

**Budget of the House of Representatives without substantive revision. If the chairman fails to do so, after the tenth day the resolution may be introduced by any Member of the House of Representatives. A concurrent resolution introduced under this paragraph shall be referred to the Committee on the Budget.**

§ 16005 **SEC. 16005. REQUIRED RESPONSE BY CONGRESS.**

§ 16005(a) **(a) REQUIREMENT FOR SPECIAL DIRECT SPENDING RESOLUTION.**<sup>1991</sup> — Whenever the President submits a special direct spending message<sup>1992</sup> under [section 5 of Executive Order 12857],<sup>1993</sup> the Committee on the Budget of the House of Representatives shall report, not later than April 15,<sup>1994</sup> the concurrent resolution on the budget<sup>1995</sup> and include in it a separate title that meets the requirements of subsections (b) and (c).

§ 16005(b) **(b) CONTENTS OF SEPARATE TITLE. —** The separate title

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<sup>1991</sup> This subsection title misleads the reader, as this subsection addresses requirements for budget resolutions, not special direct spending resolutions. For the definition of "special direct spending resolution," see section 16004(c)(2) (*supra* pp. 843-844), which defines the term in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

<sup>1992</sup> Section 4 of Exec. Order No. 12857 defines "direct spending message." *See supra* pp. 822-826.

<sup>1993</sup> Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "section 16004," shall be deemed to be a reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

<sup>1994</sup> Section 301(a) of the Congressional Budget Act already requires Congress to adopt a concurrent resolution on the budget by this deadline. *See supra* p. 50.

<sup>1995</sup> Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

of the concurrent resolution on the budget<sup>1996</sup> shall contain reconciliation directives<sup>1997</sup> to the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays<sup>1998</sup> or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage<sup>1999</sup>). If this separate title recommends that no legislative changes be made to recoup or eliminate an overage, then a statement to that effect shall be set forth in that title.

§ 16005(c) (c) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS. — If the separate title of a concurrent resolution on

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<sup>1996</sup> Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

<sup>1997</sup> Congressional Budget Act section 310 sets forth the reconciliation process in the context of Congress's annual cycle of concurrent resolutions on the budget. *See supra* pp. 158-177. For other budget process legislation dealing with reconciliation, *see* Congressional Budget Act section 300, *supra* p. 47 (budget timetable, including that for reconciliation); section 301(b)(2) & (3), *supra* pp. 58-60 (empowering budget resolutions to include reconciliation instructions, as well as a provision providing for delayed enrollment of legislation pending completion of reconciliation); section 305, *supra* pp. 120-142 (procedures for budget resolutions and reconciliation bills); section 313, *supra* pp. 198-228 (the Byrd Rule prohibiting extraneous matter in reconciliation); section 604, *supra* pp. 325-327 (providing an optional reconciliation process in the House of Representatives to make up the net losses created by tax-cutting legislation); section 904(c) & (d), *supra* pp. 361-368 (supermajority requirements for points of order and appeals, including those for reconciliation); Gramm-Rudman-Hollings section 258C, *supra* pp. 658-662 (providing a special Gramm-Rudman-Hollings reconciliation process to achieve savings in lieu of an impending sequester); and section 5 of Exec. Order No. 12857, *supra* pp. 826-827 (reconciliation recommendations in special direct spending message).

<sup>1998</sup> Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

<sup>1999</sup> Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

the budget<sup>2000</sup> proposes to recoup or eliminate less than the entire overage<sup>2001</sup> for the prior, current,<sup>2002</sup> and budget years,<sup>2003</sup> then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets<sup>2004</sup> for each applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

§ 16005(d) (d) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE. — It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget<sup>2005</sup> unless that conference report fully addresses the entirety of any overage<sup>2006</sup> contained in the

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<sup>2000</sup> Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

<sup>2001</sup> Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

<sup>2002</sup> Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

<sup>2003</sup> Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

<sup>2004</sup> Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

<sup>2005</sup> Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

<sup>2006</sup> Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

applicable report of the President under [section 4 of Executive Order 12857]<sup>2007</sup> through reconciliation directives requiring spending reductions, revenue increases, or changes in the direct spending targets.<sup>2008</sup>

§ 16005(e) (e) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION. —

§ 16005(e)(1) (1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE. — If a special direct spending resolution<sup>2009</sup> is required and the Committee on the Budget of the House of Representatives fails to report a resolution meeting the requirements of subsections (b) and (c) by April 15, then the committee shall be automatically discharged from further consideration of the concurrent resolution reflecting the President's recommendations introduced pursuant to section 16004(c)(2)<sup>2010</sup> and the concurrent resolution shall be placed on the appropriate calendar.

§ 16005(e)(2) (2) CONSIDERATION BY HOUSE. — Ten days after the Committee on the Budget of the House of Representatives has been discharged under paragraph (1), any Member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable.

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<sup>2007</sup> Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "section 16004," shall be deemed to be a reference to section 4 of Exec. Order No. 12857 (*see supra* pp. 822-826).

<sup>2008</sup> Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

<sup>2009</sup> Section 16004(c)(2) (*see supra* pp. 843-844) defines "special direct spending resolution" in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

<sup>2010</sup> *See supra* p. 843. That is, the special direct spending resolution.

§ 16005(f) (f) APPLICATION OF CONGRESSIONAL BUDGET ACT. — To the extent that they are relevant and not inconsistent with this title, the provisions of title III of the Congressional Budget Act of 1974<sup>2011</sup> shall apply in the House of Representatives and the Senate<sup>2012</sup> to special direct spending resolutions,<sup>2013</sup> resolutions increasing targets<sup>2014</sup> under subsection (c),<sup>2015</sup> and reconciliation legislation reported pursuant to directives contained in those resolutions.<sup>2016</sup>

<sup>2011</sup> See *supra* pp. 43-228.

<sup>2012</sup> This provision, adopted pursuant to a House resolution, does not bind the Senate.

<sup>2013</sup> Section 16004(c)(2) (*see supra* pp. 843-844) defines "special direct spending resolution" in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

<sup>2014</sup> Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

It is unclear how the provisions of title III of the Congressional Budget Act at all apply to such resolutions increasing the targets. Are the fast-track procedures of section 305 of the Congressional Budget Act (*see supra* pp. 120-142) intended to apply to such resolutions as if they were budget resolutions? Regardless of how the House of Representatives interprets this language, no authority exists to apply these fast-track procedures to such resolutions increasing targets in the Senate. Thus, should the House pass such a resolution increasing targets, the Senate would deal with it as it would with any other budget process legislation. Senators would thus have the right to debate it as fully as Rule XXII of the Standing Rules of the Senate allowed.

<sup>2015</sup> See *supra* p. 845.

<sup>2016</sup> This sentence implies that the drafters intended that the resolution increasing targets would generate reconciliation legislation. It would not be in order in the Senate, however, to consider such provisions increasing targets in reconciliation legislation, as they would violate section 313(b)(1)(A) of the Congressional Budget Act (part of the Byrd Rule on extraneous matter in reconciliation). See *supra* pp. 203-206. Compare the concerns that the Chairman and Ranking Republican Member of the Budget Committee had with the House's special reconciliation process under section 604 of the Congressional Budget Act. See *supra* note 902.