

LEGISLATION PROVIDING NEW CREDIT AUTHORITY

§ 402(a) **SEC. 402.⁶⁸⁵ (a) CONTROLS ON LEGISLATION PROVIDING NEW CREDIT AUTHORITY.** — It shall not be in order⁶⁸⁶ in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment,⁶⁸⁷ motion,⁶⁸⁸ or conference report,⁶⁸⁹ as reported⁶⁹⁰ to its House,⁶⁹¹ which provides new credit authority⁶⁹² described in subsection



⁶⁸⁵ Section 402 is codified as amended at 2 U.S.C. § 652 (1988 & Supp. IV 1992).

Section 212 of Gramm-Rudman-Hollings (*see infra* p. 416) repealed the original section 402 and substituted what is now section 402. For the text of the original section 402, *see infra* note 697 (at the end of the section).

⁶⁸⁶ Congressional Budget Act prohibitions are not self-enforcing, and require points of order from the floor for their enforcement. *Cf. supra* note 293 (regarding section 303(a)).

⁶⁸⁷ An amendment is subject to points of order under the Congressional Budget Act even if the Senate has specified by unanimous consent that the amendment is one of the amendments in order and the yeas and nays have been ordered. *Cf. supra* note 295 (regarding section 303).

⁶⁸⁸ Section 13207(a) of the Budget Enforcement Act added the word "motion" here. *See infra* p. 723. For a discussion of the motivation for the addition, *see supra* note 235.

⁶⁸⁹ Section 13207(a)(1)(H)(i) of the Budget Enforcement Act struck the words "bill, resolution, or conference report" here and inserted "bill, joint resolution, amendment, motion, or conference report." *See infra* p. 724.

⁶⁹⁰ *Cf. supra* note 514 (by virtue of the words "as reported," a point of order will not lie under section 311(a) against a deficit-neutral bill that has been amended by an amendment that reduces revenues below the revenue floor).

⁶⁹¹ Section 13207(a)(1)(H)(ii) of the Budget Enforcement Act struck the words "or any amendment" here. *See infra* p. 724.

⁶⁹² The Congressional Budget Act makes no exception for violations of negligible amounts. *Cf. supra* note 520 (regarding section 311(a)).

(b)(1),⁶⁹³ unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.⁶⁹⁴

§ 402(b) (b) DEFINITION. — For purposes of this Act, the term "new credit authority" means credit authority (as defined in section 3(10)⁶⁹⁵ of this Act) not provided by law on the effective date of this section,⁶⁹⁶ including any increase in or addition to credit authority provided by law on such date.⁶⁹⁷

⁶⁹³ This appears so in the original; it should read "(b)." See *infra* p. 261.

⁶⁹⁴ For a discussion of whether something is "provided in advance by appropriation Acts," see generally *supra* note 652.

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

⁶⁹⁵ Section 3(10) states: "The term 'credit authority' means authority to incur direct loan obligations or to incur primary loan guarantee commitments." See *supra* p. 19.

⁶⁹⁶ Section 275(a)(2)(B) of Gramm-Rudman-Hollings provides that this section became effective on February 1, 1986. See *infra* p. 690.

⁶⁹⁷ In other words, "new credit authority" means authority not provided by law on February 1, 1986, to incur direct loan obligations or primary loan guarantee commitments, including any increase in or addition to authority provided by law on February 1, 1986.

Section 212 of Gramm-Rudman-Hollings (see *infra* p. 416) repealed the original section 402 and substituted what is now section 402. As originally enacted in 1974, section 402 dealt with the reporting of authorizing legislation:

REPORTING OF AUTHORIZING LEGISLATION

SEC. 402. (a) REQUIRED REPORTING DATE. — Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

(b) EMERGENCY WAIVER IN THE HOUSE. — If the Committee on
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Rules of the House of Representatives determines that emergency conditions require a waiver of subsection (a) with respect to any bill or resolution, such committee may report, and the House may consider and adopt, a resolution waiving the application of subsection (a) in the case of such a bill or resolution.

(c) WAIVER IN THE SENATE. —

(1) The committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (b) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

(d) CERTAIN BILLS AND RESOLUTIONS RECEIVED FROM OTHER HOUSE. — Notwithstanding the provisions of subsection (a), if under that
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ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

§ 403(a) **SEC. 403.**⁶⁹⁶ (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee —

§ 403(a)(1) (1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in

⁶⁹⁷(...continued)

subsection it is in order in the House of Representatives to consider a bill or resolution of the House, then it shall be in order to consider a companion or similar bill or resolution of the Senate; and if under that subsection it is in order in the Senate to consider a bill or resolution of the Senate, then it shall be in order to consider a companion or similar bill of the House of Representatives.

(e) EXCEPTIONS. —

(1) Subsection (a) shall not apply with respect to new spending authority described in section 401(c)(2)(C).

(2) Subsection (a) shall not apply with respect to new budget authority authorized in a bill or resolution for any provision of the Social Security Act if such bill or resolution also provides new spending authority described in section 401(c)(2)(C) which, under section 401(d)(1)(A), is excluded from the application of section 401(b).

(f) STUDY OF EXISTING SPENDING AUTHORITY AND PERMANENT APPROPRIATIONS. — The Committees on Appropriations of the House of Representatives and the Senate shall study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

⁶⁹⁸ Section 403 is codified as amended at 2 U.S.C. § 653 (1988).