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## PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

§ 304(a) **SEC. 304.**<sup>329</sup> (a) **IN GENERAL.** — At any time<sup>330</sup> after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301,<sup>331</sup> and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.<sup>332</sup>

§ 304(b) (b)<sup>333</sup> **ECONOMIC ASSUMPTIONS.** — The provisions of

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<sup>329</sup> Section 304 is codified as amended at 2 U.S.C. § 635 (1988 & Supp. IV 1992).

<sup>330</sup> In some years, Congress has revised the budget for the current fiscal year as part of the budget resolution for the upcoming fiscal year. For example, the budget resolution for fiscal year 1986 also revised the budget totals for fiscal year 1985.

<sup>331</sup> See *supra* pp. 50-87.

<sup>332</sup> For examples of second and revised budget resolutions, see Second Concurrent Resolution on the Budget, 1982, S. Con. Res. 50, 97th Cong., 1st Sess., 95 Stat. 1778 (1981); Second Concurrent Resolution on the Budget — Fiscal Year 1981, H. Con. Res. 448, 96th Cong., 2d Sess., 94 Stat. 3680 (1980); Third Concurrent Resolution on the Budget, Fiscal Year 1980, S. Con. Res. 53, 96th Cong., 1st Sess., 93 Stat. 1428 (1979); Second Concurrent Resolution on the Budget — Fiscal Year 1980, S. Con. Res. 36, 96th Cong., 1st Sess., 125 CONG. REC. 30,796 (1979) (adopted); Second Concurrent Resolution on the Budget — Fiscal Year 1979, H. Con. Res. 683, 95th Cong., 2d Sess., 92 Stat. 3878 (1978); Second Concurrent Resolution on the Budget — Fiscal Year 1978, H. Con. Res. 341, 95th Cong., 1st Sess., 91 Stat. 1683 (1977); Third Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 10, 95th Cong., 1st Sess., 91 Stat. 1666 (1977); Second Concurrent Resolution on the Budget — Fiscal Year 1977, S. Con. Res. 139, 94th Cong., 2d Sess., 90 Stat. 3044 (1976); Second Concurrent Resolution on the Budget — Fiscal Year 1976, H. Con. Res. 466, 94th Cong., 1st Sess., 89 Stat. 1209 (1975).

<sup>333</sup> Section 13112(a)(8) of the Budget Enforcement Act repealed what used to be subsection (b) and redesignated what used to be subsection (c) as subsection (b). See *infra* p. 709. Section 208(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 added what was then subsection (c) and is now subsection (b). Pub. L. (continued...)

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section 301(g)<sup>334</sup> shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto<sup>335</sup> and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such

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<sup>333</sup>(...continued)

No. 100-119, § 208(b), 101 Stat. 754, 786 (1987).

Before enactment of the Budget Enforcement Act, subsection (b) read as follows:

(b) **MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.** — The provisions of section 301(i) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(i) (and amendments thereto and conference reports thereon).

Section 13303(b) of the Budget Enforcement Act (*see infra* p. 756) repealed what used to be section 301(i). Section 13111 of the Budget Enforcement Act (*see infra* p. 707) added a new section 606(c) of the Congressional Budget Act (*see infra* p. 334) that fulfills much the same function as did the old section 301(i). (Compare the text of what used to be section 301(i) (*see infra* note 912) with that of the new section 606(c). *See infra* p. 334.) Note, however, that section 606(c) does not apply to revisions of budget resolutions under section 304, even though the parallel language for the House of Representatives in section 606(b) (*see infra* p. 334) explicitly mentions revisions of budget resolutions under section 304. Consequently, while violating the maximum deficit amount in this context used to violate the Congressional Budget Act, it no longer does.

Section 13208(a)(1) of the Budget Enforcement Act amended section 904(c) of the Congressional Budget Act to consolidate in one place the list of points of order requiring 60 votes to waive. *See infra* p. 728. Congress intended the new section 904(c) to supersede section 271(b) of Gramm-Rudman-Hollings (*see infra* p. 671), but section 13208 of the Budget Enforcement Act (*see infra* pp. 728-729) mistakenly failed to repeal section 271(b) of Gramm-Rudman-Hollings. While the new section 904(c) does not list section 304(b), section 271(b) continues to list section 304(b) among the points of order that it requires 60 Senators to waive. *See infra* p. 671. Thus, if the statute is to be taken at its face value, it requires 60 Senators to waive a point of order raised on the grounds that a revision of a budget resolution uses two sets of economic assumptions, even though such a sin may be waived by a majority if the Senate commits it on the first budget resolution that the Senate considers for a fiscal year.

<sup>334</sup> *See supra* pp. 81-82.

<sup>335</sup> 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(a)).

**section 301(g)<sup>336</sup> (and amendments thereto and conference reports thereon).<sup>337</sup>**

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<sup>336</sup> *See supra* pp. 81-82.

<sup>337</sup> 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)).