

be included in all calculations required by this Act.¹⁶⁵¹

¹⁶⁵¹ The "notwithstanding" clause of this paragraph refers to section 710(a) of the Social Security Act, which was intended to take the Medicare Hospital Insurance Trust Fund off budget beginning with fiscal year 1993. By virtue of this section of Gramm-Rudman-Hollings, budget resolutions display the Medicare Hospital Insurance Trust Fund in much the same fashion that budget resolutions for fiscal years 1997 through 1991 displayed the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds.

Section 710(a) has applied to the Medicare Hospital Insurance Trust Fund since fiscal year 1993. In the following quotation of section 710(a) as it now reads, additions to the version of section 710(a) in force through fiscal year 1992 appear in *italic*, while deletions appear in ~~strikeout~~.

(a)(1) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, and the Federal Disability Insurance Trust Fund, *and the Federal Hospital Insurance Trust Fund* and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(2) *No provision of law enacted after December 12, 1985 (other than a provision of an appropriation Act that appropriates funds authorized under this chapter as in effect on December 12, 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.*

42 U.S.C. § 911(a) (1988). Section 346(b) of the Social Security Amendments of 1983, Pub. L. 98-21, tit. III, § 346(b), 97 Stat. 138 (1983), and section 261(b) of Gramm-Rudman-Hollings (*see infra* pp. 669-670) required the text of section 710(a) to change effective for fiscal years beginning with fiscal year 1993.

The conferees on the fiscal year 1993 budget resolution resolved the conflict between section 257(b)(3) and section 710(a) as follows:

MAXIMUM DEFICIT AMOUNTS AND THE DISPLAY OF HOSPITAL INSURANCE

The conference agreement complies with the requirement of section 606(b) and (c) of the Congressional Budget Act (2 U.S.C. § 665e(b) & (c) (Supp. II 1990)) that the budget resolution not exceed the maximum deficit amount as determined under section 601(a)(1) of the Congressional Budget Act (2 U.S.C. § 665(a)(1) (Supp. II 1990)).

Section 601(a)(1) defines the term "maximum deficit amount" to
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¹⁰⁵¹(...continued)

mean the amounts set forth in that section "as adjusted in strict conformance with sections 251, 252, and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings]." Section 257(b)(3) of Gramm-Rudman-Hollings (2 U.S.C. § 907(b)(3) (Supp. II 1990)) requires that, notwithstanding any other provision of law, when calculating the baseline deficit under section 253 of Gramm-Rudman-Hollings (2 U.S.C. [§] 903 (Supp. II 1990)) for purposes of determining the adjustment to the maximum deficit amounts set forth in section 601(a)(1) of the Congressional Budget Act, "the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act [Gramm-Rudman-Hollings]." (Section 13101(e) of the Budget Enforcement Act of 1990 (Pub. L. No. 101-508, § 13101(e), 104 Stat. 1388, 1388-591 to -593) amended section 257(b)(3) of Gramm-Rudman-Hollings to read as it now does.)

The requirement in section 606 (b) and (c) of the Congressional Budget Act (2 U.S.C. § 665e (b) & (c) (Supp. II 1990)) that the budget resolution not exceed the adjusted maximum deficit amount thus requires that the budget resolution include Hospital Insurance Trust Fund receipts and disbursements in the calculation of the deficit for purposes of comparison with the maximum deficit amount and thus, necessarily, requires calculating aggregate amounts for budget authority, outlays and revenues that include Hospital Insurance. The conferees note that this treatment of hospital insurance is consistent with amendments to the definition of budget authority in section 3(2)(B) of the Congressional Budget Act (2 U.S.C. § 622(2)(B) (Supp. II 1990)) that by implication include hospital insurance obligations as budget authority for purposes of that Act, and is also similar to the treatment (in terms of displays and allocations) that budget resolutions gave the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds in budget resolutions covering fiscal years 1987 through 1991.

The requirement that the budget resolution not exceed the adjusted maximum deficit amount also has force following adoption of the budget resolution. Compliance with the maximum deficit amount is enforced in the budget process through points of order against any legislation that would cause the maximum deficit amount to be exceeded. This is accomplished in the Senate by section 605([b]) of the Congressional Budget Act (2 U.S.C. § 665(d) (Supp. II 1990)) and in both Houses by points of order under Congressional Budget Act sections 302 (2 U.S.C. § 633 (1988 & Supp. II 1990)) (enforcing committee spending allocations) and 311 (2 U.S.C. § 642 (1988)) (enforcing budget authority, outlay and revenue totals in the resolution).

For purposes of the enforcement of this resolution through the budget process, therefore, the statement of managers also allocates total levels of spending to House and Senate Committees that include hospital insurance. The conferees intend that the House and Senate Budget Committees will

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¹⁰⁵¹(...continued)

advise their respective Houses as to the levels of budget authority, outlays and revenues, under section 302(g) and 311(c) of the Congressional Budget Act (2 U.S.C. §§ 633(g) & 642(c) (1988)), based on the totals in the resolution that include hospital insurance. The conferees also expect that any legislation affecting hospital insurance receipts and disbursements will be subject to enforcement under the Congressional Budget Act.

At the same time, the conferees note that section 710(a) of the Social Security Act (42 U.S.C. § 911(a) (1988)) provides that, effective for fiscal years beginning on or after October 1, 1992, receipts and disbursements of the Hospital Insurance Trust Fund are not to be included in the totals of the President's budget or the congressional budget. In addition and effective at the same time, it provides that the disbursements of the Federal Supplementary Medical Insurance Trust Fund are to be treated as a separate major functional category of the President's budget and in the congressional budget, and that the receipts of the trust fund are to be set forth separately in those budgets. (Section 346(b) of the Social Security Amendments of 1983, Pub. L. 98-21, tit. III, § 346(b), 97 Stat. 138 (1983), and section 261(b) of Gramm-Rudman-Hollings (99 Stat. at 1094) require the text of section 710(a) of the Social Security Act to have these effects for fiscal years beginning with fiscal year 1993).

In compliance with these provisions, the conferees have also included in the conference report alternative displays of budget totals excluding Hospital Insurance receipts and disbursements, and they have set forth the net disbursements of the Federal Supplementary Medical Insurance Trust Fund as a separate functional category. The conferees have also included a separate functional display of the total for Medicare and have displayed functions 900 and 950 both with and without hospital insurance. In sum, the conference agreement treats the Medicare Hospital Insurance Trust Fund much as budget resolutions treated Social Security prior to 1990.

H.R. CONF. REP. NO. 102-529, 102d Cong., 2d Sess. 58-60 (1992), *reprinted in* 138 CONG. REC. H3602, H3617 (daily ed. May 20, 1992).

The budget resolution for fiscal year 1994 follows this practice. *See* H.R. CONF. REP. NO. 103-48, 103d Cong., 1st Sess. 46 (1993), *reprinted in* 139 CONG. REC. H1747, H1760 (daily ed. Mar. 31, 1993); S. REP. NO. 103-19, 103d Cong., 1st Sess. 52-54 (1993).

For Congress's practice with regard to budget resolutions covering fiscal years 1987 through 1991 to include revenue, outlay, and deficit totals both including and excluding the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, *see* Concurrent Resolution on the Budget — Fiscal Year 1991, H. Con. Res. 310, 101st Cong., 2d Sess., §§ 2 & 3(a), 104 Stat. 5163 (1990); Concurrent Resolution on the Budget — Fiscal Year 1990, H. Con. Res. 106, 101st Cong., 1st Sess., §§ 2 & 3(a), 103 Stat. 2540 (1989); Concurrent Resolution on the Budget — Fiscal Year 1989, H. Con. Res. 268, (continued...)

§ 257(c) (c) DISCRETIONARY APPROPRIATIONS.¹⁶⁵² — For the budget year¹⁶⁵³ and each outyear,¹⁶⁵⁴ the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

§ 257(c)(1) (1) INFLATION OF CURRENT-YEAR¹⁶⁵⁵ APPROPRIATIONS. — Budgetary resources¹⁶⁵⁶ other than unobligated balances shall be at the level provided for the budget year¹⁶⁵⁷ in full-year appropriation Acts. If for any account¹⁶⁵⁸ a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year,¹⁶⁵⁹

¹⁶⁵¹(...continued)
100th Cong., 2d Sess., §§ 2 & 3(a), 102 Stat. 4875 (1988); Concurrent Resolution on the Budget — Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., §§ 2 & 3(a), 101 Stat. 1986 (1987); Concurrent Resolution on the Budget — Fiscal Year 1987, S. Con. Res. 120, 99th Cong., 2d Sess., § 1(a) & (b), 100 Stat. 4354 (1986). On the subject of the budgetary treatment of Social Security, see generally SENATE COMM. ON THE BUDGET, SOCIAL SECURITY PRESERVATION ACT, S. REP. No. 101-426, 101st Cong., 2d Sess. (1990) (the Budget Enforcement Act incorporated the major provisions of the Social Security Preservation Act reported by the Senate Budget Committee).

Note that one could also read the provisions of section 406(a) of the Congressional Budget Act, which apply "[n]otwithstanding any other provision of law," to conflict with section 710(a) and to require the Medicare Hospital Insurance Trust Fund to appear on budget even after fiscal year 1992. *See supra* pp. 270-271. Section 214 of Gramm-Rudman-Hollings added section 406(a) of the Congressional Budget Act on the same date as the last amendments to section 710(a). *See supra* p. 418.

¹⁶⁵² Section 250(c)(7) defines "discretionary appropriations." *See supra* p. 444.

¹⁶⁵³ Section 250(c)(12) defines "budget year." *See supra* p. 446.

¹⁶⁵⁴ Section 250(c)(14) defines "outyear." *See supra* p. 446.

¹⁶⁵⁵ Section 250(c)(13) defines "current year." *See supra* p. 446.

¹⁶⁵⁶ Section 250(c)(6) defines "budgetary resources." *See supra* p. 443.

¹⁶⁵⁷ Section 250(c)(12) defines "budget year." *See supra* p. 446.

¹⁶⁵⁸ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁶⁵⁹ Section 250(c)(13) defines "current year." *See supra* p. 446.