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**THE CONGRESSIONAL BUDGET PROCESS**

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AN EXPLANATION

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COMMITTEE ON THE BUDGET  
UNITED STATES SENATE



REVISED DECEMBER 1998

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## I. FOREWORD

The Congressional Budget and Impoundment Control Act of 1974, as amended, has played a central role in the formulation and implementation of Federal fiscal policy in the last quarter of this century. The purpose of that landmark legislation, to help guide and formulate macro fiscal policy, remains as important today, if not more so, than it was in 1974.

This committee revised print provides an explanation of the budget process in the Senate, its history and evolution to today. It was prepared by the Committee's legal staff under the general direction of G. William Hoagland, Staff Director. Beth Felder, Committee Counsel, headed the development of this print, with the assistance of Austin Smythe, Carole McGuire, Anne Miller, Cheri Reidy, Jim Hearn, Jim Capretta, Lisa Cieplak, Maureen O'Neill and Alex Green.

While this revised print does not represent the views of the Committee on the Budget or any of its members, it was prepared to be an accurate and objective explanation of the process.

PETE V. DOMENICI, *Chairman*

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## I. INTRODUCTION

### *The Constitution's Statement Regarding the Budget*

Article I, section 9, clause 7 of The Constitution of the United States provides:

[n]o money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and account of Receipts and Expenditures of all public Money shall be published from time to time.

From the early years of our country there was a recognized need to have a budget for our government. In addition, Article I, section 5, clause 2, of the Constitution reserves to each House of Congress the authority to determine the rules governing its procedures. The Congressional Budget and Impoundment Control Act of 1974 (the Budget Act), which contains several titles and sections that affect the internal procedures of the House and Senate, was enacted under this Constitutional rulemaking authority. Congress enacted the Budget Act with the full recognition that each House could change these rules at any time and in a manner consistent with past practice. Rules changes are usually accomplished upon adoption of either a simple resolution (for a change that affects one House) or a concurrent resolution (for changes that may affect both Houses).

### *Purposes of the Budget Process*

The Federal budget has two distinct but equally important purposes. The first is to provide a financial measure of federal expenditures, receipts, deficits, and debt levels and their impact on the economy in order to promote economic stability and growth. The second is to provide the means for the Federal Government to efficiently collect and allocate resources to meet national objectives.

The congressional budget process, as set forth in the Budget Act, requires Congress to annually establish the level of total spending and revenues and how total spending should be divided among the 20 major functions of government such as defense, agriculture, and health. A list of the budget functions is set out in Appendix A. These functional levels are the sum of discretionary and mandatory spending for each fiscal year covered by a budget resolution. The Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) provides additional budget procedures.

### *Basic Budgetary Concepts*

In order to understand the budget process, it is useful to review some basic budgetary concepts.

### ***Budget Authority and Outlays***

Spending levels in congressional budget resolutions are measured in dollars in two ways: *budget authority* and *outlays*. Outlays represent actual disbursements by the Treasury. When the Treasury issues a check in fiscal year 1998, that is a fiscal year 1998 outlay. Budget authority, on the other hand, is the legal authority for an agency to enter into obligations of dollars in a certain amount that will result in outlays. When Congress appropriates funds for a particular program, it is enacting budget authority—not outlays.

To illustrate the relationship of budget authority to outlays, assume that the Congress has decided to build an aircraft carrier starting in fiscal year 1997 and that the total cost is \$4.0 billion. To do so, Congress would appropriate \$4.0 billion of new budget authority for the ship in the defense appropriations bill for fiscal year 1997. Often such an appropriation is made with the understanding that all the money will not actually be spent (result in outlays) in that fiscal year. The creation of this \$4.0 billion of budget authority means that the Department of Defense has legal authority to enter into obligations (generally, contracts) totaling \$4.0 billion during fiscal year 1997. Often, contractors are paid upon completion of each stage of the construction rather than the full amount in advance. The \$4.0 billion of budget authority would result in outlays when the contractors are actually issued checks by the Treasury, which might occur over several years. In this example (displayed in the table below) assume that \$.50 billion is paid (results in outlays) in the first year (fiscal year 1997) to cover the costs of designing the carrier, \$1.50 billion is paid (results in outlays) in the second year (fiscal year 1998) to begin construction, and the remaining \$2.0 billion is paid (results in outlays) in the final year (fiscal year 1999) to complete construction.

PURCHASE OF AN AIRCRAFT CARRIER  
[In billions of dollars]

	Fiscal year—		
	1997	1998	1999
Budget Authority (BA) .....	4.0	0.0	0.0
Outlays (OT) .....	0.50	1.50	2.0

In other cases, where the actual spending/payment is more immediate, new budget authority appropriated for a fiscal year results in outlays during the same fiscal year. An example of this type of appropriation would be for salaries of Federal workers.

### ***Federal Revenues***

Federal *revenues* consist of the money taken in by the Government through exercise of its sovereign taxing power. This includes individual and corporate income taxes, social insurance taxes (such as social security payroll taxes), excise taxes, estate and gift taxes, customs duties, and the like. Revenues are accounted for separately in the budget from budget authority and outlays.

### ***Offsetting Collections and Offsetting Receipts***

Revenues, however, do not represent all the money collected by the Government. They do not include income from the public that results from the government engaging in “business-like” activities with the public, such as the sale of products or the rendering of services or amounts collected by one Government account from another (intergovernmental collections and outlays). These collections are categorized as either offsetting collections or offsetting receipts. Examples of such activities include: proceeds from the sale of postage stamps and proceeds from the sale of timber from Federal lands. The difference between an offsetting collection and an offsetting receipt has more to do with the way the Federal budget records the transaction than the actual activity itself.

Some laws authorize amounts collected to be credited directly to the account from which they will be expended. Usually such amounts may be spent for the purpose of the account without further action by Congress. These are known as *offsetting collections* and represent amounts collected from either the public or other expenditure accounts. For example, the law authorizes the Postal Service to use proceeds from the sale of postage stamps to finance its operations, without the need for an annual appropriation. Thus assume that it costs the Postal Service \$100 million to operate in any fiscal year and that \$45 million is collected from the sale of stamps. This \$45 million is represented in the budget not as \$45 million of revenue or receipts but rather as a negative \$45 million of budget authority. In this example, the receipts are deducted from the gross budget authority level of \$100 million leading to a net budget authority level of \$55 million. Generally, offsetting collections are associated with discretionary programs.

In comparison, *offsetting receipts*, such as the proceeds from a timber sale or national parks entrance fees, are not credited against the spending for the Forest Service or the National Park Service. Rather, these funds are deducted from total budget authority and outlays, not from the program or project from which they are derived. For example, assume that the National Park Service collects \$10 million in entrance fees at Yellowstone National Park. These funds, although deposited in the Treasury as miscellaneous receipts, are shown in the budget as a reduction to the total level of spending for that year. Generally, offsetting receipts are associated with mandatory programs—that is, not subject to annual appropriations decisions.

### ***The Budget Deficit and the Federal Debt***

Budget *deficits*, or budget surpluses, are basic concepts critical to understanding the impact of fiscal policy on the nation’s economy. In general, the budget takes into account all spending and revenue raising activities of the Federal Government. If total spending in any fiscal year exceeds total revenue, the excess spending is the deficit for that fiscal year. For example, in fiscal year 1996 receipts were \$1,452.8 billion and outlays were \$1,560.1 billion, yielding a budget deficit of \$107.3 billion. Conversely, if revenue exceeds spending, there is a budget surplus in that fiscal year. The FY



1998 budget produced a \$70 billion surplus, the first surplus since 1969 (prior to that, the last surplus was in 1960).

The amount of any budget deficit is important because it largely determines the amount of funds the government must borrow from the private economy to pay for excess spending during a fiscal year. Any funds the government borrows from the private economy are therefore not available for private investment. This fact has significant implications for interest rates, inflation, and the long-run performance of the economy. To determine how much the Federal Government must borrow from the private economy in any fiscal year, the calculated budget deficit must be based on an assessment of total federal spending and total revenues. This is known as the *unified budget* concept. Any other definition of the budget will not accurately reflect the Federal Government's borrowing requirements.

The *Federal debt* is the accumulated debt of the Federal Government. Whenever the Federal Government runs a budget deficit, the additional borrowing to finance the deficit adds to the Federal debt. By contrast, if the Federal Government runs a budget surplus, the Federal debt *decreases* because the Treasury uses the surplus to reduce the stock of outstanding debt.

Federal law contains a statutory limit on the Federal debt, commonly called the *debt ceiling* or *debt limit*. If the activities of the Government require borrowing above the statutory ceiling, Congress must enact a law to raise the ceiling. For example, in August of 1997, Congress increased the debt ceiling from \$5.5 trillion to \$5.95 trillion. At the close of fiscal year 1998, the debt subject to limit had reached \$5.4 trillion.

Debt subject to limit is made up of two parts: (i) debt held by Government accounts; and (ii) debt held by the public. *Debt held by Government accounts* represents the holdings of debt by Federal trust funds and other special government funds. This is debt that the Federal Government owes to itself. When trust funds are in surplus, as social security is now, the surplus funds are invested, as required by law, in Government securities. The annual change in the level of debt held by Government accounts is approximately equal to the amount of trust fund surpluses for that year.

*Debt held by the public* represents the holdings of debt by individuals, institutions, other buyers outside the Federal Government, and the Federal Reserve System. The annual change in debt held by the public represents the amount of borrowing that the Federal Government must do to finance the excess of total Federal outlays over total Federal revenues. The change in debt held by the public in 1 year, therefore, closely tracks the unified budget deficit for that year.

Although the unified budget concept is a critical resource for determining fiscal policy, the law requires both Congress and the Executive Branch to separate the unified budget into "on-budget" and "off-budget" components in their respective reports. In particular, section 13301 of the BEA requires that the Social Security trust funds be excluded from the budget for the purposes of the deficit estimates in the Congressional budget resolution. This was in-

cluded in the BEA as a result of a long-standing concern that the surpluses accumulating in the Social Security trust funds tended to obscure the size of the deficits in the rest of the government. Similarly, the law also requires the exclusion of the Postal Service from the budget. As a consequence, Social Security and the Postal Service are “off-budget” whereas the remainder of government receipts and expenditures are “on-budget.” Because it is important in formulating overall fiscal policy, Congress and the President use the unified concept in developing budgets, but continue to make available both the unified budget totals and on-budget totals to comply with the law.

### ***Baseline***

In order to formulate a budget, Congress must have a starting point. This is known as the *baseline*. The baseline most often used is comprised of a set of projections showing the levels of spending and revenues that would occur for the upcoming fiscal year and beyond if existing programs and policies are continued unchanged. With respect to entitlement programs, the baseline adjusts for, among other things, the effects of inflation and demographic changes that alter the expected number of beneficiaries. These projections are known as the *current policy* (or *current services*) baseline. An alternative baseline that has been used by Congress from time to time adjusts programs for inflation only where required to do so by law. This is usually called a *current law* baseline. In considering proposed levels of spending and revenues, Members of the Senate and the House usually describe the cost of their proposals as being above, below, or equal to the baseline.

### ***Mandatory Spending, Direct Spending and Entitlement Spending***

Mandatory spending (which is synonymous with direct spending) generally includes all spending that is made pursuant to laws other than appropriations laws. The fundamental characteristic of mandatory spending is the lack of annual discretion to establish spending levels. Instead, mandatory spending usually involves a binding legal obligation by the Federal Government to provide funding for an individual, program, or activity. Another way of defining mandatory spending is that it is all spending that is not discretionary.

Mandatory spending is frequently referred to as entitlement spending. Entitlement spending is a subset of mandatory spending and represents the largest component of mandatory spending. Most entitlement spending is pursuant to laws that provide all eligible individuals (or an entity or unit of government) with financial assistance or other benefits. An entitlement represents a binding obligation on the part of the Federal Government; eligible recipients have legal recourse to compel payment from the government if the obligation is not fulfilled.

Usually, the laws providing for an entitlement contain formulas or criteria that specify who is eligible for Federal assistance. Unless the underlying law establishing the entitlement is modified, these individuals retain a legal right to benefits, regardless of the budget situation. For example, the Social Security law sets for-

mulas under which retired workers receive benefits based on the length of time they have worked and their earnings. The cost of Social Security for a given fiscal year is thus determined by the number of qualifying retirees rather than by the amount of money in the Treasury or an annual appropriation.

Some appropriations bills include funding for entitlement programs. Even though this funding is included in an appropriations bill, it is still considered mandatory spending rather than discretionary spending. For example, the Congress provides annual funding for the Medicaid program through an appropriations bill. However, the actual funding level for Medicaid is determined by criteria in Title XIX of the Social Security Act. This law provides an entitlement to low-income individuals to pay for a portion of their health care expenses. The appropriations bill simply liquidates this obligation by appropriating sums necessary to cover the cost of the Medicaid program. Congress, in the appropriations process, does not have the discretion to change the amount spent on Medicaid.

### ***Discretionary Spending***

By contrast, *discretionary spending* refers to those programs that are subject to annual funding decisions in the appropriations process. If the Congress decides to lower funding for a program of this type, it can simply reduce the annual appropriation. Unlike entitlement programs, generally no formulas need to be changed to alter funding levels.

Most of the actual operations of the Federal Government are funded by discretionary spending. Examples of discretionary spending include funding for the Department of Defense, the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS), and the Environmental Protection Agency (EPA).

## **II. HISTORY OF BUDGET LAWS**

### ***Congressional Budgeting Prior to 1974***

Prior to the enactment of the Budget Act of 1974, Congress often wrestled with how to effectively oversee increasing government expenditures. In the late 19th century and the early 20th century, Congress enacted a number of laws to control and coordinate spending by the executive branch. Similar efforts were made during the 1940's with respect to the legislative branch; however, none of these changes endured. In 1974, Congress enacted the Congressional Budget and Impoundment Control Act to coordinate and control the legislative branch's budget activities and to curb the President's impoundment powers.

### ***The Anti-Deficiency Act***

In 1870, the legislative appropriations bill was the vehicle for a number of reforms relating to appropriations practices, including the section later known as the Anti-Deficiency Act. This was the first major effort by Congress to exert more control over Government expenditures. At the time, agencies frequently obligated more funds than they had been appropriated and then submitted "coer-

cive deficiency” requests to Congress to pay their bills. The Anti-Deficiency Act provided that no department could make greater expenditures during a fiscal year than had been provided by Congress. In addition, the departments could not enter into contracts for the future payment of money in excess of appropriations.

### ***The Budget and Accounting Act of 1921***

The Budget and Accounting Act of 1921 was enacted in response to the consensus that developed shortly after the turn of the century that a more centralized approach to financial policy and processes was needed, in both the executive and legislative branches. The Act codified the submission of the President’s budget and created the Bureau of the Budget (the predecessor to the Office of Management and Budget (OMB)) to oversee the executive budget process. The Act also established the General Accounting Office (GAO) as the government’s auditor, responsible only to Congress. The mission of GAO was to provide Congress with an independent audit of executive accounts and to report on violations of the fiscal statutes.

### ***Joint Committee on the Reduction of Federal Expenditures***

The Joint Committee was established by the Revenue Act of 1941. Its membership was composed of the members of the House and Senate Appropriations Committees. The staff of the committee tracked Congressional action against the President’s budget request, generally using Bureau of the Budget estimates. Scorekeeping reports of Congressional action were published on a regular basis when Congress was in session. The Joint Committee was replaced by the Congressional Budget Office following enactment of the 1974 Act.

### ***Joint Committee on the Legislative Budget***

The Legislative Reorganization Act of 1946 created the Joint Committee on the Legislative Budget. Its membership was comprised of members of the House and Senate Appropriations Committees, the Senate Finance Committee and the House Ways and Means Committee. The Joint Committee was to meet at the beginning of each session of Congress and report to their respective Houses a legislative budget for the ensuing fiscal year, including total estimated Federal receipts and expenditures. A concurrent resolution was to accompany the report adopting such a budget, which would fix the maximum amount to be appropriated during the year. If estimated expenditures were to exceed estimated receipts, the resolution was to include a statement that it was the sense of Congress that the public debt would be increased by that amount.

Attempts were made in 1947 and 1948 to carry out the intent of the legislative budget provision. In 1947, conferees were unable to reach a final agreement. In 1948, a joint resolution was adopted by both Houses, but a strongly worded minority report noted basic defects in the procedure. No further attempts were made to comply with the Act after 1949.

### ***President's Commission on Budget Concepts***

In 1967, President Johnson appointed a commission to make a thorough study of the federal budget and the manner of its presentation. The Commission's most important recommendation was that a unified budget presentation replace the several competing and confusing measures of the total scope of federal financial activity. The report of the President's Commission on Budget Concepts serves as the foundation for most budgetary concepts used at the present time.

### ***The Congressional Budget Act: Need for the law in the 1970's***

Two developments provided the impetus for the enactment of the Budget Act in 1974. One development was an increasing realization by Congress that it had no means to develop an overall budget plan. Prior to 1974, Congress responded to the President's budget (which contains the President's many spending and revenue proposals) each year in a piece-meal fashion. There existed no framework for Congress to establish its own spending priorities before work began on specific spending and revenue bills during the spring and summer.

A second, and more immediate, cause for passage of the Budget Act was a dispute in the early 1970's regarding presidential authority to impound money appropriated by Congress. During this time, President Nixon repeatedly asserted authority (as had many of his predecessors) to withhold from Federal agencies money appropriated by Congress. By 1973, it was believed that President Nixon had impounded up to \$15 billion of spending previously approved by Congress. A large portion of these funds were to have gone towards the building of highways and pollution control projects. Many in Congress disputed these actions by the President. The authorization for the pollution control projects, for example, had been enacted by Congress in 1972 with a strong vote in both Houses overriding President Nixon's veto. Nonetheless, the President impounded much of this spending. These events led Members of Congress to seek a legislative solution.

In 1974 Congress enacted the Congressional Budget and Impoundment Control Act to establish procedures for developing an annual congressional budget plan and achieving a system of impoundment control. The Budget Act also created, for the first time, congressional standing committees devoted solely to the budget. It also created the Congressional Budget Office (CBO) to serve as the "scorekeeper" for Congress. CBO is responsible for producing an annual economic forecast, formulating the baseline, reviewing the President's annual budget submission, scoring all spending legislation reported from committee and passed by the Congress, and preparing reports in compliance with the Unfunded Mandates Reform Act. CBO's policy with respect to providing estimates is set out in Appendix B. The Joint Committee on Taxation scores all revenue measures.

### ***The Committee on the Budget***

The Budget Act created the Budget Committees of the Senate and House and gave them the responsibility to draft Congress' an-

nual budget plan and monitor action on the budget for the Federal Government. For the first time, congressional institutions were in place whose unique concern would be Federal budgetary policy. As a result, the Budget Committee was, and remains today, uniquely focused on the details of our Federal budget, the drafting of the budget resolution, and the compilation of reconciliation legislation.

The Budget Committee has jurisdiction over the congressional budget process and the operation of CBO. The jurisdiction of the Senate Budget Committee is set out in Rule 25 of the Standing Rules of the Senate and in two standing orders adopted by unanimous consent of the Senate. The text of these sources of jurisdiction are set out in Appendix C. Most recently, the Budget Committee (along with the Committee on Governmental Affairs) has been responsible for the passage of the Unfunded Mandates Reform Act of 1995 and the Line Item Veto Act of 1996. The membership of the Senate Budget Committee, since its inception, is set out in Appendix D.

#### ***Changes to the Budget Act since 1974***

##### ***Gramm-Rudman-Hollings 1985 and 1987***

In the face of ever increasing budget deficits, in 1985 Congress enacted the Balanced Budget and Emergency Deficit Control Act. This Act is known as Gramm-Rudman-Hollings—named after the Senate authors of the original bill (Senators Phil Gramm of Texas, Warren Rudman of New Hampshire, and Ernest F. Hollings of South Carolina).

Gramm-Rudman-Hollings established “maximum deficit amounts.” If the deficit exceeded these statutory limits, the President was required to issue a sequester order that would reduce all non-exempt spending by a uniform percentage. Gramm-Rudman-Hollings also made a number of changes to the congressional budget process to enforce maximum deficit amounts and to strengthen congressional budget enforcement procedures. The most significant change was to increase the margin necessary to waive certain points of order from a simple majority vote to a three-fifths margin in the Senate.

In July of 1986 in *Bowsher v. Synar* (478 U.S. 714, 1986), the Supreme Court held that the provision of Gramm-Rudman-Hollings which vested certain powers in the General Accounting Office violated the separation of powers doctrine of the Constitution. This was due to the Office’s (a creature of Congress) role in implementing sequester orders. The Court found it unacceptable from a constitutional perspective for Congress to vest in a congressional entity a duty of the executive branch—the responsibility for executing a law. In 1987, Congress enacted the Balanced Budget and Emergency Deficit Control Reaffirmation Act which corrected the constitutional flaw in Gramm-Rudman-Hollings by assigning all the sequester responsibilities to the Office of Management and Budget (OMB). OMB is part of the executive branch. The 1987 Act also extended the system of deficit limits through fiscal year 1992.

### ***The Budget Enforcement Act of 1990***

It was not long, however, before Congress realized that despite Gramm-Rudman-Hollings procedures, the deficit continued to increase. In the spring of 1990, it became clear that the deficit was going to exceed the Gramm-Rudman's maximum deficit limit by nearly \$100 billion. Later that year, OMB estimated that a sequester of \$85 billion would be necessary to eliminate this excess deficit amount. Because Congress had exempted most of the budget from the sequester process, such a sequester order was going to require a 32 percent reduction in defense programs and a 35 percent reduction in non-defense programs. To respond to growing deficits, President Bush and the congressional leadership agreed to convene negotiations on the budget in May of 1990. Six months later, President Bush signed into law the Omnibus Budget Reconciliation Act of 1990, which represented the budget agreement negotiated between the Bush Administration and Congress.

Title XIII of this reconciliation act, the Budget Enforcement Act, constituted the enforcement provisions of the agreements. The 1990 Budget Enforcement Act (BEA) effectively replaced the Gramm-Rudman-Hollings system of deficit limits with two independent enforcement regimens: caps on discretionary spending and a pay-as-you-go requirement for direct spending and revenue legislation. The BEA also provided for enforcement by both the congressional and executive branch of the discretionary caps and the pay-as-you-go requirement.

### ***Amendments Since 1990***

The budget disciplines of the BEA were extended in the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997 and are due to expire at the end of FY 2002. In addition to extending spending discipline through FY 2002, the Balanced Budget Act of 1997 also made a number of changes to the Congressional Budget Act of 1974. These changes were largely technical in nature and were intended to conform the Act to current congressional practices and precedents.

## **III. DEVELOPMENT: CREATING A BUDGET**

### ***Executive Actions***

#### ***February: Receipt of the President's Budget Request***

One of the first things Congress needs to know in crafting a budget is what the executive branch believes is necessary to fund the operations of the Federal government. The President is therefore required to submit to Congress, by the first Monday in February, the Administration's budget request for the upcoming fiscal year (which begins the following October 1st). To meet this deadline, the Administration must begin preparing its budget request during the previous spring and summer. For example, consider the budget process for fiscal year 1997. The President's budget request for fiscal year 1997 (October 1, 1996—September 30, 1997) was transmitted to Congress on February 5, 1996. In order to do so, the Administration began working with Federal Agencies to prepare its

budget request for fiscal year 1997 in the spring of 1995, nearly a year and a half prior to the start of fiscal year 1997.

***Congressional Action—Preparation of a Concurrent Resolution***

The Budget Act established a new process and new institutions which enable Congress to develop, using expedited legislative procedures, its own budget plan each year. Unlike many state legislatures, Congress is no longer limited to acting on the executive's budget request on a piecemeal basis. The budget resolution allows Congress to put into place revenue and spending proposals within the framework of its own budget plan.

The budget resolution is designed to guide Congress in its consideration of revenue and spending legislation throughout the year. It is in the form of a *concurrent* resolution, which is agreed to by both Houses and thus binding upon them. It is *not* a public law. The President is in no way bound by the content of the budget resolution. Therefore, like all other concurrent resolutions, a budget resolution is not sent to the President for signature. The Budget Act provides "fast-track" legislative procedures which allow Congress, the Senate in particular, to adopt a budget resolution with limitations on time for debate and the scope of amendments. In other words, a budget resolution may not be filibustered.

Since the budget resolution is a concurrent resolution by form, it can also be the vehicle for rules changes for either House. The type of rules changes which may be included in a budget resolution (and still be accorded expedited consideration) is limited by the terms of section 301 of the Budget Act. Section 301(b)(4) permits a budget resolution to "set forth other matters, and such other procedures, relating to the budget, as may be appropriate to carry out the purposes" of the Budget Act. Consequently, a budget resolution can supersede rules established in the Budget Act or can establish new rules or procedures relating to the budget. This authority has been exercised broadly in the past and budget resolutions have included numerous provisions making changes in the budget process: most notably, the creation of the pay-as-you-go point of order and the discretionary caps/firewall point of order.

***February: Budget Committee Hearings, Committee Views and CBO Report***

After receiving the President's budget request, the Senate and House Budget Committees hold hearings to receive testimony from Administration officials, experts from academic and business communities, representatives of national organizations, members of Congress, and the general public. During the same period, the other committees of Congress review the President's budget submission with respect to programs within their jurisdictions. The committees then transmit to the Budget Committees within 6 weeks of the President's submission their "views and estimates" on appropriate spending or revenue levels for these programs. In addition, during February, CBO sends to the Budget Committees annual reports on the budget and economic outlook. In March, CBO



sends to the Appropriations and Budget Committees its report analyzing the President's budget request.

Unlike the formulation of the President's budget, the congressional budget is developed in public. This is true of the Budget Committee's hearings and mark-up, the Senate and House floor debates, and the conference meetings on budget resolutions and reconciliation bills.

### ***March: Budget Committees Draft Budget Resolutions***

Using the President's budget request, information from their hearings, views and estimates from other committees, and CBO's reports, the Budget Committee of each House drafts a congressional budget plan during March. This is done in a series of public committee meetings called "mark-ups." It is during the mark-up that members of the committee may offer their own budget plans or amendments to budget plans laid before the committee. Once mark-up is completed, the committee reports to its respective House a concurrent resolution on the budget or budget resolution.

Budget resolutions set forth budgetary levels for the upcoming fiscal year and planning levels for at least the following 4 fiscal years. Section 301 of the Budget Act sets out the basic components of a budget resolution: (1) budget totals, (2) spending broken down by budget function, (3) reconciliation instructions, (4) congressional budget enforcement mechanisms and (5) statements of budget policy (referred to as "Sense of the Senate" provisions). The budget totals set forth what Congress considers to be the appropriate amounts for total spending, total revenues, and the resulting deficit or surplus. In setting these budget totals, Congress considers the impact of the Federal budget on the national economy and establishes Federal fiscal policy for the coming fiscal year.

Budget totals are provided in two ways in a budget resolution: budget aggregates and committee allocations. The *budget aggregates* (total revenues, total new budget authority, total outlays, and total revenues and outlays of Social Security) are set out in the text of the resolution for each fiscal year covered by the resolution. These aggregates are enforced by a 3/5ths vote point of order contained in section 311 of the Budget Act. Section 311 prohibits the consideration of any legislation which will have the effect of exceeding the appropriate aggregate level as set out in the resolution for the first fiscal year and for the period of the fiscal years covered by the resolution.

*Committee allocations* are required by section 302(a)(2) of the Budget Act. This section requires the conference report on the budget resolution to allocate to all Senate committees the appropriate levels of budget authority and outlays. Section 302(b) requires the Appropriations committee of each House to subsequently subdivide its respective allocations among its 13 subcommittees. These suballocations, commonly known as "302(b)'s", are crucial to the work of the subcommittees as they prepare their bills for mark-up. Section 302(e) does, however, permit the Appropriations Committee to alter the 302(b) allocation as work on the various bills progresses. The Committee must report these alterations to the

Senate and is constrained by any action already taken by the committee and the overall allocation given to the full committee pursuant to section 302(a).

The allocations to committees and the suballocations to appropriations subcommittees also are enforced by a  $\frac{3}{5}$ ths vote point of order contained in section 302(f) of the Budget Act. Section 302(f) prohibits the consideration of any legislation that provides budget authority or outlays in excess of the relevant allocation. The point of order associated with the statutory caps (discussed below) also serves as a discipline upon the appropriations process.

Federal spending broken down by function is the second basic part of the budget resolution. The budget resolution accomplishes this by dividing up Federal spending among 20 different classifications such as national defense, agriculture, and health. These classifications, known as “budget functions,” provide the Congress with a means of setting priorities for the allocation of Federal resources among broad categories of spending. It should be remembered that budget functions do not necessarily conform with committee jurisdiction or with specific programs. For example, function 300, Natural Resources and Environment, includes programs within the jurisdiction of the Senate Committee on Agriculture, Nutrition and Forestry, the Committee on Energy and Natural Resources, the Committee on Commerce, Science and Transportation, and the Committee on Environment and Public Works.

In addition to budget totals and spending by function, budget resolutions may include instructions to authorizing committees directing them to draft changes to existing laws in order to achieve certain budgetary results. These are known as *reconciliation instructions*. These instructions are limited by statute to calling for specific changes in dollar amounts for programs within a committee’s jurisdiction. The reconciliation process, which is set out in section 310 of the Budget Act, provides Congress with expedited procedures similar to those used to enact a budget resolution, to achieve changes in taxing and spending.

Congressional budget enforcement mechanisms are also frequently found in budget resolutions. These have included the pay-as-you-go and the discretionary caps/firewall points of order as well as *reserve funds*. The aggregates and committee allocations which are set out in a budget resolution are binding and enforced separately. Consequently, absent a reserve fund, legislation which increases revenues to offset increases in direct spending would be subject to a Budget Act point of order if it caused the aggregates (section 311) or the committee allocations (section 302) to be breached—even if the overall legislation is deficit neutral. In practice, reserve funds are designed to facilitate the consideration of deficit neutral legislation and are specifically permitted by section 301(b)(7). A reserve fund would, for instance, permit: (1) a tax cut to be “paid for” with reductions in spending, (2) a new entitlement program to be paid for by tax increases, or (3) a new entitlement program to be paid for by cuts in existing entitlement programs within another committee’s jurisdiction.

Generally, a reserve fund operates by authorizing the Chairman of the Budget Committee to revise the spending and revenue aggregates or the committee allocations so that deficit neutral legislation would not be vulnerable to the points of order discussed above. Reserve funds have varied in scope. Some have been limited to specific amounts and could only be triggered for specific legislative initiatives. Other have been more open-ended and broadly defined. For example, the fiscal year 1995 budget resolution contained reserve funds for 11 separate categories of legislation while the fiscal year 1996 resolution contained only two (one for taxes and another for welfare reform).

Past budget resolutions have also contained other provisions pertaining to budget procedures such as: language governing the budgetary treatment of asset sales and the student loan program, creation of, and subsequent repeal of, an IRS allowance, and a government shutdown prevention allowance to provide additional spending for a continuing resolution.

#### ***April 15: Congress Adopts a budget Resolution***

When the Budget Committees complete their mark-up of a budget resolution, they report their respective resolutions to the full Senate and full House. All Members of the Senate and House then have an opportunity to alter the work of the Budget Committees by offering amendments to the budget resolution as it is debated on the floor of each chamber.

Under current law, the budget resolution must set out a plan that is within the statutory caps on discretionary spending. If a point of order is raised against a budget resolution or amendment to a budget resolution it can not be considered absent a  $\frac{2}{3}$ ths vote to waive the budgetary rules.

#### ***Expedited Procedures in the Senate***

Consideration of a budget resolution in the Senate is governed by the expedited procedures set out in section 305 of the Budget Act. Time for debate on the resolution is limited to 50 hours which is equally divided between the majority leader and the minority leader or their designees. The usual practice is for the leaders to designate the chairman of the Budget Committee and the ranking member as the managers. The 50 hours includes time spent in quorum calls and time spent debating amendments, motions, and appeals. It does not include the time taken for a roll call vote or for a quorum call immediately before a vote.

Debate on any first degree amendment is limited to 2 hours. Debate on any second degree amendment and debatable motions or appeals are limited to 1 hour. The time on any amendment or motion is equally divided between the offeror of the amendment (or maker of the motion) and the manager. The total time used in debate on any particular amendment, motion, or appeal is divided equally between the majority and the minority regardless of the actual amount used by either side. If no amendment or motion is before the Senate, Senators may only debate the resolution if time is yielded to them by the leader or the manager of the resolution. It is important to remember that this 50 hours is a limit on debate—

not on consideration. Consequently, it is possible that amendments and motions may be made after the end of the 50 hours. These, however, will be disposed of without any debate.

In addition to time limits, section 305(b) of the Budget Act imposes restrictions on the substance of amendments to a budget resolution. Amendments offered from the floor must be germane. An amendment will likely be found to be germane if it: (1) only strikes language from the resolution; (2) changes a number (dollar amount) or date in the resolution; or (3) adds language to the resolution which expresses the "Sense of the Senate" or "Sense of the Congress" with respect to budgetary issues. As is the case with most points of order, the Presiding Officer will not take the initiative to evaluate the germaneness of amendments as offered, but rather will wait for an objection (a point of order) to be raised by a Senator from the floor. If a germaneness point of order is raised against an amendment any Senator may make a motion to waive the Budget Act for the consideration of the amendment. This requires an affirmative vote of  $\frac{3}{5}$ ths of the Senate.

Senate procedures generally provide that a single amendment may not amend the underlying measure in more than one place (although this is often disregarded in practice). The Budget Act, however, waives the prohibition for amendments to a budget resolution if the additional changes are necessary to maintain mathematical consistency throughout the resolution. For example, this permits the funding for a particular function to be changed and the corresponding change in the aggregate levels to be made. It also permits spending to be increased in one function and paid for with a reduction in another function (an offset).

In addition to the section 305(b) point of order regarding germaneness, other points of order also require a  $\frac{3}{5}$ ths vote. These points of order include: section 301(i) which prohibits consideration of a budget resolution or an amendment thereto that reduces the surplus in the Social Security trust fund; and section 312(b) which prohibits consideration of a budget resolution that provides funding which exceeds the statutory caps.

In addition to the points of order set out in the Budget Act, budget resolutions themselves have established enforcement provisions (points of order) against future budget resolutions. For example, Senators Exon and Grassley successfully amended the budget resolution for fiscal year 1995 to reduce the then-existing statutory discretionary spending limits. The Exon-Grassley Amendment also created a  $\frac{3}{5}$ ths point of order against a budget resolution for fiscal years 1996, 1997 and 1998 that recommended discretionary spending levels in the first year of that resolution that exceeded the Exon-Grassley levels. These levels were further reduced and the point of order retained in section 201 of the budget resolution for fiscal year 1996. Section 201 of the 1996 resolution also extended these caps through fiscal year 2002 and added the firewall between defense and non-defense discretionary spending for fiscal years 1996, 1997, and 1998.

When the Senate and House have both passed their respective versions of the budget resolution, they appoint several of their

Members to a conference committee to resolve the differences between the Senate- and House-passed resolutions. When differences have been resolved, each chamber must then vote on the compromise version—the conference report on the budget resolution. Debate in the Senate on the conference report on a budget resolution is limited to 10 hours. Again this is a limit on debate, not on consideration.

While the Budget Act sets April 15 as the date for completion of this work, Congress often fails to meet this deadline. The timetable for completion of the various steps in the budget process is set out in Appendix E. A listing of the completion dates for congressional budget resolutions is set out in Appendix F.

#### IV. ENFORCEMENT

Once Congress has agreed on its budget priorities by adopting the conference report on the budget resolution, there are a number of enforcement mechanisms which help Congress work within its means with respect to both discretionary and mandatory spending. These mechanisms include: congressional points of order against the enactment of legislation which would violate the budget; executive branch action known as sequestration; and expedited legislative procedures for the enactment of changes in mandatory spending or revenues, known as reconciliation. The Budget Enforcement Act of 1990 divided the enforcement of the budget between the Appropriations Committee with responsibility for discretionary spending and the authorizing committees with responsibility for mandatory or direct spending and revenues.

##### *Budget Act Points of Order in the Senate*

In order to help Congress legislate within the budgetary constraints set forth in the budget resolution, the Budget Act provides for a number of points of order. Budget Act points of order are a parliamentary device by which any member of Congress can object to an amendment or a piece of legislation on the grounds that it is not within the limits set out in the budget. The Presiding Officer of each house, in consultation with the Parliamentarian and the Budget Committees with respect to the “scoring”, is responsible for determining if a Member has correctly raised a point of order. Although there are numerous other points of order contained in the Rules of the House and of the Senate which may come into play during consideration of revenue and spending legislation, the following paragraphs set out the major Budget Act points of order which enforce the revenue and spending levels contained in a budget resolution:

*Section 302(f).* This section prohibits the consideration of legislation that provides budget authority, or outlays, in excess of a committee’s allocation. This point of order is often used to enforce the spending limits applicable to each of the 13 annual appropriations bills. This point of order may be waived or the ruling appealed only by a  $\frac{3}{5}$ ths vote.

*Section 311(a).* This section prohibits consideration of legislation that would cause the total level of budget authority or out-

lays to be exceeded or the appropriate level of revenues to be reduced below that which is set forth in the budget resolution. These levels are often referred to as the aggregates. This point of order may be waived or the ruling appealed only by a  $\frac{3}{5}$ ths vote.

A listing a additional points of order found in the Budget Act are set out in Appendix G.

### ***Discretionary Spending Caps***

There are two means by which the overall level of discretionary spending has been controlled: the congressional caps, which were set out in a number of budget resolutions and enforced by a point of order and the statutory spending caps, which are required by law and enforced through the sequestration process and by points of order.

#### ***The Congressional Caps***

Starting with the fiscal year 1994 budget resolution, the Congress included limits on discretionary spending. Section 12(b) of H. Con. Res. 64, the fiscal year 1994 budget resolution, established overall discretionary spending limits for fiscal years 1996 through 1998 inclusive. There was no distinction made between defense and non-defense spending. The next year, in section 24 of H. Con. Res. 218, the fiscal year 1995 budget resolution, the discretionary spending limits were further reduced. The limits set out in both section 12(b) and section 24 were enforceable in the Senate by a  $\frac{3}{5}$ ths vote point of order which prohibited the consideration of a budget resolution for the relevant fiscal year which exceeded the limits.

In June of 1995, Congress extended this discipline. In section 201 of H. Con. Res. 67, the fiscal year 1996 budget resolution, Congress extended the discretionary limits through fiscal year 2002 and a specific limitation was put into place between defense and non-defense discretionary spending through fiscal year 1998. This breakdown between defense and non-defense spending is referred to as the "firewall." These limits were enforceable in the Senate by a point of order which prohibits the consideration of a budget resolutions or appropriation bills that would result in levels of discretionary spending that exceed any of these limits. By the terms of section 201(b)(2) however, the application of this point of order for fiscal years 1997 through 2002 was to only become effective upon the enactment of reconciliation legislation as called for in the budget resolution. A reconciliation bill was passed in Congress that session (H.R. 2491, the Balanced Budget Act of 1995); however, due to the President's veto, it was never enacted.

Similarly, in section 301 of H. Con. Res. 178, the fiscal year 1997 budget resolution, discretionary spending limits were set out through fiscal year 2002 with the defense/non-defense firewall in place through fiscal year 1998. Again the effectiveness of the point of order against future budget resolutions and appropriations bills was made contingent upon enactment of all three reconciliation bills envisioned by the budget resolution. During 1996, the Congress enacted only one of the three reconciliation bills: the Welfare

Reform legislation (The Personal Responsibility and Work Opportunity Act of 1996, Public Law 104–193). Consequently, by the terms of section 301(b)(2)(B) the only point of order in effect applies to appropriations bills for fiscal year 1997.

H. Con. Res. 84, the fiscal year 1998 budget resolution, did contain “Congressional caps.” These caps were superseded by the statutory caps (discussed below) in the Balanced Budget Act of 1997.

### ***The Statutory Caps***

The Budget Enforcement Act (BEA) of 1990 established statutory limits, or caps, on discretionary spending through fiscal year 1995. The BEA provides that if OMB estimates that an appropriations bill will cause the overall level of discretionary spending to exceed the limits set forth in law, then the President must issue a sequester order reducing all non-exempt discretionary accounts by a uniform percentage. Only a very few discretionary programs are exempt from sequester, while several discretionary programs operate under special rules limiting how much they can be reduced by a sequester order. Indian Health Services and Veterans’ Medical Care are examples of programs that may not be reduced by more than 2 percent by a sequester order.

Since 1990 there have been only two sequester orders affecting discretionary spending. These occurred in November of 1990 and April of 1991. The November sequester was due to a drafting error with respect to programs in the international affairs accounts. The \$395 million overage was corrected by congressional action the next spring, therefore no sequester was actually implemented. The April overage of \$2.4 million occurred in domestic accounts and triggered a reduction of .0013 percent.

### ***Firewalls***

The BEA also provided for what are known as *firewalls*. The BEA’s so-called firewalls set separate caps on defense, international, and non-defense discretionary spending for fiscal years 1991–1993. For fiscal years 1994 and 1995, the BEA established a cap on total discretionary spending and did not provide separate firewalls for these two years.

The BEA also provided two enforcement mechanisms to hold spending at these cap levels. In the Senate, a  $\frac{3}{5}$ ths point of order lies against appropriations legislation that would cause spending to exceed any one of these caps. In addition, if appropriations legislation is enacted that causes spending to exceed one of these caps, the President is required to reduce spending through across-the-board reductions (a sequester order) in that category to bring spending back down to the cap level. In the past, for example, defense spending has been reduced in order to fund higher non-defense spending. As a result of these caps on subsets of discretionary spending, or *firewalls*, defense may not be further reduced in order to increase spending for non-defense programs if it would cause total non-defense spending to exceed its cap level.

Since the 1990 BEA, a number of changes have been made to the discretionary caps and firewalls. In 1993, the Omnibus Budget Reconciliation Act extended the discretionary caps through fiscal year

1998. In 1994, the Violent Crime Control and Law Enforcement Act established a separate cap, or firewall, for crime reduction funding through fiscal year 1998. The budget resolutions for fiscal years 1996 and 1997 reinstated the defense and non-defense firewalls for congressional enforcement purposes through fiscal year 1998. In 1997, the Balanced Budget Act extended the discretionary caps through fiscal year 2002, reinstated a separate defense firewall for fiscal years 1998 and 1999, and extended the crime reduction firewall through fiscal year 2000.

In 1998, the Congress established two new separate caps, or firewalls, for highway and mass transit funding through fiscal year 2003 in the Transportation Equity Act for the 21st Century (TEA-21). TEA-21's firewalls differ from the defense and crime reduction firewalls in several respects. Perhaps the most significant distinction are the consequences for exceeding the caps. In the case of the defense, non-defense, and crime reduction caps, if Congress provides spending in excess of one of these caps, spending in that category is reduced (or sequestered) by an across-the-board reduction to bring spending in that category back to the cap level. In the case of the highway and transit caps, if spending exceeds these caps it is charged against the non-defense or discretionary cap. As a result, TEA-21 effectively exempted highway and transit funding from a sequester and placed the burden for meeting the caps on all other discretionary spending.

### ***Mandatory Spending***

As is the case with discretionary spending, there are also two enforcement mechanisms with respect to the level of mandatory spending: a congressional mechanism set out in budget resolutions and a statutory mechanism found in the Budget Enforcement Act of 1990.

### ***Pay-as-you-go in the Senate***

The budget resolution for fiscal year 1994, which implemented President Clinton's first budget, included a new pay-as-you-go rule in the Senate. This rule provided a  $\frac{3}{5}$ ths vote point of order in the Senate against consideration of legislation that would cause an increase in the deficit over the next 10 years. This has the effect of requiring Congress to pay for any changes to programs (or the creation of new programs) which result in an increase in direct spending. For example, if Congress were to enact a program providing new benefits to Medicare recipients, the increased costs would have to be "paid for" by a corresponding reduction in direct spending elsewhere or an increase in revenues. The fiscal year 1996 budget resolution made some changes to the Senate's pay-go rule, but continued to require a ten-year deficit neutrality requirement.

As the rule stands now, there is a  $\frac{3}{5}$ ths vote point of order in the Senate against consideration of legislation that would cause a net increase in the deficit over a ten-year period. The pay-as-you-go point of order applies to all legislation except appropriations legislation. To determine a violation, CBO measures the budget impact of a direct spending or revenue bill combined with the budget impact of all direct spending and revenue legislation enacted since



the latest budget resolution's adoption. If CBO concludes a direct spending or revenue bill would result in a net deficit increase for any one of three time periods (the first year, the sum of years 1 through 5, and the sum of years 6 through 10), the direct spending or revenue bill is subject to a 3/5ths vote point of order in the Senate. The pay-go rule sunsets at the end of fiscal year 2002.

#### ***Pay-as-you-go and sequestration***

For direct spending and revenues, the BEA requires OMB to enforce a "pay-as-you-go" requirement. Here again the executive branch's pay-as-you-go rule has the same effect as the point of order: Congress is required to "pay for" any changes to programs which result in an increase in direct spending or risk a sequester. If OMB estimates that the sum of all direct spending and revenue legislation enacted since August 5, 1997 will result in a net increase in the deficit for the fiscal year, then the President is required to issue a sequester order reducing all non-exempt direct spending accounts by a uniform percentage in order to eliminate the net deficit increase. Unlike discretionary programs, most direct spending is either exempt from a sequester order or operates under special rules that minimize the reduction that can be made in direct spending. Social Security is an example of a program exempt from a pay-as-you-go sequester and Medicare, which cannot be reduced by more than 4 percent, represents an example of a program that operates under special rules.

#### ***Reconciliation in the Senate***

##### ***Why the Senate Needs Reconciliation Procedures***

When the Budget Act was first written it included a procedure known as reconciliation which was designed to allow Congress at the end of the fiscal year to enact legislation to fine tune revenue and spending levels through legislation which may not be filibustered. During the 1980's, reconciliation came to be used as a vehicle for implementing major economic/budget plans rather than simply fine tuning. In recent years, both Congress and the President have made it a high priority to reduce the federal deficit and reconciliation has been the favored vehicle. In such years, reconciliation instructions have become a critical component of most budget resolutions.

The reconciliation process set forth in section 310 of the Budget Act provides Congress with expedited procedures to achieve changes in revenues and reductions in direct spending through an omnibus bill. Such a large and complicated bill might otherwise be difficult to enact under normal legislative processes. These changes are considered difficult because the very nature of the programs involved often necessitates changing tax rates or placing restrictions on very popular social programs in order to achieve budgetary savings. The number of people qualifying for benefits—not annual appropriations—is one of the primary factors in determining the amount of money needed to fund most direct spending programs for a given year.

Using the reconciliation procedures, Congress directs its committees to report legislation achieving specified changes in spending

within their respective jurisdictions to the Budget Committees by a certain date. These instructions are limited by the Budget Act to specifying the total amount by which direct spending or revenues under existing laws is to be changed. With respect to spending, such changes are crucial to reducing the deficit because entitlements and other direct spending comprise about two-thirds of the Federal budget. An instruction may also specify the total amount by which the statutory limit on the public debt is to be changed.

While the Budget Committees develop the instructions by making assumptions for changes in programs and laws, the actual instructions may dictate neither the specific program to be changed nor the substance of the change. After the committees have reported their recommendations to the Budget Committees, the Budget Committees package all the committee-reported legislation together into an omnibus reconciliation bill along with report language and CBO's and the Joint Committee on Taxation's cost estimates. This is purely a ministerial function: the Budget Committees may not make any substantive change to the other committees' work product.

If legislation reported to the Budget Committee does not comply with any authorizing committee's instruction there are two consequences during floor consideration of the bill. First, if that committee's title of the bill contains any increases in spending (known as "sweeteners"), those sweeteners are vulnerable to a point of order under the "Byrd Rule" (which is discussed below). In addition, that title of the bill is subject to being rewritten by the full Senate. This could be accomplished by the making of a motion to recommit the bill with instructions to report back forthwith with an amendment containing legislative language which satisfies the original instruction. A listing of the completion dates of reconciliation legislation is set out in Appendix H.

#### ***Expedited Procedures in the Senate***

Once the Budget Committees have completed their work, the Congress then considers the reconciliation bill. Under the expedited procedures for the Senate set forth in the Act, total debate is limited to 20 hours. The actual time taken for consideration, however, may exceed the 20 hours. Motions and amendments may be offered and considered without debate at the end of the 20 hours. In addition, sections 305, 310 and 313 of the Act provide other restrictions with respect to the substantive content of the reconciliation measure and amendments thereto. For example, any amendment to the bill that is not germane, would add extraneous material, would cause deficit levels to increase, or that contains recommendations with respect to the old-age, survivors, and disability insurance program (OASDI) is not in order. If an amendment is objected to for any of these reasons, it cannot be considered absent a waiver of budgetary rules (which in the Senate requires a  $\frac{3}{5}$ ths vote.)

Section 313 of the Budget Act, providing a prohibition against "extraneous material", is known as the *Byrd Rule* (after the Senator from West Virginia, Robert C. Byrd). It is significant that this rule applies to the bill itself as well as to amendments and conference reports. Unlike other points of order in the Senate, if the

Presiding Officer sustains a point of order under the Byrd Rule against a provision in a bill or conference report, that provision is stricken from the measure. The Byrd Rule may be waived by a  $\frac{3}{5}$ ths vote.

The Byrd Rule provides that an amendment or provision is extraneous if it: (1) produces no change in outlays or revenues (and is not a term or condition of such change), (2) increases outlays or reduces revenues and the reporting committee fails to achieve its instructed dollar change, (3) is not within the jurisdiction of the committee reporting the title, (4) produces changes in outlays or revenues that are “merely incidental” to the non-budgetary components of the provision, (5) increases the deficit in any year beyond the years reconciled and such increase is not offset by other provisions in the same title, or (6) provides certain changes in the Social Security program. Whether or not an amendment, provision of a bill or conference report violates section 313 (or any other section of the Budget Act for that matter) is within the discretion of the Presiding Officer of the Senate who will consult with the Parliamentarian of the Senate. The Budget Committee, using CBO cost and JCT revenue estimates, is responsible for scoring of all provisions and amendments.

## **V. OTHER ASPECTS OF THE BUDGET PROCESS**

### ***The Government Performance and Results Act***

On August 3, 1993 the Government Performance and Results Act was signed into law, after having been passed by voice vote in both the House and the Senate (Public Law 103–62, 103rd Cong., 1st Sess.). The Results Act is the first management reform initiative rooted in law and tied directly to the budget structure. Under the law, agencies must develop performance measures for each program activity beginning with fiscal year 1999. For example, a job training program could measure the change in the wages of its graduates. This performance information should help clarify what the federal government is actually accomplishing. If the law functions as intended, funds will be diverted from underachieving programs to high-achieving programs.

The law requires four types of reports. Each agency must develop a five-year strategic plan to set the general direction of the agency. Agencies must also produce an annual performance plan which includes quantitative outcome goals compatible with the general goals of the strategic plan. In addition, agencies must produce a retrospective performance report each year, which compares the actual results to the stated goals. Finally, the OMB must construct a government-wide performance plan covering the entire Federal government. This plan is submitted each February along with the President’s budget.

### ***Title X: Impoundment Control and the Line Item Veto***

#### ***Rescissions and Deferrals***

Prior to the enactment of the Budget Act in 1974, the President would reduce federal spending after it was enacted by the Congress

by impounding funds. An impoundment occurs when the President does not spend any or all of an enacted appropriation. Under title X of the Budget Act of 1974, the President can defer (delay) the obligation of appropriations or propose a rescission (cancellation) of appropriations. It is Congress' responsibility to review all proposed rescissions and deferrals. While the Budget Act provides for procedures to address proposed Presidential rescissions and deferrals in an expedited fashion (see section 1017), these procedures have never been invoked. Rescissions and deferrals (whether initiated by the President or the Congress) have, however, been enacted using regular Senate procedures. Frequently this has occurred as part of a supplemental appropriations bill.

#### *Rescissions and Rescission Bills*

A rescission is a proposal contained in a special message from the President canceling, in whole or in part, previously appropriated budget authority. The funds must, however, be obligated if the Congress does not approve the rescission within 45 days of receipt of the President's special message. If a President feels that funds should not be made available for general or fiscal policy reasons, a rescission is the appropriate vehicle. Funds made available by use of the procedures in title X of the Budget Act may not be proposed for rescission again. The Budget Act (in section 1017) provides expedited procedures for considering a rescission bill which approves some or all of the rescissions contained in the President's special message.

#### *Deferrals and Impoundment Resolutions*

A deferral is a proposal contained in a special message from the President temporarily withholding or delaying the obligation or expenditure of budget authority. A deferral may not extend beyond the end of the fiscal year in which the special message is transmitted. The Act provides that deferrals are not to be used to alter policy decisions regarding spending made by the Congress. If the President wishes to alter spending policy, the appropriate action is to propose a rescission rather than repeatedly defer the spending of those funds. In order to overturn a deferral, Congress must pass and the President must sign legislation specifically rejecting the President's deferral.

### ***The Line Item Veto: An Attempt to Control Spending***

#### ***Overview***

After almost an entire year in conference Congress passed and the President signed into law the Line Item Veto Act of 1996 (Public Law 104-130). The law was designed to allow the President to cancel wasteful spending and special interest tax breaks to reduce the federal budget deficit. The law also included expedited legislative procedures which would have permitted Congress to review and respond, if necessary, to the President's use of this new authority by enacting a disapproval bill.

The Line Item Veto Act delegated to the President the authority to cancel certain budget obligations provided by appropriation, di-

rect spending, and tax laws. The law permitted the President to cancel any of the following:

- (1) *any dollar amount of discretionary spending* (which would be found in an appropriations act);
- (2) *any item of new direct spending* (a provision increasing direct spending would be found in legislation dealing with entitlements such as Medicare or Medicaid); or
- (3) *any limited tax benefit* (a provision benefitting 100 or fewer beneficiaries or a transition rule benefitting 10 or fewer beneficiaries would be found in a revenue act).

Once the President exercised the cancellation authority provided in the Line Item Veto Act, the Congress had three options for its response: (i) Congress could accept the President's cancellation and take no further action; (ii) Congress could begin the legislative process anew and in the normal course enact again the canceled item (being mindful that this would be additional spending which may require an offsetting reduction elsewhere); or (iii) Congress could begin consideration of a *disapproval bill* pursuant to the expedited legislative procedures set out in the Line Item Veto Act. The Act also called for expedited review of any legal challenges to the line item by the Federal courts.

The expedited judicial procedures were the first aspect of the new law to be used. These procedures culminated on June 25, 1998 when the Supreme Court of the United States held (in a 6–3 decision) that the Line Item Veto Act was unconstitutional as it violated the Presentment Clause of Article I, section 7 of the Constitution (see, *Clinton v. City of New York, et al.* 118 U.S.C. 2091, (1998)). This decision was the culmination of 18 months of litigation.

The Line Item Veto Act became effective on January 1, 1997 and the litigation began the very next day. On January 2, 1997 a group of six former and current Members of Congress (Senators—Byrd, Levin, Moynihan, and Hatfield and Representatives Skaggs and Waxman) filed a lawsuit in Federal District Court challenging the constitutionality of the new law. Ultimately, on June 27, 1997, the Supreme Court held in this lawsuit that the plaintiff Members of Congress lacked standing to bring such a challenge before the federal courts and thus the lawsuit was dismissed for lack of jurisdiction (see, *Raines v. Byrd et al.* 521 U.S. 811, 117 S. Ct. 2312, 2317 (1997)).

President Clinton then made use of his cancellation authority pursuant to the Line Item Veto Act during August and September of 1997: canceling a total of 82 items from various reconciliation and appropriations acts.<sup>1</sup> Of these 82 items, 38 (which had been part of the FY 1998 Military Construction Appropriations Act) were overturned by subsequent action of Congress (enactment of a disapproval bill—H.R. 2631—under the expedited procedures of the Line Item Veto Act).

An additional item, relating to an “open season” with respect to the pensions of certain federal employees, was invalidated on January 6, 1998 by an order of the U.S. District Court for the District

of Columbia (see, Order in *NTEU v. United States*, No. 97-2399 (D.D.C. Jan. 6, 1998)). In the NTEU case, the Clinton administration conceded that the President had exceeded his authority under the Act and agreed with the plaintiff, the National Treasury Employees Union, that the cancellation was not valid.

Two other canceled items, one relating to a Medicaid provision and the other a tax provision applicable to certain transactions entered into by agricultural cooperatives, became the source for the litigation which ultimately brought down the Line Item Veto Act. The plaintiffs in these two cases argued that the Line Item Veto was invalid because it violated both the Presentment Clause and the doctrine of Separation of Powers found in the Constitution. The two cases were consolidated at the District Court level and held to be unconstitutional (985 F. Supp. 168, 177-82 (1998)). As in the *Raines v. Byrd* case, the Supreme Court again exercised expedited review as called for in the Line Item Veto Act. Oral arguments were heard in *Clinton v. City of New York* on April 27, 1998 and the Court issued its ruling on June 25, 1998. In its June 25th decision, the Supreme Court found that the Line Item Veto Act was unconstitutional because it violates the procedures for enacting legislation which are set out in the Presentment Clause of the Constitution (Article I, section 7). The Court felt that the Act permitted the President to unilaterally amend duly enacted laws (the law upon which he would exercise his cancellation authority) by repealing only a portion thereof. Because the Court found the law invalid on these grounds, the majority felt it was not necessary to address the Separation of Powers arguments which had also been propounded by the opponents.

### ***The Unfunded Mandates Control Act***

In March of 1995, the Unfunded Mandates Reform Act of 1995, was enacted (Public Law 104-4, 104th Cong., 1st Sess.). The Unfunded Mandates Act amended the Budget Act to add a new Part B to title IV. The purposes of the Act are to limit the imposition of unfunded Federal mandates on state, local, and tribal governments and the private sector without full and informed congressional consideration of the effects of such mandates before their enactment. To fulfill these goals the Act: (i) requires CBO to provide a mandate analysis for all legislation reported from committee; (ii) provides a majority vote point of order; (iii) and requires that Federal agencies interact with state, local and tribal government with respect to the budgetary impact of Federal regulations which impose unfunded mandates.

The Act contains a list of 7 specific items (legislative or regulatory) which are excluded from mandates scrutiny. Thus, the Act does not apply to provisions which: (i) enforce constitutional rights; (ii) prohibit discrimination; (iii) require compliance with accounting or auditing procedures with respect to grants or other money or property provided by the Federal Government; (iv) provide for emergency relief at the request of a state, local, or tribal govern-

<sup>1</sup> An excellent discussion of the Line Item Veto Act and the President's use of the cancellation authority during its short life can be found in a Congressional Budget Office publication dated April 1998 and entitled: *The Line Item Veto Act After One Year*.

ment; (v) are necessary for national security or adherence to international agreements; (vi) the President designates as an emergency; or (vii) relate to the Old Age, Survivors and Disability Insurance program of title II of the Social Security Act.

### ***Federal Mandates***

In requiring congressional scrutiny of unfunded mandates, the Act makes an important distinction between those imposed upon state, local, and tribal governments (known as intergovernmental mandates) and those imposed upon the private sector (known as private sector mandates). Generally speaking, private sector mandates must be identified in report language for legislation, if and only if, the direct cost equals or exceeds \$100 million in the fiscal year first effective and any of the 4 following fiscal years. There is a point of order with respect to the consideration of such legislation if the CBO mandates estimate has not been published (either in the committee's report or placed in the Congressional Record) prior to its consideration, but there is no requirement to mitigate or limit costs of a private sector mandate. With respect to intergovernmental mandates, the threshold is \$50 million. In addition to the point of order with respect to the CBO mandates estimate, there is also a majority point of order against the consideration of any legislation containing such a mandate, unless the legislation contains language which provides spending authority or authorizes appropriations to cover the cost of the mandate (see section 425(a)(2)). Both of these points of order may be waived by a majority vote of the Senate.

### ***Role of the Congressional Budget Office***

In order for Congress to fully consider and appreciate the effects of Federal mandates, the Act created additional responsibilities for CBO. CBO must provide a statement to authorizing committees regarding whether reported bills contain Federal mandates. If the total direct costs of a mandate are above either the \$50 million or \$100 million thresholds in the fiscal year that the mandate is first effective or in any of the four following years, CBO must provide an estimate of these costs, if feasible, and the basis of the estimate. The CBO statement must also include an assessment of whether the bill authorizes or otherwise provides funding to cover the costs of the mandates. With respect to intergovernmental mandates, the cost statement must estimate the appropriations needed to fund such authorization for up to 10 years after the mandate becomes effective. In addition, CBO must "to the greatest extent practicable" prepare statements for conference agreements if they contain mandates not previously considered in either the House or the Senate if they impose greater direct costs than previously considered versions of the bill.

If an individual Senator requests, CBO must prepare estimates of the costs of intergovernmental mandates contained in an amendment the Senator may wish to offer. The Congress may also call upon CBO to do more detailed analyses of federal mandates. The Chairman or ranking minority member of a committee may request CBO to compare an agency's estimate of the costs of proposed regulations implementing a federal mandate with CBO's estimate pre-

pared when the law was enacted. The Act intends that CBO in effect critique the agency's estimate.

### ***Credit Reform***

Credit Reform, enacted by the Federal Credit Reform Act of 1990, strives to show the actual, long-term cost of programs where the Federal Government extends credit prior to the actual making of a direct loan or loan guarantee. It requires that the expected costs of defaults and interest subsidies be factored into the total cost of a loan, which is recorded in the budget on a present-value basis at the time credit is extended.

Before the Credit Reform Act became law, the federal budget accounted for all credit transactions on a cash basis, meaning that spending (i.e. loan disbursements) and receipts (i.e. loan repayments) were recorded in the fiscal year in which they occurred. Such treatment made it difficult to compare on an equal footing the long-term costs associated with credit programs. For example, consider one key distinction between two credit programs which are not easily compared. For direct loans, the federal government actually provides the loan funds to and receives repayments from the borrower, but for guaranteed loans, a private entity actually makes and services the loan and the federal government has to make a payment only if the borrower defaults. Because the Federal Government does not have to disburse cash for guaranteed loans, such loans appeared to have no cost (at least in the near-term), so the cash treatment made them appear cheaper, and therefore more easily "funded", than direct loans. In addition, a direct loan program with high expected defaults would appear as no more expensive than one with low defaults, thereby denying lawmakers key information for making funding decisions.

Credit reform attempts to account for all the expected costs associated with a credit program at the time credit is extended. By separately identifying the elements that account for the Federal subsidy in the program—such as expected delinquencies and defaults and interest rate reductions—credit reform allows lawmakers to appropriate funds to cover the entire subsidy at the time a loan is made. In most cases, credit reform also allows lawmakers to easily compare the costs of competing credit programs by comparing their subsidies. Now, loan programs with high expected default rates actually appear more expensive than ones with low default rates. And guaranteed loans no longer appear free.





## **VI. APPENDICES**

### *Appendix A*

#### **BUDGET FUNCTIONS**

050: National Defense  
150: International Affairs  
250: General Science, Space, and Technology  
270: Energy  
300: Natural Resources and Environment  
350: Agriculture  
370: Commerce and Housing Credit  
400: Transportation  
450: Community and Regional Development  
500: Education  
550: Health  
570: Medicare  
600: Income Security  
650: Social Security  
700: Veterans Benefits and Services  
750: Administration of Justice  
800: General Government  
900: Net Interest  
920: Allowances  
950: Undistributed Offsetting Receipts



## *Appendix B*

### **CBO'S POLICIES FOR PREPARING AND DISTRIBUTING ITS ESTIMATES AND ANALYSES**

(From CBO Document, Summer 1998)

The mission of the Congressional Budget Office (CBO) is to provide the Congress with the objective, timely, nonpartisan analysis needed for economic and budget decisions and the information and estimates required for the Congressional budget process. This document describes the policies and procedures that CBO follows as it prepares and distributes budget estimates and other analytic work for the Congress.

#### **CBO'S STATUTORY RESPONSIBILITIES**

The basic statute setting forth the duties and functions of the Congressional Budget Office is title II of the Congressional Budget Act of 1974. Additional responsibilities for budget estimates are contained in titles III and IV of that act. Subsequent legislation has affected those responsibilities and has added further requirements for specific analyses.

According to title II of the Budget Act, CBO's primary duty is to provide budget-related information to all committees of both Houses, with priority given first to the information needs of the Committees on the Budget and second to the information needs of the Committees on Appropriations, Ways and Means, and Finance. With respect to individual Members, the only CBO duty stipulated in the act is to provide information compiled for committees and additional related information that may be requested.

Title II also requires CBO to prepare several specific reports to the Committees on the Budget each year, including periodic assessments of the economic and budget outlook, and to conduct continuing studies on budgetary matters.

Titles III and IV of the Congressional Budget Act specify additional duties for CBO to carry out in reviewing bills or joint resolutions reported from committees of either House. Title III covers all bills or joint resolutions that provide new budget or spending authority, such as appropriation bills, or that provide an increase or decrease in revenues. Title IV covers all bills and joint resolutions other than appropriation bills and private relief bills. Under those titles, CBO must prepare estimates of new budget authority, outlays, or revenues provided by the bills or joint resolutions, or of the costs that the government would incur in carrying out the provisions of the proposed legislation. The CBO cost estimates are to be included in the reports accompanying such bills or resolutions if they are submitted to the committees before the reports are filed.

For estimating the impact on revenues of legislation involving income, estate and gift, excise, and payroll taxes, the Congressional Budget Act directs CBO to use exclusively the revenue estimates of the Joint Committee on Taxation.

The Balanced Budget and Emergency Deficit Control Act of 1985, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, and the Budget Enforcement Act of 1990 assign further duties to the Congressional Budget Office, such as providing budget estimates for the purpose of budget control. That function includes preparing the various sequestration reports to the Congress and the Office of Management and Budget. The Budget Enforcement Act also requires CBO to estimate changes in direct spending and revenues for private relief legislation as well as for public bills or joint resolutions.

The Unfunded Mandates Reform Act of 1995 requires CBO to prepare estimates of the direct costs of all federal mandates that are contained in legislation reported by any authorizing committee in either House and that affect state, local, and tribal

governments or the private sector. The act also authorizes CBO to prepare analyses and studies of the budgetary or financial impact of proposed legislation that may significantly affect state and local governments or the private sector, to the extent practicable, at the request of any committee.

From time to time, statutes have directed CBO to prepare analytic reports on specific subjects. Such reports have included the treatment of administrative costs under credit reform accounting, the financial risks posed by government-sponsored enterprises, and the desirability and feasibility of privatizing the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

#### HOW WORK ON CBO'S ESTIMATES AND ANALYSES IS INITIATED

The Congressional Budget Office strives to provide federal budget and mandate cost estimates for all bills other than appropriation bills when they are reported by a full committee of either House. Committee staff should notify CBO when bills are about to be ordered reported and when cost estimates are needed.

CBO also prepares cost estimates for proposals at other stages of the legislative process at the request of a committee of jurisdiction, a budget committee, or the Congressional leadership. For example, CBO may prepare cost estimates for a series of bills to be considered by a subcommittee, including draft bills not yet introduced, or for amendments to be considered during committee markups. Similarly, it may prepare cost estimates for floor amendments and for bills that pass one or both Houses.

For appropriation bills, CBO provides estimates of outlays that would result from the provision of budget authority. CBO also provides the budget and appropriation committees with frequent tabulations of Congressional actions on both spending and revenue bills so that the Congress can know whether it is acting within the limits set by the annual budget resolution.

In addition to statutory reports, or analyses done to directly support CBO's statutory work, the office undertakes a number of other analyses each year, although only at the request of the Chairman or Ranking Minority Member of the relevant committee or subcommittee or the Congressional leadership. Also, as time permits, CBO will honor requests of individual Members for cost information or other analysis or legislative proposals, but it must give priority to committee requests.

By way of definition, a committee request consists of a written or oral request by the Chairman or Ranking Minority member of a committee or subcommittee. CBO asks that requests from individual Members be made in writing.

#### HOW CBO CONSULTS WITH COMMITTEES AND OTHER REQUESTERS OF ESTIMATES AND ANALYSES

When undertaking a cost estimate or an analysis supporting such an estimate, CBO analysts contact the staff of the committee of jurisdiction and, when applicable, the staffs of the member sponsoring the proposal and the Member requesting the estimate to gather background information and discuss the schedule for completing the estimate. Budget and mandate cost estimates are based on the text of the proposed legislation. CBO analysts consult with the staff of the committee of jurisdiction (for a reported bill) or the sponsoring Member (for an introduced bill or amendment) when questions of interpretation arise, but they draw their own conclusions on an impartial and objective basis.

CBO analysts contact the appropriate staff members if a forthcoming CBO estimate shows direct spending costs, mandates that exceed the legislative thresholds, or other significant findings. CBO, however, does not make judgments about the application of parliamentary points of order. After CBO cost estimates have been transmitted, they may be revised to correct errors or to incorporate new or updated information.

When undertaking requested analyses of legislative proposals or issues, CBO staff members consult with the requester's staff to reach an understanding of the scope and nature of the work to be done. CBO analysts draw their own conclusions on an impartial and objective basis, as they do when preparing cost estimates. When appropriate, CBO staff inform other relevant committees of requests for analytic work after advising the requester's staff. As a final step in the consultation process, CBO informs the requester's staff of the results of the analysis before it releases the material.

### SOURCES OF INFORMATION AND PEER REVIEW PRACTICES

In preparing its budget estimates and analyses, CBO uses the rich data sources available from the government's statistical agencies. Those sources include the national income and product accounts, the census of manufacturers, the Statistics of Income, the Current Population Survey, and various national health surveys. CBO also uses information provided by relevant government agencies and industry groups to meet specific needs.

CBO employs standard methods of economic analysis and closely follows theoretical and empirical developments in the professional literature for economics and related disciplines. In addition, CBO frequently calls on outside experts for advice on specific analytic matters, such as the outlook for agriculture production, spending projections for Medicare and Medicaid, and business prospects in the telecommunications industry. For its economic forecasts and assumptions, CBO draws on the advice of a distinguished panel of advisers that meets twice a year.

All CBO estimates and analytic products are reviewed internally for technical competence, accuracy of data, and clarity of exposition. CBO studies are also reviewed by experts outside CBO, and the preface to each study cites the many contributors who helped shape the final product. Although outside experts and advisers provide considerable assistance, CBO is solely responsible for the accuracy of the estimates and analyses that it produces. In keeping with its nonpartisan status and its mandate to provide objective analysis, CBO does not make policy recommendations in any of its analyses.

### CBO'S RESPONSIBILITY FOR DISCLOSING AND EXPLAINING ITS CRITICAL ASSUMPTIONS AND METHODOLOGIES

Both the Congressional Budget Act and the Unfunded Mandates Reform Act direct CBO to disclose the basis for each budget and mandate cost estimate. CBO interprets that directive to include the disclosure of the critical assumptions and analytic methodologies used to prepare the estimate. All written cost estimates include explanations of the basis of the estimate, and CBO supplies further details on request. Similar explanations of critical assumptions and methodologies are given in CBO's analytic products. It is CBO's policy that its estimates and analyses be clearly presented and easy to understand.

### HOW CBO TRANSMITS ITS WORK TO THE CONGRESS

CBO seeks to ensure that key parties in the Congress who are involved in any particular issue have equal access to its analytic work. Insofar as possible, CBO delivers its cost estimates and analyses to all interested parties simultaneously. Requests for confidentiality are honored only for cost estimates for legislative proposals that have not been made public.

The Director of the Congressional Budget Office transmits by letter all formal budget and mandate cost estimates of legislative proposals and all requested analyses. CBO sends its formal cost estimates for reported bills and estimates prepared at committee request to the Chairman and Ranking Minority Member of the reporting or requesting committee. When the requester is a budget committee or individual Member, CBO sends a copy of its cost estimate simultaneously to the Chairman and Ranking Minority Member of the committee of jurisdiction; for an introduced bill or amendment, a copy of the estimate is sent to the sponsor as well as the requester. Cost estimates of legislative proposals that have not been introduced as a bill or made public are transmitted only to the sponsoring Member or requesting committee unless CBO is directed otherwise.

In contrast, informal cost estimates may be transmitted directly by CBO staff. Informal estimates are preliminary because they do not undergo the same review procedures required for formal estimates.

### HOW CBO DISTRIBUTES ITS ESTIMATES AND ANALYSES

CBO makes its analytic work widely available to Members of Congress and their staffs as well as to the public. The Publications Office sends a copy of all CBO reports and studies to each Member. Copies of CBO papers, memorandums, and other analyses are available to Members and Congressional staff on request.

The Publications Office also handles requests from the general public, other government agencies, and the press. Single copies of CBO reports, studies, papers, and memorandums are available at no charge. In addition, the Superintendent of Docu-

ments at the U.S. Government Printing Office carries many CBO reports and studies.

In September 1997, CBO launched its World Wide Web site ([www.cbo.gov](http://www.cbo.gov)). The site now includes publications, testimony, and cost estimates issued since then as well as many publications from previous years. As time and resources permit, CBO will continue to post older products that remain relevant and useful. An index of publications issued since CBO began operating in 1975, arranged chronologically and by subject, will also be posted on the Web site.

The documents on CBO's Web site are available in four formats: HTML, PDF, PostScript, and WordPerfect. The multiformat approach makes CBO's products accessible to a wide variety of users and for multiple purposes. Visitors can browse, search, download, and print documents that are on the Web. They can also subscribe to ListServer a feature that enables them to be notified by E-mail when CBO issues a publication on a subject of interest to them.

For further information on CBO policies, contact the Administration and Information Division at (202) 226-2600 or visit CBO's Web site ([www.cbo.gov](http://www.cbo.gov)). For copies of CBO's analyses, call the Publications Office at 226-2809 or write to the following: Congressional Budget Office, Administration and Information Division, Ford House Office Building, Second and D Streets, SW, Washington, DC 20515.

## Appendix C

### JURISDICTION OF THE SENATE COMMITTEE ON THE BUDGET

#### **A. From Rule XXV of the Standing Rules of the Senate**

(e)(1) **Committee on the Budget**, to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

(2) Such committee shall have the duty—

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

#### **B. Unanimous consent agreement of January 30, 1975 (as modified on April 11, 1986) with respect to Rescissions and Deferrals (which had the effect of adopting the language of Senate Resolution 45 which is set forth below):**

*Resolved,*

1. That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

2. That bills, resolutions and joint resolution introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, and Budget Committee, and pending implementations of section 401 of the Congressional Budget and Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2) (A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

3. If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report the bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

(A) the time remaining under the act in the case of rescissions, or

(B) within 20 days in the case of deferrals.

4. The 20 day period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more



than 3 days, to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate.

(Agreed to January 30, 1975 (94th Cong., 1st Sess.), found at page S1917 of the *Congressional Record* and as modified on April 11, 1986 (99th Cong., 2nd Sess.), found on pages S7318–19 of the *Congressional Record*).

**C. Unanimous consent agreement of August 4, 1977 regarding legislation affecting the budget process (the text of which is set forth below):**

. . . [t]hat legislation affecting the congressional budget process, as described below, be referred jointly to the committees on the Budget and on Governmental Affairs. If one committee acts to report a jointly referred measure, the other must act within 30 calendar days of the continuous possession, or be automatically discharged.

Legislative proposals affecting the congressional budget process to which this order applies are:

First. The functions, duties, and powers of the Budget Committee—as described in title I of the act;

Second. The functions, duties, and powers of the Congressional Budget Office—as described in titles III and IV of the act;

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the establishment: mandatory ceilings on spending and appropriations; a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting on authorization bills, and on the enactment of appropriations bills; and enforcement mechanisms for the limits and timetables, all as described in titles III and IV of the act;

Fourth. The limiting of backdoor spending devices—as described in title IV of the act;

Fifth. The timetables for Presidential submission of appropriations and authorization request—as described in title IV of the act;

Sixth. The definitions of what constitutes impoundment—such as “rescissions” and “deferrals” as provided in the Impoundment Control Act, title X;

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X;

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

Ninth. The provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof.

(Agreed to August 4, 1977 (95th Cong., 1st Sess.), found at pages S26709–10 of the *Congressional Record*).

## Appendix D

### MEMBER ROSTERS OF THE SENATE COMMITTEE ON THE BUDGET, BY CONGRESS

#### 93rd Congress 1974

##### Chairman Edmund S. Muskie

<i>Majority</i>		<i>Minority</i>
Magnuson, Warren G.		(RM) Dominick, Peter H.
Moss, Frank E.		Young, Milton R.
Mondale, Walter F.		Hruska, Roman L.
Hollings, Ernest F.		Javits, Jacob K.
Cranston, Alan		Fannin, Paul J.
Chiles, Lawton M. Jr.		Dole, Robert J.
Abourezk, James G.		
Biden, Joseph R. Jr.		
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Defeated for Reelection	None	Dominick, Peter H.
<b>Departures from Committee:</b>		
No new assignment	None	Fannin, Paul J. Hruska, Roman L. Javits, Jacob K. Young, Milton R.

\*Created as a standing committee 7/12/74. No budget legislation was produced during the few remaining months of this Congress. The committee concentrated on laying the groundwork for the activities of future budget committees.

#### 94th Congress 1975-1976

##### Chairman Edmund S. Muskie

<i>Majority</i>		<i>Minority</i>
Magnuson, Warren G.		(RM) Bellmon, Henry
Moss, Frank E.		Dole, Robert J.
Mondale, Walter F.		Beall, J. Glenn Jr.
Hollings, Ernest F.		Buckley, James L.
Cranston, Alan		McClure, James A.
Chiles, Lawton M. Jr.		Domenici, Pete V.
Abourezk, James G.		
Biden, Joseph R. Jr.		
Nunn, Samuel A.		
<b>Changes:</b>		
<i>Majority:</i>		
Mondale, Walter F.	12/30/76 Resigned; elected Vice President	
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Defeated for Reelection	Moss, Frank E.	Beall, J. Glenn Jr. Buckley, James L.

\*RM denotes Ranking Member.

\*\*The first budget ever was completed during this Congress.

**95th Congress 1977-1978****Chairman Edmund S. Muskie**

<i>Majority</i>		<i>Minority</i>	
Mangnuson, Warren G.		(RM) Bellmon, Henry	
Moss, Frank E.		Dole, Robert J.	
Hollings, Ernest F.		McClure, James A.	
Cranston, Alan		Domenici, Pete V.	
Chiles, Lawton M. Jr.		Chafee, John H.	
Abourezk, James G.		Lugar, Richard G.	
Biden, Joseph R. Jr.			
Nunn, Samuel A.			
<b>Additions:</b>			
<i>Majority:</i>			
Anderson, Wendell R.	1/11/77	(temporary assignment)	
Moynihan, Daniel Patrick	1/11/77	(temporary assignment)	
<b>Changes:</b>			
<i>Majority:</i>			
Nunn, Samuel A.	2/11/77	Left committee, no new assignment	
Johnston, J. Bennett, Jr.	2/11/77	Replaced Nunn	
Moynihan, Daniel P.	2/11/77	Moved to EPW	
Sasser, James R.	2/11/77	Replaced Moynihan	
Anderson, Wendell R.	12/29/78	Resigned, lost special election	
<i>Minority:</i>			
Chafee, John H.	2/22/77	Moved to EPW	
Lugar, Richard G.	2/22/77	Moved to Banking, Housing and Urban Affairs	
Hayakawa, S.I. (Sam)	2/22/77	Replaced Chafee	
Heinz, H. John III	2/22/77	Replaced Lugar	
<b>Departures from the Senate:</b>			
Retired	<i>Majority</i>	Abourezk, James G.	<i>Minority</i> None
<b>Departures from Committee:</b>			
Moved to Judiciary	None		Dole, Robert J.
Moved to Appropriations	None		McClure, James A.
Moved to Foreign Relations	None		Hayakawa, S.I. (Sam)
Moved to Finance	None		Heinz, H. John III
No new assignment		Cranston, Alan	None

**96th Congress 1979-1980****Chairman Edmund S. Muskie**

<i>Majority</i>		<i>Minority</i>	
Mangnuson, Warren G.		(RM) Bellmon, Henry	
Hollings, Ernest F.		Domenici, Pete V.	
Chiles, Lawton M. Jr.		Packwood, Robert W.	
Biden, Joseph R. Jr.		Armstrong, William L.	
Johnston, J. Bennett Jr.		Kassebaum, Nancy Landon	
Sasser, James R.		Boschwitz, Rudolf E.	
Hart, Gary W.		Hatch, Orrin G.	
Metzenbaum, Howard M.		Pressler, Larry L.	
Riegle, Donald W. Jr.			
Moynihan, Daniel Patrick			
Exon, J. James			
<b>Changes:</b>			
<i>Chair:</i>			
Muskie, Edmund S.	5/7/80	Resigned, appointed Secretary of State	
Hollings, Ernest F.	5/13/80	Succeeded Muskie as Chair	
<i>Majority:</i>			
Muskie, Edmund S.	5/7/80	Resigned, appointed Secretary of State	
Mitchell, George J.	5/19/80	Replaced Muskie	

<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Defeated for Reelection	Mangnuson, Warren G.	None
Retired	None	Bellmon, Harry
<b>Departures from Committee:</b>		
Moved to Finance	Mitchell, George J.	None
Moved to Foreign Relations	None	Pressler, Larry L.
No new assignment	None	Packwood, Robert W.

**97th Congress 1981–1982****Chairman Pete V. Domenici**

<i>Majority</i>	<i>Minority</i>
Armstrong, William L.	(RM) Hollings, Ernest F.
Kassebaum, Nancy Landon	Chiles, Lawton J. Jr.
Boschwitz, Rudolf E.	Biden, Joseph R. Jr.
Hatch, Orrin G.	Johnston, J. Bennett Jr.
Tower, John G.	Sasser, James R.
Andrews, Mark	Hart, Gary W.
Symms, Steven D.	Metzenbaum, Howard M.
Grassley, Charles E.	Riegle, Donald W. Jr.
Kasten, Robert W. Jr.	Moynihan, Daniel Patrick
Quayle, J. Danforth	Exon, J. James
Gorton, Slade	

**98th Congress 1983–1984****Chairman Pete V. Domenici**

<i>Majority</i>	<i>Minority</i>	
Armstrong, William L.	(RM) Chiles, Lawton M. Jr.	
Kassebaum, Nancy Landon	Hollings, Ernest F.	
Boschwitz, Rudolf E.	Biden, Joseph R. Jr.	
Hatch, Orrin G.	Johnston, J. Bennett Jr.	
Tower, John G.	Sasser, James R.	
Andrews, Mark	Hart, Gary W.	
Symms, Steven D.	Metzenbaum, Howard M.	
Grassley, Charles E.	Riegle, Donald W. Jr.	
Kasten, Robert W. Jr.	Moynihan, Daniel Patrick	
Quayle, J. Danforth	Exon, J. James	
Gorton, Slade		
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Retired	Tower, John G.	None
<b>Departures from Committee:</b>		
No new assignment	None	Biden, Joseph R. Jr.

**99th Congress 1985–1986****Chairman Pete V. Domenici**

<i>Majority</i>	<i>Minority</i>
Armstrong, William L.	(RM) Chiles, Lawton M. Jr.
Kassebaum, Nancy Landon	Hollings, Ernest F.
Boschwitz, Rudolf E.	Johnston, J. Bennett Jr.
Hatch, Orrin G.	Sasser, James R.
Andrews, Mark	Hart, Gary W.
Symms, Steven D.	Metzenbaum, Howard M.
Grassley, Chalres E.	Riegle, Donald W. Jr.
Kasten, Robert W. Jr.	Moynihan, Daniel Patrick
Quayle, J. Danforth	Exon, J. James
Gorton, Slade	Lautenberg, Frank R.
Danforth, John C.	

<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Defeated for Reelection	Andrews, Mark Gorton, Slade	None
Retired	None	Hart, Gary W.
<b>Departures from Committee:</b>		
Moved to Foreign Relations; Rules and Administration	None	Moynihan, Daniel Patrick
No new assignment	Hatch, Orrin G.	Metzenbaum, How- ard M.

**100th Congress 1987-1988****Chairman Lawton M. Chiles, Jr.**

<i>Majority</i>	<i>Minority</i>
Hollings, Ernest F. Johnston, J. Bennett Jr. Sasser, James R. Riegle, Donald W. Jr. Exon, J. James Lautenberg, Frank R. Simon, Paul M. Sanford, Terry Wirth, Timothy E. Fowler, Wyche Jr. Conrad, Kent Dodd, Christopher J.	(RM) Domenici, Pete V. Armstrong, William L. Kassebaum, Nancy Landon Boschwitz, Rudolf E. Symms, Steven D. Grassley, Charles E. Kasten, Robert W. Jr. Quayle, J. Danforth Danforth, John C. Nickles, Don Rudman, Warren B.
<b>Changes:</b>	
<i>Minority:</i> Quayle, J. Danforth	1/2/89 Resigned, elected Vice President

<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Retired	Chiles, Lawton M., Jr.	None
<b>Departures from Committee:</b>		
Moved to Select Intelligence	None	Danforth, John C.
Moved to Banking, Housing & Urban Affairs; Labor & Human Resources	None	Kassebaum, Nancy Landon

**101st Congress 1989-1990****Chairman James R. Sasser**

<i>Majority</i>	<i>Minority</i>	
Hollings, Ernest F. Johnston, J. Bennett Jr. Riegle, Donald W. Jr. Exon, J. James Lautenberg, Frank R. Simon, Paul M. Sanford, Terry Wirth, Timothy E. Fowler, Wyche Jr. Conrad, Kent Dodd, Christopher J. Robb, Charles S.	(RM) Domenici, Pete V. Armstrong, William L. Boschwitz, Rudolf E. Symms, Steven D. Grassley, Charles E. Kasten, Robert W. Jr. Nickles, Don Rudman, Warren Gramm, W. Phil Bond, Christopher S.	
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>
Defeated for Reelection	None	Boschwitz, Rudolf E.
Retired	None	Armstrong, William L.
<b>Departures from Committee:</b>		
Moved to Select Intelligence	None	Rudman, Warren
No new assignment	Robb, Charles S.	None

**102nd Congress 1991–1992****Chairman James R. Sasser**

<i>Majority</i>		<i>Minority</i>	
Hollings, Ernest F.		(RM) Domenici, Pete V.	
Johnston, J. Bennett Jr.		Symms, Steven, D.	
Riegle, Donald W. Jr.		Grassley, Charles E.	
Exon, J. James		Kasten, Robert W. Jr.	
Lautenberg, Frank R.		Nickles, Don	
Simon, Paul M.		Gramm, W. Phil	
Sanford, Terry		Bond, Christopher S.	
Wirth, Timothy E.		Lott, Trent	
Fowler, Wyche Jr.		Brown, Hank	
Conrad, Kent			
Dodd, Christopher J.			
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>	
Retired	Wirth, Timothy E.	Symms, Steven D.	
Defeated for Reelection	Sanford, Terry	Kasten, Robert W. Jr.	
	Fowler, Wyche Jr.		

**103rd Congress 1993–1994****Chairman James R. Sasser**

<i>Majority</i>		<i>Minority</i>	
Hollings, Ernest F.		(RM) Domenici, Pete V.	
Johnston, J. Bennett Jr.		Grassley, Charles E.	
Riegle, Donald W. Jr.		Nickles, Don	
Exon, J. James		Gramm, W. Phil	
Lautenberg, Frank R.		Bond, Christopher S.	
Simon, Paul S.		Lott, Trent	
Conrad, Kent		Brown, Hank	
Dodd, Christopher J.		Gorton, Slade	
Sarbanes, Paul S.		Gregg, Judd	
Boxer, Barbara			
Murray, Patty			
<b>Departures from the Senate:</b>	<i>Majority</i>	<i>Minority</i>	
Retired	Riegle, Donald W. Jr.	None	
Defeated for Reelection	Sasser, James R.		

**104th Congress 1995–1996****Chairman Pete V. Domenici**

<i>Majority</i>		<i>Minority</i>	
Grassley, Charles E.		(RM) Exon, J. James	
Nickles, Don		Hollings, Ernest F.	
Gramm, W. Phil		Johnston, J. Bennett Jr.	
Bond, Christopher S.		Lautenberg, Frank R.	
Lott, Trent		Simon, Paul M.	
Brown, Hank		Conrad, Kent	
Gorton, Slade		Dodd, Christopher J.	
Gregg, Judd		Sarbanes, Paul S.	
Snowe, Olympia J.		Boxer, Barbara	
Abraham, Spencer		Murray, Patty	
Frist, Bill			
<b>Additions:</b>			
<i>Majority:</i>			
Grams, Rod	3/29/96		
<i>Minority:</i>			
Wyden, Ron	3/29/96		

**Changes:***Majority:*

Lott, Trent

6/20/96 Left committee, became Senate Majority  
Leader

Mack, Connie

6/20/96 Replaced Lott

**Departures from the Senate:**

Retired

*Majority*

Brown, Hank

*Minority*Exon, J. James  
Johnston, J. Bennett  
Jr.  
Simon, Paul**Departures from Committee:**

Mack, Connie

Dodd, Christopher J.

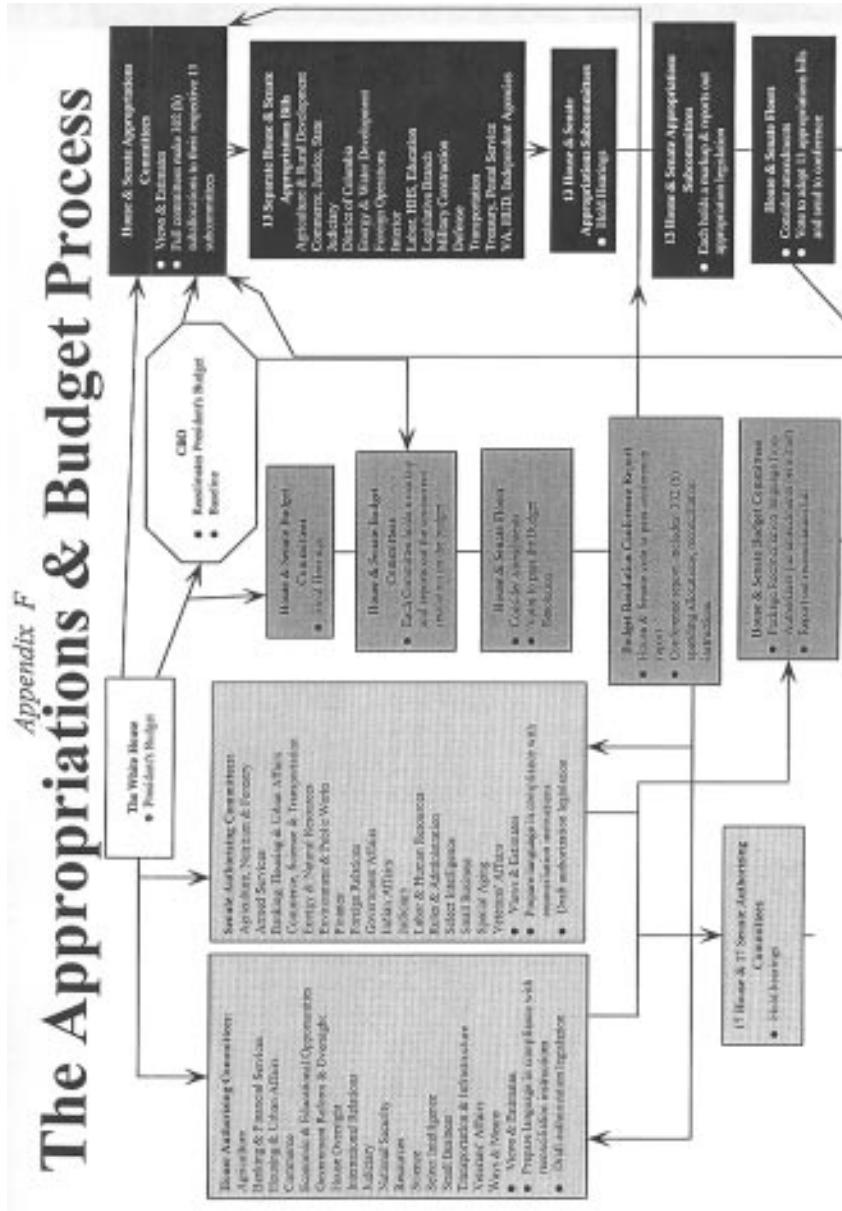
***105th Congress 1997–1998*****Pete V. Domenici, NM, Chairman***Majority*Charles E. Grassley, IA  
Don Nickles, OK  
Phil Gramm, TX  
Christopher S. Bond, MO  
Slade Gorton, WA  
Judd Gregg, NH  
Olympia J. Snowe, ME  
Spencer Abraham, MI  
Bill Frist, TN  
Rod Grams, MN  
Gordon Smith, OR*Minority*Frank R. Lautenberg, NJ  
Ernest F. Hollings, SC  
Kent Conrad, ND  
Paul S. Sarbanes, MD  
Barbara Boxer, CA  
Patty Murray, WA  
Ron Wyden, OR  
Russell D. Feingold, WI  
Tim Johnson, SD  
Richard J. Durbin, IL

## *Appendix E*

### **BUDGET TIMETABLE**

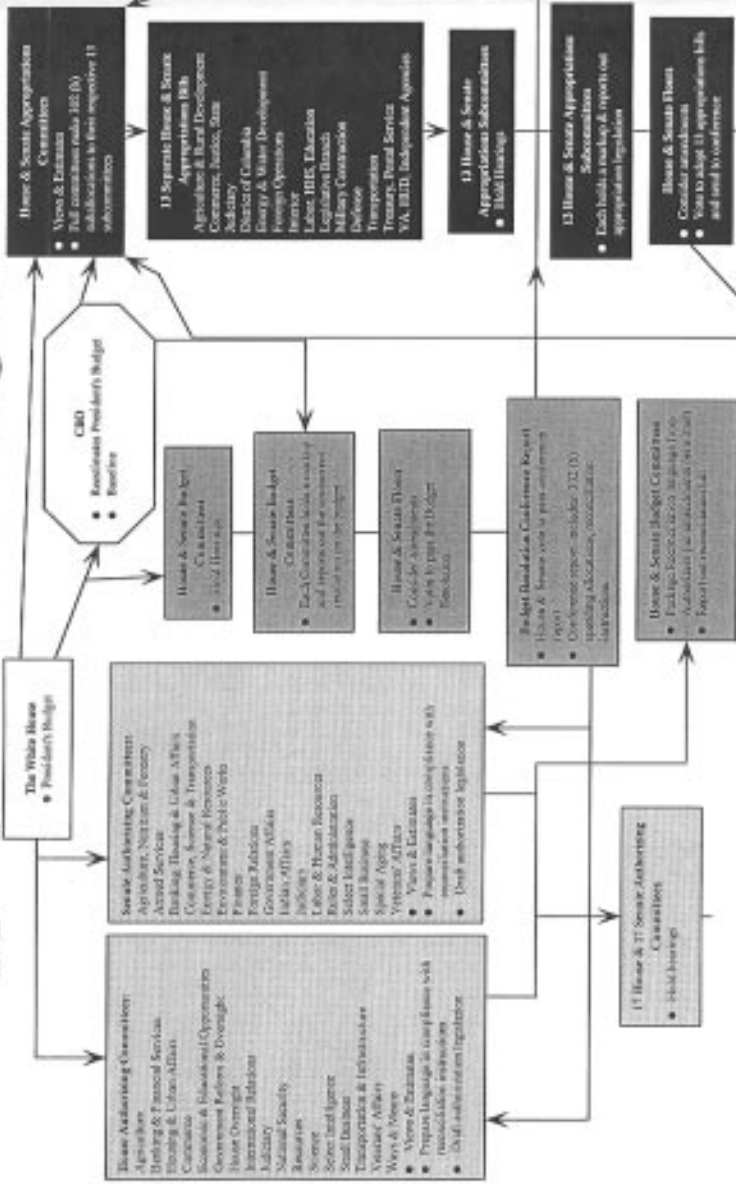
Date	Action
5 days before President's budget submission .....	CBO sequester preview report.
1st Monday in February .....	President's budget submission (includes OMB sequester preview report and adjustments to spending caps).
February 15 .....	CBO budget and economic outlook report.
Within 6 weeks of President's budget .....	Committees submit views and estimates to the Budget Committees.
April 1 .....	Senate Budget Committee reports budget resolution.
April 15 .....	Congress completes budget resolution. If not, Chairman of House Budget Committee files 302(a) allocations; Ways and Means is free to proceed with pay-as-you-go measures.
May 15 .....	Appropriation bills may be considered in the House.
June 10 .....	House Appropriations reports last bill.
End of previous session to June 30 .....	If an appropriations bill violates caps, OMB sequesters 15 days after enactment.
June 30 .....	House completes action on annual appropriation bills.
July 15 .....	President submits mid-session review.
August 10 .....	President's notification on military personnel exemption.
August 15 .....	CBO sequester update report.
August 20 .....	OMB sequester update report (with adjustments to caps).
October 1 .....	Fiscal year begins.
10 days after end of session .....	CBO final sequester report.
15 days after end of session .....	OMB final sequester report.
15 days after end of session .....	GAO compliance report.

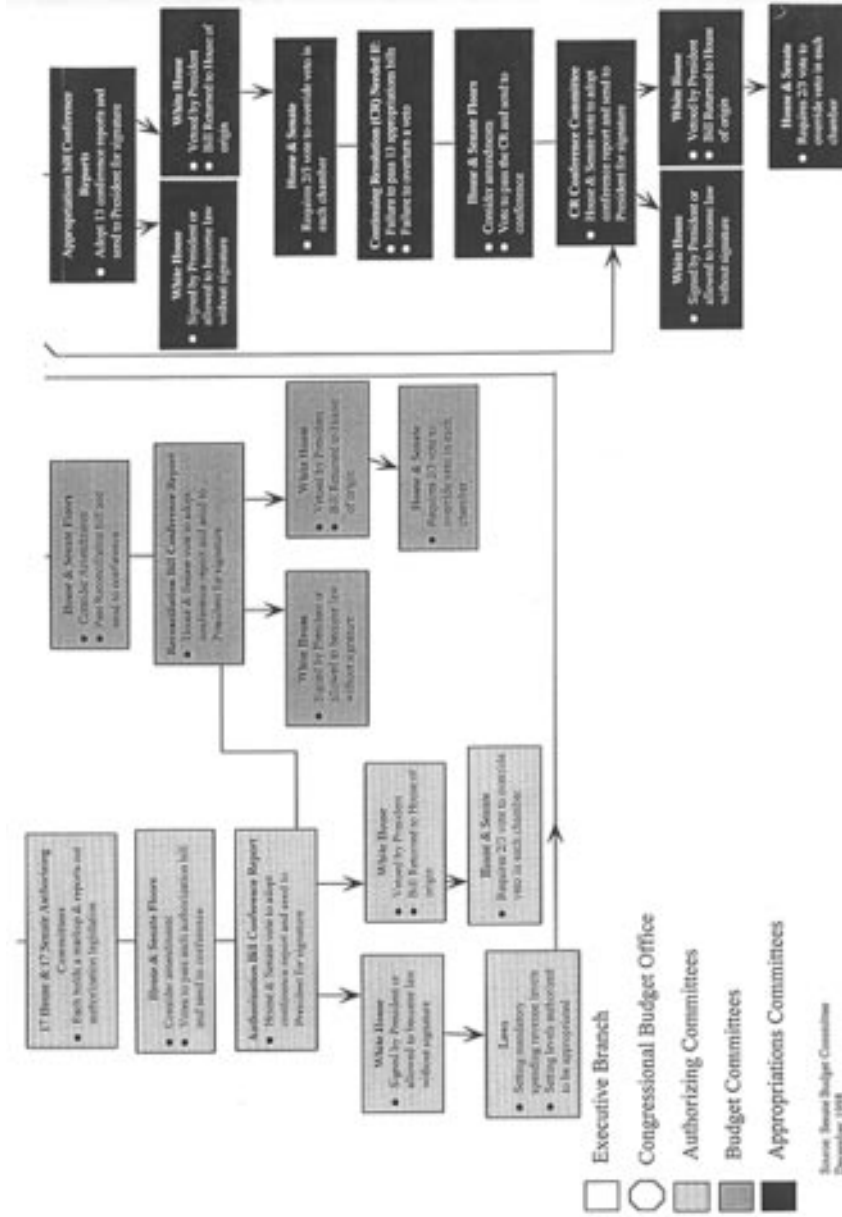




Appendix F

# The Appropriations & Budget Process







## *Appendix G*

### COMPLETION DATES OF BUDGET RESOLUTIONS

Fiscal Year	Budget resolution adopted
1976 .....	<b>May 14, 1975 (H. Con. Res. 218)</b>
1977 .....	<b>May 13, 1976 (S. Con. Res. 109)</b>
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 <sup>1</sup> .....	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 .....	<b>April 1, 1993 (H. Con. Res. 64)</b>
1995 .....	May 12, 1994 (H. Con. Res. 218)
1996 .....	June 29, 1995 (H. Con. Res. 67)
1997 .....	June 13, 1996 (H. Con. Res. 178)
1998 .....	June 4, 1997 (H. Con. Res. 84)
1999 .....	April 2, 1998 (Senate passes S. Con. Res. 86) <sup>2</sup>

<sup>1</sup> From fiscal year 1976 through fiscal year 1986 May 15 was the deadline for adoption of a budget resolution. The enactment of Gramm-Rudman-Hollings in fiscal year 1987 changed the deadline date to April 15.

<sup>2</sup> Conference never completed with the House of Representatives on the FY 1999 Budget Resolution. April 2, 1998: Senate passes S. Res. 209 deeming section 302(a) allocation for Senate Committee on Appropriations. October 21, 1998: Senate passes S. Res. 312, amending S. Res. 209 to deem budgetary levels for Senate enforcement of points of order pursuant to the Congressional Budget Act during FY 1999.

Bold indicates that Congress met the statutory deadline for completion of the budget resolution.



## *Appendix H*

### **BUDGET ACT POINTS OF ORDER IN THE SENATE**

Section	Description	Waiver requirement
301(g) .....	More than one set of economics in a budget resolution	Majority
301(i) .....	Prohibits consideration of budget resolutions that reduce the Social Security surplus.	60
302(c) .....	Prohibits consideration of Appropriations legislation until committee has filed § 302(b) suballocation report.	60
302(f) .....	Prohibits consideration of legislation providing budget authority, outlays, or Social Security outlays in excess of committee's § 302(a) or 302(b) allocation.	60
303(a) .....	Prohibits consideration of any new spending, revenue or debt legislation for a fiscal year (except for appropriations) prior to adoption of budget resolution for that fiscal year.	Majority
303(c) .....	Prohibits consideration of any appropriations legislation prior to adoption of a budget resolution and section 302(a) allocation for the Appropriations Committee. Exception: advance appropriation for the 1st or 2nd fiscal year after a year for which a section 302(a) allocation has been made.	Majority
305(b)(2) .....	Prohibits nongermane amendments to budget resolutions and reconciliation bills.	60
305(c)(4) .....	Prohibits consideration of nongermane amendments between the Houses to a budget resolution and, by reference in 310(e), to reconciliation legislation.	60
305(d) .....	Prohibits consideration of budget resolutions that are not mathematically consistent.	Majority
306 .....	Prohibits consideration of legislation in Budget Committee's jurisdiction if not reported from the committee.	60
310(d)(2) .....	Prohibits consideration of amendments to reconciliation bills that are not deficit neutral.	60

Section	Description	Waiver requirement
310(g)	Prohibits consideration of any amendment to reconciliation legislation that recommends changes in Social Security.	60
311(a)	Prohibits legislation that would violate budget authority ceiling, outlay ceiling, revenue floor, or Social Security surplus/deficit levels.	60
312(b)	Prohibits consideration of legislation which exceeds the discretionary spending limits set out in section 251(c) of the Balanced Budget and Emergency Deficit Control Act.	60
312(c)	Prohibits consideration of a budget resolution which exceeds the maximum deficit amount (if any) set out in the Balanced Budget and Emergency Deficit Control Act.	60
313	Byrd rule (extraneous matter in reconciliation)	60
401(a)	Prohibits consideration of legislation providing new contract authority, new indebtedness, or new credit authority not limited to appropriations.	Majority
401(b)(1)	Prohibits consideration of legislation providing new entitlement authority that becomes effective during the current fiscal year.	Majority
425(a)(1)	Prohibits consideration of reported legislation unless it includes a CBO mandate cost estimate.	Majority
425(a)(2)	Prohibits consideration of legislation imposing an unfunded intergovernmental mandate.	Majority
202*	"Pay-as-you-go": prohibits consideration of legislation that would increase deficit for first year, years 1–5, or years 6–10.	60

\* This point of order was established by § 202 of the Concurrent Resolution on the Budget for Fiscal Year 1996 (H. Con. Res. 67)

## *Appendix I*

### **COMPLETION DATES OF THE RECONCILIATION LEGISLATION**

Reconciliation bills	Dates passed by Congress	Enactment
Omnibus Budget Reconciliation Act of 1980 ..... H.R. 7765; Pub. L. No. 96-499.	December 3, 1980	December 5, 1980.
Omnibus Budget Reconciliation Act of 1981 ..... H.R. 3982; Pub. L. No. 97-35.	July 31, 1981	<b>August 13, 1981.</b>
Omnibus Budget Reconciliation Act of 1982 ..... H.R. 6955; Pub. L. No. 97-253.	August 18, 1982	<b>September 8, 1982.</b>
Omnibus Budget Reconciliation Act of 1983 ..... H.R. 4169; Pub. L. No. 98-270.	April 5, 1984	April 18, 1984.
Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). H.R. 3128; Pub. L. No. 99-272.	March 20, 1986	April 7, 1986.
Omnibus Budget Reconciliation Act of 1986 ..... H.R. 5300; Pub. L. No. 99-509.	October 17, 1986	October 21, 1986.
Omnibus Budget Reconciliation Act of 1987 ..... H.R. 3545; Pub. L. No. 100-203.	December 22, 1987	December 22, 1987.
Omnibus Budget Reconciliation Act of 1989 ..... H.R. 3299; Pub. L. No. 101-239.	November 22, 1989	December 19, 1989.
Omnibus Budget Reconciliation Act of 1990 ..... H.R. 5835; Pub. L. No. 101-508.	October 27, 1990	November 5, 1990.
Omnibus Budget Reconciliation Act of 1993 ..... H.R. 2264; Pub. L. No. 103-66.	August 6, 1993	August 19, 1993.
Balanced Budget Act of 1995 ..... H.R. 2491.	November 20, 1995	Vetoed, December 6, 1995.
The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. H.R. 3734; Pub. L. No. 104-193.	August 1, 1996	August 22, 1996.
Balanced Budget Act of 1997 ..... H.R. 2015; P.L. No. 105-33	July 31, 1997	August 5, 1997
Taxpayer Relief Act of 1997 ..... H.R. 2014; P.L. No. 105-34	July 31, 1997	August 5, 1997

\* In 1985 the deadline for enactment of reconciliation bills was changed from September 25 to June 15.

\*\* Section 13210(2) of the Budget Enforcement Act of 1990 amended section 310(f) to repeal the June 15 deadline for the completion of reconciliation. However, the timetable in § 300 of the Budget Act calls for completion of reconciliation legislation by June 15.





## Appendix J

### GLOSSARY

**Appropriations Act:** A statute, under the jurisdiction of the House and Senate Appropriations Committees, that generally provides authority for Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation act is the most common means of providing budget authority. Currently, there are 13 regular appropriations acts for each fiscal year. From time to time, Congress also enacts supplemental appropriations acts. (See Appropriations under Budget Authority; Continuing Resolution; Supplemental Appropriation.)

**Authorizing Committee:** A committee of the House or Senate with legislative jurisdiction over laws that set up or continue the operations of Federal programs and provide the legal basis for making appropriations for those programs. Authorizing committees also have direct control over spending for mandatory programs since the Government's obligation to make payments for such program is contained in the authorizing legislation (See Entitlement.)

**Authorizing Legislation:** Legislation enacted by Congress that sets up or continues the operation of a Federal program or agency indefinitely or for a specific period of time. Authorizing legislation may limit the amount of budget authority which can be appropriated for a program or may authorize the appropriation of "such sums as are necessary." (See Budget Authority; Entitlement.)

**Backdoor Spending:** (See Direct Spending or Mandatory Spending.)

**Budget Authority:** The authority Congress gives to Government agencies, permitting them to enter into obligations which will result in immediate or future outlays.

Budget authority may be classified in several ways. It may be classified by the form it takes: appropriations, borrowing authority, or contract authority. Budget authority may also be classified by the determination of amount: definite authority or indefinite authority. Finally budget authority may be classified by the period of availability: 1-year authority, multi-year authority, or no-year authority (available until used).

#### *Forms of Budget Authority*

*Appropriations.*—An act of Congress that permits Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriations act is the most common means of providing budget authority.

*Borrowing Authority.*—Statutory authority that permits a Federal agency to incur obligations and to make payments for specified purposes out of money borrowed from the Treasury, the Federal Financing Bank, or the public. The Budget Act in most cases requires that new authority to borrow must be approved in advance in an appropriation act.

*Contract Authority.*—Statutory authority that permits a Federal agency to enter into contracts in advance of appropriations. Under the Budget Act, most new authority to contract must be approved in advance in an appropriation act.

*Offsetting collections and receipts.*—Income from the public which is displayed in the budget as negative budget authority. (See Offsetting Collections and Offsetting Receipts.)

**Budget Baseline:** Projected Federal spending, revenue and deficit levels based on the assumption that current policies will continue unchanged for the upcoming fiscal year.

In determining the budget baseline under Gramm-Rudman-Hollings, the Directors of OMB and CBO estimate revenue levels and spending levels for entitlement pro-

grams based on continuation of current laws. For estimating discretionary spending amounts (both defense and non-defense), the Directors assume an adjustment for inflation (GNP deflator) added to the previous year's discretionary spending levels. The baseline also includes sufficient appropriations to cover a Federal pay comparability raise (without absorption).

**Budget Deficit:** The amount by which the Government's total outlays exceed its total revenues for a given fiscal year. (*See* Outlays; Revenues.)

**Budget Resolution:** A concurrent resolution passed by both Houses of Congress setting forth, reaffirming, or revising the congressional budget for the U.S. Government for a fiscal year. A budget resolution is a concurrent resolution of Congress. Concurrent resolutions do not require a presidential signature because they are not laws. Budget resolutions do not need to be laws because they are a legislative device for the Congress to regulate itself as it works on spending and revenue bills.

**Budget Surplus:** The amount by which the Government's revenues exceed its outlays for a given fiscal year. (*See* Outlays; Revenues.)

**Capital Budget:** A budget that segregates capital spending from all other spending, what is usually considered the "operating budget." In a capital budget, spending and receipts in the capital budget are excluded from the operating budget and are not included in the operating budget's deficit or surplus calculations. A capital budget would include spending only for capital assets. Capital assets are usually defined to be limited to land, structures, equipment, and intellectual property that are owned and used by the Federal government and have a useful life of more than 2 years. However, some proponents of capital budgeting have suggested that capital should be defined to include Federal "investment" spending that yields long-term benefits. President Clinton established a Commission to Study Capital Budgeting by issuing Executive Order 13037 on March 3, 1997. The Commission is required to issue its report by December 17, 1998.

**Congressional Budget:** (*See* Budget Resolution.)

**Continuing Resolution:** Appropriations legislation enacted by Congress to provide temporary budget authority for Federal agencies to keep them in operation when their regular appropriation bill has not been enacted by the start of the fiscal year. A continuing resolution is a joint resolution, which has the same legal status as a bill.

A continuing resolution frequently specifies a maximum rate at which obligations may be incurred, based on the rate of the prior year, the President's budget request, or an appropriation bill passed by either or both chambers of Congress. However, there have been instances when Congress has used a continuing resolution as an omnibus measure to enact a number of appropriation bills.

A continuing resolution is a form of appropriation act and should not be confused with the budget resolution.

**Credit Authority:** Authority to incur direct loan obligations or to incur primary loan guarantee commitments. Under the Budget Act, new credit authority must be approved in advance in an appropriation act.

**Crosswalk:** Also known as "committee allocation" or "section 302 allocation." The means by which budget resolution spending totals are translated into binding guidelines with respect to budget authority and outlays for committee action on spending bills. The Budget Committees allocate the budget resolution totals among the committees by jurisdiction. Crosswalk allocations of budget authority and outlays to the committee appear in the joint explanatory statement accompanying a conference report on the budget resolution.

**Current Services Budget:** A section of the President's budget, required by the Budget Act, that sets forth the level of spending or taxes that would occur if existing programs and policies were continued unchanged through the fiscal year and beyond, with all programs adjusted for inflation so that existing levels of activity are maintained. (*See* Baseline.)

**Deferral of Budget Authority:** An action by the executive branch that delays the obligation of budget authority beyond the point it would normally occur. Pursuant to the Congressional Budget and Impoundment Control Act of 1974, the President must provide advanced notice to the Congress of any proposed deferrals. A deferral may not extend beyond the end of the fiscal year in which the President's message proposing the deferral is made. Congress may overturn a deferral by passing a law disapproving the deferral.

**Deficit:** The amount by which the government's total budget outlays exceeds its total receipts for a fiscal year.

**Direct Spending:** A term defined in the Budget Enforcement Act of 1990 to include entitlement authority, the food stamp program, and budget authority provided in law other than appropriations acts. From the perspective of the appropriations process, all direct spending is classified as mandatory as opposed to discretionary spending. New direct spending is subject to pay-as-you-go requirements. Direct spending is synonymous with mandatory spending. (See Mandatory Spending and Entitlement.)

**Discretionary Spending:** A category of spending (budget authority and outlays) subject to the annual appropriations process. (See Appropriations Acts.)

**Entitlement:** Programs that are governed by legislation in a way that legally obligates the Federal government to make specific payments to qualified recipients. Payments to persons under the Social Security, Medicare, and veterans' pensions programs are considered to be entitlements. (See Direct Spending and Mandatory Spending.)

**Emergency Spending:** As provided in the Budget Enforcement Act, a provision of legislation designated as an emergency by both the President and the Congress. As a result, this additional spending is not subject to the discretionary caps or the pay go requirements and thus will not cause a sequester. In addition, emergency legislation is effectively exempt from Budget Act points of order.

There is no specific criteria in the law for emergency spending. However, the following criteria were contained in a June 1991 report prepared by the Office of Management and Budget—as required by Pub. L. No. 102–55 for the determination of whether to designate spending as an emergency spending:

*Necessary expenditure.*—an essential or vital expenditure, not one that is merely useful or beneficial;

*Sudden.*—quickly coming into being, not building up over time;

*Urgent.*—pressing and compelling need requiring immediate action;

*Unforeseen.*—not predictable or seen beforehand as a coming need (an emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, would not be “unforeseen”); and

*Not permanent.*—the need is temporary in nature.

**Expenditures:** (See Outlays.)

**Federal Debt:** Consists of all Treasury and agency debt issues outstanding. Current law places a limit or ceiling on the amount of debt. Debt subject to limit has two components: debt held by the government and debt held by the public.

**Debt held by the government.**—Represents the holdings of debt by federal trust funds and other special government funds. For example, when a trust fund is in surplus as is presently the case with Social Security, the law requires that this surplus be invested in government securities.

**Debt held by the public.**—Represents the holdings of debt by individuals, institutions, other buyers outside the federal government, and the Federal Reserve System. The change in debt held by the public in any given year closely tracks the unified budget deficit for that year.

**Fiscal Policy:** Federal government policies with respect to taxes, spending, and debt management intended to promote the nations' macroeconomic goals, particularly with respect to employment, gross national product, price level stability, and equilibrium in balance of payments. The budget process is a major vehicle for determining and implementing Federal fiscal policy. The other major component of Federal macroeconomic policy is monetary policy. (See *Monetary Policy*.)

**Fiscal Year:** A fiscal year is a 12-month accounting period. The fiscal for the Federal Government begins October 1 and ends September 30. The fiscal year is designated by the calendar year in which it ends; for example fiscal year 1997 is the year beginning October 1, 1996, and ending September 30, 1997.

**Functional Classification:** A system of classifying budget resources by major purpose so that budget authority, outlays, and credit activities can be related in terms of the national needs being addressed (for example, national defense, health) regardless of the agency administering the program. There are currently 20 functions. A

function may be divided into two or more subfunctions depending upon the complexity of the national need addressed by that function. (See Budget Authority; Outlays.) (See Appendix A.)

**Impoundment:** A generic term referring to any action or inaction by an officer or employee of the U.S. Government that precludes the obligation or expenditure of budget authority in the manner intended by Congress. (See Deferral of budget Authority; Rescission of Budget Authority.)

**Joint Committee on Taxation (JCT.):** Section 8001 of the Internal Revenue Code authorized the creation of the Joint Committee on Taxation. By statute, it is composed of five members from the Committee on Finance (three majority, two minority) chosen by such Committee and five members from the Committee on Ways and Means (three majority, two minority) chosen by such Committee. In practice, the Chairmanship and Vice Chairmanship of the Joint Committee on Taxation has rotated between the Chairman of the Committee on Finance and the Chairman of the Committee on Ways and Means with each new Congress. Among other things, the JCT's duties are to investigate the operation and effects of the federal tax system.

**Mandatory Spending:** Refers to spending for programs the level of which is governed by formulas or criteria set forth in authorizing legislation rather than by appropriations. Examples of mandatory spending include: Social Security, Medicare, veterans' pensions, rehabilitation services, Members' pay, judges pay and the payment of interest of the public debt. Many of these programs are considered *entitlement*. (See Direct Spending.)

**Mark-Up:** Meetings where congressional committees work on language of bills or resolutions. At Budget Committee mark-ups, the House and Senate Budget Committees work on the language and numbers contained in budget resolutions and legislation affecting the congressional budget process.

**Monetary Policy:** Management of the money supply, under the direction of the Board of Governors of the Federal Reserve system, with the aim of achieving price stability and full employment. Government actions in guiding monetary policy, include currency revaluation, credit contraction or expansion, rediscount policy, regulation of bank reserves and the purchase and sale of Government securities. (See Fiscal Policy.)

**Net Deficit Reduction:** Savings below the defined budget baseline achieved for the upcoming fiscal year because of laws enacted or final regulations promulgated since January 1. CBO and OMB independently estimate these savings in their initial and final sequester reports.

**Offsetting Collections:** Income from the public that results from the government engaging in "business-like" activities with the public, such as the sale of products or the rendering of a service. Examples include proceeds funds derived from the sale of postage stamps. Offsetting collections are credited against the level of budget authority or outlays associated with a specific program or account. (See offsetting receipts.)

**Offsetting Receipts:** Income from the public that results from the government engaging in "business-like" activities with the public such as the sale of products or the rendering of services. Examples include proceeds from the sale of timber from Federal lands or entrance fees paid at national parks. Rather than being credited against the spending of a particular program or account, (as in the case with offsetting collections) offsetting receipts are deducted from *total* budget authority and outlays rather than added to Federal revenues even though they are deposited in the Treasury as miscellaneous receipts. Generally offsetting receipts are associated with mandatory spending. (See offsetting collections.)

**Off-budget Federal Entity:** Any Federal fund or trust fund whose transactions are required by law to be excluded from the totals of President's budget submission and Congress' budget resolution, despite the fact that these are part of the government's total transactions. Current law requires that the Social Security trust funds (the Federal Old Age, Survivors, and Disability trust fund) and the Postal Service be off-budget. However, these entities are reflected in the budget in that they are included in calculating the deficit in order to derive the total government deficit that must be financed by borrowing from the public or by other means. All other federal funds and trust funds are on budget. (See Unified Budget.)

**Outlays:** Outlays are disbursements by the Federal Treasury in the form of checks or cash. Outlays flow in part from budget authority granted in prior years and in part from budget authority provided for the year in which the disbursements occur.

**Outlay Rates:** The ratio of outlays (actual government disbursements) in a fiscal year relative to new budgetary resources in that fiscal year. In estimating the budget baseline and baseline deficit for their sequestration reports, CBO and OMB use outlay rates for projecting levels of spending resulting from available budget authority.

**Pay-as-you-go:** Arises in two separate contexts: a point of order in the Senate and a sequester order from OMB.

*Pay-as-you-go in the Senate.*—Since fiscal year 1994, the budget resolution has included a pay-as-you-go rule in the Senate. The rule provides a  $\frac{3}{5}$ ths vote point of order in the Senate against consideration of legislation that would cause a net increase in the deficit over a ten year period. It applies to all legislation except appropriations legislation. To determine a violation, CBO measures the budget impact of a direct spending or revenue bill combined with the budget impact of all direct spending and revenue legislation enacted since the latest budget resolution's adoption to see if the legislation would result in a net deficit increase for any one of three time periods (the first year, the sum of years 1 through 5, and the sum of years 6 through 10.) The pay-go rule sunsets at the end of fiscal year 2002.

*Pay-as-you-go and sequestration under the BEA.*—The Budget Enforcement Act requires OMB to also enforce a “pay-as-you-go” requirement which has a similar effect as the Senate’s point of order: Congress is required to “pay for” any changes to programs which result in an increase in direct spending, or in this case risk a sequester. If OMB estimates that the sum of all direct spending and revenue legislation enacted since 1990 will result in a net increase in the deficit for the fiscal year, then the President is required to issue a sequester order reducing all non-exempt direct spending accounts by a uniform percentage in order to eliminate the net deficit increase. Most direct spending is either exempt from a sequester order or operates under special rules that minimize the reduction that can be made in direct spending. Social Security is exempt from a pay-as-you-go sequester and Medicare cannot be reduced by more than 4 percent.

**President’s Budget:** The document sent to Congress by the President in January or February of each year, requesting new budget authority for Federal programs and estimating Federal revenues and outlays for the upcoming fiscal year.

**Revenues:** Collections from the public arising from the Government’s sovereign power to tax. Revenues include individual and corporate income taxes, social insurance taxes (such as social security payroll taxes), excise taxes, estate and gift taxes, customs duties and the like.

**Reconciliation Process:** A process by which Congress includes in a budget resolution “reconciliation instructions” to specific committees, directing them to report legislation which changes *existing* laws, usually for the purpose of decreasing spending or increasing revenues by a specified amount by a certain date. The legislation may also contain an increase in the debt limit. The reported legislation is then considered as a single “reconciliation bill under expedited procedures.”

**Reserve Fund:** A provision in a budget resolution that grants the Chairman of the Budget Committee the authority to make changes in budget aggregates and committee allocations once some condition or conditions have been met. Since a budget resolution establishes a binding ceiling on aggregate budget authority and outlay levels and a binding floor on revenues, budget resolutions frequently include reserve funds for deficit-neutral legislation that would otherwise violate the budget resolution and be subject to a point of order under the Budget Act. For example, the FY 1997 budget resolution included a tax reduction reserve fund that allowed the Chairman to reduce the revenue floor and the relevant spending allocations to accommodate legislation that reduced taxes if that legislation also contained offsetting spending reductions.

**Rescission of Budget Authority:** Cancellation of budget authority before the time when the authority would otherwise cease to be available for obligation. The rescission process begins when the President proposes a rescission to the Congress for fiscal or policy reasons. Unlike the deferral of budget authority which occurs *unless* Congress acts to disapprove the deferral, rescission of budget authority occurs *only if* Congress enacts the rescission. (See Deferral of Budget Authority; Impoundment.)

**Scoring or Scorekeeping:** The process for estimating budget authority, outlay, revenue and deficit levels which result from congressional budgetary actions. Scorekeeping data prepared by the Congressional Budget Office include status reports on the effect of congressional actions and comparisons of these actions to tar-

gets and ceilings set by Congress in budget resolutions. These reports are published in the *Congressional Record* on a regular basis. OMB is responsible for scoring legislation to determine if a sequester is necessary.

**Sequester:** Pursuant to Gramm-Rudman-Hollings, a presidential spending reduction order that occurs by reducing spending by uniform percentages.

**Sequestrable Resource:** Pursuant to Gramm-Rudman-Hollings federal funding authority (budgetary resources) subject to reductions under a presidential sequester order for achieving required outlay reductions (in non-exempt programs).

**Supplemental Appropriation:** An act appropriating funds in addition to those in the 13 regular annual appropriations acts. Supplemental appropriations provide additional budget authority beyond the original estimates for programs or activities (including new programs authorized after the date of the original appropriation act) in cases where the need for funds is too urgent to be postponed until enactment of the next regular appropriation bill. (See Appropriation Act.)

**Tax Expenditures:** Revenue losses attributable to a special exclusion, exemption, or deduction from gross income or to a special credit, preferential rate of tax, or deferral of tax liability.

**Unfunded Mandates:** A *Federal Intergovernmental Mandate* is any provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local or tribal government, except as conditions of assistance or duties arising from participation in a voluntary federal program. Exceptions to this rule are: enforcing constitutional rights; statutory prohibitions against discrimination; emergency assistance requested by states; accounting/auditing for federal assistance; national security; Presidential designated emergencies; and Social Security. Provisions that increase stringency of conditions of assistance or decrease federal funding for large state entitlement programs (greater than \$500 million) *if* states lack authority to decrease their responsibilities are considered mandates as well.

A *Federal Private Sector Mandate* is any provision in legislation, statute, or regulation that would impose an enforceable duty upon the private sector. The exceptions are a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

**Unified Budget:** A comprehensive display of the Federal budget. This display includes all revenues and all spending for all regular Federal programs and trust funds. The 1967 President's Commission on Budget Concepts recommended the unified budget and it has been the basis for budgeting since 1968. The unified budget replaced a system of the budgets that existed before 1968 (an administrative budget, a consolidated cash budget, and a national income accounts budget).