and credit reestimates.

⁹²⁴ See *infra* p. 497. Section 251(b)(2)(A) of Gramm-Rudman-Hollings provides for adjustments to discretionary spending limits for the Internal Revenue Service compliance initiative.

⁹²⁵ See *infra* p. 498. Section 251(b)(2)(B) of Gramm-Rudman-Hollings provides for adjustments to discretionary spending limits for debt forgiveness for the Arab Republic of Egypt and the Government of Poland.

⁹²⁶ See *infra* p. 498. Section 251(b)(2)(C) of Gramm-Rudman-Hollings provides for adjustments to discretionary spending limits for the United States quota as part of the International Monetary Fund Ninth General Review of Quotas.

⁹²⁷ See *infra* p. 498. Section 251(b)(2)(D) of Gramm-Rudman-Hollings provides for adjustments to discretionary spending limits for emergency requirements (including the costs for operation Desert Shield).

⁹²⁸ See *infra* p. 517. Section 252(e) of Gramm-Rudman-Hollings provides for direct spending or receipts legislation that the President and Congress designate as emergency requirements.

⁹²⁹ See *supra* pp. 88-105.

⁹³⁰ See *supra* pp. 106-116.

into account any new budget authority,⁹³² new entitlement authority,⁹³³ outlays,⁹³⁴ receipts, or deficit effects in any fiscal year of those provisions.

⁹³¹(...continued)

⁹³¹ See *supra* pp. 178-194. This listing of sections should also include the new points of order that title VI added to the Congressional Budget Act in sections 601(b), 602(c), and 605(b). Congress intended that the Budget Committees not count these items for any Congressional Budget Act purposes.

⁹³² Section 3(2) defines "budget authority." See *supra* pp. 11-13.

⁹³³ Section 3(9) (see *supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (see *supra* p. 252).

⁹³⁴ Section 3(1) defines "outlays." See *supra* p. 11.

§ 607 **SEC. 607.⁹³⁵ EFFECTIVE DATE.**

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1998.⁹³⁶

⁹³⁵ Section 13111 of the Budget Enforcement Act added what is now section 607. See *infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936.

Public Law 97-258 repealed the section 607 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 607 read as follows:

YEAR-AHEAD REQUESTS FOR AUTHORIZATION OF NEW BUDGET AUTHORITY

SEC. 607. Notwithstanding any other provision of law, any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which the fiscal year begins. In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be submitted for at least the first 2 fiscal years.

⁹³⁶ Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), changed this reference to "1998" from "1995." Section 14001 of that Act states the purpose of the change:

SEC. 14001. PURPOSE.

The Congress declares that it is essential to —

- (1) preserve the deficit reduction achieved by this Act;
- (2) extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974;
- (3) extend the pay-as-you-go enforcement system

Id. § 14001. The joint statement of managers accompanying that Act explains:

(continued...)

⁹³⁴(...continued)

THE CONGRESSIONAL BUDGET PROCESS

Subtitle B of Title XV (Budget Process) of the House-passed bill amends the Congressional Budget Act (CBA) of 1974 (P.L. 93-344, as amended) . . . to make various changes in the congressional budget process. (In addition, Subtitle B extends the discretionary spending limits in the CBA of 1974, which are used for purposes of sequestration under the Gramm-Rudman-Hollings Act, through fiscal year 1998 . . .).

Title XIV (Enforcement Procedures) of the Senate amendment amends the [Congressional Budget Act] of 1974 only the purpose of extending certain procedures in Title VI of that Act (including the discretionary spending limits).

The conference agreement includes the Senate language. . . .

1. BUDGET RESOLUTION COVERAGE AND ENFORCEMENT

Current Law

The Budget Enforcement Act of 1990 put in place temporary provisions in Title VI of the Budget Act to make the congressional budget process fit with the sequestration scheme that was also a part of the 1990 Budget Enforcement Act. These provisions were only temporary since Congress was venturing into new procedural territory and needed to see how the changes would play out. Titles III (Congressional Budget Process) and VI of the [Congressional Budget Act] of 1974 establish the requirements for the coverage and enforcement of the budget resolution. Each year, Congress adopts a concurrent resolution on the budget setting forth levels of spending, revenues, the deficit, and the public debt that reflect broad congressional budget policies and priorities. In general, budgetary legislation first effective in a fiscal year may not be considered until the budget resolution for that year has been adopted, with different exceptions specified for the House and Senate — including an exception in the House for regular appropriations measures considered after May 15.

The budget resolution is enforced principally through two means: (1) points of order under the [Congressional Budget Act] of 1974, which may be raised against legislation in violation of budget resolution levels or other [Congressional Budget Act] requirements, and (2) reconciliation instructions to House and Senate committees to bring existing spending, revenue, and debt limit laws within their jurisdiction into conformity with budget resolution levels.

In particular, procedures under Section 302 and Section 311 of the
(continued...)

⁶⁰⁴(...continued)

[Congressional Budget Act] of 1974 (and under Section 602 for fiscal years 1991 through 1995 (see below)) are prominent in the enforcement of budget resolution spending levels by points of order, especially with respect to the consideration of annual appropriations measures.

Under Section 302, once the budget resolution is adopted, all committees with spending jurisdiction receive an allocation of spending under the resolution for programs within their jurisdiction. (In the House, allocations are made for new budget authority, entitlement authority and outlays; in the Senate, allocations are made for new budget authority and outlays.) Committees then are required to subdivide amounts allocated to them among their subcommittees or by program. The Appropriations Committees must subdivide by subcommittee. In general, the House or Senate may not consider spending legislation for a fiscal year that would cause any committee subdivision of spending for that year to be exceeded. Outlay subdivisions are not enforced by point of order in the House.

Under Section 311, the House and Senate may not consider spending or revenue measures that would cause the aggregate levels of spending and revenues in the budget resolution to be violated. An exception is provided in the House for instances in which the spending measure would not cause the pertinent committee's allocation of new discretionary budget authority or new entitlement authority to be exceeded. Section 311 also provides a procedure only in the Senate for the enforcement of spending and revenue levels for Social Security.

Title VI of the [Congressional Budget Act] of 1974, enacted as part of the Budget Enforcement Act (BEA) of 1990, sets forth temporary requirements for budget resolution coverage and enforcement for fiscal years 1991 through 1995. Budget resolutions and committee allocations are required to cover five fiscal years (rather than three fiscal years, as required under permanent law). Enforcement procedures under Section 302 are superseded through fiscal year 1995 by temporary requirements established in Section 602, including requirements that: (1) direct spending legislation is subject to a point of order if it breaches a spending allocation in the budget year or over the 5-year period covered by the allocation; (2) only the Appropriations Committees must make subdivisions of spending of amounts allocated to them under the budget resolution; and (3) if Congress has not adopted a budget resolution by April 15, the House Budget Committee must make an allocation of spending to the House Appropriations Committee consistent with the discretionary spending limits. Title VI also provides 1-year and 5-year enforcement of revenue legislation.

....

Senate Amendment

(continued...)

⁹⁰⁴(...continued)

The Senate amendment, in Section 14002(3)(B), extends all of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 without change. — —

....

Conference Agreement

The House recedes to the Senate. . . .

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 957-61 (1993), reprinted in 139 CONG. REC. H6042-43 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of the discretionary spending limits, see *supra* note 870 (at the end of section 601).

Section 13111 of the Budget Enforcement Act repealed the original title heading of title VI and added what is now title VI. See *infra* p. 707. Public Law 97-258 repealed the sections 601-605 and 607 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). Section 223 of Gramm-Rudman-Hollings repealed the original section 606. See *infra* p. 422. The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31.

The statement of managers accompanying the conference report on the Budget Enforcement Act explains provisions of the new title VI:

IX. ADDITIONAL CHANGES TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Current law

The Congressional Budget and Impoundment Control Act of 1974, as amended, provides for the adoption each year of a concurrent resolution on the budget setting forth spending, deficit, and revenue levels. The budget resolution is enforced principally through points of order against legislation violating budget resolution spending, revenue, and deficit levels, and through reconciliation instructions to congressional committees. Budget resolutions include budget levels for three fiscal years, but only the first year levels are binding (i.e., enforceable by points of order).

The budget resolution may not provide for a deficit in excess of the Gramm-Rudman-Hollings deficit target for the fiscal year. There are no other restrictions on congressional discretion in setting budget resolution levels under current law.

(continued...)

^{xxx}(...continued)

Title X of the Act establishes congressional procedures for considering impoundment of funds by the executive branch.

House bill

The House bill amends the Congressional Budget Act to establish procedures for enforcing the discretionary spending limits established for fiscal years 1991-1995 through action each year on the budget resolution. Through fiscal year 1995, budget resolutions are required to cover five fiscal years.

The House bill also establishes a procedure for automatic reconciliation instructions to the tax committees should legislation be enacted reducing revenues without an offset.

The House provisions are enacted as temporary amendments to the 1974 Budget Act, generally expiring at the end of fiscal year 1995.

Senate amendment

The Senate amendment also expands 1974 Budget Act enforcement procedures to ensure compliance with the discretionary spending limits and pay-as-you-go requirements to assure that the 5-year, \$500 billion deficit reduction plan is implemented and maintained. . . .

The Senate amendment makes permanent changes in the 1974 Budget Act.

Conference agreement

The conference agreement includes a number of budget process changes. It makes temporary changes in the Congressional Budget Act to create 5-year budget resolutions that would be enforced by points of order against exceeding committee allocations for both the first year and the total of the 5 years covered by the budget resolution. Section 601(b) of the conference agreement also creates temporary points of order in the Senate against violating the discretionary spending limits.