

§ 602 **SEC. 602.⁸⁷¹ COMMITTEE ALLOCATIONS
AND ENFORCEMENT.**

§ 602(a) **(a) COMMITTEE SPENDING ALLOCATIONS. —**

§ 602(a)(1) **(1) HOUSE OF REPRESENTATIVES. —**

§ 602(a)(1)(A) **(A) ALLOCATION AMONG COMMITTEES. —** The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of —

§ 602(a)(1)(A)(i) **(i) total new budget authority,⁸⁷²**

⁸⁷¹ Section 602 is codified at 2 U.S.C. § 665a (Supp. IV 1992). Section 13111 of the Budget Enforcement Act added what is now section 602. See *infra* p. 707. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act, see *infra* note 936 (at the end of title VI).

Public Law 97-258 repealed the section 602 originally enacted in the Congressional Budget Act of 1974. See An Act to Revise, Codify, and Enact Without Substantive Change Certain General and Permanent Laws, Related to Money and Finance, as title 31, United States Code, "Money and Finance," Pub. L. No. 97-258, § 5(b), 96 Stat. 877, 1082 (1982). The original sections 601-605 and 607 were codified in sections 1105, 1106, and 1108-1110 of title 31. As originally enacted in 1974, section 602 read as follows:

MIDYEAR REVIEW

SEC. 602. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by striking out "on or before June 1 of each year, beginning with 1972" and inserting in lieu thereof "on or before July 15 of each year".

⁸⁷² Section 3(2) defines "budget authority." See *supra* pp. 11-13.

§ 602(a)(1)(A)(i) (ii) total entitlement authority,⁸⁷³ and

§ 602(a)(1)(A)(ii) (iii) total outlays;⁸⁷⁴

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

§ 602(a)(1)(B) (B) NO DOUBLE COUNTING. — Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

§ 602(a)(1)(C) (C) FURTHER DIVISION OF AMOUNTS. — The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

§ 602(a)(2) (2) SENATE ALLOCATION AMONG COMMITTEES. — The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of —

§ 602(a)(2)(A) (A) total new budget authority;⁸⁷⁵

⁸⁷³ Section 3(9) (*see supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (*see supra* p. 252).

⁸⁷⁴ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁷⁵ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

§ 602(a)(2)(B) (B) total outlays;⁸⁷⁶ and

§ 602(a)(2)(C) (C) social security outlays;⁸⁷⁷

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

§ 602(a)(3)(A) (3) AMOUNTS NOT ALLOCATED. — (A) In the House of Representatives, if a committee receives no allocation of new budget authority,⁸⁷⁸ entitlement authority,⁸⁷⁹ or outlays,⁸⁸⁰ that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

§ 602(a)(3)(B) (B) In the Senate, if a committee receives no allocation of new budget authority,⁸⁸¹ outlays,⁸⁸² or social security outlays,⁸⁸³ that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

§ 602(b) (b) SUBALLOCATIONS BY COMMITTEES. —

⁸⁷⁶ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁷⁷ Section 301(a)(6) implicitly defines the term "social security outlays" as "outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act." *See supra* note 143.

⁸⁷⁸ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁷⁹ Section 3(9) (*see supra* p. 18) defines "entitlement authority" to mean that authority described in section 401(c)(2)(C) (*see supra* p. 252).

⁸⁸⁰ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁸¹ Section 3(2) defines "budget authority." *See supra* pp. 11-13.

⁸⁸² Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁸³ Section 301(a)(6) implicitly defines the term "social security outlays" as "outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act." *See supra* note 143.

§ 602(b)(1)

(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES. — As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.⁸⁸⁴

§ 602(b)(2)

(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE. — Each other committee of the Senate to which an allocation under subsection (a)(2) is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 302(c) shall not apply in the Senate to committees other than the Committee on Appropriations.

§ 602(c)

(c) APPLICATION OF SECTION 302(f) TO THIS SECTION. — In fiscal years through 1995,⁸⁸⁵ reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any sub-allocation made under subsection (b), as applicable, for the fiscal year of the resolution or for the total of all fiscal years

⁸⁸⁴ See, e.g., S. REP. NO. 103-59, 103d Cong., 2d Sess. (June 17, 1993) (fiscal year 1994); S. REP. NO. 102-296, 102d Cong., 2d Sess. (June 17, 1992) (fiscal year 1993).

⁸⁸⁵ This should read "1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), reprinted in 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget.⁸⁸⁶ In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.⁸⁸⁷

⁸⁸⁶ By excepting the Appropriations Committee from subparagraph 302(f)(2)(A), the drafters of the Budget Enforcement Act intended that an appropriations bill would be subject to the point of order for exceeding the appropriate subcommittee allocation under section 302(b), but not for exceeding the full committee's allocation under section 302(a). See *supra* note 276. The drafters intended this result notwithstanding this language of section 602(c), which could be read to cause some ambiguity on this point.

⁸⁸⁷ In addition to the point of order applied by this section, section 12(c) of the budget resolution for fiscal year 1994 provides further enforcement:

(c) ENFORCING PAY-AS-YOU-GO. — At any time after the enactment of the reconciliation bill pursuant to section 7 of this resolution, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that would increase the deficit in this resolution for any fiscal year through fiscal year 1998 or would increase the deficit for any other fiscal year through fiscal year 2003, as measured by the sum of —

(1) all applicable estimates of direct spending and receipts legislation applicable to that fiscal year, other than any amounts resulting from —

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; and

(B) emergency provisions as designated under section 252(e) of that Act; and

(2) the estimated amount of savings in direct spending programs applicable to that fiscal year resulting from the prior year's sequestration under that Act, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year).

(d) WAIVER. — This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(e) APPEALS. — Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An

(continued...)

§ 602(d)

(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.⁸⁸⁸ — In the case of concurrent resolu-⁸⁸⁷(...continued)

affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(f) DETERMINATION OF BUDGET LEVELS. — For purposes of this section, the levels of new budget authority, outlays, and receipts for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

H. Con. Res. 64, 103rd Cong., 1st Sess. § 12, 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted).

Section 12(a) of the resolution makes clear the purpose of the new point of order:

(a) PURPOSE. — The Senate declares that it is essential to —

(1) ensure compliance with the deficit reduction goals embodied in this resolution;

...

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill pursuant to section 7 of this resolution will create under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985

Id. § 12(a). The joint statement of managers accompanying the budget resolution explains: "Section 11 of the Senate amendment contains new enforcement procedures to . . . prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill will create." H.R. CONF. REP. NO. 103-48, 103d Cong., 1st Sess. 47 (1993), reprinted in 139 CONG. REC. H1747, H1760 (daily ed. Mar. 31, 1993).

Note that this point of order will apply in at least two situations not covered by sections 602(c) and 311(a). First, the budget resolution point of order will prohibit measures — such as a back-loaded tax cut or a late-starting entitlement — that would worsen the deficit in any of fiscal years 1999 through 2003. Second, the budget resolution point of order would prohibit cutting the taxes used to fund the spending provided for through the use of a reserve fund.

⁸⁸⁸ This should read "1998." Section 14002(c)(3)(B) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14002(c)(3)(B), 107 Stat. 312 (1993), (continued...)

tions on the budget for fiscal years 1992 through 1995,⁸⁸⁹ allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in sections 302(c), (d), (e), (f), and (g) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604⁸⁹⁰) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604⁸⁹¹).

§ 602(e) (e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE. [(1)]⁸⁹²
— Section 302(f)(1) and, after April 15 of any calendar year section 303(a), shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget —

§ 602(e)(1) (1)⁸⁹³ the enactment of such bill or resolution as reported;

⁸⁸⁸(...continued)

extended title VI through fiscal year 1998, but the Act's drafters neglected to make the conforming change here. As the joint statement of managers accompanying the Act makes clear, the Act "extends *all* of the temporary enforcement procedures in Title VI of the [Congressional Budget Act] of 1974 through the end of fiscal year 1998 *without change*." H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 961 (1993) (emphasis added), *reprinted in* 139 CONG. REC. H5792, H6043 (daily ed. Aug. 4, 1993). For additional legislative history on the extension of title VI, see *infra* note 936 (at the end of title VI).

⁸⁸⁹ This should read "1998." See *supra* note 888.

⁸⁹⁰ See *infra* pp. 325-327.

⁸⁹¹ See *infra* pp. 325-327.

⁸⁹² The original lacks this initial paragraph number, but the presence of paragraph (2) below makes it apparent that this should be "(1)." The subparagraphs of this paragraph now numbered (1), (2), and (3), should be redesignated (A), (B), and (C).

⁸⁹³ The presence of paragraph (2) below makes it apparent that this should be "(A)."

§ 602(e)(2) (2)⁸⁹⁴ the adoption and enactment of such amendment; or

§ 602(e)(3) (3)⁸⁹⁵ the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay⁸⁹⁶ increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 301(b)(8) if included in that concurrent resolution.

§ 602(e)(2) (2)⁸⁹⁷ REVISED ALLOCATIONS. —

§ 602(e)(2)(A) (A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under section 302(f)(1) but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may file with the House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

⁸⁹⁴ The presence of paragraph (2) below, *infra* p. 321, makes it apparent that this should be "(B)."

⁸⁹⁵ The presence of paragraph (2) below makes it apparent that this should be "(C)."

⁸⁹⁶ Section 3(1) defines "outlays." *See supra* p. 11.

⁸⁹⁷ Note the presence of another paragraph (2) above, *supra* p. 321, which should be numbered section 602(e)(1)(B).

§ 602(e)(2)(B)

(B) such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.