

TITLE II CONGRESSIONAL BUDGET OFFICE

ESTABLISHMENT OF OFFICE

§ 201(a) **SEC. 201.⁷⁰ (a) IN GENERAL —**

§ 201(a)(1) **(1) There is established an office of the Congress to**

⁶⁹(...continued)

secret in the interest of effective law enforcement; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if —

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(c) Paragraph 7(b) of rule XXV of the Standing Rules of the Senate and section 133A(b) of the Legislative Reorganization Act of 1946 shall not apply to the Committee on the Budget of the Senate.

Compare the similar provisions governing the Congressional Budget Office in section 203 (*see infra* pp. 41-42), and of the Government in the Sunshine Act, Pub. L. No. 94-409, 90 Stat. 1241 (1976) (codified as amended at 5 U.S.C. §§ 551, 552, 552b, 556, 557 & 39 U.S.C. § 410 (1988)).

Pursuant to subsection (d), and subsequently, Standing Rule XXVI, all meetings of the Budget Committee have been open to the public.

⁷⁰ Section 201 is codified at 2 U.S.C. § 601 (1988 & Supp. IV 1992).

be known as the Congressional Budget Office (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

§ 201(a)(2)

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

§ 201(a)(3)

(3) The term of office of the Director first appointed shall expire at noon on January 3, 1979, and the terms of office of Directors subsequently appointed shall expire at noon on January 3 of each fourth year thereafter.⁷¹ Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

§ 201(a)(4)

(4) The Director may be removed by either House by resolution.

§ 201(a)(5)

(5) The Director shall receive compensation at a per

⁷¹ Terms of Directors of the Congressional Budget Office thus expired on January 3, 1983 (for Alice M. Rivlin), on January 3, 1987 (for Rudolph G. Penner), and on January 3, 1991 (for Robert D. Reischauer), and will expire on January 3, 1995 (for Robert D. Reischauer), on January 3, 1999, and so on.

annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of title 5, United States Code. The Deputy Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as so in effect, for level IV of the Executive Schedule in section 5315 of such title.

§ 201(b) (b) **PERSONNEL.** — The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

§ 201(c) (c) **EXPERTS AND CONSULTANTS.** — In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.

§ 201(d) (d) **RELATIONSHIP TO EXECUTIVE BRANCH.** — The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All

such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

§ 201(e)

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS. — In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and the Office of Technology Assessment, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, the Librarian of Congress, and the Technology Assessment Board are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

§ 201(g) [(f)]

(g)⁷² [(f)] REVENUE ESTIMATES. —⁷³ For the purposes of

⁷² This is so in the original, but should read "(f)." Section 13202(b) of the Budget Enforcement Act (*see infra* p. 716) transferred to this second subsection (g) the text of what used to be section 273 of Gramm-Rudman-Hollings. The statement of managers accompanying the conference report on the Budget Enforcement Act explains the change briefly: "The conference agreement codifies section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 as part of the Congressional Budget Act without (continued...)"

revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees⁷⁴ of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.⁷⁵

§ 201(g)

(g)⁷⁶ APPROPRIATIONS. — There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent

⁷²(...continued)
change." H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1170 (1990), *reprinted in* 1990 U.S.C.A.N. 2374, 2875.

⁷³ Section 13202(c)(2) of the Budget Enforcement Act added the heading "REVENUE ESTIMATES. —." *See infra* p. 716.

⁷⁴ This subsection reflects the normal scorekeeping convention that Congress turns to its Budget Committees to assess the costs of legislation. *See also* section 302(g), *infra* p. 105; section 310(d)(4), *infra* p. 172; section 311(c), *infra* p. 194; section 313(e), *infra* p. 228; and section 258B(h)(4) of Gramm-Rudman-Hollings, *infra* p. 650.

⁷⁵ Section 13202(c)(1) of the Budget Enforcement Act struck the words "this title and the Congressional Budget and Impoundment Control Act of 1974" that used to be here and inserted "this Act." *See infra* p. 716.

⁷⁶ Section 13202(a) of the Budget Enforcement Act redesignated this subsection — which used to be subsection (f) — as subsection (g) (*see infra* p. 716), so as to create room for the transfer to this section of what used to be section 273 of Gramm-Rudman-Hollings.

fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Director.

DUTIES AND FUNCTIONS

§ 202(a) **SEC. 202.⁷⁷ (a) ASSISTANCE TO BUDGET COMMITTEES.**

— It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions,⁷⁸ including

§ 202(a)(1) (1) information with respect to the budget, appropriation bills,⁷⁹ and other bills authorizing or providing new⁸⁰ budget authority⁸¹ or tax expenditures,⁸²

§ 202(a)(2) (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and

§ 202(a)(3) (3) such related information as such Committees may request.

§ 202(b) (b) **ASSISTANCE TO COMMITTEES ON APPROPRIATIONS, WAYS AND MEANS, AND FINANCE.** — At the request of the Committee on Appropriations of either House, the Committee on Ways and Means of the House of Representatives, or the Com-

⁷⁷ Section 202 is codified as amended at 2 U.S.C. § 602 (1988).

⁷⁸ For a discussion of the Senate Budget Committee's jurisdiction, see *infra* note 384 (at the end of section 306).

⁷⁹ Section 3(5) defines "appropriation Act" by reference to 1 U.S.C. § 105. See *supra* p. 16. For the text of 1 U.S.C. § 105 (1988), see *supra* note 36.

⁸⁰ Section 13112(a)(3) of the Budget Enforcement Act added the word "new" here. See *infra* p. 708.

⁸¹ Section 3(2) defines "budget authority," see *supra* pp. 11-13, and section 3(2)(C) defines "new budget authority." See *supra* p. 12.

⁸² Section 3(3) defines "tax expenditures." See *supra* p. 13.

mittee on Finance of the Senate, the Office shall provide to such Committee any information which will assist it in the discharge of matters within its jurisdiction, including information described in clauses (1) and (2) of subsection (a)⁸³ and such related information as the Committee may request.

§ 202(o) (c) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—

§ 202(o)(1) (1) At the request of any other committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out clauses (1) and (2) of subsection (a),⁸⁴ and, to the extent practicable, such additional information related to the foregoing as may be requested.

§ 202(o)(2) (2) At the request of any Member of the House or Senate, the Office shall provide to such member any information compiled in carrying out clauses (1) and (2) of subsection (a),⁸⁵ and, to the extent available, such additional information related to the foregoing as may be requested.

§ 202(d) (d) ASSIGNMENT OF OFFICE PERSONNEL TO COMMITTEES AND JOINT COMMITTEES. — At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee. At the request of any other committee of either House or any joint committee of the Congress, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the

⁸³ See *supra* p. 35.

⁸⁴ See *supra* p. 35.

⁸⁵ See *supra* p. 35.

applicable provisions of subsection (b)⁸⁶ or (c).⁸⁷

§ 202(e) **(e) TRANSFER OF FUNCTIONS OF JOINT COMMITTEE ON
REDUCTION OF FEDERAL EXPENDITURES. —**

§ 202(e)(1) **(1) The duties, functions, and personnel of the Joint
Committee on Reduction of Federal Expenditures are
transferred to the Office, and the Joint Committee is
abolished.**

§ 202(e)(2) **(2) Section 601 of the Revenue Act of 1941 (55 Stat.
726) is repealed.**

§ 202(f) **(f) REPORTS TO BUDGET COMMITTEES. —**

§ 202(f)(1) **(1) On or before February 15⁸⁸ of each year, the
Director shall submit to the Committees on the Budget of
the House of Representatives and the Senate a report,⁸⁹
for the fiscal year commencing on October 1 of that year,
with respect to fiscal policy, including**

§ 202(f)(1)(A) **(A) alternate levels of total revenues, total new
budget authority,⁹⁰ and total outlays⁹¹ (including**

⁸⁶ See *supra* p. 35.

⁸⁷ See *supra* p. 36.

⁸⁸ Section 221(a) of Gramm-Rudman-Hollings moved up this deadline from April 1, as originally enacted in 1974, to the current February 15. See *infra* p. 419.

⁸⁹ In practice, the Congressional Budget Office issues three reports to address the requirements of this paragraph. It generally entitles the most general report as "The Economic and Budget Outlook: Fiscal Years ____-____."

⁹⁰ Section 3(2) defines "budget authority," see *supra* pp. 11-13, and section 3(2)(C) defines "new budget authority." See *supra* p. 12.

⁹¹ Section 3(1) defines "outlays." See *supra* p. 11.

related surpluses⁹² and deficits⁹³), and

§ 202(f)(1)(B)

(B) the levels of tax expenditures⁹⁴ under existing law,

taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.⁹⁵ Such report shall also include a discussion of national budget priorities, including alternative ways of allocating budget authority⁹⁶ and budget outlays⁹⁷ for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.⁹⁸

§ 202(f)(2)

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including

⁹² Section 3(7) defines "surplus." *See supra* p. 17.

⁹³ Section 3(6) defines "deficit." *See supra* p. 16.

⁹⁴ Section 3(3) defines "tax expenditures." *See supra* p. 13.

⁹⁵ In response to this provision and a request of the Committee on Appropriations, the Congressional Budget Office generally prepares a report that it entitles "An Analysis of the President's Budgetary Proposals for Fiscal Year ____."

⁹⁶ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁹⁷ Section 3(1) defines "budget outlays." *See supra* p. 11.

⁹⁸ In response to this provision, the Congressional Budget Office generally prepares a report that it entitles "Reducing the Deficit: Spending and Revenue Options." (For fiscal year 1992, however, the Office issued a somewhat abbreviated paper in place of the usual report. *See* CONGRESSIONAL BUDGET OFFICE, SELECTED SPENDING AND REVENUE OPTIONS (June 1991).)

reports revising⁹⁹ the report required by paragraph (1)¹⁰⁰ as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

§ 202(f)(3) (3)¹⁰¹ On or before January 15 of each year, the Director, after consultation with the appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing

§ 202(f)(3)(A) (A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and

§ 202(f)(3)(B) (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year, but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.

§ 202(g) (g) **USE OF COMPUTERS AND OTHER TECHNIQUES.** — The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate), obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements.

⁹⁹ In response to this provision, the Congressional Budget Office generally prepares an August report that it entitles "The Economic and Budget Outlook: An Update."

¹⁰⁰ See *supra* pp. 37-38.

¹⁰¹ Section 221(b) of Gramm-Rudman-Hollings added paragraph (3). See *infra* p. 419.

§ 202(h)

(h)¹⁰² **STUDIES.** — The Director shall conduct continuing studies to enhance comparisons of budget outlays,¹⁰³ credit authority,¹⁰⁴ and tax expenditures.¹⁰⁵

¹⁰² Section 221(c) of Gramm-Rudman-Hollings added subsection (h). *See infra* p. 420.

¹⁰³ Section 3(1) defines "budget outlays." *See supra* p. 11.

¹⁰⁴ Section 3(10) defines "credit authority." *See supra* p. 19.

¹⁰⁵ Section 3(3) defines "tax expenditures." *See supra* p. 13.

PUBLIC ACCESS TO BUDGET DATA¹⁰⁶

§ 203(a) **SEC. 203.¹⁰⁷ (a) RIGHT TO COPY.** — Except as provided in subsections (c)¹⁰⁸ and (d),¹⁰⁹ the Director shall make all information, data, estimates, and statistics obtained under sections 201(d)¹¹⁰ and 201(e)¹¹¹ available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

§ 203(b) **(b) INDEX.** — The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a)¹¹² applies and shall make such systems available for public use during normal business hours.

§ 203(c) **(c) EXCEPTIONS.** — Subsection (a)¹¹³ shall not apply to information, data, estimates, and statistics —

¹⁰⁶ Compare the similar provisions intended to govern the Senate Budget Committee in section 102(d) (*see supra* note 69), and of the Government in the Sunshine Act, Pub. L. No. 94-409, 90 Stat. 1241 (1976) (codified as amended at 5 U.S.C. §§ 551, 552, 552b, 556, 557 & 39 U.S.C. § 410 (1988)).

¹⁰⁷ Section 203 is codified as amended at 2 U.S.C. § 603 (1988).

¹⁰⁸ *See infra* pp. 41-42.

¹⁰⁹ *See infra* p. 42.

¹¹⁰ *See supra* p. 31.

¹¹¹ *See supra* p. 32.

¹¹² *See supra* p. 41.

¹¹³ *See supra* p. 41.

revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees⁷⁴ of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.⁷⁵

§ 201(g)

(g)⁷⁶ APPROPRIATIONS. — There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent

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⁷³ Section 13202(c)(2) of the Budget Enforcement Act added the heading "REVENUE ESTIMATES. —." See *infra* p. 716.

⁷⁴ This subsection reflects the normal scorekeeping convention that Congress turns to its Budget Committees to assess the costs of legislation. See also section 302(g), *infra* p. 105; section 310(d)(4), *infra* p. 172; section 311(c), *infra* p. 194; section 313(e), *infra* p. 228; and section 258B(h)(4) of Gramm-Rudman-Hollings, *infra* p. 650.

⁷⁵ Section 13202(c)(1) of the Budget Enforcement Act struck the words "this title and the Congressional Budget and Impoundment Control Act of 1974" that used to be here and inserted "this Act." See *infra* p. 716.

⁷⁶ Section 13202(a) of the Budget Enforcement Act redesignated this subsection — which used to be subsection (f) — as subsection (g) (see *infra* p. 716), so as to create room for the transfer to this section of what used to be section 273 of Gramm-Rudman-Hollings.

fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Director.