# PUBLIC ACCESS TO BUDGET DATA[106]

§ 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 —**

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[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.

§ 203(c)(1) **(1) which are specifically exempted from disclosure by law; or**

§ 203(c)(2) **(2) which the Director determines will disclose —**

§ 203(c)(2)(A) **(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;**

§ 203(c)(2)(B) **(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or**

§ 203(c)(2)(C) **(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;**

**unless the portions containing such matters, information, or data have been excised.**

§ 203(d) **(d) INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS. — Subsection (a)[114] shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.**

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[114] *See supra* p. 41.

# TITLE III
# CONGRESSIONAL BUDGET PROCESS

## TIMETABLE

§ 300 **SEC. 300.**[115] **The timetable with respect to the congressional budget process for any fiscal year is as follows:**[116]

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[115] Section 300 is codified as amended at 2 U.S.C. § 631 (Supp. IV 1992).

[116] As the Congress has enacted this timetable as an exercise of its rule-making powers (to the extent that it sets dates for the Congress), *see* section 904 *infra* p. 357, no illegality flows from its violation. Furthermore, the failure to comply with a deadline has no effect on points of order under the Congressional Budget Act. *See* 132 CONG. REC. S10,694 (daily ed. Aug. 7, 1986).

Section 201(b) of Gramm-Rudman-Hollings revised section 300. *See infra* p. 413. As originally enacted in 1974, section 300 read as follows:

> SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

| On or before: | Action to be completed: |
|---|---|
| November 10 | President submits current services budget. |
| 15th day after Congress meets | President submits his budget. |
| March 15 | Committees and joint committees submit reports to Budget Committees. |
| April 1 | Congressional Budget Office submits report to Budget Committees. |
| April 15 | Budget Committees report first concurrent resolution on the budget to their Houses. |
| May 15 | Committees report bills and resolutions authorizing new budget authority. |
| May 15 | Congress completes action on concurrent resolution on the budget. |
| 7th day after Labor Day | Congress completes action on bills and resolutions providing new budget authority and new |

(continued...)

| On or before: | Action to be completed: |
|---|---|
| First Monday in February[117] | President submits his budget.[118] |

[116](...continued)

| | |
|---|---|
| | spending authority. |
| September 15 | Congress completes action on second required concurrent resolution on the budget. |
| September 25 | Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution. |
| October 1 | Fiscal year begins. |

[117] Section 13112(a)(4) of the Budget Enforcement Act changed this reference from "First Monday after January 3" to "First Monday in February" (*see infra* p. 708) to conform to the change that section 13112(c)(1) of the Budget Enforcement Act made to section 1105(a) of title 31 of the United States Code. *See infra* p. 710. Where section 1105(a) used to require the President to submit the budget "On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)" it now requires the President to submit the budget "On or after the first Monday in January but not later than the first Monday in February of each year." *Id.*

Notwithstanding the requirement under the law prior to enactment of the Budget Enforcement Act, Congress provided for a delay of the submission of the President's budget in 1988 from January 4 to February 16. *See* 133 CONG. REC. S18,689 (daily ed. Dec. 21, 1987) (colloquy between the Chairman of the Budget Committee, Senator Chiles, and the Majority Leader, Senator Byrd). On the date of the deadline for that fiscal year 1989 budget, OMB Director Miller sent instead a letter to Congress. *See* Executive Communication No. EC-2455. He explained that the lateness of Congress's final action on appropriations for fiscal year 1988 (Pub. L. No. 100-202 (1987)), as well as the Omnibus Reconciliation Act of 1987 (Pub. L. No. 100-203 (1987)) and the Bipartisan Budget Summit Agreement made it impossible to transmit the President's budget by the statutory deadline.

Congress again provided for a delay of the submission of the President's budget in 1990 from January 8 to January 22. The adjournment resolution for the 101st Congress provided:

> Notwithstanding the provisions of section 1105 of title 31, United States Code, the President shall transmit to the Congress not later than January 22, 1990, the Budget for fiscal year 1991.

H.J. Res. 449, 101st Cong., 1st Sess. § 4, 135 CONG. REC. S16,944 (daily ed. Nov. 21, 1989).

Similarly, Congress enacted extensions of deadlines for President Reagan's fiscal year 1986 budget (*see* Pub. L. No. 99-1 (Jan. 9, 1985) (extended to Feb. 4, 1985)), President (continued...)

| | |
|---|---|
| **February 15** | **Congressional Budget Office submits report to Budget Committees.**[119] |
| **February 25**[120] | **Committees submit views and estimates to Budget Committees.**[121] |
| **April 1** | **Senate Budget Committee reports concurrent resolution on the budget.**[122] |

[117](...continued)
Reagan's fiscal year 1984 budget (*see* Pub. L. No. 97-469 (Jan. 14, 1983) (extended to Jan. 31, 1983)), President Carter's fiscal year 1981 budget (*see* Pub. L. No. 96-186 (Jan. 8, 1980) (extended to Jan. 28, 1980)), President Nixon's fiscal year 1974 budget (*see* Pub. L. No. 93-1 (Jan. 19, 1973) (extended to Jan. 29, 1973)), and President Johnson's fiscal year 1966 budget (*see* Pub. L. No. 89-1 (Jan. 13, 1965) (extended to Jan. 25, 1965)).

[118] Section 1105 of title 31 of the United States Code sets forth this requirement. *See infra* pp. 788-798.

[119] Section 202(f)(1) sets forth this requirement. *See supra* p. 37.

[120] This should read "Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code." Section 13112(a)(5) of the Budget Enforcement Act (*see infra* p. 708) changed the deadline for committees' views and estimates in section 301(d) of the Congressional Budget Act (*see infra* pp. 70-74) from "[o]n or before February 25 of each year" to "[w]ithin 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code," as section 13112(c)(1) of the Budget Enforcement Act (*see infra* p. 710) changed the deadline for the President's budget submission in section 1105(a) of title 31 of the United States Code from "[o]n or before the first Monday after January 3 of each year" to "[o]n or after the first Monday in January but not later than the first Monday in February of each year."

[121] Section 301(d) sets forth this requirement. *See infra* p. 70.

[122] If the Senate Budget Committee has not completed action on the budget resolution by this date, then on that date, the Senate will discharge the Committee of any budget resolution that the presiding officer had referred to the Committee and place it on the calendar. *See* 136 CONG. REC. S3696 (daily ed. Apr. 2, 1990); 1984 SEN. J. 216 (Apr. 18, 1984); 129 CONG. REC. S4726 (daily ed. Apr. 15, 1983). The Senate will also discharge and place on the calendar any budget resolution submitted after April 1 until the Budget Committee has reported a resolution. *See* 137 CONG. REC. S4489 (daily ed. Mar. 29, 1990); 136 CONG. REC. S4287 (daily ed. Apr. 5, 1990).

As originally enacted in 1974 and as in force on April 15, 1983, section 300 contained
(continued...)

[122](...continued)
an entry for April 15 stating: "Budget Committees report first concurrent resolution on the budget to their Houses." *See supra* note 116. (Section 201(b) of Gramm-Rudman-Hollings changed the entry to read as it does now. *See infra* p. 413.) On March 24, 1983, the Senate received the fiscal year 1984 budget resolution, H. Con. Res. 91, 98th Cong., 1st Sess. (1983), from the House of Representatives, and the presiding officer referred it to the Budget Committee. 129 CONG. REC. S3969 (daily ed. Mar. 24, 1983). When, on April 15, 1983, the Senate Budget Committee had failed to act on the resolution, the Senate discharged the resolution from the Committee and placed it on the calendar. 129 CONG. REC. S4726 (daily ed. April 15, 1983).

On April 9, 1984, the Senate received the fiscal year 1985 budget resolution, H. Con. Res. 280, 98th Cong., 2d Sess. (1984), from the House of Representatives, and the presiding officer referred it to the Budget Committee. 130 CONG. REC. S4150 (daily ed. Apr. 9, 1984). When the Senate Budget Committee failed to act on the resolution by April 15, 1990 (on which date the Senate was adjourned), the Senate discharged the resolution from the Committee and placed it on the calendar. 1984 SEN. J. 216 (Apr. 18, 1984). (The Senate discharged H. Con. Res. 280 on April 18, 1984, the date provided for committees to report bills. April 18 was also, coincidentally, the date on which the Senate Budget Committee reported a budget resolution, S. Con. Res. 106. 130 CONG. REC. S4722 (daily ed. Apr. 24, 1984).)

On March 29, 1990, the Chairman of the Budget Committee, Senator Sasser, submitted a concurrent resolution on the budget, S. Con. Res. 110, 101st Cong., 2d Sess., 136 CONG. REC. S3555-60 (daily ed. Mar. 29, 1990), and the presiding officer referred it to the Budget Committee. *Id.* at S3555. When the Senate Budget Committee failed to act on the resolution by April 1, 1990 (a Sunday), the Senate discharged the resolution from the Committee "[p]ursuant to section 300 of the Congressional Budget Act of 1974," and placed it on the calendar. 136 CONG. REC. S3696 (daily ed. Apr. 2, 1990).

Also in 1990, on April 5, Senator Hollings submitted a concurrent resolution on the budget, S. Con. Res. 119, 101st Cong., 2d Sess., 136 CONG. REC. S4287-91 (daily ed. Apr. 5, 1990), and the presiding officer referred it to the Budget Committee. *Id.* at S4209, S4287. As it was after April 1 and the Budget Committee had not yet reported a budget resolution, the Senate discharged the resolution from the Committee and placed it on the calendar on the same day that Senator Hollings submitted it. *Id.* at S4287.

On April 16, 1990, the Chairman of the Budget Committee, Senator Sasser, submitted a concurrent resolution on the budget, S. Con. Res. 28, 102d Cong., 1st Sess., 137 CONG. REC. S4489-94 (daily ed. Mar. 29, 1990), and the presiding officer referred it to the Budget Committee. *Id.* at S4456, S4489. As it was after April 1 and the Budget Committee had not yet reported a budget resolution, the Senate discharged the resolution from the Committee and placed it on the calendar on the same day that Senator Sasser submitted it. *Id.* at S4489.

On March 10, 1992, the Senate received the fiscal year 1993 budget resolution, H. Con. Res. 287, 102d Cong., 2d Sess., 138 CONG. REC. H976-82 (daily ed. Mar. 4, 1992),
(continued...)

| | |
|---|---|
| **April 15** | **Congress completes action on concurrent resolution on the budget.**[123] |
| **May 15** | **Annual appropriation bills**[124] **may be considered in the House.**[125] |
| **June 10** | **House Appropriations Committee reports last annual appropriation bill.**[126] |
| **June 15** | **Congress completes action on reconciliation legislation.**[127] |
| **June 30** | **House completes action on annual appropriation bills.** |

[122](...continued)
from the House of Representatives, and the presiding officer referred it to the Budget Committee. *Id.* at S3115 (daily ed. Mar. 10, 1992). On March 31, 1992, the Ranking Republican Member of the Budget Committee, Senator Domenici, submitted a concurrent resolution on the budget, S. Con. Res. 104, 102d Cong., 2d Sess., 138 CONG. REC. S4517-21 (daily ed. Mar. 31, 1992), and the presiding officer referred it to the Budget Committee. *Id.* at S4501, S4517. When the Senate Budget Committee failed to act on a budget resolution by April 1, 1990, the Senate discharged both H. Con. Res. 287 and S. Con. Res. 104 from the Committee "[p]ursuant to section 300 of the Congressional Budget Act of 1974, as amended," and placed them on the calendar. 138 CONG. REC. S4635 (daily ed. Apr. 1, 1992).

[123] Section 301(a) sets forth this requirement. *See infra* p. 50.

The failure to complete the budget resolution by this deadline has no effect on points of order under the Congressional Budget Act. 132 CONG. REC. S10,694 (Aug. 7, 1986).

For a table listing historical completion dates, see *infra* note 130.

[124] 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.

[125] Section 303(b) provides this exception. *See infra* p. 113.

[126] Section 307 sets forth this requirement. *See infra* p. 149.

[127] Section 310(f)(1) used to set forth this requirement. *See infra* note 489.

For a table listing historical completion dates, see *infra* note 491.

**October 1 ..... Fiscal year begins.**[128]

[128] Section 254(a) of Gramm-Rudman-Hollings (*see infra* p. 541) and title 31 of the United States Code create the following, additional deadlines:

| Date: | Action to be completed: |
|---|---|
| January 21 | Notification regarding optional adjustment of maximum deficit amount. |
| 5 days before the President's budget submission | CBO sequestration preview report. |
| The President's budget submission | OMB sequestration preview report. |
| July 15 | The President submits to Congress the mid-session budget review. |
| August 10 | Notification regarding military personnel. |
| August 15 | CBO sequestration update report. |
| August 20 | OMB sequestration update report. |
| 10 days after end of session | CBO final sequestration report. |
| 15 days after end of session | OMB final sequestration report; Presidential order. |
| 30 days later | GAO compliance report. |

# ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET

§ 301(a) **SEC. 301.**[129] **(a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET. — On or before April 15**[130] **of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on**

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[129] Section 301 is codified as amended at 2 U.S.C. § 632 (1988 & Supp. IV 1992). Section 201(b) of Gramm-Rudman-Hollings revised section 301. *See infra* p. 413.

[130] The failure to complete the budget resolution by this deadline has no effect on points of order under the Congressional Budget Act. *See* 132 CONG. REC. S10,694 (daily ed. Aug. 7, 1986).

Historically, Congress has completed budget resolutions on the dates in the following table. Until the enactment of Gramm-Rudman-Hollings, section 301 set forth a May 15 deadline for Congress to act. *See supra* note 116. Thus, Congress has met the deadline only in the first two years of the budget process, fiscal years 1976 and 1977, and with the most recent budget resolution, fiscal year 1994.

**Adoption Dates of Budget Resolutions**

| Fiscal year | Budget resolution adopted |
|---|---|
| 1976 | May 14, 1975 (H. Con. Res. 218) |
| 1977 | May 13, 1976 (S. Con. Res. 109) |
| 1978 | May 17, 1977 (S. Con. Res. 19) |
| 1979 | May 17, 1978 (S. Con. Res. 80) |
| 1980 | May 24, 1979 (H. Con. Res. 107) |
| 1981 | June 12, 1980 (H. Con. Res. 307) |
| 1982 | May 21, 1981 (H. Con. Res. 115) |
| 1983 | June 23, 1982 (S. Con. Res. 92) |
| 1984 | June 23, 1983 (H. Con. Res. 91) |
| 1985 | October 1, 1984 (H. Con. Res. 280) |
| 1986 | August 1, 1985 (S. Con. Res. 32) |
| 1987 | May 15, 1986 (H. Con. Res. 337) |
| 1988 | June 25, 1987 (H. Con. Res. 93) |
| 1989 | June 6, 1988 (H. Con. Res. 268) |
| 1990 | May 18, 1989 (H. Con. Res. 106) |
| 1991 | October 9, 1990 (H. Con. Res. 310) |
| 1992 | May 22, 1991 (H. Con. Res. 121) |
| 1993 | May 21, 1992 (H. Con. Res. 287) |
| 1994 | April 1, 1993 (H. Con. Res. 64) |

**October 1 of such year.[131] The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year, and planning levels for each of the two**

[131] *See, e.g.,* Concurrent Resolution Setting Forth the Congressional Budget for the United States Government for the Fiscal Years 1994, 1995, 1996, 1997, and 1998, H. Con. Res. 64, 103d Cong., 1st Sess., 139 CONG. REC. H1747 (daily ed. Mar. 31, 1993) (adopted); Concurrent Resolution on the Budget — Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess. 138 CONG. REC. H3602 (daily ed. May 20, 1992) (adopted); Concurrent Resolution on the Budget — Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., 105 Stat. 2414 (1991); Concurrent Resolution on the Budget - - Fiscal Year 1991, H. Con. Res. 310, 101st Cong., 2d Sess., 104 Stat. 5163 (1990); Concurrent Resolution on the Budget — Fiscal Year 1990, H. Con. Res. 106, 101st Cong., 1st Sess., 103 Stat. 2540 (1989); Concurrent Resolution on the Budget — Fiscal Year 1989, H. Con. Res. 268, 100th Cong., 2d Sess., 102 Stat. 4875 (1988); Concurrent Resolution on the Budget — Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., 101 Stat. 1986 (1987); Concurrent Resolution on the Budget — Fiscal Year 1987, S. Con. Res. 120, 99th Cong., 2d Sess., 100 Stat. 4354 (1986); First Concurrent Resolution on the Budget — Fiscal Year 1986, S. Con. Res. 32, 99th Cong., 1st Sess., 99 Stat. 1941 (1985); First Concurrent Resolution on the Budget — Fiscal Year 1985, H. Con. Res. 280, 98th Cong., 2d Sess., 98 Stat. 3484 (1984); First Concurrent Resolution on the Budget — Fiscal Year 1984, H. Con. Res. 91, 98th Cong., 1st Sess., 97 Stat. 1501 (1983); First Concurrent Resolution on the Budget — Fiscal Year 1983, S. Con. Res. 92, 97th Cong., 2d Sess., 96 Stat. 2647 (1982); Second Concurrent Resolution on the Budget, 1982, S. Con. Res. 50, 97th Cong., 1st Sess., 95 Stat. 1778 (1981); First Concurrent Resolution on the Budget — Fiscal Year 1982, H. Con. Res. 115, 97th Cong., 1st Sess., 95 Stat. 1743 (1981); Second Concurrent Resolution on the Budget — Fiscal Year 1981, H. Con. Res. 448, 96th Cong., 2d Sess., 94 Stat. 3680 (1980); First Concurrent Resolution on the Budget — Fiscal Year 1981, H. Con. Res. 307, 96th Cong., 2d Sess., 94 Stat. 3655 (1980); Third Concurrent Resolution on the Budget, Fiscal Year 1980, S. Con. Res. 53, 96th Cong., 1st Sess., 93 Stat. 1428 (1979); Second Concurrent Resolution on the Budget — Fiscal Year 1980, S. Con. Res. 36, 96th Cong., 1st Sess., 125 CONG. REC. 30,796 (1979) (adopted); First Concurrent Resolution on the Budget — Fiscal Year 1980, H. Con. Res. 107, 96th Cong., 1st Sess., 93 Stat. 1413 (1979); Second Concurrent Resolution on the Budget — Fiscal Year 1979, H. Con. Res. 683, 95th Cong., 2d Sess., 92 Stat. 3878 (1978); First Concurrent Resolution on the Budget, Fiscal Year 1979, S. Con. Res. 80, 95th Cong., 2d Sess., 92 Stat. 3870 (1978); Second Concurrent Resolution on the Budget — Fiscal Year 1978, H. Con. Res. 341, 95th Cong., 1st Sess., 91 Stat. 1683 (1977); First Concurrent Resolution on the Budget: Fiscal Year 1978, S. Con. Res. 19, 95th Cong., 1st Sess., 91 Stat. 1670 (1977); Third Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 10, 95th Cong., 1st Sess., 91 Stat. 1666 (1977); Second Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 139, 94th Cong., 2d Sess., 90 Stat. 3044 (1976); First Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 109, 94th Cong., 2d Sess., 90 Stat. 3029 (1976); Second Concurrent Resolution on the Budget — Fiscal Year 1976, H. Con. Res. 466, 94th Cong., 1st Sess., 89 Stat. 1209 (1975); First Concurrent Resolution on the Budget — Fiscal Year 1976, H. Con. Res. 218, 94th Cong., 1st Sess., 89 Stat. 1197 (1975).