

CRS Report for Congress

The Congressional Budget Act of 1974 (P.L. 93-344) Legislative History and Analysis

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**Prepared for Members and
Committees of Congress**

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INTRODUCTION

The Congressional Budget and Impoundment Control Act of 1974 establishes procedures for the determination by Congress of national budget policies and priorities and for legislative review of impoundments proposed by the President. The Act does not eliminate any existing procedures for the authorization of programs or the appropriation of funds--the new budget process is added to these-- but it is likely to have a significant impact on the way Congress makes program and financial decisions. Nor does the legislation directly alter the executive budget process (except in regard to certain submissions and the budget timetable), but it is likely to generate major changes in legislative-executive fiscal relations.

The congressional budget process will be the framework within which Congress each year determines total revenues, expenditures, and debt, and the budget priorities of the United States. The first stage in the new process will be the adoption of a concurrent resolution on the budget by May 15. The allocations in this resolution will guide Congress in its subsequent consideration of appropriations and other spending measures. After action has been completed on all money bills, Congress will adopt a second budget resolution and (if necessary) will reconcile the determinations in this resolution with revenue, spending, and debt legislation.

Two new legislative instrumentalities have been created to serve Congress: Budget Committees in the House and the Senate and a Congressional Budget Office (CBO). The congressional budget process will operate within an October 1-September 30 fiscal cycle and deadlines have been prescribed for the completion of various congressional actions. Furthermore, new procedures are specified for backdoor expenditures, spending authorizations which do not go through the regular appropriations process. The new law also contains many provisions to improve the availability and timeliness of budget-related information, to promote program evaluation, and to speed up the development of a standardized budget information system.

The main features of the Act are summarized in the first chapter of this publication. Chapter II recounts the legislative development and purposes of the Act and details the problems which Congress has sought to remedy. Chapter III presents a detailed legislative history and analysis of Titles I through IX of the Act and (where applicable) reports on the initial implementation of its requirements. A section by section history and analysis of Title X--The Impoundment Control Act--is available in CRS multilith 75-27SS.

I. PRINCIPAL FEATURES OF THE CONGRESSIONAL BUDGET PROCESS

The Congressional Budget and Impoundment Control Act deals with five related matters and is organized into ten titles. (1) New budget instrumentalities-- House and Senate Budget Committees and the Congressional Budget Office--are established in Titles I and II. (2) Congressional budget procedures, along with associated adjustments in the authorization and appropriations processes, are delineated in Titles III and IV. (3) Executive budget requirements, including a change in the fiscal year, are prescribed in Titles V and VI. (4) Budgetary information and its availability are provided for in Titles VII and VIII. (5) Impoundment control procedures are established in Title X. Miscellaneous provisions, including effective dates, are contained in Title IX.

Congressional Budget Institutions

Budget Committees have been established in the House and the Senate and are given jurisdiction over the congressional budget process and certain related matters. With a few special exceptions, the House and Senate Committees have identical jurisdictions. The Committees have the duty to report at least two concurrent resolutions on the budget each year, to study the effects of existing and proposed legislation on budget outlays, and to oversee the operations of the Congressional Budget Office.

The House Budget Committee has 25 members: five each from the House Appropriations and Ways and Means Committees; thirteen from other standing committees; and one each from the majority and minority leaderships. Appointments are to be made without regard to seniority and no Member may serve on the Committee for more than four years (plus a fraction of a year) during any ten-year period. The Act is silent as to how appointments are to be made and the initial selections for the majority were made by the House Democratic Caucus rather than by the Democratic

Members of the Ways and Means Committee who until the 94th Congress constituted the Party's Committee on Committees. The Democratic Caucus also selected the first chairman of the House Budget Committee. Republican selections were made by the Republican Committee on Committees.

The Senate Budget Committee has sixteen Members whose selection has been made by the Democratic and Republican Conferences in accord with procedures used for other Senate committees. The Senate rule limiting Members to no more than two major committees has been waived until the start of the 95th Congress in January 1977.

The Congressional Budget Office (CBO) has been established as an informational and analytic arm of Congress. CBO is headed by a Director, appointed to a four-year term by the Speaker of the House and the President pro tem of the Senate after considering the recommendations of the two budget committees. The Director is responsible for staffing the Office without regard to political affiliation. CBO is given broad authority to secure information from executive agencies and is directed to coordinate its operations with the other congressional agencies: the Library of Congress, the General Accounting Office, and the Office of Technology Assessment.

The Act arrays CBO's duties according to four orders of priority. (1) Highest priority is to be accorded to the House and Senate Budget Committees. CBO is to furnish them with information relating to all matters within their jurisdiction and, at their request, shall assign personnel to them on a temporary basis. The Act thus envisions a close and continuing relationship between CBO and the Budget Committees. (2) Priority also is to be given to the two Appropriations Committees, the House Ways and Means Committee, and the Senate Finance Committee. CBO is to supply these committees with all available information and to undertake

budget-related studies at their request. (3) CBO is to give other committees available information and, to the extent practicable, undertake studies in their behalf. CBO also has discretion to detail personnel to any congressional committee on a temporary basis. (4) Members are entitled to obtain any available information, but CBO is not required to initiate research for them.

CBO is assigned several recurring duties in the Act. It must submit an annual report (by April 1) to the Budget Committees on budget alternatives, tax expenditures, and national budget priorities. The Budget Office is to issue periodic scorekeeping reports as well as five-year projections of budget levels. CBO is to prepare cost analyses of legislation reported by all committees other than the Appropriations Committees. And it must assist any committee reporting budget authority or tax expenditures legislation in the preparation of various estimates.

Congressional Budget Procedures

The new congressional budget process is organized around two concurrent resolutions on the budget: one to be adopted by May 15 (prior to floor consideration of revenue or spending legislation); the other by September 15 (after action has been completed on all regular appropriations). The calendar of the budget process is set forth in the table below. It indicates that the budget process is to be initiated with submission of a new document--the current services budget--to be followed by the President's budget shortly after Congress convenes.

Table I. Congressional Budget Timetable

<u>On or before:</u>	<u>Action to be completed:</u>
November 10	President submits current services budget.
15th day after Congress meets	President submits his budget
March 15	Committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report first concurrent resolution on the budget to their Houses.
May 15	Committees report bills authorizing new budget authority.
May 15	Congress adopts first concurrent resolution on the budget.
7th day after Labor Day	Congress completes action on bills providing budget authority and spending authority.
September 15	Congress completes actions on second required concurrent resolution on the budget.
September 25	Congress completes action reconciliation process implementing second concurrent resolution.
October 1	Fiscal year begins.

The first formal step within Congress will be the preparation by each standing committee and joint committee of its views and estimates with respect to budget matters related to its jurisdiction. These are to be submitted to the Budget Committees by March 15 but no committee will be restricted thereby as to the legislation (or amounts) that it may subsequently report. The sole purpose of these early submissions is to inform the Budget Committees of the views and interests of key legislative participants prior to their reporting of the first budget resolution.

The Budget Committees are to report the first resolution to their respective Houses by April 15 of each year, thus allowing a full month for floor action and any necessary conference before adoption. This resolution is to set the appropriate levels of total new budget authority and budget outlays as well as the appropriate levels of Federal revenues and public debt and the appropriate budget surplus or deficit. Total new budget authority and outlays are to be allocated among major budget functions (of which there presently are 15) with additional subdivisions for each function (between existing and proposed programs; regular and permanent appropriations, and controllable and other amounts) to be included in the reports of the Budget Committees or, optionally, in the resolution itself.

Because this and subsequent budget determinations will be in the form of concurrent resolutions, they will not have the force of law nor will they directly limit actual Federal expenditures. Their sole effect is to guide or restrain Congress in its actions on revenue, spending, and debt legislation.

Floor consideration of the budget resolution will be under special rules devised to expedite the proceedings while allowing opportunity for a fiscal policy and priorities debate and for floor amendments. Final adoption of the first resolution is scheduled by May 15. In case of a deadlock in conference, House and Senate conferees are required (if seven days have elapsed) to report their agreements and disagreements to their respective Houses. The adopted budget resolution must be mathematically consistent, that is, the sum of the functional allocations must equal the totals for new budget authority and outlays, and the difference between total outlays and revenue must equal the appropriate budget surplus or deficit.

May 15 is the deadline for the reporting of authorizing legislation for the ensuing fiscal year by legislative committees. This schedule is intended to provide Congress with firm information on prospective authorizations and, more

importantly, to enable it to proceed to the consideration of appropriations within a reasonable amount of time after the budget resolution has been adopted. However, the Act established a procedure for the waiver of the reporting deadline by means of a simple resolution in the House or Senate.

There is a prohibition against the consideration of revenue, debt, spending, or entitlement legislation prior to adoption of the first budget resolution. The aim is to insure that Congress considers such legislation in the light of the determinations made in the first resolution and, thereby, to avert circumvention of the new budget process. However, this prohibition can be waived in the Senate through a special procedure and it does not apply to advance revenue or spending actions.

The levels specified in the first budget resolution function as targets to guide Congress during its action on spending, revenue, and debt bills. Congress will not be restricted as to the amounts it appropriates, but it will be aided by a scorekeeping process that compares the amounts in individual bills with the appropriate levels set forth in the budget resolution. This scorekeeping procedure will be facilitated by a two-step allocation process involving the Budget Committees and all other committees with jurisdiction over spending legislation. First, the managers' statement accompanying a conference report on the budget resolution will allocate the appropriate levels among committees having jurisdiction over budget authority legislation. Second, each such committee will subdivide its allocation among its subcommittees or programs and report the amounts to the House and the Senate. These suballocations will be the basis for comparing the amounts in spending bills with the levels in the budget resolution. However, as noted, Congress will not be bound by its initial decisions and it may appropriate at higher levels if it desires.

Following adoption of the initial budget resolution, appropriation bills will proceed through Congress in much the same manner as heretofore. The bills will be taken up individually, but it is contemplated that action on them will be completed shortly after Labor Day, and earlier if possible. Entitlement bills will have a similar timetable, and the Act specifies that they cannot become effective before the start of the next fiscal year. The intent is to make them (as well as appropriations) fully subject to any reconciliation process required by the second budget resolutions.

The second budget resolution--to be adopted by September 15--may retain or revise the appropriate levels set earlier in the year, and can include directives to the Appropriations Committees and to other committees with jurisdiction over budget authority or entitlements to recommend changes in new or carryover authority or entitlements. Similarly, the second resolution may direct the appropriate committees to recommend changes in Federal revenues or in the public debt. Changes recommended by various committees pursuant to the second budget resolution are to be reported in a reconciliation bill (or resolution, in some cases) whose enactment is scheduled by September 25, a few days before the new fiscal year commences.

With enactment of the reconciliation bill, the congressional budget process will be completed. At this point, Congress may not consider any spending or revenue legislation that would breach any of the levels specified in the second resolution. In other words, Congress would not be able to pass a supplemental appropriation if it would cause spending to rise above the levels of the second budget resolution, nor could it cut revenues below the second resolution's totals. However, Congress may adopt a new budget resolution any time during the fiscal year.

An important purpose of the 1974 Act is to bring backdoor spending--termed new spending authority--under tighter legislative control. New contract or borrowing authority would be available only to the extent provided in appropriations. Thus, these forms of backdoor authority will become standard authorizations for which funding will be provided through appropriation measures. Bills providing new entitlements will be referred to the Appropriations Committees (with a 15-day time limit) if they exceed the allocations in the latest budget resolution. The new procedures do not apply to existing backdoor spending nor to social security trust funds, substantially self-financed trust funds, insured or guaranteed loans, or to certain other types of expenditure.

The new law encourages Congress to authorize programs at least one year in advance of the fiscal year to which they will first apply. One such incentive is offered in the May 15 deadline for the reporting of authorizations, for unless they have done advance work, many committees might not be able to meet this deadline. Another incentive is that the President will be required to submit his own authorization proposals in advance, though it is likely that he will supplement many of these with later submissions.

Executive Budget Procedures

The fiscal year is to be shifted from its present July 1-June 30 cycle to an October 1-September 30 timetable. This transition will be accomplished by establishing a three-month interim period running from July 1, 1976 through September 30, 1976. To facilitate the changeover, the Act provides for adjustments in accounting procedures and the expiration dates of authorizing legislation and it directs OMB to prepare any necessary implementing legislation.

A distinction is made between two types of impoundment: rescissions, when there is no expectation that appropriated funds will be spent in the future; and deferrals, when the President wishes to delay the expenditure until some future time. In either case, however, the President must send a special message to Congress proposing that the funds be rescinded or deferred. Funds proposed for rescission must be made available for obligation if Congress does not adopt a rescission bill within 45 days after receipt of the President's message. Funds proposed for deferral must be released if either the House or the Senate adopts a resolution of disapproval. The Act provides that a deferral may not be proposed for a period beyond the fiscal year to which it applies or in instances where the President is required to submit a rescission message. The Comptroller General is to report to Congress if he finds that the President has failed to submit a required rescission or deferral message or if an impoundment has been improperly classified as a rescission or deferral. Special procedures have been devised for floor consideration of rescission bills and impoundment resolutions, with time limits for debate and other expediting provisions.

Effective Dates

The congressional budget process is to be phased in over a two-year period to enable Congress to tool up for its new responsibilities. The implementation schedule detailed below gives Congress the option to activate certain procedures for fiscal 1976, one year earlier than required by the law.

Table 2. Implementation Schedule

<u>Provision</u>	<u>Takes Effect</u>
Budget Committees	Upon enactment
Congressional Budget Office	When the first CBO Director is appointed.
Congressional Budget Procedures	1977 fiscal year, or fiscal year 1976 to the extent specified by Budget Committees.
Backdoor Spending Controls	January 1976
Advance Authorization Submissions	1976 fiscal year
Shift in Fiscal Year	October 1, 1976
Current Services Budget	November 10, 1975
Executive Budget Changes (most)	1976 fiscal year
Program Evaluation and Budget Information Titles	Upon Enactment
Impoundment Control	Upon Enactment

II. DEVELOPMENT AND PURPOSES OF CONGRESSIONAL BUDGET REFORM

The new budget process has been established in consequence of widely-held feelings within Congress that the legislative branch has lost control over Federal finances because it has inadequate procedures for making budgetary decisions. Its twin purposes are to improve congressional budget-making and to restore to Congress the power of the purse vested in it by the United States Constitution.^{1/} Virtually every component of the 1974 Act is traceable to a perceived shortcoming in the existing process. Thus: impoundment control derives from the large-scale withholding of funds by the Nixon Administration; the Budget Committees from the lack of a congressional mechanism to coordinate tax and spending policies; the Congressional Budget Office from the dependence of Congress on executive agencies for essential budget information; the budget resolutions from the lack of a procedure to determine budget totals and priorities.

Despite widespread support for budget reform, formulation and enactment of the legislation took almost two years. There were numerous disputes over particular provisions and the legislation was revised a number of times before its final form was decided. Nevertheless, the basic shape and purposes of the Act had remained intact and one can readily identify the congruence of the law enacted in July 1974 to the first version proposed fifteen months earlier.

This chapter traces the genesis of the legislation, examines the problems which led to its conception, and discusses the progress of the two principal budget reform bills through Congress, including the major changes wrought during the various stages of consideration.

^{1/} The source of this power is in Article I, Section 9 of the Constitution: "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

The Origins of Budget Reform

On the last day of the 92nd Congress, the House and the Senate approved legislation to establish a 32-member Joint Study Committee on Budget Control. That bill also raised the ceiling on the public debt and established a \$250 billion spending limit for the 1973 fiscal year. But one day after the bill became Public Law 92-599, the \$250 billion limitation ceased to have effect because the very section which set the limit also provided for its immediate nullification.

An Act which both establishes and disestablishes a ceiling on expenditures must have an unusual legislative history. It all began on July 26, 1972, when President Nixon demanded that Congress impose a \$250 billion limitation on spending for the 1973 fiscal year which had just begun.^{2/} Barely half a year earlier, the President had submitted a \$246.3 billion budget in which he criticized congressional budget procedures.^{3/} Now, however, the President foresaw Federal expenditures soaring as much as \$7 billion above the planned level, and later White House projections were as high as \$261 billion, almost \$15 billion more than had been budgeted.^{4/} Although Congress ultimately refused to effectuate a spending limit, actual expenditures for fiscal 1973 turned out to be much lower than the President's dire estimates. On July 26, 1973--exactly one year after the President had first demanded a spending ceiling--the Office of Management and Budget announced that actual outlays for the

2/ 8 Weekly Compilation of Presidential Documents (1972), p. 1176.

3/ The Budget of the United States Government Fiscal Year 1973. A brief discussion of congressional budget deficiencies is on p. 35.

4/ See The Budget of the United States Government Fiscal Year 1974. The \$261 billion figure and Administration actions alleged to have reduced spending are discussed on pp. 49-57. For a critical analysis of the Administration's claim, see E. Fried, A. Rivlin, C. Schultze, and N. Teeters, Setting National Priorities: The 1974 Budget (The Brookings Institution: 1973), pp. 444-46.

year had totalled \$246.6 billion, only a few hundred million dollars above the original estimates and many billions of dollars below the "worst case" projections issued by the Administration.^{5/}

Of course, during the summer of 1972, the Congress had no knowledge of the favorable budget news which would be reported a year later. It was preoccupied with responding to the President's strategic demands which were accompanied by charges that Congress was fiscally irresponsible. The President castigated "the hoary and traditional procedure of the Congress, which now permits action on the various spending programs as if they were unrelated and independent actions."^{6/} The President contrasted his fiscal prudence with the alleged prolificacy of Congress--a theme which he repeatedly utilized during the 1972 election campaign--and he threatened that "with or without the cooperation of the Congress" he would move to restrain spending. Thus, from the start spending control was framed as a President versus Congress issue.

In September 1973, the request for a spending limitation was attached to "must" legislation, a bill raising the statutory limit on the public debt. Although the \$250 billion level was not very controversial, there was considerable disagreement over how the limitation should be implemented. The President wanted unrestrained discretion to reduce spending and Administration spokesmen refused to specify in advance which programs would be cut.^{7/} This position was upheld in the debt ceiling bill (H.R. 16810) reported by the House Ways and Means Committee on September 27, 1972.^{8/} The bill authorized the President "notwithstanding the provisions of any other law" to reserve such amounts as may be necessary to maintain the \$250 billion limit.

^{5/} The New York Times, July 27, 1973. The \$246.6 figure was tentative, issued shortly after the close of the fiscal year. Final figures published in the next year's budget set fiscal 1973 spending at \$246.5 billion.

^{6/} 8 Weekly Compilation of Presidential Documents (1972), p. 1176.

^{7/} See U.S. Congress, House Committee on Ways and Means, Hearings on Administration Request to Increase Debt Ceiling, Accompanied by a Spending Ceiling, 92d Cong., 2d Sess. (1972).

^{8/} H.Rept. No. 92-1456.

But when the bill was considered by the House on October 10, Rep. George Mahon (chairman of the House Appropriations Committee) proposed a substitute (initially in the form of a concurrent resolution) which rejected the discretionary power sought by the President as a dangerous transfer of "legislative authority to the executive branch." The Mahon resolution provided instead that the President would propose specific cuts which would take effect only if approved by Congress. Mahon's substitute was defeated by a vote of 216-167 and the House then passed H.R. 16810 by a vote of 221-163.

The bill then moved to the Senate where it again emerged from committee with full authority for the President to reduce programs in accord with his preferences.^{9/} However, the Senate, voting 46-28, adopted a floor amendment requiring the President to make proportional cuts in programs and barring reductions of more than 10 percent in any activity or item. In addition, the amendment exempted nine enumerated spending categories from any Presidential cuts. But an amendment striking the \$250 billion ceiling altogether was rejected 48-24 and the bill passed by a 61-11 margin.

In conference, the requirement that program cuts be proportional was deleted and the President was given authority to reduce individual programs by as much as 20 percent.^{10/} The House approved the conference report on October 17, 1972 but on the same day the Senate rejected the report by a vote of 39-27 and it then adopted an amendment that had the effect of nullifying the spending limitation.^{11/} On October 18, the conferees met again, accepted the Senate amendment,^{12/} and, after further complications involving unemployment benefits, both the House and the

^{9/} S. Rept. No. 92-1292 (1972).

^{10/} H. Rept. No. 92-1606 (1972).

^{11/} Inasmuch as the \$250 billion ceiling was in both the House and Senate bills, it could not be deleted in conference. Hence, the only way to nullify the ceiling was by the addition of a separate provision that it would cease to apply after enactment. See 118 Congressional Record (October 17, 1972) 36854, remarks of Senator Long.

^{12/} H. Rept. No. 92-1614 (1972).

Senate passed the debt ceiling bill containing the self-destructing limitation on 1973 expenditures. Whereupon the 92nd Congress adjourned sine die. On October 27, 1972, President Nixon signed H.R. 16810 and the battle for a spending ceiling came to a quiet end.

But the battle for budget reform had just begun. When the House Ways and Means Committee initially considered the debt ceiling bill, it inserted a provision (offered by Rep. Al Ullman) establishing a 30-member committee to study

the procedures which should be adopted by the Congress for the purpose of improving congressional control of budgetary outlay and receipt totals, including procedures for establishing and maintaining an overall view of each year's budgetary outlays which is fully coordinated with an overall view of the anticipated revenues for that year.

The Ullman proposal attracted little attention during floor consideration of H.R. 16810, but the Senate adopted an amendment increasing the Joint Study Committee's membership to 32 in order to provide at-large representation for the minority in the House and the Senate.^{13/} One Senator pointed to the Joint Study Committee provision in opposing a floor amendment that would have attached a budget control procedure to the debt ceiling bill.^{14/} As enacted, the legislation compounded the anomaly of the self-negating spending limitation by directing the Joint Study Committee to study the "operation of the limitation on expenditures and net lending" that was to terminate one day after it took effect.

Purposes of Budget Reform

The Joint Study Committee was given little time to complete its assignment, its reporting deadline was February 15, 1973, less than four months after its formation. This period of time was effectively used to build a case for budget

^{13/} 118 Congressional Record (October 13, 1972), 35965. See remarks of Senator Roth who sponsored the amendment.

^{14/} 118 Congressional Record (October 13, 1972), 35972 an exchange between Senators Bennett (floor manager of the bill) and Percy (who introduced the amendment).

reform by gathering evidence concerning the defects of the existing process. The Joint Study Committee thus set the agenda for reform in its Interim Report of February 7, 1973 which listed eleven guiding principles and identified a number of basic problems in budget control.^{15/} The Committee's central theme was "the lack of congressional control over the budget", a conclusion which it found self-evident in the fact that the Federal budget has been in a deficit position during all but seven of the years since 1931. The Committee further pointed to the huge deficits of recent years--aggregating to well over \$100 billion on a federal funds basis during the most recent half dozen years--and it argued "that the failure to arrive at congressional budgetary decisions on an overall basis has been a contributory factor in the size of these deficits."^{16/}

Table 3

Federal Budget Deficit; Unified Budget and Federal Funds, 1967-75
(in millions of dollars)

<u>Fiscal Year</u>	<u>Unified Budget</u>	<u>Federal Funds</u>
1967	- 8,702	- 14,944
1968	- 25,161	- 28,379
1969	3,326	- 5,490
1970	- 2,845	- 13,143
1971	- 23,033	- 29,866
1972	- 23,227	- 34,140
1973	- 14,301	- 25,000
1974	- 3,460	- 17,381
1975 (Jan. 1975 estimate)	- 34,700	- 43,000

In portraying Congress as culpable for inadequate budget control, the Joint Study Committee identified a number of shortcomings in the legislative budget process. The discussion that follows relies on the findings of the Committee and supplements them with later and more varied data.

^{15/} H. Rept. No. 93-13 (1973).

^{16/} Ibid., p. 4.

Separation of Tax and Spending Decisions

Since the Civil War period, Congress has split tax and spending legislation between different sets of committees. When the Federal Government was comparatively small and there were few year-to-year changes in revenues or expenditures, the task of Federal budgeting was primarily to estimate the yield from existing taxes and to decide how much of a surplus should be sought. The budget was not a central factor in the national economy, and a balanced budget was regarded (at least in theory) as the only proper course for the Federal Government. The growth of the budget has brought significant changes in its role, especially as regards economic policy. Nowadays, taxes and expenditures are volatile factors, sensitive to policy determinations and to economic conditions. The budget has become a main determinant of the economy and it impacts (though not always in an understood way) on employment, prices, and economic growth.

The lack of a procedure for coordinating revenue and spending decisions means that Congress often is unaware of the implications of its budget for the economy. The surplus or (much more likely) the deficit in the budget "happens" as the sum of many separate decisions and it is not consciously determined by Congress. The Joint Study Committee estimated that tax reductions (exclusive of social security taxes) enacted during the previous decade had the effect of cutting fiscal 1973 revenues approximately \$50 billion below the level they otherwise would have been. In other words, if Federal taxes had been maintained at 1962 rates,^{17/} there might have been surpluses rather than deficits in recent years. The Joint Study Committee did not argue for an annually-balanced budget, but it suggested "that when a deficit or surplus occurs, it should, to the extent possible, be the result of a planned rather than an unplanned congressional policy."^{18/}

^{17/} Ibid., p. 9. Also Table 9 on p. 24. Also see C. Schultze, E. Fried, A. Rivlin, and N. Teeters, Setting National Priorities: The 1973 Budget (The Brookings Institution: 1972) pp. 402-405.

^{18/} Ibid., p. 10.

Congress Does not Decide Spending Totals

When Congress receives the President's budget, it distributes the various segments among its legislative committees and Appropriations subcommittees. Each year Congress considers at least thirteen regular appropriations, two supplemental bills, and dozens of other measures which mandate spending or authorize the obligation of funds. These bills add up to a congressional determination of spending totals only in the sense that the parts appropriated by Congress determine how much is to be spent. But at no time does Congress go on record as to the total amount of money that is to be spent during the fiscal year.

Not that Congress hasn't made the attempt from time to time in the past. The Legislative Reorganization Act of 1946 provided for an annual legislative budget, but after several abortive attempts, the legislative budget concept was abandoned.^{19/} In 1968, 1969, and 1970, Congress enacted one-year ceilings on Federal expenditures but in each case certain programs were exempted from the limitation.^{20/} As has been discussed, Congress turned down the President's request for a \$250 billion limitation on fiscal 1973 outlays.

Congress Does not Determine Annual Outlays

Congress does not directly decide how much is to be spent in a particular year. Its control extends to the appropriation of funds or to other legislation providing new budget authority, not to actual outlays. In Federal practice, an appropriation (or other form of budget authority) authorizes a government agency to incur an obligation. The cash expenditure occurs only when the obligation is paid off. When the appropriation and outlay occur in the same year, there is no difference between the two categories. Such is the case, however, for only about 60 percent

^{19/} See Louis Fisher, "Experience with a Legislative Budget (1947-49)" in U.S. Senate Committee on Government Operations, Improving Congressional Control over the Budget: A Compendium of Materials, 93d Cong, 1st Sess., pp. 249-51.

^{20/} See: The Revenue and Expenditure Control Act of 1968 (P.L. 90-364); The Second Supplemental Appropriations Act, 1969 (P.L. 91-47); and The Second Supplemental Appropriations Act, 1970 (P.L. 91-305).

of the new budget authority requested for fiscal 1976. The actual amounts spent in the current fiscal year thus depend on a combination of past and current actions, just as future spending will depend in part on current-year decisions.

The 1976 budget illustrates the relationship between budget authority and outlays, and the salient data are set forth in Table 4. The fiscal year began with carryover balances (both obligated and unobligated) estimated at \$493.9 billion. The President proposed that \$385.8 billion in new budget authority be provided for the fiscal year. Outlays in 1976 were initially estimated at \$349.4 billion, of which \$237.8 billion was to be derived from new budget authority and \$111.6 billion was to come from carryover balances. This means that \$148.1 billion--more than one third--of 1976 budget authority will be spent in future years. As a consequence, it is estimated that fiscal 1976 will close with \$8 billion added to the carryover balances, raising their total to \$502.4 billion.

Table 4

Relation of Budget Authority and Outlays in the 1976 Budget
(in billions of dollars)

<u>Available Budget Authority</u>		
Balances from prior years	493.9	
New Budget Authority	385.8	
Minus Lapsing Authority	27.9	
Total Available Budget Authority		851.8
<u>Outlays by Source</u>		
From prior-years' budget authority	111.6	
From new budget authority	237.8	
Total Outlays		349.4
Budget Authority to be available in future years		502.4

Because outlays for many programs are substantially determined by past decisions, it is difficult for Congress to control spending by means of the appropriations process. Obligations authorized in prior years still can generate spending. Thus, beyond the point of appropriations, Congress has no direct control over the budget process, but it is precisely at this stage that outlay levels are determined. One possible way for Congress to establish control over outlays would be for it to appropriate funds necessary for a particular year's expenditures rather than for obligations. In this way, Congress would decide how much is to be spent and for what. A modified expenditure-based appropriations process (called "accrued expenditure budget") was proposed by the Second Hoover Commission in 1955. However, substantial opposition was voiced by some Appropriations Committee members and no action was taken. A central defect of an expenditure-based budget is that it does not adequately provide for programs which have a long lead time between obligation and expenditure.

Congress does not Directly Determine National Budget Priorities

Congress makes its spending decisions in a fragmented manner by taking up the various appropriation measures seriatim and by authorizing expenditures in a number of legislative bills. At no point in the process does Congress decide how much is to be spent for one purpose versus other purposes. Thus, Congress has no procedure for deciding what portion of the total budget (or of incremental funds) should go for health programs or for comparing transportation needs with those of housing. This fragmented perspective extends to the Appropriations Committees which have quasi-autonomous subcommittees for each of the regular appropriation bills. Typically, the full Appropriations Committees make few changes in the bills marked up by their

subcommittees.^{21/} Except for brief overview hearings shortly after the President submits his budget, the parent Committees do little to coordinate the work of their subcommittees.^{22/}

Legislative consideration of appropriation measures sprawls over many months with the result that it is difficult to assess the impact of any single measure on the budget. Table 5 shows that for fiscal 1974 appropriations, there was a lapse of 8 months in the House of Representatives between passage of the first (Legislative Branch) and last (Foreign Assistance) appropriation bills. In the Senate, there was a six month interval between action on the Agriculture and the Foreign Assistance bills.

In 1950, Congress experimented with an omnibus appropriation bill that covered all the regular appropriations for the fiscal year. Although there were no procedural defects in this approach, Congress did not use it in subsequent years.^{23/}

Backdoor Spending

Legislative consideration of the budget is further fragmented by "backdoor spending" which bypasses the regular appropriations process and/or the Appropriations Committees. The Joint Study Committee identified four types of backdoor spending: contract authority, borrowing authority, mandatory entitlements, and permanent appropriations.

^{21/} See Richard H. Fenno, The Power of the Purse: Appropriations Politics in Congress (Boston: 1966) for a discussion of the role of the Appropriations Committees and their subcommittees.

^{22/} In addition, the Joint Committee on Reduction of Federal Expenditures issues periodic scorekeeping reports. In 1973 and 1974, the Senate Appropriations Committee developed provisional targets for each of its subcommittees.

^{23/} See Dalmas H. Nelson, "The Omnibus Appropriations Act of 1950," 15 Journal of Politics (1953) pp. 274-88.

Table 5

Passage and Enactment of Regular Appropriation Bills, Fiscal 1974

<u>Appropriation Bill</u>	<u>Passed House</u>	<u>Passed Senate</u>	<u>Enacted</u>
Agriculture-Environmental and Consumer Protection	June 15	June 28	October 24
Defense	November 30	December 13	January 2 (1974)
District of Columbia	June 18	July 20	August 14
Foreign Assistance	December 11	December 17	January 2 (1974)
HUD, Space, Science, Veterans	June 22	June 30	October 26
Interior	June 27	August 1	October 4
Labor-HEW	June 26	October 4	December 18
Legislative Branch	April 18	July 19	November 1
Military Construction	November 14	November 20	December 20
Public Works	June 28	July 23	August 16
State, Justice, Commerce, and Judiciary	June 29	September 17	November 27
Transportation	June 20	July 28	August 16
Treasury, Postal Service	August 1	September 5	October 30

Contract authority is authority granted to Federal agencies to incur obligations in advance of appropriations. (There also are instances where contract authority is provided in the appropriation measure or where the authority can be exercised only to the extent that funds are appropriated. But these are not backdoor actions because they do not bypass the appropriations process or committees.) In the case of backdoor contract authority, actual appropriations are made at a later time when funds are required to liquidate the obligation. Thus, unlike ordinary appropriations which precede the obligation of funds, in this case the obligation precedes the appropriation. By the time the Appropriations Committees are asked to provide liquidating funds, an obligation already exists and Congress no longer has any effective control over the matter. The amount of new contract authority fluctuates substantially from year to year and it amounted to \$10 billion in fiscal 1973, \$36.1 billion in fiscal 1974, an estimated \$73.4 billion in fiscal 1975, and \$37.0 billion for fiscal 1976.^{24/}

Borrowing authority permits Federal agencies to borrow funds from the Treasury or from the public for specified purposes. The agency can use the borrowed funds in much the same manner as a regular appropriation except that borrowing authority often functions as a revolving fund, with payments to the Treasury enabling the agency to reborrow an equivalent amount. When an agency is authorized to spend public debt receipts, the Treasury loans it money and the transaction has the same effect as an appropriation. Sometimes an agency is permitted to spend agency debt receipts which it obtains by borrowing from the public.

Since 1932, authority to borrow from the Treasury has totalled more than \$30 billion, of which only about \$17 billion has been provided through the Appropriations Committees.

^{24/} U.S. Congress. House Committee on Appropriations Hearings on The Federal Budget for 1976, 94d Congress (1975), forthcoming. See The Budget of the United States Government, Fiscal Year 1976, p. 326, for the amount of total contract authority available through and without current action by Congress.

New borrowing authority was \$1.3 billion in fiscal 1973, \$3.0 billion in fiscal 1974, an estimated \$7.1 billion in fiscal 1975, and \$3.8 billion for fiscal 1976.^{25/}

Mandatory entitlements cover instances where a person or government is entitled by law to receive a payment from the Federal Government. In such cases, the Federal Government has an obligation to satisfy the entitlement and even when the funds are provided through appropriations (as is the practice for public assistance and veterans benefits) Congress has no meaningful control over the amount. Mandated entitlements often are open ended with the amount of expenditures determined by factors over which Congress has no immediate control. In most years, the mandatory entitlements authorized by Congress exceed the amounts requested in the President's budget.

Permanent appropriations refer to budget authority which becomes available without current action by Congress. Many permanent appropriations are provided in basic legislation, and often are without limit of time or money. Almost half of the new budget authority in the 1976 budget is available without current action by Congress. Most permanent appropriations are in trust funds for social security, highway aid, and civil service retirement.

The problem of permanent appropriations has concerned Congress for many years. The Legislative Reorganization Act of 1946 directed the Appropriation Committees to recommend to their respective Houses what permanent appropriations, if any, should be discontinued.^{26/} This plea was renewed in the Legislative Reorganization Act of 1970 which urged congressional committees to "endeavor to insure" that "to the extent consistent with the nature, requirements, and objectives of these programs and activities, appropriations...will be made annually."^{27/}

^{25/} Ibid., p. 343.

^{26/} 60 Stat. 812.

^{27/} Public Law 91-510, 84 Stat. 1140, section 253.

The Joint Study Committee argued that the four types of backdoor spending adversely affect the capability of Congress to control expenditures. As a result of backdoor practices, barely 40 percent of the budget goes through the Appropriations Committees, and some of the programs for which appropriations are made contain mandatory provisions over which Congress has little control. The fragmentation of the spending process has contributed to a "dual standard" in which Congress regularly appropriates less through the "front door" than is requested by the President but adds substantial sums through the backdoor. Estimates compiled in the scorekeeping reports of the Joint Committee on Reduction of Federal Expenditures (and shown in Table 6) reveal that since fiscal 1969, Congress has provided \$40 billion less in appropriation bills than has been requested by the President but has increased the backdoor amounts by more than \$50 billion.

Congress Cannot Control Annual Spending

Most of the budget is "relatively uncontrollable under existing law", a term applied by the Office of Management and Budget to budget estimates over which the President has no discretion. Many uncontrollable expenditures can be made controllable by changes in basic legislation, but the budget generally is based on existing laws plus changes recommended by the President.

For fiscal 1976, 75 percent of all budget outlays are estimated as uncontrollable, up 15 points from the corresponding percentage in fiscal 1967.^{28/} In dollar amounts, uncontrollable spending has grown from \$93 billion in fiscal 1967 to an estimated \$260 billion in fiscal 1976. As a matter of fact, the percentage of the budget which is uncontrollable has increased in every year (except one) during this period.

^{28/} The Budget of the United States Government, Fiscal Year 1976, Table 14, pp. 354-55.

Table 6

Impact of Congressional Action on Budget Totals, Fiscal Years 1969-75
(in millions of dollars)

Year	Budget Authority				Outlays			
	Appropriations	Backdoors	Mandatory	Inactions	Appropriations	Backdoors	Mandatory	Inactions
1969	- 13,750	+ 465	+ 272	+ 75	- 4,550	- 51	+ 252	+ 75
1970	- 5,436	+ 5,340	+ 364	+1,470	- 2,869	+ 123	+1,352	+1,388
1971	- 2,617	+ 5,813	+2,539	-4,613	- 657	+ 50	+4,114	- 221
1972	- 2,993	+ 200	+ 473	-5,476	- 1,059	--	+3,714	-3,333
1973	- 4,886	+14,765	+ 864	-4,735	- 1,626	+3,295	+4,565	- 107
1974	- 5,119	+ 8,333	+ 859	-3,689	- 1,414	+ 15	+3,468	+ 348
1975*	- <u>5,664</u>	+ <u>14,795</u>	+ <u>1,533</u>	+ <u>83</u>	- <u>3,719</u>	+ <u>63</u>	+ <u>2,745</u>	+ <u>691</u>
Totals	- 40,465	+49,711	+6,904	-16,885	-15,894	+3,495	+20,210	-1,159

* Through 93d Congress.

Source: Joint Committee on Reduction of Federal Expenditures.

The three main sources of budget uncontrollability already have been mentioned. One is the carryover of obligated balances from prior years. More than \$50 billion in fiscal 1976 spending is the result of prior-year contracts and obligations. A second factor is the payment of entitlements to eligible individuals and governments. The third source is permanent appropriations which become available without current action by Congress.^{29/} The entitlements and permanent appropriations account for more than \$150 billion in uncontrollable outlays.

Not only are uncontrollables the fastest growing part of the budget, they also tend to be higher than the original budget estimates. The budget requests for uncontrollable programs generally are estimates of future costs rather than discretionary Presidential proposals. In the average year, actual spending for uncontrollables is almost \$3 billion above the initial estimates. This means that if Congress decides to enact a ceiling on total outlays, either it would have to adopt a floating ceiling that is automatically adjusted upward if uncontrollable costs rise or it would have to cut back the controllable items if the uncontrollables escalate above their estimates.

Appropriations are not Enacted by July 1

One of the most troubling indicators of the inadequacy of the legislative process has been the habitual failure of Congress to complete action on regular appropriation bills before the fiscal year starts. During the past decade, there has not been a single fiscal year for which all regular appropriations were enacted prior to July 1. During five of the years since 1965, Congress has failed to enact a single appropriation measure before the fiscal year began and in none of these years were more than two of the regular appropriation passed by July 1. In one

^{29/} Many entitlements also are in the form of permanent appropriations so that these two categories overlap substantially.

Table 7

Uncontrollability of Outlays, Fiscal Years 1969-1976
(in billions of dollars)

	1969	1970	1971	1972	1973	1974	1975*	1976*
Total Budget Outlays	184.5	196.6	211.4	231.9	246.5	268.4	313.4	349.4
Total Uncontrollable Outlays	116.4	125.7	140.4	153.5	173.0	194.5	232.1	260.7
Increase from Previous Year's Uncontrollables	9.2	9.3	14.7	13.1	19.5	21.5	37.6	28.6
Difference between Actual and Original Estimate	1.9	6.6	4.6	2.3	- 1.5	2.1	*	*
Percentage Uncontrollable Outlays	63.1	64.0	66.4	66.2	70.2	72.5	74.2	74.7

* The amounts for fiscal years 1975 and 1976 are estimates taken from the 1976 budget.

year--fiscal 1973--no appropriation measure was enacted for foreign assistance or Labor-HEW. This extreme breakdown was due to protracted conflict between Congress and the Administration. But in the average year, there is a delay of 2-5 months between the start of the fiscal year and the enactment of all appropriations. During the interval, Congress passes a continuing resolution which authorizes agencies to continue their operations at the previous year's level.^{30/}

One of the main reasons for the inability of Congress to clear all appropriations by July 1 has been delay in the enactment of required authorizing legislation. Under the rules of the House and the Senate, appropriations are not in order unless they have been authorized by law.^{31/} Prior to the 1950s, virtually all Federal programs and agencies had permanent authorizations, without limit of time or money. But during the past two decades there has been a trend to limited-term authorizations and as a result action on appropriations often has been deferred pending enactment of authorizations. More than \$45 billion in the 1975 budget required authorization before appropriations could be enacted. Only one of the regular appropriation bills for 1975 (the Legislative Branch Appropriation) did not require any new authorizing legislation.^{32/}

There is a time link between completion of action on authorizations and subsequent enactment of appropriations. According to one study, "most of the appropriation acts are approved within a few days to a few weeks of the approval of the

^{30/} In recent years, Congress has provided for some program expansions in continuing resolutions and it also has used this device to legislate some limitations on the use of funds by the executive branch.

^{31/} Rules of the House of Representatives Rule XXI, sec. 2; Standing Rules of the Senate, Rule XVI, sec 1 & 2. There are various exceptions to these general rules, particularly in the Senate.

^{32/} Joint Committee on Reduction of Federal Expenditures, 1975 Budget Scorekeeping Report. 93rd Cong., 2d Sess.

last authorization act required for programs contained in the specific appropriation act."^{33/} Data for fiscal years 1969-72 indicate that there is a lag of more than 50 days between enactment of authorizations and appropriations.^{34/} In considering the effects of the authorizations process, it should be noted that the Appropriations Committees generally commence consideration of their bills without waiting for enactment of authorizations. Because of this practice, the Appropriations Committees are able to report their bills shortly after the authorizations have been cleared.

Table 8

Enactment of Appropriations, Fiscal Years 1965-74

<u>Year</u>	<u># Enacted by July 1</u>	<u>Date Last Bill Enacted</u>	<u>Total # of Days after July 1</u>
1965	0	Oct. 7	685
1966	2	Nov. 2	751
1967	2	Nov. 8	1,027
1968	1	Feb. 2 (1968)	1,533
1969	1	Oct. 17	756
1970	0	Feb. 1 (1970)	2,162
1971	0	Mar. 30 (1971)	1,791
1972	1	Dec. 18	853
1973	0	Oct. 26*	633
1974	0	Jan. 2 (1974)	1,659

* No Foreign Assistance or Labor-HEW Appropriations were enacted for fiscal 1973.

^{33/} George K. Brite, "Authorizing Legislation Required Prior to Enactment of Appropriations and Appropriation Acts for each Session of Congress, 90th Congress, Second Session to 92d Congress, First Session." Congressional Research Service, February 10, 1972. p. 5.

^{34/} See Allen Schick, "A Three-Year Limit on Authorization Bills," in U. S. Senate Government Operations Committee, Improving Congressional Control over the Budget: A Compendium of Materials. pp. 261-73.

Evolution of the Congressional Budget and Impoundment Control Act

From the time that it was proposed in April 1973 until it was enacted 15 months later, the budget legislation went through five committees, including a special joint committee at the start and a conference committee at the end. Contributions to the final Act were made at each stage and these are briefly discussed in the remaining portions of this chapter. The legislative history of the Act is outlined in Table 9 below.

The Joint Study Committee

On April 18, 1973, the Joint Study Committee issued its final report and identical bills to implement its recommendations were introduced in the House and the Senate. Because it lacked authority to report legislation, the Joint Study Committee's bills were referred to the appropriate House and Senate committees: H.R. 7130 to the House Rules Committee and S. 1641 to the Senate Government Operations Committee.^{35/}

The Joint Study Committee proposed the establishment of a 21-Member Budget Committee in the House and a 15-Member committee in the Senate, with one third of each Committee's seats assigned to the Appropriations Committee and another third to the tax committee (House Ways and Means or Senate Finance). The chairmanships of the new committees would alternate between the Appropriations and the Tax Committees. One third of the Budget Committee Members would

^{35/} In the House, resolutions were introduced by Representative John B. Anderson to authorize the Joint Study Committee to report legislation, but no action was taken on them. H. Con. Res. 178 and H. Con. Res. 179, 93d Congress, 1st Session (1973), 119 Congressional Record (daily ed., April 9, 1973). H-2537-38.

Table 9

LEGISLATIVE HISTORY OF CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT

<u>Date</u>	<u>Action</u>	<u>Citation</u>
October 27, 1972	Joint Study Committee Established	Title IV, PL. 92-599
April 11, 1973	S. 1541 introduced	
April 18, 1973	Joint Study Committee Reports	<u>Recommendations for Improving Congressional Control over Budgetary Outlay and Receipt Totals. H.R. 7130 and S. 1641 introduced.</u>
April-May 1973	Hearings by Senate Subcommittee on Budgeting, Management, and Expenditures	<u>Hearings on Improving Congress Control of the Budget</u>
July-September 1973	Hearings by House Rules Committee	<u>Hearings on Budget Control Act of 1973</u>
November 20, 1973	House Rules Committee Reports	H. Rept. No. 93-658
November 28, 1973	Senate Government Operations Committee Reports	S. Rept. No. 93-579
December 4, 5, 1973	House Debates and passes H.R. 7130	
January 15, 1974	Hearings by Senate Committee on Rules and Administration	<u>Hearings on Budget Control Act of 1973</u>
February 21, 1974	Senate Committee on Rules and Administration reports	S. Rept. No. 93-688
March 19-22, 1974	Senate debates and passes S. 1541	
June 11, 12, 1974	Conference Committee reports	H. Rept. No. 93-1101; S. Rept. No. 93-924
June 18, 1974	House adopts conference report	
June 21, 1974	Senate adopts conference report	
July 12, 1974	President signs Congressional Budget and Impoundment Control Act	PL. 93-344

be drawn from the House or Senate at large. Thus, the Budget Committees were conceived as coordinating rather than representative bodies; their prime mission would be to link the revenue and spending sides of the budget, not to reflect the overall makeup of the House or the Senate.

In the Joint Study Committee scheme, the Budget Committees were to be assisted by a legislative budget staff, which would serve as a joint staff for both committees. "A joint staff for the two committees would enable both Budget Committees to benefit from the specialized knowledge and skills acquired by the staff in preparing and analyzing budget material...."^{36/} As conceived by the Joint Study Committee, the budget staff would not have been available to assist other committees or the membership at large, though some of its reports would have been made public. Like the Committees it would have served, the joint staff would have been assigned to assist the few in Congress with special interest in budget matters.

The core of the budget process conceived by the Joint Study Committee was to be a concurrent resolution on the budget adopted by May 1 of each year. This "first" annual budget resolution would have set limitations on total new budget authority and outlays, and would have allocated these spending totals among congressional committees and Appropriations subcommittees. The budget resolution also would have set the overall levels of revenues, debt, and budget surplus or deficit, and it could also have set limitations on guaranteed or insured borrowing. Floor debate on the budget resolution would have been regulated by a "rule

^{36/} Joint Study Committee on Budget Control. Recommendations for Improving Congressional Control over Budgetary Outlay and Receipt Totals, April 18, 1973. p. 27.

of consistency" requiring an amendment changing any of the spending amounts to maintain the consistency of the resolution. Thus, an amendment proposing increases in one budget category also would have had to propose an increase in the budget totals or an equivalent reduction in another category.

After its adoption, the budget resolution would function as a restraint on individual spending measures. Congress could not appropriate funds in excess of the amounts set forth in the budget resolution for a particular category and a special scorekeeping procedure would have been used to assure that the spending ceilings for the budget total and individual categories were not breached. If required by budget resolution, Congress would have been required to specify outlay limitations in appropriations and other spending bills. It also would have been required to adopt a tax surcharge (or an equivalent revenue measure) if such action was necessary to achieve the surplus or deficit prescribed in the budget resolution. Waiver or suspension of any of the new rules for the congressional budget process would have been only by a two-thirds vote of the House or the Senate.

New backdoor spending, except for fully self-financed trust funds, would have been terminated, and contract authority, borrowing authority, and entitlement legislation would have been funded only to the extent provided in appropriation acts. New authorizing legislation would have had an enactment deadline of June 30, before the start of the next fiscal year.

The congressional budget process which would have derived from the Joint Study Committee bill would have been under the effective control of the

House and Senate Budget Committees, each of which would have drawn two-thirds of its members and its chairman from the Appropriations and Tax Committees. A resolution reported by the Budget Committees could not be easily amended on the floor of the House or the Senate and appropriation bills would have been required to abide by the spending limitations of the resolution.

These features were criticized at hearings before the House Rules and Senate Government Operations Committees. Many proposed a Budget Committee structure which would open its membership to a broader range of Representatives and Senators; others called for committees which would have no special quotas; still others asked for Budget Committees which would have rotating memberships. Similar complaints were voiced concerning the budget staff, with a number of bills calling for a new budget office to serve all committees and Members.

A third target of criticism was the budget resolution, for some because of the ceilings it would have imposed at the start of the congressional budget process, for others because the rule of consistency would have outlawed most floor amendments. A special problem was the House rule against amendments in the third degree; there was apprehension that this rule in combination with the consistency requirement would have made it virtually impossible to amend budget resolutions on the floor. Some critics were dissatisfied with the tax provisions of the Joint Study Committee proposal, in part because it was weighted in favor of a surtax as the means of achieving the prescribed surplus or deficit.^{37/}

^{37/} In addition to the hearings listed in Table 9, see Democratic Study Group, Special Report, Recommendations of the Joint Study Committee on Budget Control, May 10, 1973.

In the House

The House Rules Committee held hearings on H.R. 7130 during the summer of 1973, made extensive changes in the bill, and reported an amendment in the nature of a substitute on November 20, 1973. The bill was debated in the House on December 4 and 5 and passed by a vote of 386-23. Only two, comparatively minor, amendments were adopted on the floor.

The Rules Committee retained the basic structure formulated by the Joint Study Committee but modified many of the particulars. It proposed a 23-Member House Budget Committee, with ten from House Appropriations and Ways and Means, two from the party leaderships, and eleven at large. It provided for a Legislative Budget Office to function as a joint staff for the two Budget Committees but also to give some assistance to other committees and Members. The first budget resolution was to be a target, with no "consistency" limitation on floor amendments and no requirement that spending measures abide by the amounts in the resolution. Allocations in the budget resolution were to be by major budget function rather than by appropriation category. The task of reconciling the budget resolution with congressional action on spending bills was to take place in the fall, at which time Congress would adopt a second budget resolution calling for any desired changes in revenues, spending, or debt. In order to provide sufficient time for the congressional budget process, the fiscal year was to be shifted to an October 1-September 30 cycle.

The House Rules Committee attached an impoundment title to the budget reform legislation. Derived from H.R. 8480 which had been passed by the House

in July 1973, the impoundment title provided that any executive withholding of funds must cease if disapproved by either the House or the Senate within 60 days.

Senate Government Operations Committee

In the Senate, the vehicle used for marking up the budget legislation was S. 1541, introduced by Senator Ervin on April 11, 1973, one week before the Joint Study Committee reported. As introduced, S. 1541 was a "bare bones" bill, though some of its features resembled the provisions of the Joint Study Committee bill. S. 1541 was referred to the Government Operations Committee where it was considered by the newly-established Subcommittee on Budgeting, Management, and Expenditures during April and May 1973. The Subcommittee considered two versions of budget reform, one oriented to early ceilings, the other to budget targets, and by a vote of 5-4 it reported a bill which would establish budget targets. The bill then was considered by the full Committee which reported compromise legislation on November 20, 1973.

The Government Operations Committee bill provided for a 15-Member Senate Budget Committee with assignments to be made in the same manner as for other Senate Committees. There was to be a Congressional Office of the Budget to assist Congress in its budget-related functions and, though the bill was not explicit on the matter, this Office was to be in addition to separate House and Senate Budget Committee staffs.

The congressional budget process would revolve around a Spring resolution setting limitations on total budget authority and outlays and allocating these among legislative committees and their subcommittees or programs. In place of the rule of consistency devised by the Joint Study Committee, the burden of

consistency was to be shifted to the Senate and the House. While inconsistent amendments to the budget resolution could be considered, final adoption was permitted only for consistent resolutions. Congress would be able to adopt appropriations in excess of the levels in the budget resolution, but each appropriation or other spending bill would be required to have a clause stipulating that the new budget authority could not become effective until Congress passed special triggering legislation. This legislation could be considered only when the amounts in spending bills were within the limits of the budget resolution. If the spending totals were in excess of the budget levels, Congress would first have to consider a ceiling enforcement bill reducing spending to the budget levels. If this was not possible it could adopt a second budget resolution revising the limits or a bill making pro rata reductions in controllable expenditures.

The Senate Government Operations Committee bill also had procedures for backdoor legislation as well as a deadline for authorizing legislation. It added titles dealing with budgetary information, a three-year limitation on program authorizations, and the pilot testing of new programs. However, the Government Operations Committee bill did not have any impoundment control provisions.

The Senate Rules and Administration Committee

When S. 1541 was reported by the Government Operations Committee, Majority Whip Robert C. Byrd moved that it be referred to the Committee on Rules and Administration for the purpose of considering its effects on the rules and

operation of the Senate.^{38/} The Rules and Administration Committee held one day of hearings on the bill and it then convened an informal staff-level group to prepare a revised bill acceptable to various Senate interests and perspectives. The group developed a "consensus" bill that was reported to the Senate on February 21, 1974. The bill was considered in the Senate on March 19-22, 1974, and after the adoption of approximately 20 amendments, was passed by a unanimous vote, 80-0.

The Rules and Administration Committee reviewed the entire bill but its main attention was given to Title III relating to the congressional budget process. The first budget resolution was converted to targets and a reconciliation phase was added at the end. Budget allocations were to be by function and the rule of consistency was restricted to final passage in the Senate. Outlay limitations were removed from spending bills and a crosswalk procedure was prescribed for relating the budget levels to the amounts in spending bills. Most of the changes aligned the Senate bill more closely to H.R. 7130 as passed by the House.

Titles dealing with pilot testing and a three-year limit on authorizations were removed in favor of provisions strengthening the role of Congress and the GAO in program evaluation. A new title was added, amending the Antideficiency Act to restrict the purposes for which funds may be reserved from apportionment.

Conference Committee

With most of the differences between House and Senate versions substantially narrowed by the actions taken by the two Houses, the conferees concentrated on the troublesome impoundment issue. They decided that the final legislation should combine congressional budget procedures and impoundment

^{38/} See 119 Congressional Record (daily ed., November 29, 1973) S-21364.

control and they devised an Impoundment Control Act (Title X) that brought together the Senate's amendment to the Antideficiency Act, an earlier Senate bill (S. 373), and the House's impoundment procedure in H.R. 7130. As conceived by the conferees, a distinction was made between two types of impoundment: rescissions and deferrals. Rescissions would have to cease unless approved by Congress within 45 days; deferrals would cease if disapproved by either the House or the Senate.^{39/}

As for congressional budget procedure, there is to be a targeting resolution in the Spring and a reconciliation process in the fall. The conferees divided backdoor legislation into two categories, with one procedure for contract and borrowing authority and another for entitlement legislation. They settled for a deadline on the reporting rather than the passage of authorizing legislation.

The conference committee reported to the House on June 11, 1973 and to the Senate on the next day. Final passage of the bill occurred in the House on June 18, 1973 by a vote of 401-6 and in the Senate on June 21 by a 75-0 vote. The bill was signed into law by President Nixon on July 12, 1974.

^{39/} For a legislative history and analysis, see Allen Schick, The Impoundment Control Act of 1974, Congressional Research Service, Multilith No. 72-27 SS, January 31, 1975.

III. SECTION BY SECTION HISTORY AND ANALYSIS OF THE CONGRESSIONAL BUDGET ACT

In this chapter, the origin, development, and meaning of each section of the Congressional Budget Act are discussed. A standard format is used: first, the text of the relevant provision of the Act; next, the legislative history of the provision; and finally, where applicable, implementation of the provision.

In order to simplify an understanding of the Act and its evolution, the following references are used throughout the chapter:

- (1) Joint Study Committee bill refers to S. 1641 and H.R. 7310 as introduced;
- (2) H.R. 7130 always refers to the bill as reported by the House Rules Committee or passed by the House;
- (3) S. 1541 always specifically indicates whether it refers to the bill as introduced, as reported by the Government Operations Committee, as reported by the Senate Rules and Administration, or as passed by the Senate;
- (4) Conference Report or Conference Committee refers to the legislation as enacted.

Section 2. Declaration of Purposes

SEC. 2. The Congress declares that it is essential—

- (1) to assure effective congressional control over the budgetary process;
- (2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;
- (3) to provide a system of impoundment control;
- (4) to establish national budget priorities; and
- (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

Legislative History

Neither the Joint Study Committee bill nor H.R. 7130 as passed by the House contained a statement of purposes. A declaration of purposes was formulated by the Senate Government Operations Committee during its markup of S. 1541. This declaration was expanded by the Senate Committee on Rules and Administration into two subsections, one detailing the purposes of the Act, the other listing its "means of accomplishment." The conference report combined the two subsections into a statement of purposes that reflects the final version of the Act.

Sec. 3 (a) Definitions

SEC. 3. (a) IN GENERAL.—For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301;

(B) a concurrent resolution reaffirming or revising the congressional budget for the United States Government for a fiscal year as provided in section 310; and

(C) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.

(5) The term "appropriation Act" means an Act referred to in section 105 of title 1, United States Code.

Legislative History

The Joint Study Committee bill did not define "budget outlays" or "budget authority", apparently because of the difficulty of devising definitions that correspond to the actual usages of these terms. "Tax expenditures" were not defined because the Joint Study Committee did not deal with them. However, section 125 (d) of S. 1641 defined "concurrent resolution on the budget" in almost the exact form as the enacted version.

The definitions of "budget outlays" and "budget authority" are adapted from The Budget of the United States Government, Fiscal Year 1974, but with the definition of outlays expressly covering both expenditures and net lending.^{1/} The exception for insured and guaranteed indebtedness was added by the Committee on Rules and Administration to avert any unintended inclusion of such loans in congressional budget totals. These loans are contingent rather than direct liabilities of the United States; budget authority and outlays only ensue in case of defaults. The exemption conforms to executive budget practices and is paralleled by a similar exclusion of insured or guaranteed loans from the definition of "spending authority" in section 401 (c) of the Act.

The definitions cover the financial operations of all Federal agencies including those which by law are "off budget" and not included in the United States Budget.^{2/} However, if off-budget agencies were included in the congressional budget, its totals would be higher than the corresponding amounts in the President's budget. To avoid this possibility, the managers statement on the conference report provides:

The managers intend that the definition of "budget outlays" and "budget authority" for purposes of the congressional budget process be the same as that used for the executive budget and that any item which is excluded by law from the executive budget may be excluded from any specification of budget outlays or budget authority in the congressional budget process.

^{1/} See Part 6, "The Budget System and Concepts", pp. 314 ff.

^{2/} For a consideration of off-budget agencies, see section 606 below.

The definition of budget authority is further complicated by its relationship to "entitlement authority" which is defined in section 401 (c) (2) (C) as authority

to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such Law.

There are two types of entitlements: (1) permanent appropriations contained in authorizing legislation. These do not require funding through appropriation acts. The leading example is social security legislation; and (2) entitlements authorized in basic legislation for which funding is provided in appropriation acts. These include veterans pensions, public assistance, and a number of other mandatory entitlements.

Only the first category might be covered by a strict interpretation of the definition of entitlement authority (authority "not provided for in advance by appropriation Acts"). Accordingly, legislation providing permanent appropriations for entitlements probably should be scored both as budget authority and as entitlement authority and would be subject to procedures prescribed in the Congressional Budget Act for both types of legislation.

However, mandatory entitlements which are funded in subsequent appropriations probably should be regarded as entitlement authority in the authorizing legislation and as budget authority in the appropriation bill. This interpretation conforms to the practice of the Appropriations Committees as well as to the scorekeeping procedures of the Joint Committee on Reduction of Federal Expenditure.

The definition of "tax expenditures" is based on provisions in section 146 (a) of H.R. 7130 and section 3 (a) (3) of S. 1541. The latter was derived from an amendment proposed on September 28, 1973 by Senator Javits and incorporated in the budget bill by the Committee on Government Operations.^{3/} The Javits amendment also introduced the term "tax expenditures budget" which (in revised form) was carried into the new Act.

The definition of "appropriation acts" was inserted by the Senate Committee on Rules and Administration in order to clarify the meaning of section 401. The reference to 1 U.S.C. 105 has the effect of limiting appropriation acts to legislation which is in the form of an appropriation^{4/} in contrast to 31 U.S.C. 2 which defines appropriations as any form of "authority making funds available for obligation or expenditure." Thus, even though all types of budget authority are deemed appropriations, only budget authority provided in appropriation acts are covered by 1 U.S.C. 105.

^{3/} Amdt. No. 561, U.S. Senate, 93d Cong., 1st Sess. (1973).

^{4/} 1 U.S.C. 105 reads: "The style and title of all Acts making appropriations for the support of Government shall be as follows: 'An Act making appropriations (here insert the object) for the year ending September 30 (here insert the calendar year),' " as amended, P.L. 93-344, s. 506 (a).

Sec. 3 (b) Joint Committee on Atomic Energy

(b) **JOINT COMMITTEE ON ATOMIC ENERGY.**—For purposes of titles II, III, and IV of this Act, the Members of the House of Representatives who are members of the Joint Committee on Atomic Energy shall be treated as a standing committee of the House, and the Members of the Senate who are members of the Joint Committee shall be treated as a standing committee of the Senate.

This provision was inserted by the Senate Rules and Administration Committee as a clarification of the status of the Joint Committee on Atomic Energy, the only joint committee in Congress with jurisdiction to report authorizing legislation. The applicable provisions of Titles II, III, and IV relate to assistance by the Congressional Budget Office, the congressional budget process, and the reporting of authorizing legislation.

TITLE I. HOUSE AND SENATE BUDGET COMMITTEE

Sec. 101 (a) Budget Committee of the House of Representatives

SEC. 101. (a) Clause 1 of Rule X of the Rules of the House of Representatives is amended by redesignating paragraphs (e) through (u) as paragraphs (f) through (v), respectively, and by inserting after paragraph (d) the following new paragraph:

“(e) Committee on the Budget, to consist of twenty-three Members as follows:

“(1) five Members who are members of the Committee on Appropriations;

“(2) five Members who are members of the Committee on Ways and Means;

“(3) eleven Members who are members of other standing committees;

“(4) one Member from the leadership of the majority party; and

“(5) one Member from the leadership of the minority party.

No Member shall serve as a member of the Committee on the Budget during more than two Congresses in any period of five successive Congresses beginning after 1974 (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress). All selections of Members to serve on the committee shall be made without regard to seniority.”

Legislative History

Separate Budget Committees. The concept of separate House and Senate Budget Committees conforms to the approach taken by the Joint Study Committee but is contrary to the joint committee procedure used for the legislative budget in 1947-49.^{5/} Two different challenges to separate House and Senate Budget Committees were raised during

^{5/} Section 138, the Legislative Reorganization Act of 1946, 60 Stat. 832.

consideration of S. 1541 by the Senate Government Operations Committee. Senator McClellan renewed his oft-made proposal for a Joint Committee on the Budget,^{6/} but this approach was not adopted. In its report on S. 1541, the Government Operations Committee explained:

The House has never gone along with the formation of a joint budget committee, for it is concerned that its asserted prerogative to initiate appropriations would be diluted.

The course of reorganization, therefore, requires that least disturbance be done to the traditions of the House and the Senate and their established relationships in the appropriations process. For this reason, the Committee has sought to obtain the benefits of a Budget Committee, avoiding, however, the problems and objections raised by proposals to combine House and Senate Members in a single unit.^{7/}

On September 28, 1973, Senator Muskie filed a printed amendment which he offered as a comprehensive substitute for S. 1541 as reported by the Subcommittee on Budgeting, Management, and Expenditures.^{8/} The Muskie amendment would have combined the existing jurisdiction of the Appropriations Committees with the proposed jurisdiction of the Budget Committees into new House and Senate Committees on Budget and Appropriations. This amendment subsequently was dropped in favor of the compromise bill formulated by the Government Operations Committee.

^{6/} For a discussion of proposed legislation to create a joint budget committee, see Louis Fisher, "Proposal for a Legislative Budget," in Senate Committee on Government Operations, Improving Congressional Control Over the Budget, 93d Cong., 1st Sess. (1973) pp. 236-48.

^{7/} S. Rept. No. 93-579 (1973), p. 12.

^{8/} Amdt. No. 559, 93d Cong., 1st Sess. (1973).

In the House, some opposition to new budget committees was voiced by Representatives Obey and Steiger (Wisconsin) who argued that the tasks could be handled by the Appropriations Committees.^{9/} However, the budget committee approach had wide support and was included in all versions of H.R. 7130.

Composition of the House Budget Committee. As a matter of comity, section 101 of the Act (providing for the House Budget Committee) was formulated by the House and adopted without change by the Senate. Similarly, section 102 (providing for the Senate Budget Committee) was devised by the Senate and accepted by the House.

The Joint Study Committee proposed a 21-member House Budget Committee: seven selected by the House Appropriations Committee; seven selected by the Ways and Means Committee; and seven at-large members appointed by the Speaker. In addition, the chairmanship of the Budget Committee was to alternate annually between Appropriations and Ways and Means.^{10/} These allocations were in line with the Joint Study Committee's conception of the Budget Committee as a group which would coordinate tax and spending policy rather than as a group representative of the House as a whole:

^{9/} U.S. Congress, House Committee on Rules, Hearings on Budget Control Act of 1973, 93d Cong., 1st Sess., pp. 287-297.

^{10/} To implement this arrangement, the Joint Study Committee bill provided that any rule or policy prohibiting dual chairmanships or membership on more than one major committee would not apply to the Budget Committees.

drawing on the appropriations and tax committees for two-thirds of the membership of each of the Budget Committees means that in effect these budgetary decisions at the committee level, to a substantial degree, will continue to be made by the financial committees of the House and Senate which have basic responsibilities in these areas.^{11/}

The quotas advocated by the Joint Study Committee were among the most controversial features of the budget reform legislation. The Democratic Study Group argued that "the committee makeup would be unrepresentative of the House as a whole and would discriminate against members of authorizing committees...."^{12/} During subsequent consideration of the legislation, the co-chairmen of the Joint Study Committee retreated from their original position: Rep. Al Ullman suggested a 20-member committee, half from Ways and Means and Appropriations and half selected at large;^{13/} Rep. Jamie L. Whitten proposed a 19-member committee, with ten from the two designated committees and nine at large.^{14/} The House Rules Committee considered a succession of alternatives including a 15-member committee appointed entirely by the majority and minority leaderships^{15/} and a 21-member committee without any quotas or prescribed method of selection.^{16/} At meetings on

^{11/} Joint Study Committee, Recommendations for Improving Congressional Control over Budgetary Outlays and Receipt Totals, Report, April 18, 1973, p. 18.

^{12/} Democratic Study Group, Special Report on Recommendations of the Joint Study Committee on Budget Control, May 10, 1973, p. 18.

^{13/} U.S. Congress, House Committee on Rules, Hearings on Budget Control Act of 1973, 93d Cong., 1st Sess., p. 57.

^{14/} H.R. 19961, (introduced October 16, 1973), 93d Cong., 1st Sess. (1973).

^{15/} House Rules Committee, Committee Print, September 12, 1973.

^{16/} House Rules Committee, Committee Print, dated September 29, 1973.

October 17 and 18, 1973, the Rules Committee rejected a non-quota formula by a vote of 7-6 and then opted for a 23-member committee: five each from Appropriations and Ways and Means; eleven from the membership at large, and one each from the majority and minority leaderships.

In finalizing the 23-member formula, the Rules Committee deleted language which would have permitted dual chairmanships or multiple major committee assignments. It also departed in two ways from the procedures governing other committees of the House. First, it limited membership on the Budget Committee to no more than four years (plus a fraction of a year) during any ten-year period. Second, it provided that selections shall be made without regard to seniority.

Implementation

The Act does not provide for the distribution of the Budget Committee seats between the two parties nor for the manner in which each party is to select its members. In the 93rd Congress, the 23 positions were divided 14-9 between the Democratic and Republican parties, a ratio comparable to that prevailing in the 93d Congress for other House committees.^{17/} The parties utilized differing procedures for making their selections.^{18/}

^{17/} Approximately 60 percent of the seats were allocated to the Democratic Party, the same percentage was used in the 93d Congress for the Appropriations and Ways and Means Committees.

^{18/} See Joel Haverman, "Congress Report/New Budget Committees Already have Ambitious Plans" National Journal, September 29, 1974, pp. 1445-1453.

The Democratic Party relied on its Caucus rather than on its usual Committee on Committees (the Democratic members of the Ways and Means Committee) to select all but one of the appointees.^{19/} The Speaker chose the Majority Leader to fill the slot allocated to the leadership. Seven at-large candidates were nominated by the Democratic Steering and Policy Committee; the Chairman of the Appropriations Committee nominated three of his committee members; and the Chairman of the Ways and Means Committee nominated three candidates. All of these nominees were selected by the Caucus. The Caucus also chose Rep. Al Ullman to be chairman of the Budget Committee in a contested election that was decided by a 113-90 vote.

Republican appointments were made by the Party's Committee on Committees which accepted two nominations each from the ranking minority members of Appropriations and Ways and Means and four nominations from its own executive committee. The Minority Leader chose himself for the position assigned to the leadership.

Although seniority was not strictly followed, both parties tended to select relatively senior members. No freshmen were appointed to the Budget Committee. The Democratic Members had served an average of nine terms in the House; the Republican members averaged eight terms.

^{19/} At organization meetings for the 94th Congress held in December 1973, the Democratic Caucus transferred jurisdiction over all committee assignments to the Democratic Steering and Policy Committee.

In the 94th Congress, the rules of the House were changed to expand the Committee to 25 Members.^{20/} Although the two Budget Committees were established by statute, it is possible for either House to change the section relating to its Committee merely by amending its own rules. Section 904 of the Act provides that Title I (as well as certain other provisions) are enacted as an exercise of the rulemaking power of each House and can be changed in the same manner as other rules of such House.

Addition of two at large Members to the Committee was designed to change the party ratio to 17 Democrats and 8 Republicans in line with a Democratic Caucus decision that certain major committees shall have a 2-1 Democratic majority. Because of turnovers within Congress and departures from the Budget Committee, 8 Democrats and 2 Republicans received their first appointment to the Committee in 1975.

The Democratic Caucus selected Rep. Brock Adams as chairman in a contested election.^{21/}

^{20/} 121 Congressional Record (daily ed., January 14, 1975) H 5.

^{21/} Because of the procedures used to select Members of the Budget Committee, selection of the chairman did not take place until February 5, 1974, long after Congress had convened and all other committee chairmen appointed.

Sec. 101 (b) Authority to Meet, Hold Hearings, and Issue Subpenas

(b) Rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"6. For carrying out the purposes set forth in clause 5 of Rule XI, the Committee on the Budget or any subcommittee thereof is authorized to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books or papers or documents or vouchers by subpoena or otherwise, and to take such testimony and records, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or of any member of the committee designated by him; and may be served by any person designated by such chairman or member. The chairman of the committee, or any member thereof, may administer oaths to witnesses."

Legislative History

This provision is taken intact from the original proposal of the Joint Study Committee. Until recently, committees did not have blanket authority under the Rules of the House of Representatives to conduct investigations or issue subpoenas. The Rules provided such authority for a few committees (such as Appropriations, Government Operations, and Internal Security), but most committees could obtain this power only through special resolutions. However, on October 8, 1974, the House adopted the Committee Reform Amendments of 1974 (the Bolling-Hansen Amendments) which authorizes all House Committees to sit, investigate, and issue subpoenas. ^{22/}

^{22/} H. Res. 988, 93d Cong., 2d Sess. Rule XI, clause 2, paragraph (m).

Sec. 101 (c) Jurisdiction of the House Budget Committee

(c) Rule XI of the Rules of the House of Representatives is amended by redesignating clauses 5 through 33 as clauses 6 through 34, respectively, and by inserting after clause 4 the following new clause:

"5. Committee on the Budget

"(a) All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act.

"(b) The committee shall have the duty—

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

"(2) 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 House on a recurring basis;

"(3) 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 House on a recurring basis; and

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

Legislative History

This subsection is identical to the corresponding provisions of section 102 (a) relating to the duties of the Senate Budget Committee. Some minor differences between the jurisdictions of the two committees derive from later sections of the Act.^{23/} But throughout consideration of the budget legislation, there has been agreement that the House and Senate committees should have parallel jurisdictions.

Enumerated Duties. The statement of House Budget Committee jurisdiction lists four duties, each of which has its own legislative history.

^{23/} See sections 303 (c) and 402 (c) below.

(1) The Joint Study Committee bill (and some later versions) itemized the content of the concurrent resolutions in the statement of jurisdiction, but this now is incorporated by reference to section 3 (a) (4) and Titles III and IV of the Act. The referenced duties include the reporting of at least two concurrent resolutions on the budget each year and (when required) a reconciliation bill or resolution. The reference to Title IV applies only to the Senate Budget Committee which under section 402 (c) has jurisdiction over emergency waiver resolutions. Certain other duties of the Budget Committees provided in Titles II and VII are not referenced in this subsection. ^{24/}

(2) The tax expenditures function is based on an amendment filed by Senator Javits on September 28, 1973. ^{25/} The enacted version was formulated by the Senate Committee on Rules and Administration and differs from the Javits amendment in two particulars. First, the amendment would have had the Budget Committees "make continuing studies of tax expenditures"; the Act charges them "to request and evaluate continuing studies", presumably referring to studies made by others. Second, Javits would have had the Budget Committees "study" methods of coordination; the Act charges them to "devise" such methods. The first change was made in recognition of the tax expenditure studies of the Joint Committee on Internal Revenue Taxation; the second, to strengthen the role of the Budget Committees.

^{24/} Section 201 (a) provides for Budget Committee recommendations concerning the Director of the Senate Budget Office; section 703 requires certain studies.

^{25/} Amdt. No. 561, 93d Cong., 1st Sess. (1973).

(3) The oversight function appeared in an early Government Operations Committee draft of S. 1541 and has been enacted without subsequent alteration.^{26/} Addition of oversight duties resulted from the conversion of the Congressional Budget Office from a legislative budget staff serving the two Budget Committees into a separate congressional office responsible to Congress as a whole.^{27/}

General Jurisdiction. What jurisdiction, if any, do the Budget Committees have in addition to the functions specified in sections 101 and 102 or in other provisions of the Act? Do the Committees have any legislative jurisdiction or are they confined to the special measures (budget resolutions and reconciliation measures) required by the Act? The answer is not at all clear or without potential controversy. One possible interpretation is that the Committees are limited to those matters expressly assigned to them in the Act. An alternative view is that they also may claim jurisdiction over budget-related matters which are not expressly within the jurisdiction of other committees. At least two types of jurisdictional issues can arise: legislation to establish a ceiling on Federal expenditures; and rescission bills or impoundment resolutions. The former is discussed below in regard to section 306 of the Act; the latter, in Title X.

^{26/} Committee Print No. 2, June 13, 1973.

^{27/} See Title II below for a discussion of the evolution of the budget office from a joint committee staff to a legislative office.

The legislative history of the Act does not deal specifically with the question of additional Budget Committee jurisdiction. The report of the Senate Committee on Rules and Administration declares that "it is not intended that the Budget Committee diminish the responsibilities of any other committee."^{28/} Against this restrictive interpretation, it may be noted that sections 901 and 902 of the Act modify the jurisdictions of other House and Senate committees in recognition of the functioning of the new Budget Committees.^{29/}

Staffing. Section 101 does not provide for the staffing of the House Budget Committee, nor does section 102 provide for the Senate Budget Committee's staff. As will be explained in the analysis of Title II, the Joint Study Committee contemplated that the Budget Committees would have a joint staff. But this approach was abandoned in later versions and the authority of the two Committees to establish staffs derives from their status as standing committees of the House and the Senate. In addition, section 901 of the Act gives the House Budget Committee special authority to appoint staff.

^{28/} S. Rept. No. 93-688, 93d Cong., 2d Sess. (1974), p. 31.

^{29/} The jurisdictional changes are only mentioned by reference. Section 901 (a) provides that "The respective areas of legislative jurisdiction...are modified by title I of the Congressional Budget Act of 1974." Section 902 states that the jurisdiction of the Senate Finance and Appropriations Committees shall be "except as provided in the Congressional Budget Act of 1974."

Sec. 102 (a) Jurisdiction of the Senate Budget Committee

Sec. 102. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

“(r)(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.”

Legislative History

As has been indicated, the Senate and House Budget Committees have parallel jurisdictions and the analysis of section 101 (c) is fully applicable to this subsection. In addition to the jurisdiction provided here, sections 303 (c) and 402 (c) give the Senate Budget Committee jurisdiction over resolutions to waive the prohibition against the consideration of certain legislation prior to adoption of the first concurrent resolution on the budget or the deadline for the reporting of authorizing legislation.

Sec. 102 (b) & (c) Composition of the Senate Budget Committee

(b) The table contained in paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by inserting after—

“Banking, Housing and Urban Affairs..... 15”
the following:

“Budget 15”

(c) Paragraph 6 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

“(h) For purposes of the first sentence of subparagraph (a), membership on the Committee on the Budget shall not be taken into account until that date occurring during the first session of the Ninety-fifth Congress, upon which the appointment of the majority and minority party members of the standing committees of the Senate is initially completed.”

Legislative History

The size of the Senate Budget Committee has not been a matter of dispute. The Joint Study Committee as well as the original version of S. 1541 (introduced one week before the Joint Committee issued its final report) provided for a 15-member Budget Committee and this is the size enacted into law. However, there has been much disagreement over the selection of the Committee's members. The Joint Study Committee advocated the same percentage quotas it had recommended for the House Budget Committee: five Senators to be appointed by the Appropriations Committee; five by the Finance Committee; and five by the President pro tem of the Senate. The Budget Committee's chairmanship was to alternate annually between members from the Appropriations and Finance Committees.

S. 1541 as introduced assigned six of the seats to the Appropriations and Finance Committees and nine to other Senators. Moreover, it provided that all 15 members were to be selected by party caucusses-- "in the same manner as other standing committees of the Senate." During its consideration of the legislation, the Senate Committee on Government Operations dropped all quotas, leaving to the determination of the Senate the manner in which all members were to be selected. It rejected by a vote of 5-3 a proposal to stagger the terms of the members of the Budget Committee, with one-third of the membership rotating every two years.^{30/} With only one modification, the formula reported by the Government Operations Committee has been enacted into law.

The single change relates to the effect of Budget Committee membership on other committee assignments. Under the rules of the Senate, a Senator may serve on no more than two "major" committees.^{31/} By a vote of 7-1, the Government Operations Committee designated the Budget Committee as a major committee, thereby applying the two-committee limitation to its members.^{32/} The bill reported by the Committee on Rules and Administration deferred application of this limitation until the start of the 96th Congress, thus providing a grace period

^{30/} S. Rept. No. 93-579, p. 95. Under the proposal made by Senator Metcalf, five members would have been initially appointed to two year terms; five to four-year terms; and five for six years.

^{31/} Rule XXV. paragraph 6 (a) of the Standing Rules of the Senate. Paragraph 6 (b) exempts from this limitation Senators who were members of either the Government Operations or the Aeronautical and Space Sciences Committee when the Legislative Reorganization Act of 1970 (which converted these into major committees) was adopted.

^{32/} S. Rept. No. 93-579, p. 95 (1973). This designation was accomplished by listing the Budget Committee in Rule XXV, paragraph 2 of the Senate Rules.

during which the first appointees to the Budget Committee could serve on three major committees.^{33/} However, during floor consideration of S. 1541, the Senate adopted an amendment reducing the grace period to one Congress.^{34/} As a consequence, current members of the Senate Budget Committee will have until January 1977 to decide which committee assignment is to be relinquished.

Implementation

The party ratio for the 93rd Congress was nine Democrats and six Republicans, comparable to the distributions on other Senate committees.^{35/} Senate appointments were made by the Senate Democratic Steering Committee in accord with guidelines adopted by the Party Conference on July 19, 1974. The Conference directed.

That in determining the majority party membership of the Senate Budget Committee, the Conference instructs the Steering Committee to select members of the Budget Committee to reflect as nearly as practicable the balance of membership of the Conference as a whole, based on the following criteria: geography and philosophy.^{36/}

^{33/} S. Rept. No. 93-688 (1973). See page 26 for an explanation of this provision.

^{34/} Amdt. No. 1028, introduced by Senator Kennedy was accepted by the managers of the bill and adopted by voice vote. 120 Congressional Record (daily ed. March 21, 1974), S4064.

^{35/} The 60-40 percent ratio on the Budget Committee compared to 57-32 (and one independent) party distribution at the time the Committee was established.

^{36/} See 120 Congressional Record (daily ed., July 22, 1974), S 12975.

Geographical balance was achieved by requiring candidates from the same region to compete against one another for Budget Committee appointments. As a result, at least two Democratic members come from each of the regions--East, South, Midwest, and West. Moreover, the Democratic Membership was balanced in terms of senatorial seniority. The nine members included two freshmen, and two others still serving their first term in the Senate.

Republican appointments to the Budget Committee were made by the Senate Republican Conference after it considered a number of slates devised by the Party's Committee on Committees. The Republican appointments for the 93d Congress resembled the quotas initially proposed by the Joint Study Committee: two each from Senate Appropriations and Finance and two at-large members. The Republican members tended to be more senior Senators, averaging more than 15 years of service, compared to 10 years for the Democratic members.

At the start of the 94th Congress, the Senate rules were amended to enlarge the Budget Committee to 16 Members, with a 10-6 party ratio.^{37/} One new Democratic Member was added to the Committee while five of the six Republicans were replaced.

Although Budget Committee members are permitted to retain two other major committee assignments through 1976, at the July 18, 1974 meeting of the Senate Democratic Conference, Majority Leader Mike

^{37/} 121 Congressional Record (daily ed., January 17, 1975) S 511.

Mansfield urged that members not "be designated to the new Committee unless they are prepared to give up now--not two years hence, but now an existing membership on other major Committees."^{38/} The resolution adopted by the Conference affirms the grace period provided in the Act:

Resolved, That no member of the Budget Committee shall serve on more than three Class A committees after the commencement of the 94th Congress or more than two Class A committees after the commencement of the 95th Congress;

Provided, That grandfather rights granted to members of the Government Operations and Space Committees shall not be affected.^{39/}

However, an informal understanding was reached affecting only the Democratic members of the Budget Committee who held three other major committee assignments. Budget Committee Chairman Muskie was required to relinquish one of his other committee posts at the start of the 94th Congress. Accordingly he resigned from the Senate Foreign Relations Committee. The same understanding required Senator Magnuson to give up one of his other assignments in 1975. He withdrew from the Aeronautical and Space Sciences Committee.

^{38/} 120 Congressional Record (daily ed., July 22, 1974) S 12975.

^{39/} Ibid.

Sec. 102 (d), (e) Meetings of the Senate Budget Committee

(d) Each meeting of the Committee on the Budget of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(e) Paragraph 7(b) of rule XXV of the Standing Rules of the Senate and section 133A(b) of the Legislative Reorganization Act of 1946 shall not apply to the Committee on the Budget of the Senate.

Legislative History

This provision requires the Senate Budget Committee to conduct all hearings and meetings in public unless it votes to close a meeting because of one or another of the reasons specified in the Act. A Budget Committee meeting can be closed by majority vote if it deals with (1) confidential national security or foreign relations matters; (2) internal staff, management, or procedure of the Committee; (3) charges of crime or

misconduct or will clearly invade the privacy of an individual; (4) the identity of informers or relates to criminal law enforcement; or (5) trade secrets obtained in confidence or is required by law to be kept confidential.

The provision was inserted by the Senate Government Operations Committee during its markup of S. 1541 but was removed by the Committee on Rules and Administration. However, by a vote of 55-26, the Senate adopted a floor amendment by Senator Chiles to restore the original provision.^{40/}

Senate Rule XXV, paragraph 7 (b) provides that committee meetings for marking up legislation or voting shall be closed except when a majority of the committee votes to open the session.^{41/} Section 133 A (b) of the Legislative Reorganization Act of 1946 provides for open hearings by Senate committees except when the hearings pertain to national security, the character of individuals, or other confidential matters.^{42/} Both of these provisions are superceded by section 102 (d) of the Act which requires open meetings except when closed for cause.

^{40/} Amdt. No. 1017. 120 Congressional Record (daily ed.) S. 4031 (March 20, 1974).

^{41/} Paragraph 7 (b) was adopted by the Senate on March 6, 1973. The rule also allows a committee to close any meeting by majority vote.

^{42/} Section 133 A (b) was added to the Legislative Reorganization Act of 1946 by section 112 (a) of the Legislative Reorganization Act of 1970.

TITLE II. CONGRESSIONAL BUDGET OFFICE

Sec. 201 (a) The Office and its Director

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director first appointed shall expire at noon on January 3, 1979, and the terms of office of Directors subsequently appointed shall expire at noon on January 3 of each fourth year thereafter. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5) The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of title 5, United States Code. The Deputy Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as so in effect, for level IV of the Executive Schedule in section 5315 of such title.

Legislative History

The concept of a congressional budget staff, its organization, and responsibilities have been modified at virtually every stage of the development of this legislation. The Joint Study Committee conceived of a Joint Legislative Budget Staff with a Director appointed by the two Budget Committees. This staff would serve the two Budget Committees which would have no separate staffs (other than administrative personnel) of their own. As the staff of the Budget Committees, the Legislative Budget Staff would not be responsible to Congress as a whole or to other congressional committees or members. Appointment of personnel and securing of data from executive agencies could be only with the approval of the chairmen of the Budget Committees.^{43/} The role of the joint staff would have been somewhat analagous to the staff of the Joint Committee on Internal Revenue Taxation which functions as the tax staff of the House Ways and Means and Senate Finance Committees.

The Rules Committee version retained the concept of a joint staff for the Budget Committees but broadened it into a Legislative Budget Office. As explained by the Rules Committee, "although it would have a special relationship to the Budget Committees, the legislative budget office would be authorized to provide available data and technical assistance to other committees and Members."^{44/} However, this proposed

^{43/} S. 1641, sec. 201 (b) and 202 (a). Approval by the chairmen of both Budget Committees would have been required for hiring personnel. Only one chairman's approval would have been needed for securing data.
^{44/} H. Rept. No. 93-658 (1973), p. 31.

arrangement had one major ambiguity: under the rules of the House and the Senate, all standing committees are authorized to establish staffs of their own. Accordingly, even if the new budget office was to "have a special relationship to the Budget Committees," these Committees still could set up their own separate staffs. This issue was addressed during floor debate on H.R. 7130 in a colloquy between Representative Bolling, the floor manager of the bill, and Representative Cleveland who had suggested an amendment entitling the minority party to a portion of the Budget Committee staff. The amendment was withdrawn after Mr. Bolling indicated that the Budget Committees would not have staffs of their own but would use the nonpartisan budget office staff:

MR. CLEVELAND. I do not believe the bill makes it clear, but I gathered from the remarks of the gentleman from Missouri, both in the record and made to me personally, and the committee staff, that this legislative budget director and his staff will be the committee staff.

Is my interpretation of this correct?....

MR. BOLLING. That is the intent of the language. That is the only staff I know of. His staff would be the staff presumably for both committees, the House committee and the Senate committee.^{45/}

In its markup of S. 1541, the Government Operations Committee opted for a Congressional Office of the Budget in addition to the staffs of the House and Senate Budget Committees.^{46/} While its prime duty would have

^{45/} 119 Congressional Record (daily ed., December 5, 1973), H 10700.

^{46/} There was no separate provision for such staffs in the Bill, but these would have been authorized under House and Senate Rules.

been to assist the Budget Committees, the new congressional office also would have assisted any other committee or Member upon request. In this version of S. 1541, the budget office would have been able to function with little direct control of its operations by the Budget Committee. However, as has been noted, the two Committees were given oversight responsibilities for the budget office.

The Committee on Rules and Administration adhered to this approach but made two alterations that forged a closer relationship between the budget office and the Budget Committees. First, the Committees were given a consultative role in the appointment of the budget office's director. Second, assistance to other committees and members was downgraded, thereby enhancing the priority accorded to the Budget Committees. However, S. 1541 was amended on the floor to give the Appropriations and tax committees parity with the Budget Committees in obtaining assistance from the budget office. ^{47/}

The conference report combined features of both the House and Senate bills, but it accepted the Congressional Budget Office as a legislative agency separate from the staffs of the two Budget Committees. Inasmuch as the Senate conferees indicated that the Senate would provide a staff for its Budget Committee, the House was compelled to accede to the establishment of a separate budget agency. However, various features were devised to assure a close relationship between the Congressional Budget Office and the Committees and these are discussed below in the relevant sections of Title II.

^{47/} 120 Congressional Record (daily ed., March 22, 1971). S 4282. The amendment offered by Senator Byrd was adopted without opposition.

Appointment of the Director. The manner in which the Director of the budget office is to be appointed has undergone various formulations reflecting the relationship between the office and the Budget Committees. In line with its preference for a joint budget staff, the Joint Study Committee provided for the appointment (or removal) of the legislative budget director by the two Budget Committees. H.R. 7130 as reported by the Rules Committee and passed by the House vested the appointment power in the Speaker of the House upon the recommendation of the House Budget Committee, thereby excluding the Senate from any role in the appointment process.

The original version of S. 1541 also gave power of appointment to the Speaker of the House, but this was modified by the Government Operations bill into a two-step procedure involving both the House and the Senate. First, the appointment of the Director (and the Deputy Director) was to be made jointly by the Speaker of the House and the President pro tem of the Senate. Second, the appointment was to be approved by the House and the Senate. This arrangement did not provide any role for the Budget Committees in the selection process.

The Senate Committee on Rules and Administration devised a three-step procedure involving consultation with the Budget Committees, appointment by the Speaker and the President pro tem, and confirmation by the House and Senate. The enacted version deletes the confirmation requirement and clarifies the role of the Budget Committees. Moreover, the deputy director is to be selected by the Director rather than by the appointment process prescribed in the Act.

Term of office. Neither the Joint Study bill nor H.R. 7130 as passed by the House had a fixed term of office for the Director. The Committee on Rules and Administration set a six year term for the office, but in conference the four-year term was adopted. The provision for removal of the Director by vote of either the House or Senate is taken from S. 1541.

Compensation of the Director. Compensation of the Director (and the deputy director) was set at different levels in the several versions. Both the Joint Study bill and H.R. 7130 set the compensation at Level III of the Executive pay schedule, while S. 1541 as reported by the Government Operations and Rules and Administration Committees provided that the Director's pay would be equal to that of the Comptroller General. But by a vote of 43-36, the Senate adopted an amendment pegging the Director's salary at the level provided for the Secretary of the Senate.^{48/} Under this amendment, the salary of the deputy director would have been equivalent to the highest salary authorized for administrative assistants to Senators.

The Act conforms to the Level III provision of the House bill and also provides Level IV compensation for the deputy director.

^{48/} 120 Congressional Record (daily ed., March 22, 1974) S 4314.

Implementation

Although the Act does not specifically require that the House and Senate Budget Committees jointly submit, or agree upon, recommendations concerning the appointment of the Director, in 1975 the two Committees forwarded only one recommendation and did not act until they agreed on a single candidate. As provided in section 905 (b) of the Act, Title II establishing the Congressional Budget Office took effect on the day that the first Director was appointed. Alice Rivlin was named the first Director of the Congressional Budget Office on February 24, 1975 and the CBO came into existence on that date.

Sec. 201 (b) & (c) Personnel, Experts, and Consultants.

(b) **PERSONNEL.**—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) **EXPERTS AND CONSULTANTS.**—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5, United States Code.

Legislative History

In accord with its conception of a joint Legislative Budget Staff, the Joint Study Committee provided that the Director could hire personnel only after obtaining approval from the chairmen of the two Budget Committees. It also authorized the new budget office to procure the services of experts and consultants. These features were incorporated without change in H.R. 7130.

All versions of S. 1541 vested the hiring power in the Director of the budget office and this approach is adopted in the Act.

Status of Personnel. Because the House and the Senate have somewhat different compensation systems and operate their own disbursing offices, it was necessary for the Act to determine which of the two systems should govern the new budget office.^{49/} The Joint Study Committee bill designated the budget office employees as House employees for purposes of pay and other benefits. S. 1541 as introduced did not provide for the status of budget office employees. The bill reported by the Government Operations Committee designated the Director and deputy director as employees of the Senate and all other personnel as House employees. The Rules and Administration Committee bill designated all budget office personnel (except the Director and deputy director who were specifically provided for in the legislation) as Senate employees for purposes of pay and other benefits. In conference, it was decided to treat the personnel as if they were employees of the House.

^{49/} Although employees of the Congressional Budget Office will not be covered by the Civil Service System, section 201 provides for their selection on a non-partisan basis.

Sec. 201 (d) Relationship to Executive Branch

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

Legislative History

All versions of the budget legislation have provided broad authority for the new budget office to secure information from executive agencies. The Joint Study Committee bill required approval by the chairman of either Budget Committee in order for the budget staff to directly request information from the executive branch. H.R. 7130 as reported by the Rules Committee and passed by the House contained a similar provision.

The first version of S. 1541 required agencies to provide the budget office with information "to the extent permitted by law." This was revised by the Government Operations Committee into an authorization to obtain all information developed by executive agencies "in the normal course of their operations and activities" and to utilize the services and facilities of executive agencies. The Rules Committee added a

clause exempting information "the disclosure of which is specifically prohibited by law" from the requirement. The enacted provision closely conforms to the language of the Senate bill. The Congressional Budget Office can secure information without prior approval of the Budget Committees and also is authorized to utilize executive personnel, facilities, and services.

One issue considered in the course of developing the legislation is the access of Congress to agency budget estimates. For many years, the President and his budget agency have taken the position that section 206 of the Budget and Accounting Act of 1921 prohibits agencies from giving their budget requests to Congress.^{50/} Generally, the practice has been to transmit such estimates to the Appropriations Committees upon their request, but only after the budget has been submitted to Congress.^{51/} During the 93rd Congress, Senator Muskie introduced legislation to require agencies to provide Congress with their estimates at the same

^{50/} 31 U.S.C. 15 reads: "No estimate or request for an appropriation ... shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress."

^{51/} Administration policy regarding the release of estimates is contained in Circular No. A-10 (revised, January 18, 1964), U.S. Bureau of the Budget.

time they are transmitted to the Office of Management and Budget.^{52/}

Due to strong Administration objections, it was decided not to incorporate this requirement in the budget reform legislation. Although the House bill had a waiver of the section 206 provision which had been used to deny congressional requests for budget estimates, it was deleted in conference.

The issue thus remains unresolved by the new legislation. The Congressional Budget Office might claim entitlement to agency estimates, but it is likely that OMB will insist that disclosure of such information would violate section 206 of the 1921 Act.

^{52/} S. 1214, 93rd Congress.

Sec. 201 (e) Relationship to Congressional Agencies

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and the Office of Technology Assessment, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, the Librarian of Congress, and the Technology Assessment Board are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

Legislative History

Neither the Joint Study Committee nor the House bill considered the relationship between the budget staff and other congressional agencies. This posture was appropriate for their conception of the new staff as an arm of the Budget Committees.

Subsection (e) derives from the original S. 1541 which empowered the budget office "to coordinate and utilize" the GAO and the Library of Congress in the performance of its functions. This formulation was revised by the Government Operations Committee at the request of the Comptroller General who urged that the new law encourage a cooperative relationship among all congressional agencies. The Government Operations Committee draft--which was not substantively changed by the Rules Committee--directed the budget office to cooperate with and utilize the information and services of the GAO, Library of Congress, and Office of Technology Assessment. It also disclaimed any modification in the existing authority or responsibilities of the other congressional agencies.

The enacted provision is an abbreviation of the Senate version. The disclaimer was dropped on the ground that it was unnecessary, but the statement of managers accompanying the conference report declares the expectation that the Congressional Budget Office "will utilize most effectively the resources and capabilities available in existing congressional agencies....[and] will not needlessly duplicate the work of other congressional agencies...."^{53/}

^{53/} H. Rept. No. 93-1101 (93rd Cong., 1974) p. 52.

Sec. 201 (f) Authorization of Appropriation

(f) **APPROPRIATIONS.**—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the Director.

Legislative History

In line with its conception of the budget staff as an arm of congressional committees, the Joint Study Committee bill provided that expenses would be paid from the contingent fund of the House of Representatives. H.R. 7130 authorized the appropriation of funds for the operation of the budget office, but also provided for drawing from the contingent fund of the House until the initial appropriation was available. A similar provision was included in S. 1541 as reported by the Senate Government Operations Committee, but this was changed by the Rules and Administration Committee to authorize interim funding through the contingent fund of the Senate.

The Act provides a permanent authorization of appropriations with interim funding--for not more than one year--from the contingent fund of the Senate. The purpose is to assure that activation of the Congressional Budget Office is not delayed by a lack of regular appropriations. Under law, payments from the contingent fund of the Senate must be sanctioned by the Senate Committee on Rules and Administration.

Sec. 202 Assistance to Committees and Members

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committees may request.

(b) ASSISTANCE TO COMMITTEES ON APPROPRIATIONS, WAYS AND MEANS, AND FINANCE.—At the request of the Committee on Appropriations of either House, the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate, the Office shall provide to such Committee any information which will assist it in the discharge of matters within its jurisdiction, including information described in clauses (1) and (2) of subsection (a) and such related information as the Committee may request.

(c) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—

(1) At the request of any other committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out clauses (1) and (2) of subsection (a), and, to the extent practicable, such additional information related to the foregoing as may be requested.

(2) At the request of any Member of the House or Senate, the Office shall provide to such Member any information compiled in carrying out clauses (1) and (2) of subsection (a), and, to the extent available, such additional information related to the foregoing as may be requested.

(d) ASSIGNMENT OF OFFICE PERSONNEL TO COMMITTEES AND JOINT COMMITTEES.—At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee. At the request of any other committee of either House or any joint committee of the Congress, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the applicable provisions of subsection (b) or (c).

Legislative History

The duties and functions of the budget office have varied with its role and relationship to the Budget Committees. In the Joint Study Committee bill, the only prescribed duty of the legislative budget staff was to serve the House and Senate Budget Committees. This was expanded in H.R. 7130 as passed by the House into an authorization to

provide other committees and Members "any information and data readily available in the files of the Legislative Budget Office, and related technical assistance." This arrangement would have maintained a "special relationship" between the Budget Committees and the budget office but it would also have permitted limited assistance to Congress as a whole.

The first version of S. 1541 would have recognized little difference between service to the Budget Committees and other committees of Congress. However, by the time S. 1541 was reported by the Government Operations Committee, a distinction had been drawn between assistance to the Budget Committees and to all others. For the Budget Committees, the new office was to have "the duty and function" to provide budget data and upon the request of either Committee to provide any related information or to assign personnel on a temporary basis. Other committees and Members were to be entitled to available information and, to the extent practicable, other budget related data. The budget office was given discretion to assign personnel to other committees and Members on a temporary basis.

The bill reported by the Senate Committee on Rules and Administration retained the priority status of the Budget Committees but distinguished between the assistance to other committees and Members. Committees were to receive available and requested information and, at the discretion of the budget office, temporary staff assistance. Assistance to Members was to be limited to available information and, to the extent practicable, other information.

This three-tier hierarchy was modified on the floor of the Senate by an amendment that accorded the Appropriations, House Ways and Means, and the Senate Finance Committees the same status as the Budget Committees.^{54/} The enacted legislation establishes a four-level hierarchy:

(1) Highest priority is accorded to the two Budget Committees which, in the words of the managers statement, "must command first claim on the time and resources of the Budget Office. Accordingly, it is made the duty and function of the Budget Office to furnish information and assign personnel for all matters relating to the congressional budget process."^{55/}

(2) High priority also was given to the Appropriations, House Ways and Means, and Senate Finance Committees which upon request may obtain budget information and staff assistance from the Congressional Budget Office.

(3) All other congressional committees are entitled to available budget information and, to the extent practicable, additional related information. At its discretion, the Budget Office may assign personnel for a limited time. The manager's statement specified that assistance to such committees "must not interfere with priority service to the several budget related committees."

(4) Members are entitled only to obtain available budget information.

^{54/} 120 Congressional Record (daily ed., March 22, 1974). S. 4282.
^{55/} H. Rept. No. 93-1101, (1973), p. 53.

Sec. 202 (e) Joint Committee on Reduction of Federal Expenditures**(e) TRANSFER OF FUNCTIONS OF JOINT COMMITTEE ON REDUCTION OF FEDERAL EXPENDITURES.—**

(1) The duties, functions, and personnel of the Joint Committee on Reduction of Federal Expenditures are transferred to the Office, and the Joint Committee is abolished.

(2) Section 601 of the Revenue Act of 1941 (55 Stat. 726) is repealed.

Legislative History

This provision was inserted by the Senate Government Operations Committee and expanded by the Committee on Rules and Administration. The Joint Committee on Reduction of Federal Expenditures (initially named the Committee on Nonessential Federal Expenditures) was established by section 601 of the Revenue Act of 1941. Its main function has been the preparation of periodic scorekeeping reports on Federal personnel and expenditures. When it is established, the Congressional Budget Office will take over the scorekeeping work.

Sec. 202 (f) Reports to Budget Committees(f) REPORTS TO BUDGET COMMITTEES.—

(1) On or before April 1 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

Legislative History

Neither the Joint Study Committee bill nor H.R. 7130 provided for an annual report by the budget office. This subsection derives from two sources: S. 1541 and S. 5, introduced in the 93d Congress by Senators Mondale and Javits. S. 1541 originally required an annual report to the Budget Committees recommending the budget surplus or deficit appropriate for the "growth and stability of the economy of the United States." The scope and purpose of the annual report of the budget office was subsequently altered by the Senate Government Operations Committee in three significant ways. First, the report was to be submitted to Congress rather than to the Budget Committees. Second, the

report was to "consider alternative levels of revenues and outlays" and not present any recommended course of action. Third, the report was to include an itemization of existing and projected levels of tax expenditures. The first of these changes was made in the anticipation that a report to Congress would have more status than one submitted only to the Budget Committees; the second because of the belief that it would be inappropriate for an agency of Congress to publicly recommend the course of action that Congress should take.

The Senate Committee on Rules and Administration retained this feature but revised some of the wording slightly, particularly in regard to tax expenditures and the date for submission of the annual report. The Senate added an entirely new section, adapted from Title II of S. 5 which had been introduced on January 5, 1973.^{56/} Title II would have established a new congressional agency--the Office of Goals and Priorities Analysis--and given it various functions, including the issuance of an annual report on national goals and priorities. Title II subsequently was separated from S. 5 and offered as an amendment to S. 1541.^{57/} However, the legislation reported by the Government Operations and Rules and Administration Committees did not include the goals and priorities proposal. But one feature of Title II, relating to the annual report was added to S. 1541 by floor

^{56/} 119 Congressional Record (January 4, 1973), p. 150.
^{57/} Amdt. No. 457 (93rd Cong., 1st Sess.), August 3, 1973.

amendment on March 22, 1974.^{58/} The report would have been prepared by the budget office and although it would have been separate from the annual budget report, it was to focus on the spending priorities in the budget.

The conferees decided to combine the two separate reporting requirements into a single provision, thereby assuring a closer linkage of national priorities to budgetary policies. The annual report to be submitted by April is to deal with budget alternatives, tax expenditures, and national budget priorities. In another major shift, the conferees converted the annual report into a submission to the Budget Committees rather than to Congress itself. The managers statement depicted this report "as a major resource for the Budget Committees in their formulation of concurrent resolutions on the budget. For this reason, the reports are to be submitted directly to the Budget Committees and are timed to coincide with preparation of the first budget resolution."^{59/}

^{58/} 120 Congressional Record (daily ed., Marcy 22, 1974), S 4302.
^{59/} H. Rept. No. 93-1101 (1974), p. 54.

Sec. 202 (g) Use of Computers by the Budget Office

(g) **USE OF COMPUTERS AND OTHER TECHNIQUES.**—The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate), obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements.

Legislative History

The first version of this subsection, in the Joint Study Committee bill, charged the Joint Legislative Budget Staff to "develop methods of using computers and other techniques for the analysis of information to improve not only the quantitative but the qualitative evaluation of budgetary requirements." This was dropped in the House bill, apparently because of concern that a broad authorization to use computers would lead to duplication of the capabilities being developed by the House Information Systems under the direction of the House Administration Committee.

The enacted subsection was developed by the Senate Government Operations Committee and modified by the Senate Rules and Administration Committee which inserted the parenthetical requirement that approval be obtained from the designated House and Senate Committees.

The managers' statement on the conference report sets forth three understandings concerning the implementation of this section, limiting the approval requirement to "the acquisition and installation in the Office of major computer capability."^{60/} Prior approval of the House and Senate committees is not required for the securing of peripheral equipment, computer software, time sharing and data processing services, or experts.

^{60/} Ibid., p. 55.

Sec. 203 Public Access to Budget Data

SEC. 203. (a) **RIGHT TO COPY.**—Except as provided in subsections (c) and (d), the Director shall make all information, data, estimates, and statistics obtained under sections 201(d) and 201(e) available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

(b) **INDEX.**—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) applies and shall make such systems available for public use during normal business hours.

(c) **EXCEPTIONS.**—Subsection (a) shall not apply to information, data, estimates, and statistics—

- (1) which are specifically exempted from disclosure by law; or
- (2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

(d) **INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS.**—Subsection (a) shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

Legislative History

This provision was added by the full Government Operations Committee shortly before it reported S. 1541. The Rules and Administration Committee made a few changes, primarily to delete any specific right to

inspect budget data and to authorize the Director of the budget office to prescribe reasonable rules and regulations. The only revision made in conference was to conform the section to other references in the Act.

Section 203 establishes a right of public access to budget data provided to CBO by the executive branch or congressional agencies pursuant to sections 201 (d) and (e). This right does not apply to information specifically exempted from disclosure by law, national defense data, confidential business information, or personnel or medical data. Information obtained for a committee or member may not be made available if CBO is instructed not to release it.

A specific right of public access was deemed necessary because congressional agencies are not covered by the Freedom of Information Act (5 U.S.C. 552).

TITLE III. CONGRESSIONAL BUDGET PROCESS

Section 300. Timetable of the Congressional Budget Process

Sec. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
November 10.....	President submits current services budget.
15th day after Congress meets..	President submits his budget.
March 15.....	Committees and joint committees submit reports to Budget Committees.
April 1.....	Congressional Budget Office submits report to Budget Committees.
April 15.....	Budget Committees report first concurrent resolution on the budget to their Houses.
May 15.....	Committees report bills and resolutions authorizing new budget authority.
May 15.....	Congress completes action on first concurrent resolution on the budget.
7th day after Labor Day.....	Congress completes action on bills and resolutions providing new budget authority and new spending authority.
September 15.....	Congress completes action on second required concurrent resolution on the budget.
September 25.....	Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.
October 1.....	Fiscal year begins.

Legislative History

Section 300 lists the major dates in the congressional budget process in chronological order. These are briefly discussed here and in greater detail in the particular sections of the Act in which they are provided. Section 300 has no independent legal authority but merely is a convenient listing of dates authorized elsewhere in the Act or in other laws. At all stages in the development of the budget legislation, there was agreement that the various parts of the process must be time-related to one another and that a change in one deadline would affect other parts of the process. A delay at any key point can prevent completion of the process prior to the start of the fiscal year. Thus, appropriations cannot be considered until the first budget resolution has been adopted and necessary authorizations have been enacted. Further, the reconciliation process can be best implemented if all regular appropriations and entitlements have been enacted. The interlocking character of the process means that breakdown in any of the parts can ripple to the whole.

Current Services Budget. The idea of a current services budget was advanced by Charles Schultze and first appeared in a draft bill proposed by Senator Muskie. The purpose of a current services presentation is two-fold: to give Congress an early start and to provide information on year-to-year changes in the budget. The November 10 date is a modification of the December 1 deadline provided in S. 1541 as reported by the Senate Government Operations Committee.

Submission of the President's Budget. The date for submission of the annual budget is retained at 15 days after Congress convenes. OMB wanted a later date (February 15), claiming that with the September 30 close of the preceding fiscal year, it would not be possible to obtain final figures for the next budget unless its submission was deferred to a later date. Against this view, conferees argued that (1) OMB could substantially reduce the time required for producing final data; (2) OMB has near-complete data shortly after the close of a fiscal year and does not require 100 percent accuracy for its own budget preparation; (3) Congress needs all the time it can get to implement its own budget process.

If the President requests a delay in submission of his budget, the probability is that it will be granted by Congress. This has been the practice in the past (the President requested and obtained a brief delay for the 1976 budget), ^{61/} and it is reinforced by a colloquy between Representatives Bolling and Martin during floor consideration of the conference report on H.R. 7130. In response to a query by Mr. Martin, Mr. Bolling stated his expectation that a reasonable request for delay would be granted as a matter of routine by Congress. ^{62/}

^{61/} P.L. 94-1.

^{62/} 120 Congressional Record (Daily ed., June 18, 1974) H 5184.

Committee Reports to Budget Committees. A new step in the budget process is submission of views and recommendations by all standing committees of the Senate and House to the Budget Committees. These reports are due by March 15, one month in advance of the date for reporting of the first budget resolution in order to provide the Budget Committees with an early and comprehensive indication of spending plans for the next fiscal year. These reports are mandatory.

CBO Report to Budget Committees. This report is scheduled for April 1, after the standing committees have reported but before the first budget resolution has been issued. The report is to deal with alternative budget levels and national budget priorities.

First Budget Resolution Reported. April 15 is fixed as the deadline for reporting of the first concurrent resolution on the budget by the House and Senate Budget Committees. This date allows one month for floor consideration and conference prior to the adoption deadline.

Deadline on the Reporting of New Authorizing Legislation. May 15 is the deadline for reporting of authorizing legislation. This requirement does not apply to omnibus social security legislation or to entitlement measures. The latter are excluded because (under section 303) their consideration is barred prior to adoption of the first budget resolution; the former because of the desire to allow consideration of related programs in a single measure. The May 15 deadline can be waived by resolution in either the House or Senate.

Adoption of the First Budget Resolution. May 15 also is set as the deadline for adoption of the first budget resolution by Congress. Prior to adoption, Congress may not consider revenue, spending, entitlement, or debt legislation, but certain exceptions are provided. Failure to meet the May 15 date would

reduce the amount of time available for budget-related legislation. In recent years, Congress has rarely considered appropriation, revenue, or debt legislation prior to May 15, but it has passed entitlement bills before this date.

Completion of Action on Appropriation and Entitlement Bills. The date is set at seven days after Labor Day, which leaves only three weeks (or less) for completion of the remaining steps in the congressional budget process. The legislation passed by the House and the Senate had earlier dates (the House had an August 1 date; the Senate, by August 7th or five days before an August recess) but in conference it was agreed to set a later date. A main reason was that with removal of a deadline on the enactment of authorizations and the fixing of a May 15 reporting deadline, conferees felt that they could no longer assure an August completion for appropriation bills.

Adoption of Second Budget Resolution. September 15 is the date for adoption of the required second budget resolution. Although this is only a handful of days after the deadline for appropriations, it is anticipated that if Congress acts expeditiously, the second resolution might be reported during August. Section 310 (a) authorizes the reporting of such resolution while Congress is not in session. Accordingly, the report might be issued during an August recess and considered immediately after Congress returns.

Action on Reconciliation Measures. Any required reconciliation bill (or resolution) would be adopted by September 25, only 10 days after the scheduled passage of the second budget resolution. Inasmuch as the reconciliation depends entirely on the directives provided in the second resolution, little advance work can be done.

Congress may not adjourn sine die unless it has completed action on the second budget resolution and any required reconciliation. However, Congress can adjourn until a date certain even if it has not completed these measures.

The reconciliation can be either in the form of a bill or concurrent resolution, depending on whether or not it has made use of an optional procedure to hold spending bills at the enrolling desk.

Section 301 (a) Adoption and Content of Budget Resolution

SEC. 301. (a) ACTION TO BE COMPLETED BY MAY 15.—On or before May 15 of each year, the Congress shall complete action on the first concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth—

(1) the appropriate level of total budget outlays and of total new budget authority;

(2) an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, for contingencies, and for undistributed intragovernmental transactions, based on allocations of the appropriate level of total budget outlays and of total new budget authority;

(3) the amount, if any, of the surplus or the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors;

(4) the recommended level of Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(5) the appropriate level of the public debt, and the amount, if any, by which the statutory limit on the public debt should be increased or decreased by bills and resolutions to be reported by the appropriate committees; and

(6) such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

Legislative History

Each year Congress is to adopt a concurrent resolution on the budget setting forth the appropriate total levels of outlays, new budget authority, revenues, surplus or deficit, and public debt. The first budget resolution shall provide targets to guide Congress during its subsequent consideration of money legislation.

The concept of a congressional budget determination by means of a concurrent resolution was maintained from initiation through enactment of the legislation. By utilizing this approach, Congress directs its budget decisions toward its own actions rather than to those of the executive branch. Concurrent resolutions on the budget impose no constraint on executive action, nor do they limit actual governmental expenditures. Their sole effect is to influence and constrain congressional consideration of revenue, spending, and debt legislation.

As the core of the congressional budget process, the budget resolution attracted much attention during development of the legislation. The main issues are discussed below.

Adoption date. In an effort to balance the need for early adoption with other components of the budget process, Congress gave consideration to a number of dates. The Joint Study Committee proposed a May 1 adoption, two months after the first budget resolution was to be reported by the House committee. The May 1 date also was provided in H.R. 7130 as passed by the House. But the Senate preferred later dates in order to give authorizing committees more time to develop their legislative proposals. The Senate Government Operations Committee bill had a July 1 date while the Rules and Administration Committee proposed a June 1 adoption deadline. The May 15 date in the Act is a compromise between the House and Senate positions.

No Fallback in Case of Failure to Adopt. None of the "fallback" procedures devised in earlier versions has survived in the Act. The Joint Study Committee proposed a fallback to the President's budget in case of congressional failure to meet the deadline for adoption of the first budget resolution. S. 1541 as reported by the State Government Operations Committee had a triple fallback sequence, depending on the stage to which the budget resolution had progressed. But the bill reported by the Rules and Administration Committee modified this to require only that a deadlocked conference committee report the arithmetic mean of any item in disagreement. The Act merely requires in section 305 (d) that the conference committee recommend all matters in agreement and report those still in disagreement.

Concurrent Action by the House and the Senate. The Act does not explicitly address the issue as to whether House action is to precede that of the Senate but one can infer from the language of section 301 (d) authority for both Houses to proceed concurrently. The relevant words are "On or before April 15 of each year, the Committee on the Budget of each House shall report to its House the first concurrent resolution on the budget...."

The legislation developed by the Joint Study Committee provided for the House to complete its action before consideration commenced in the Senate. Two months were to elapse between reporting by the House Budget Committee and adoption by Congress because House and Senate action was to be sequential. First the House Budget Committee was to report, then the House was to act. After House action, the Senate Budget Committee was to report, followed by Senate action and any conference. This sequence was intended to preserve the precedence possessed by the House in revenue and appropriation measures.

H.R. 7130 as passed by the House would have allowed both Houses to proceed concurrently provided that final Senate action was on the House resolution with the Senate provisions substituted therefor. (The wording in the House bill was somewhat unclear and the language was not entirely consistent with the intent.) S. 1541 as reported by the Senate Government Operations Committee would have permitted concurrent action as well as adoption of the Senate resolution if that body had acted first. The legislation formulated by the Rules and Administration Committee provided for concurrent action, but with final adoption of the House resolution if it had acted first.

The conferees decided that silence would be the best course and they removed all provisions bearing on this issue. The two Houses will have to devise an accommodation that reconciles House prerogatives with the new budget process. Inasmuch as H.R. 7130 conceded the authority of the Senate to Act contemporaneously, it is unlikely that the procedure used for revenue and appropriation measures will be applied to budget resolutions. Moreover, time constraints bar sequential action in which the second body waits until the first House has completed its consideration.

The Act cannot directly alter the constitutional requirement of House initiative on revenue measures. Therefore, to the extent that a budget resolution directs changes in revenues, it might be possible to argue that the House must act first even though a concurrent resolution on the budget does not have legal effect. If the Senate acts first or concurrently, the effect of the constitutional requirement will be substantially affected.

The Budget Resolution as a Target. The Joint Study Committee conceived of the first budget resolution as a ceiling which would limit subsequent congressional action on spending legislation. The amounts in the first resolution would have been "overall limitations" which could not be exceeded by Congress when it acted on appropriations or other spending bills. The House Rules Committee converted these to "appropriate levels" which would guide but not constrain later congressional action. In its markup of S. 1541, the Senate Government Operations Committee sought to strike a compromise between ceilings and targets. The totals in the first budget resolution would function as ceilings, but they could be exceeded by Congress in its action on spending bills. However, if the limitations had been breached, Congress would have had to consider a "ceiling enforcement bill" which reduced budget authority and outlays to the levels in the budget resolution. Only if it was unable to adopt a ceiling enforcement bill would Congress have been authorized to consider a second budget resolution that adjusted the totals to conform to its previous decisions on spending measures.

The Rules and Administration Committee oriented S. 1541 toward targets rather than ceilings and its formulation was for "appropriate levels" in the first budget resolution. By a vote of 23-57, the Senate rejected an amendment which would have required a two-thirds vote to raise the spending limit established in the first budget resolution.^{63/}

^{63/} Amdt. No. 1055 by Senator Roth, 120 Congressional Record (daily ed. March 22, 1974) S 4295.

Although the first budget resolution has target status, under section 311 once the second resolution and any required reconciliation bill have been adopted, the levels serve as limitations which must be adhered to in subsequent action on revenue, spending, or debt legislation.

Spending Totals. All versions have called for the determination of total outlays and new budget authority in the budget resolution. As provided in the managers statement on the conference report, the outlays and budget authority of off-budget agencies are not included in these totals. ^{64/}

Revenue Amounts in the Budget Resolution. The first budget resolution sets total revenues as well as any changes in these totals. It does not itemize either the sources of revenues or tax expenditures. These ~~two~~ categories are to be listed in the report accompanying the budget resolution, as provided in subsection (d).

The Joint Study Committee bill did not directly provide for any change in revenues by means of the budget resolution. Rather, if the amount of surplus or deficit in the budget would not be achieved with the estimated level of revenues, Congress would be required to adopt a tax surcharge (or a substitute measure producing an equivalent increase in revenues). The mandatory surtax provision was struck from later versions prepared by House and Senate committees.

The House Rules Committee bill distinguished between the content of the first and second budget resolutions. Only total revenues would be included in the first resolution, but the second resolution would be able to "call for adjustments in tax rates ... and direct that legislation to implement such adjustments be reported" by the House Ways and Means and Senate Finance Committees.

^{64/} H. Rept. No. 93-1101, p. 49.

Extensive revenue itemizations would have been required in the budget resolutions conceived by the Senate Government Operations Committee. In addition to estimated revenues and their major sources, the resolution would have listed tax expenditures and could also recommend changes in total revenues.

Further changes were made by the Rules and Administration Committee which conformed S. 1541 in significant details to the approach taken in H.R. 7130. The first resolution would have listed both estimated and recommended total levels of revenue, but tax expenditures and sources of revenue would not have been included. The second resolution could have directed appropriate committees to make changes in revenues through the reconciliation process.

As enacted section 301 (a) provides for recommended total revenues and any changes. Estimated revenues are not included because they are not actionable amounts. Although the Act does not explicitly direct committees to report revenue legislation implementing the recommendations in the first budget resolutions, the status of a concurrent resolution as a means of establishing congressional policy carries with it the understanding that committees will respond to any recommendation in the budget resolution. Otherwise, the recommendations would be without effect.

Allocations of New Budget Authority and Outlays. One of the troublesome issues in designing the legislation was the distribution of total outlays and new budget authority in the budget resolution. Some held to the view (reflected in H.R. 10961) that the budget resolutions should deal only with spending totals and should not contain any allocations. This "macro" approach generally was rejected on the grounds that unless Congress went on record concerning the components of its budget, it would be difficult to defend the totals. Others believed that the budget resolution should be subdivided in a way that readily enables Congress to compare its budget allocations with the

amounts in specific spending measures. This viewpoint was espoused by the Joint Study Committee which wanted the budget resolution to allocate total budget authority and outlays among congressional committees and within each committee among its subcommittees or programs. Under this arrangement, there would have been a line in the budget resolution for each appropriations sub-^{65/}committee and (accordingly) for each regular appropriation bill.

S. 1541 as reported by the Senate Government Operations Committee followed this approach. It would have mandated an allocation to each committee with jurisdiction over spending legislation and also would have permitted sub-allocations by subcommittee or major program.

However, the bills which passed the House and the Senate favored allocations by functional categories. H.R. 7130 provided for an allocation to each of the functional categories in the budget, with the report accompanying each budget resolution showing how the amounts were derived. The bill reported by the Rules and Administration Committee would have required functional allocations and within each function further divisions between permanent and current appropriations, existing and proposed programs, and controllable and other amounts.

The conference committee decided to require breakdowns below the functional level in Budget Committee reports but not in the resolution itself. But the managers statement indicates that suballocations within each function "may be included in the concurrent resolution."^{66/} Under this authority, the Budget Committees have discretion to frame budget resolutions which allocate

^{65/} Occasionally, a regular appropriations bill does not conform to subcommittee jurisdiction. An example was the Energy Appropriation Act for fiscal 1975.

^{66/} H. Rept. No. 93-1101, p. 59.

budget authority and outlays among the various subfunctions (or clusters of subfunctions) in the budget. Moreover, the broad language of paragraph (6) in this subsection permits the inclusion of any germane matter in the budget resolution.

Contingencies. The President's budget usually contains a small amount for allowances, generally for pay adjustments and other contingencies.^{67/} The amount does not cover all of the additional requirements which emerge during the course of the fiscal year. Thus, if Congress determines its first budget within the framework of the President's initial budget request, it is likely that the appropriate levels will have to be revised upwards later in the year.

Partly to avert this problem and partly to inject some flexibility into the budget process, the Joint Study Committee conceived of two new reserves for which allocations would be made in the budget resolution. A general contingency reserve for new and expanded programs would be set aside for allocation by a later budget resolution while an emergency reserve (limited to no more than 2 percent of total appropriations) would be allocated by the Appropriations Committee. Neither reserve fund was retained in the versions reported by the House and Senate committees, but the Act provides for an allocation for contingencies in the budget resolution. The utility of a contingency allocation will be bolstered by section 604's requirement that the President include allowances for contingencies and uncontrollable expenses in his budget.

^{67/} The fiscal 1976 budget has \$8 billion for allowances, but most of this (\$7 billion) is for energy tax proposals which accompanied the budget rather than for genuine contingencies.

Section 301 (b) Optional Matters in Budget Resolution

(b) **ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.**—The first concurrent resolution on the budget may also require—

(1) a procedure under which all or certain bills and resolutions providing new budget authority or providing new spending authority described in section 401(c)(2)(C) for such fiscal year shall not be enrolled until the concurrent resolution required to be reported under section 310(a) has been agreed to, and, if a reconciliation bill or reconciliation resolution, or both, are required to be reported under section 310(c), until Congress has completed action on that bill or resolution, or both; and

(2) any other procedure which is considered appropriate to carry out the purposes of this Act.

Not later than the close of the Ninety-fifth Congress, the Committee Report to on the Budget of each House shall report to its House on the implementation of procedures described in this subsection. Congress.

Legislative History

This provision authorizes Congress, by means of its first budget resolution, to require that appropriation and entitlement bills for the ensuing fiscal year not be sent to the President until the congressional budget process has been completed for that year. Congress also has the option to specify any other procedure appropriate for its budget process.

The origins of this provision can be traced to H.R. 7130 and S. 1541, both of which had procedures to bring spending measures under the purview of the new budget process. In H.R. 7130, spending bills would be held (not enrolled or sent to the President) pending adoption of the second budget resolution and any necessary reconciliation, except for those bills within the functional targets of the latest budget resolution. The simple purpose was to bring such spending measures under effective control of the reconciliation process. It was felt that once appropriations had been enacted, authority to rescind would be futile. This procedure was attacked on the floor of the House but an amendment to require that all appropriation bills be sent to the President was rejected 117-289.^{68/}

^{68/} Amendment offered by Rep. Bingham, 119 Congressional Record (daily ed., December 5, 1973) H 10696-99.

A somewhat different approach was incorporated into S. 1541 as reported by the Government Operations Committee. It would have required all regular spending bills to contain a provision that the new budget authority would not become effective until a special measure "effectuating" such authority had been enacted. This triggering legislation would be considered at the end of the congressional budget process, and only when the amounts of new budget authority and outlays enacted by Congress were within the limits of the latest budget resolution. Thus, under this arrangement, no new appropriations would become available until Congress had established a budget policy consistent with its actions on spending bills.

One problem with this procedure, however, was that at the time the spending bills were sent to the President, he would not be sure as to the actual amount of budget authority that would be provided by them. Another problem was that this rigid procedure might invite deadlock and could not be varied to fit the circumstances of a particular fiscal year.

For this reason, the Rules and Administration Committee fashioned an optional procedure which would be put into effect only if Congress so required in its first budget resolution. Three specific options were offered and an additional "any other procedure" alternative was made available. One option was to require that new budget authority not become effective until effectuating legislation was enacted (the Senate Government Operations Committee approach); a second option was to hold spending bills until completion of the congressional budget process (the H.R. 7130 approach); a third option was to require omnibus appropriations (such as had been tried in 1950).

The conferees decided to specify only one option plus the "any other procedure" alternative. If Congress decides to hold appropriations and entitlements, any required reconciliation might have to be implemented (at least in part) by means of a concurrent resolution directing the enrolling clerk to adjust some of the amounts in the spending bills which have been held. For this reason, section 310 (c) refers to both reconciliation bills and resolutions. The requirement that the Budget Committees report by the close of the 95th Congress on the implementation of the optional procedure is based on a floor amendment offered by Senator Nunn.^{69/}

With regard to the option to devise "any other procedure" the managers stated that it shall apply "only to the specific procedures for the enactment of budget authority and spending authority legislation for the coming fiscal year and not to the jurisdiction of committees, the authorization of budget authority, or to permanent changes in congressional procedure."^{70/}

^{69/} Modified Amdt. No. 1036, 120 Congressional Record (daily ed., March 21, 1974) S-4059.

^{70/} H. Rept. No. 93-1101, p. 58.

Section 301 (c) Reports by Legislative Committees

(c) **VIEWS AND ESTIMATES OF OTHER COMMITTEES.**—On or before March 15 of each year, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of such joint committees, the estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during the fiscal year beginning on October 1 of such year.

The Joint Economic Committee shall also submit to the Committees on the Budget of both Houses, its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House or Senate may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

Legislative History

By March 15 of each year, all standing committees of the House and Senate, the Joint Economic Committee, and the Joint Committee on Internal Revenue Taxation are to submit their views and estimates with regard to all matters within their jurisdiction to the Budget Committees. The Joint Economic Committee also is to submit its recommendations with regard to the appropriate fiscal policy for the United States.

The Joint Study Committee mandated reports only from those committees of Congress having direct involvement in budget matters. H.R. 7130 added a clause permitting any other congressional committee to report on its views and estimates to the Budget Committee of its House. Mandatory reports by the budget-related Committees and permissive reports by other committees also was provided in S. 1541 as reported by the Government Operations Committee. But the Rules and Administration Committee converted the provision into mandatory reports by all legislative committees and it expanded the reporting requirement to cover

the spending and authorizing legislation within the jurisdiction of each committee. In this way, the report serves to notify the Budget Committees of prospective congressional consideration of all legislation affecting the budget. The wording in paragraph (2) refers to legislation which the committee "intends to be effective", but it does not commit the committee as to the legislation which it will report nor Congress as to the measures which it will enact. Each committee, therefore, possesses some discretion in determining which amounts and legislation to bring to the attention of the Budget Committees.

The special reporting requirement for the Joint Economic Committee was suggested by the Rules and Administration Committee.

S. 1541 as passed by the Senate would have required the Budget Committees to publish the views and recommendations submitted to them by legislative committees in their reports on the first budget resolution. The Budget Committees also would have been required to explain their actions with respect to the recommendations received by other committees. This requirement was removed in conference.

Section 301 (d) Hearings and Reports on Budget Resolutions

(d) **HEARINGS AND REPORT.**—In developing the first concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. On or before April 15 of each year, the Committee on the Budget of each House shall report to its House the first concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered;

(6) projections, not limited to the following, for the period of five fiscal years beginning with such fiscal year of the estimated levels of total budget outlays, total new budget outlays, total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments; and

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution, and the relationship of such matters to other budget categories.

Legislative History

The Budget Committees are required to conduct hearings prior to reporting the first budget resolution by April 15. In reports accompanying this resolution they shall include comparisons with the President's budget, suballocations within each functional category, economic assumptions and objectives, a breakdown of revenues by major sources, five-year projections of budget items including tax expenditures, changes in Federal aid to states and localities, and information on how each of the matters in the budget resolution was determined.

Some of the matters to be included in the committee reports were required in the budget resolution itself in earlier versions of the Act.

Hearings. Hearings are mandated only for the first budget resolution, in accord with S. 1541 as passed by the Senate. The House bill would have prescribed hearings for both the first and the second budget resolutions. H.R. 7130 also identified certain executive officials as witnesses while the Senate bill merely provided for testimony from Members of Congress and public witnesses. The Act provides for testimony from legislative and executive officials, the public, and national organizations as deemed desirable by the Budget Committees.

Reporting Date. April 15 is the reporting deadline, one month before the date set for adoption. Unlike the Joint Study Committee bill, the House does not have to report first and in fact the language of this subsection suggests that neither House has precedence in reporting.

Suballocations Within Functional Categories. Within each functional category, the report shall distribute funds between existing and proposed programs, with the amounts for existing programs divided between current and permanent appropriations, and further subdivided between controllable and other amounts. As explained in the discussion of subsection (a) S. 1541 would have required the placement of these suballocations in the budget resolution, but the conference committee relocated them to the Budget Committee reports. However, the Committees may include these breakdowns in the budget resolution.

Revenue Data. Itemizations of the major sources of revenue and tax expenditures are to be included in the report, while S. 1541 as reported by the Senate Government Operations Committee would have placed them in the budget. The tax expenditure estimates are to be incorporated into five-year projections.

Economic Assumptions and Objectives. The Committee report shall indicate the objectives and assumptions upon which its budget resolution is based as well as any alternatives which it considered. This is adapted from a provision developed by the Government Operations Committee. As originally formulated, the Budget Committees would report on economic assumptions and program objectives, but "program" was dropped in conference because of some apprehension that it might impel the Committees to focus on program appropriations rather than on larger budget aggregations.

Changes in Federal Assistance. This also originated with the Government Operations Committee, but was subsequently revised to require a "statement" rather than "an explanation" of significant changes in Federal assistance.

Information on How the Budget Resolution was Determined. When the House Rules and the Senate Rules and Administration Committees shifted from appropriation-based to functional allocations, it was necessary to develop a means of bridging from the functional amounts in budget resolutions to the figures in individual appropriation bills. The Rules Committee bill provided that the Budget Committees shall "include information and data indicating the manner in which, and the basis on which, it arrived at the levels and figures" in the budget resolution.

The Rules and Administration Committee devised a two-step crosswalk procedure for converting the functional allocations into categories to be used for scoring congressional action on spending measures. First, the Budget Committee report accompanying a budget resolution would allocate the total new budget authority and outlays among House and Senate Committees, with the allocations to the Appropriations Committees being further subdivided among subcommittees; second, after adoption of the first budget resolution, the Budget Committees would allocate the adopted amounts among legislative committees. The second step in the crosswalk is covered in section 302 of the Act and is

The pre-adoption step was modified in conference to provide for "information, data, and comparisons" rather than for specific allocations to committees. But, in addition, the report is to show the relationship between the items in the budget resolution to "other budget categories." The managers statement explains the type of information which is to be provided:

The managers expect that the relationship with other budget categories will be shown in sufficient detail and with appropriate categories to enable Members of Congress and the public to ascertain the budget status of appropriations and other spending measures and to provide a reliable basis for scorekeeping at all stages of the congressional budget process. Although they concur in the need for adequate crosswalk procedures, the managers do not consider it necessary to specify the particular type of crosswalk that is to be used in the report on the first budget resolution.71/

Thus, the comparisons must be in such form and detail as to enable Members of Congress to comprehend the relationship between the functional allocations in the budget resolution and the amounts in appropriations and other spending bills.

71/ H. Rept. No. 93-1101, p. 59.

Section 302 Allocation of Budget Totals Among Committees

SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

(2) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304 or 310, the allocation under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

Legislative History

This section establishes a procedure for "crosswalking" between budget resolutions and spending bills. The managers statement accompanying a conference report on a budget resolution shall allocate the total new budget authority and outlays specified in the resolution among all House and Senate committees with jurisdiction over spending bills. The two Appropriations Committees are to subdivide their allocations among their respective subcommittees

and they are to further subdivide their subcommittee allocations between controllable and other amounts. All other House or Senate committees to which an allocation has been made shall make suballocations by subcommittee or program as well as between controllable and other amounts.

Before making their allocations, each committee (including Appropriations) is to consult with the corresponding committee in the other House. The suballocations are to be reported by each committee to its House.

This crosswalk procedure is required for the first budget resolution as well as for any subsequent resolution which revises the new budget authority or outlay levels.

The enacted procedure has three variations from the method formulated by the Senate Rules and Administration Committee in S. 1541. First, S. 1541 would have required suballocations only by the Appropriations Committees; the Act extends this to all committees with jurisdiction over spending. Second, the earlier approach called for the allocations to be made by the Budget Committees after Congress had adopted the budget resolution, while the Act provides for allocations by the conference committee prior to final adoption. The change was made to assure that Congress is informed of the allocations before it approves a budget resolution. Third, the Act requires the appropriate House and Senate Committees to consult with one another while S. 1541 had no such provision.

Until the new congressional budget process is fully implemented, one cannot be sure as to how the section 302 procedure will function. One issue is the relationship between the functional allocations in the budget resolution and the allocations by committee. Section 302 does not specifically require a crosswalk between the functions and committees; rather the relationship is to be forged with the totals in the budget resolution. But if this is the case, the functional allocations will have little practical utility.

A second issue pertains to the status of the allocations by committees. Clearly, Congress will "keep score" against these as it considers various spending bills. It also appears likely that these allocations will be used to control budget-related legislation. For example, in determining whether an entitlement bill exceeds the budget resolution, section 401 (b) specifically refers to the allocations in section 302 (b). Presumably, also, the committee allocations will be used for purpose of section 311 limitations.

A third issue goes to the fact that House and Senate committees do not have identical jurisdictions so that they may not always be able to arrive at common allocations through the consultation mandated in section 302. Even where their jurisdictions are identical--as in the case of the Appropriations Committees--they still might opt for differing suballocations.

Section 303 When Spending, Revenue, and Debt Legislation May be Considered

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides—

- (1) new budget authority for a fiscal year;
 - (2) an increase or decrease in revenues to become effective during a fiscal year;
 - (3) an increase or decrease in the public debt limit to become effective during a fiscal year; or
 - (4) new spending authority described in section 401(c) (2) (C) to become effective during a fiscal year;
- until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301.

(b) EXCEPTIONS.—Subsection (a) does not apply to any bill or resolution—

- (1) providing new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or
- (2) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

(c) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution to which subsection (a) applies 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 minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty 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 of 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 the bill or resolution to which the resolution so agreed to applies.

Legislative History

This section prohibits (with exceptions) floor consideration of revenue, spending, and debt legislation prior to adoption of the first budget resolution. If adoption is not achieved by the scheduled May 15 date, consideration

budget resolution might not be adopted. As a consequence, the Senate approved an amendment permitting action on money legislation only if the budget resolution has been adopted.^{72/}

The Rules and Administration Committee added to the types of legislation exempted from the limitation. Its four exemptions were for: advance appropriations; advance revenue changes; contract, borrowing, and entitlement authority; and trust funds. But the conference committee deleted the latter two exemptions on the ground that all actions which directly impact on the ensuing year's budget should be subject to the discipline of the new budget process. Thus, advance revenue and spending matters are exempt because they have no direct effect on the next budget year.

The Senate waiver was devised by the Rules and Administration Committee, but its prospective utility is limited by the House precedence on revenue and appropriation measures.

^{72/} The amendment by Senator Nunn was approved by voice vote. 120 Congressional Record (daily ed., March 21, 1974) S 4055-57.

of these measures would be delayed. The ban against prior action does not apply to advance spending or revenue actions, that is, to changes in revenues or new spending which take effect in the fiscal year following the year to which the budget resolution applies. Without the exception, section 303 might have been interpreted to bar such advance actions. A waiver procedure to allow prior consideration in the Senate is detailed in subsection (c).

Most versions of the budget reform legislation have banned prior consideration; otherwise the purposes of the congressional budget process could be easily circumvented. By holding money legislation until after the first resolution has been adopted, Congress has a means of acting within the framework of its initial budget determinations.

In the Joint Study Committee bill, no exceptions were provided to the ban against early consideration. But inasmuch as the Joint Study Committee provided an automatic fallback to the President's budget in case of congressional failure to adopt a budget resolution, the ban would not have extended beyond the scheduled adoption date.

H.R. 7130 had no fallback so that consideration could not proceed until a budget resolution had been adopted. Advance appropriations were to be excepted from the ban. S. 1541 as reported by the Senate Government Operations Committee had a fallback arrangement in case Congress does not adopt the first resolution by the prescribed date. It also had an exception for advance funding.

The bill reported by the Rules and Administration Committee would have allowed consideration of spending, revenue, and debt legislation if no budget resolution was adopted by the scheduled date. The purpose was to assure that congressional action does not come to a standstill for want of a budget resolution. But a side effect would have been to increase the possibility that a

Section 304 Permissible Revisions of Budget Resolutions

SEC. 304. At any time after the first concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 301, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises the concurrent resolution on the budget for such fiscal year most recently agreed to.

Legislative History

Authority to revise the budget resolution any time during the fiscal year was implied but not specifically provided in the Joint Study Committee bill. ^{73/} Both H.R. 7130 and S. 1541 authorized permissible revisions. As enacted, the procedures specified in section 305 apply to any optional budget resolution.

^{73/} The Joint Study Committee anticipated that a "third" resolution would be considered as part of next year's first resolution. See Joint Study Committee on Budget Control, Recommendations for Improving Congressional Control over Budgetary Outlay and Receipt Totals (April 18, 1973), footnote No. 5, p. 20.

Section 305 (a) Floor Procedures in the House of Representatives

SEC. 305. (a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

(1) When the Committee on the Budget of the House has reported any concurrent resolution on the budget, it is in order at any time after the tenth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(4) Debate in the House of Representatives on the conference report or any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(5) Motions to postpone, made with respect to the consideration of any concurrent resolution on the budget, and motions to proceed to the consideration of other business, shall be decided without debate.

(6) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

Legislative History

The Joint Study Committee specified the same procedures for consideration in the House and the Senate, but in subsequent development of the legislation, the House and the Senate formulated separate sets of procedure. The purpose of the special procedures is to expedite consideration and to prevent dilatory tactics.

Layover Rule. The standard layover period between the reporting and floor consideration of a measure is three days in the House.^{74/} H.R. 7130 as reported by the Rules Committee had a five day layover, but two floor amendments (the only such amendments adopted) established a 10-day period excluding Saturdays, Sundays, and holidays.^{75/} The aim of this extended period is to furnish Members ample opportunity to examine all facets of the budget, including fiscal policies and national priorities. Because the budget ramifies to all agencies and programs, a more prolonged review might be warranted than for ordinary legislation. The special layover rule also differs from the 3-day standard in that its computation begins the day after the report is available to Members and consideration may commence only after the 10th day has been completed. The net effect is to add two days to the layover period.

The extended layover is required for all budget resolutions, including the second resolution scheduled for September and any optional resolution. But a strict reading of the rule strongly suggests that it is not required for conference reports on a budget resolution.

Under some circumstances, the layover rule might make it impossible to meet the adoption deadline. This is particularly applicable to the second resolution for which only a small number of days are available in September. But even the 30 days between reporting and adoption of the first resolution might not suffice. Half of this period will be idled by the layover; perhaps 3-5 days will be required for floor debate; and as much as seven days can elapse before conferees report. At least two amelioratives are feasible; to report prior to the April 15 deadline; or to bring the resolution to the floor with a rule reducing the layover period.

^{74/} Rule XI, Clause 27, Paragraph (d) (4) Rules of the House of Representatives.

^{75/} 119 Congressional Record (daily ed., December 5, 1973) H 10682. The amendment to exclude Saturdays, Sundays, and Holidays was offered by Rep. Matsunaga; the amendment to provide a 10-day layover by Rep. Bell.

Motions. Certain motions may not be offered during consideration of a budget resolution; others are to be decided without debate. A budget resolution is highly privileged and can be brought to the floor without a rule. It is not in order to recommit a budget resolution or a conference report nor is it permissible to limit debate to less than the amount of time provided in this subsection. Motions to postpone or to proceed to other business as well as appeals from rulings of the chair are to be decided without debate.

Debate. Ten hours are allowed for generate debate and amendments are to be read under the five-minute rule.^{76/} Five hours are provided for debate on any conference report. The time for debate is to be divided equally between the majority and minority parties.

Debate in the Committee of the Whole. Consideration of the budget resolution is to be in the Committee of the Whole. The procedure will be in three stages: (1) general debate limited to 10 hours; (2) consideration of amendments under the 5-minute rule; and (3) final passage in the House.

Amendments and Consistency. There is no special bar to the offering of amendments in the Committee of the Whole, though the Joint Study Committee would have required advance printing of amendments and a rigid rule of consistency for all amendments. Section 305 (a) does not require that an amendment maintain the consistency of a budget resolution, nor that a budget resolution be consistent before it is adopted. (However, a consistency rule applies to the Senate and hence no conference report could be presented to the House in inconsistent form.) But after the Committee of the Whole has reported, the

^{76/} Rule XXIII, Clause 5. Rules of the House of Representatives.

House may consider an amendment (or series of amendments en bloc) to make a budget resolution mathematically consistent. While consistency is not defined, it means that the functional allocations add up to the appropriate levels of outlays and budget authority and that the level of budget surplus or deficit is the difference between total outlays and total revenues.

Section 305 (b) Floor Procedure in the Senate

(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that, with respect to the second required concurrent resolution referred to in section 310(a), all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(4) Notwithstanding any other rule, an amendment, or series of amendments, to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

Legislative History

Most of the procedures for Senate consideration were devised by the Rules and Administration Committee and these tend to be less restrictive than those initially developed by the Joint Study Committee. The procedures in this subsection apply to consideration of any reconciliation bill or resolution, except as to the time provided for debate. (Section 310 (d)).

Debate. For the first budget resolution and any optional revision, 50 hours are provided for debate on the resolution and all amendments, with not more than two hours allowed for any amendment. Fifteen hours are allowed for the second budget resolution.

Motions. A motion to further limit debate is not debatable. A motion to recommit is in order only if it instructs the Budget Committee to report back within not more than three days.

Amendments and Consistency. An amendment must be germane to the budget resolution, that is, it must pertain to one of the matters listed in section 301 (a) and (b). This germaneness rule is stricter than that generally applied to Senate amendments, but not as restrictive as was proposed by the Joint Study Committee which would have only permitted amendments relating to amounts in the budget resolution.

An amendment always is in order to achieve or maintain mathematical consistency. The version reported by the Government Operations Committee would have allowed amendments to make the budget resolution consistent. Amendments which maintain consistency were authorized in the bill reported by the Rules and Administration Committee. The effect is to permit an amendment at any time if (1) the budget resolution in its pre-amendment form is inconsistent and the amendment would make it consistent or (2) the resolution already is consistent and the amendment would not make it inconsistent. Thus, an amendment in the third degree would be permitted if it maintains consistency.^{77/} In effect, a budget resolution would be open to amendment until final passage in the Senate.

^{77/} See Senate Procedure: Precedents and Practices, Senate Doc. No. 93-21, p. 64 for the general rule barring amendments in the third degree.

Section 305 (c) Senate Action on Conference Reports

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

Legislative History

The Rules and Administration Committee provided detailed procedures for consideration of conference reports.

The 3-day layover rule is somewhat more stringent than that provided for reports from standing committees of the Senate. ^{78/} Ten hours are provided for floor debate and 30 minutes for debate on any amendments in disagreement between the House and the Senate.

Time limits are provided for the appointment or instruction of conferees if the conference report has been rejected.

Section 305 (d) Required Action if Conference Committee is Deadlocked

(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If, at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

Legislative History

This provision traces its origin and evolution to efforts to devise a "fallback" in case Congress is unable to adopt the first budget resolution by its prescribed date.

The Joint Study Committee bill provided that if Congress failed to adopt the budget resolution by May 1, the figures in the President's budget would be used for purposes of the congressional budget process until Congress has adopted its own resolution. No fallback to the President's budget was contained in H.R. 7130 as passed by the House. It was felt that reliance on the President's figures would be improper for a congressional budget and might encourage procrastination by those who favor the President's budget proposals.

The Senate Government Operations Committee constructed a triple fallback arrangement, with recourse to the President's budget only if no other option was available. (1) If both Houses have adopted budget resolutions but are unable to agree in conference, the lower figure for each item would be used;

(2) If only one House has acted, its budget figures would be used; (3) If neither House has acted, the President's budget would be used. In each case, the fallback would terminate once Congress adopted a budget resolution.

The Rules and Administration Committee scaled back the fallback mechanism to deadlocks in conference committee. If the conferees were unable to agree, they would recommend the average of the House and Senate figures, and the two Houses would decide whether to adopt the compromise figures.

In the conference on H.R. 7130, it was decided to eliminate any mechanical fallback and to require instead that the conferees on a budget resolution report all matters in agreement and disagreement as enacted. The mandatory report applies to all budget resolutions.

The language of the enacted provision provides for instances in which the second House adopts an amendment in the nature of a substitute to the resolution passed by the first House as well as for cases where the second House adopts numbered amendments to items on which it disagrees with the determination of the first House. The numbered amendment procedure is used for measures (such as appropriations) where the House action precedes that of the Senate and the Senate considers amendments to the House-passed bill rather than an original bill of its own. The amendment-as-substitute route generally is used when neither House enjoys precedence. By providing both procedures, subsection (d) remains neutral as to the procedure that will be used by the House and Senate for budget resolutions. The matter of precedence is discussed in section 301 (a).

Section 305 (e) Consistency Requirement in the Senate

(e) **CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.**—It shall not be in order in the Senate to vote on the question of agreeing to—

- (1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or
- (2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

Legislative History

This is the only remnant of the "rule of consistency" proposed by the Joint Study Committee for floor action on budget resolutions, though subsections (a) and (b) give broad opportunity for amendments to achieve mathematical consistency.

The Joint Study Committee's rule of consistency would have barred any floor amendment which would have made a budget resolution inconsistent. If a proposed amendment would have raised the allocation for one category, it also would have had to increase total spending or propose an offsetting reduction in another category. In the Senate Government Operations Committee, the rule of consistency was shifted to final passage rather than to individual floor amendments. Four types of inconsistency were identified and a procedure was specified for the recommittal of inconsistent resolution. The Rules and Administration Committee devised the rule that was enacted as subsection (e).

Although the rule applies only to the Senate, because it covers conference reports, it applies final passage by the House as well. Inconsistency can occur because (1) the functional allocations do not equal total new budget authority

or outlays; (2) the budget surplus or deficit is not the difference between total outlays and total revenues; or (3) the proposed change in the public debt limit is not sufficient to achieve the total public debt specified in the budget resolution.

Section 306 Budget Committee Jurisdiction

SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Legislative History

The purpose of this provision is to assure that the congressional budget process is not circumvented by floor amendments or by measures reported by committees other than the Budget Committees. A matter within the jurisdiction of the Budget Committee may be considered only if that Committee has reported, has been discharged, or if it is an amendment to a Budget Committee measure. This jurisdictional provision originated with the Joint Study Committee and comparable provisions were in H.R. 7130 and S. 1541.

The meaning of this provision is somewhat cloudy. In the case of concurrent resolutions on the budget such as are provided for in section 301, the exclusivity of Budget Committee jurisdiction is clearcut. But what about enactments (bills or joint resolutions) which set ceilings on Federal spending? Could such a measure be reported by another committee? In fact, can a spending limitation bill be reported by the Budget Committees or is their jurisdiction strictly limited to the concurrent resolution process set forth in Title III? One possible answer is contained in the Report of the Senate Rules and Administration Committee on S. 1541:

It would not be in order, for example, to consider a concurrent resolution on the budget reported by the Appropriations Committee of either House. Nor would it be in order to consider an amendment to the debt-ceiling bill which would establish the appropriate level of total outlays for the coming fiscal year.^{79/}

^{79/} S. Rept. No. 93-688, p. 48.

Some clue as to the intent of section 306 might be gleaned from variations in wording in the several formulations of this jurisdictional rule. The Joint Study Committee bill not only vested full jurisdiction in the Budget Committees but explicitly required that their actions be only in the form of concurrent resolutions on the budget. H.R. 7130 had a similar provision but it referred to measures or proposals rather than to bills or resolutions. S. 1541 as reported by the Government Operations Committee had language similar to that in the Joint Study Committee bill.

Thus, these three versions would have ruled out Budget Committee action on spending limitation bills. However, the final form of section 306 emerged from the Rules and Administration Committee which struck the reference to concurrent resolutions and generalized the jurisdiction to encompass bills or resolutions. The immediate reason for the change was that the Rules and Administration bill gave the Budget Committees limited jurisdiction over reconciliation bills so that a reference to concurrent resolutions no longer was sufficient. But an additional reason, for which some support may be found in the report quoted above, is that the Rules and Administration Committee wanted to assure that all forms of spending limitation would be routed through the Budget Committees. Inasmuch as the report language refers to "the appropriate level" rather than to spending ceilings, it can be interpreted to apply only to the types of action taken by means of concurrent resolutions on the budget.

On balance, an interpretation which gives the Budget Committees jurisdiction over spending limit bills would appear to be more consonant with the purposes of the Act, the proper functioning of the congressional budget process, and the Senate Rules and Administration Committee Report.

Section 307 House Appropriations Committee Action

Sec. 307. Prior to reporting the first regular appropriation bill for each fiscal year, the Committee on Appropriations of the House of Representatives shall, to the extent practicable, complete subcommittee markup and full committee action on all regular appropriation bills for that year and submit to the House a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority as set forth in the most recently agreed to concurrent resolution on the budget for that year.

Legislative History

This provision attempts to achieve more coordinated consideration of appropriation bills without resort to the omnibus approach which was tried in 1950. Individual appropriation bills are retained but no bill will be reported until the House Appropriations Committee has, to the extent practicable, completed action on all regular bills. Although the provision applies only to the House Appropriations Committee, it is bound to affect Senate procedure as well because floor consideration in the Senate commences only after the House has acted.

This requirement appeared in H.R. 10961 introduced by Rep. Whitten on October 16, 1973, and it was incorporated into H.R. 7130 reported by the Rules Committee. The House bill also provided that appropriation (and other spending) measures would be held and not sent to the President for signature until the second budget resolution and any required reconciliation had been adopted. An exception was to be made for measures not in excess of the relevant amounts in the latest budget resolution. This feature was dropped in conference and the provision relating to Appropriations Committee action was modified to require completion of markup only "to the extent practicable." If consideration of an appropriation measure is delayed for lack of authorizing legislation, the Appropriations Committee probably would report the other bills without waiting for markup of the delayed one.

The new provision was incorporated into the rules of the House
Appropriations Committee at the start of the 94th Congress. ^{80/}

80/ 121 Congressional Record (daily ed., February 6, 1975) H 665.

Section 308. Reports on Budget Authority and Tax Expenditure Legislation

SEC. 308. (a) **REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES.**—Whenever a committee of either House reports a bill or resolution to its House providing new budget authority (other than continuing appropriations) or new or increased tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director of the Congressional Budget Office, detailing—

(1) in the case of a bill or resolution providing new budget authority—

(A) how the new budget authority provided in that bill or resolution compares with the new budget authority set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(B) a projection for the period of 5 fiscal years beginning with such fiscal year of budget outlays, associated with the budget authority provided in that bill or resolution, in each fiscal year in such period; and

(C) the new budget authority, and budget outlays resulting therefrom, provided by that bill or resolution for financial assistance to State and local governments; and

(2) in the case of a bill or resolution providing new or increased tax expenditures—

(A) how the new or increased tax expenditures provided in that bill or resolution will affect the levels of tax expenditures under existing law as set forth in the report accompanying the first concurrent resolution on the budget for such fiscal year, or, if a report accompanying a subsequently agreed to concurrent resolution for such year sets forth such levels, then as set forth in that report; and

(B) a projection for the period of 5 fiscal years beginning with such fiscal year of the tax expenditures which will result from that bill or resolution in each fiscal year in such period.

No projection shall be required for a fiscal year under paragraph (1) (B) or (2) (B) if the committee determines that a projection for that fiscal year is impracticable and states in its report the reason for such impracticability.

(b) **UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTIONS.**—The Director of the Congressional Budget Office shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority and changing revenues and the public debt limit for a fiscal year. Such reports shall include, but are not limited to—

(1) an up-to-date tabulation comparing the new budget authority for such fiscal year in bills and resolutions on which Congress has completed action and estimated outlays, associated with such new budget authority, during such fiscal year to the new budget authority and estimated outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(2) an up-to-date status report on all bills and resolutions providing new budget authority and changing revenues and the public debt limit for such fiscal year in both Houses;

(3) an up-to-date comparison of the appropriate level of revenues contained in the most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of revenues for such year (including new revenues anticipated during such year under bills and resolutions on which the Congress has completed action); and

(4) an up-to-date comparison of the appropriate level of the public debt contained in the most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of the public debt during such fiscal year.

(c) **FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACTION.**—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period; and

(3) tax expenditures for each fiscal year in such period.

Legislative History

This section requires any committee reporting budget authority or tax expenditure legislation to compare the amounts in the legislation with the relevant figures in the latest budget resolution, project the five-year costs, and indicate the amount of assistance to states and localities. The Congressional Budget Office is to issue periodic scorekeeping reports as well as five-year projections.

The provision has two distinct sources. One was the effort to establish outlay ceilings in expenditure legislation; the other was the need to keep track of congressional spending actions in comparison with the determinations in the budget resolution.

Outlay limitations. Congress cannot directly control outlays through its decisions on appropriations and other spending legislation. In appropriating funds, Congress gives government agencies authority to obligate money (budget authority). Outlays occur when payment is made pursuant to an obligation, sometimes with little lag after the obligation has been incurred, sometimes a number of years after the obligation was made. This means that once Congress votes budget authority, it has no effective control over the timing of expenditure. Congress does not go on record as to the total amount of payments that will be made in the fiscal year or as to the outlays that will ensue in the next year in consequence of its current actions. For any particular year, outlays result from a combination of past and present decisions.

But inasmuch as the quest for outlay limitations (the \$250 billion spending ceiling issue) was a prime goad of budget reform, Congress has sought to devise some means of exercising control over outlays. A partial solution is the specification of outlay levels in the budget resolution. However, these

levels cannot be enforced if Congress is not informed of the outlay implications of spending legislation. For this reason, the Joint Study Committee proposed that when the first budget resolution so directs, budget authority legislation be required to specify the amount of outlays which may be made during the year pursuant to both new and any carryover authority. This requirement was to apply only if and to the extent that the first budget resolution prescribed the inclusion of outlay limits in spending bills. A permanent or comprehensive outlay limitation was not required because of concern that the "state of the art" does not permit reliable estimates for many programs. Some programs have indefinite appropriations for which outlays depend on outside circumstances; others have extended pipelines with actual payments depending on the fulfillment of past obligations; still others provide new budget authority for which expenditure will not be required until future years. By triggering the requirement through the budget resolution, Congress would be able to make an annual determination as to the efficacy of such limitations.

H.R. 7130 as passed by the House did not contain outlay limitations. This was in line with the House bill's conversion of the budget levels into targets rather than ceilings. S. 1541 as reported by the Senate Government Operations Committee retained the outlay limitations in the manner conceived by the Joint Study Committee. But the Rules and Administration Committee opted for committee reports in lieu of statutory limitations. In addition to reports accompanying budget authority legislation, it would have required the Appropriations Committees to report on uncontrollable outlays and the Budget Committees to report on outlays resulting from backdoor spending or permanent appropriations. In conference, these special reporting requirements were combined into the provisions for budget authority legislation.

Reports on Budget Authority Legislation. All versions of the legislation have provided for reports on spending measures. The Joint Study Committee would have barred floor consideration of any spending measure which did not attest that the limitations in the budget resolution would be adhered to. In addition, the legislative budget director would have certified the accuracy of the committee statement. A similar statement would have been required for any floor amendments.

H.R. 7130 did not provide for outlay limitations nor did it require outlay estimates for floor amendments. But committees reporting budget authority legislation would have been required to file projections of the five-year outlays of the legislation. This statement was to be prepared "in consultation with" the budget director.

S. 1541 reported by the Government Operations Committee also would have required statements and projections prepared in consultation with the congressional budget director. As explained above, this was expanded by the Rules and Administration Committee into a comprehensive reporting system covering new budget authority legislation, uncontrollable outlays, and permanent appropriations. The statements were to be prepared "after consultation with" the congressional budget director, a change in wording intended to signify the independence of the committee in developing its estimates. In conference, the special reporting provisions for uncontrollables and permanent appropriations were dropped.

As enacted, reporting committees must compare the budget authority in spending bills with the amounts in the latest budget resolution and with the allocations made pursuant to section 302. Significantly, no comparisons are required for outlays, though five-year projections are to be made of the outlays

ensuing from the new budget authority. These projections will be waived if the reporting committee certifies that they are impracticable.

Assistance to state and local governments. S. 1541 would have required impact statements detailing the effects of the legislation on state and local governments. The conference modified this to require a statement on the amount of financial assistance that would be provided to states and localities.

Tax expenditures. The reporting requirement for tax expenditures was introduced by the Senate Government Operations Committee. Because tax expenditure data are not to be included in the budget resolution, comparisons are to be made with the amounts included in the Budget Committees' reports.

Virtually every tax measure has an impact on tax expenditures. For example, legislation raising tax rates will have the effect of increasing the level of tax expenditures.

Congressional budget Office Tabulations. Subsection (b) gives the CBO the duty of preparing periodic scorekeeping reports on spending, revenue, and debt legislation. CBO will inherit the scorekeeping functions performed by the Joint Committee on Reduction of Federal Expenditures. These reports will be in addition to the cost analyses to be prepared by CBO pursuant to section 403. At the start of each fiscal year, CBO also is to issue five-year projections of new budget authority, outlays, revenues, budget surplus or deficit, and tax expenditures.

Section 309. Deadline for Enactment of Appropriation and Entitlement Legislation

Sec. 309. Except as otherwise provided pursuant to this title, not later than the seventh day after Labor Day of each year, the Congress shall complete action on all bills and resolutions—

(1) providing new budget authority for the fiscal year beginning on October 1 of such year, other than supplemental, deficiency, and continuing appropriation bills and resolutions, and other than the reconciliation bill for such year, if required to be reported under section 310(c); and

(2) providing new spending authority described in section 401(c)(2)(C) which is to become effective during such fiscal year. Paragraph (1) shall not apply to any bill or resolution if legislation authorizing the enactment of new budget authority to be provided in such bill or resolution has not been timely enacted.

Legislative History

As part of the timetable of the congressional budget process, the deadline for enactment of regular appropriations and entitlements is set at seven days after Labor Day. However, there is no bar against the consideration of such legislation after the deadline. The effect of the section, therefore, is to encourage rather than require enactment by the seventh day after Labor Day. But in view of the need to complete action on a second budget resolution and possible reconciliation by the start of the fiscal year which ordinarily will be less than three weeks away, any slippage beyond the deadline can complicate the budget process.

Even though the deadline is permissive, it shall not apply if consideration of appropriations has been delayed by the failure to "timely" enact authorizations. This is interpreted in the managers statement to "justify non-compliance with the deadline fixed by this section when the delay is of such duration as to make it impracticable to complete action on an appropriation bill by the seventh day after Labor Day."^{81/}

Both H.R. 7130 and S. 1541 as passed by their respective Houses had earlier deadlines for appropriation measures. The date in the House bill was August 1; in the Senate bill, it was August 7 in years when there is no "August recess" and five days before the recess in other years. The specification of a

later date by the conferees was due to their decision that the section 402 deadline for authorizing legislation shall apply only to the reporting and not to the enactment of such legislation.

The conferees also extended the coverage of section 309 to entitlement legislation. This is one of a number of provisions in the Act where entitlements are accorded the same status for purposes of congressional budgeting as appropriations. This (and other provisions) apply only to entitlements which provide new budget authority, not to those for which funds are provided through the appropriations process.

81 / H. Rept. No. 93-1101, p. 63.

Section 310 (a) and (b). Second Budget Resolutions

SEC. 310. (a) REPORTING OF CONCURRENT RESOLUTION.—The Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which reaffirms or revises the concurrent resolution on the budget most recently agreed to with respect to the fiscal year beginning on October 1 of such year. Any such concurrent resolution on the budget shall also, to the extent necessary—

- (1) specify the total amount by which—
 - (A) new budget authority for such fiscal year;
 - (B) budget authority initially provided for prior fiscal years; and
 - (C) new spending authority described in section 401 (c) (2) which is to become effective during such fiscal year,
 contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;
- (2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;
- (3) specify the amount by which the statutory limit on the public debt is to be changed and direct the committees having jurisdiction to recommend such change; or
- (4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3).

Any such concurrent resolution may be reported, and the report accompanying it may be filed, in either House notwithstanding that that House is not in session on the day on which such concurrent resolution is reported.

(b) COMPLETION OF ACTION ON CONCURRENT RESOLUTION.—Not later than September 15 of each year, the Congress shall complete action on the concurrent resolution on the budget referred to in subsection (a).

Legislative History

Probably the most important change made by Congress during its consideration of the budget reform legislation was to shift the procedure for establishing consistency between the budget resolution and spending bills from the start to the end of the process. While the Joint Study Committee proposed that the first resolution establish ceilings which could not be breached by appropriation measures, the Act sets targets at the start and provides for a reconciliation of the budget resolution and spending legislation as the final stage in the congressional budget process. This reconciliation is to be achieved by means of

a second budget resolution to be considered after action has been completed on all spending bills and by a reconciliation bill (or resolution) which implements the directives in the second resolution.

Second budget resolution. The Joint Study Committee provided for a second budget resolution, primarily as a means of allocating the general contingency reserve and for any necessary supplemental appropriations. The second resolution was to come before the sine die adjournment of Congress, but after the start of the fiscal year to which the resolution applied. Thus, the resolution was to be in the nature of a "wrap up," not a reconciliation.

H.R. 7130 mandated a second resolution by September 15 of each year, several weeks before the start of the new fiscal year. This resolution was to be the "final determination" by Congress, though it could be subsequently revised by an optional resolution. The second resolution would call for any necessary actions to implement the spending, revenue, and debt levels established in the congressional budget. Congress would not be permitted to adjourn sine die until it had adopted and implemented the second resolution.

In its version of S. 1541, the Senate Government Operations Committee sought to combine ceilings at the start with some opportunity for reconciliation at the end. The first budget resolution would serve as a ceiling, but not to the extent of preventing action on spending bills in excess of the budgeted levels. Even though they had been enacted, appropriations could not take effect until special triggering legislation had been approved, and this could be done only if the spending amounts were consistent with the budget totals. If the budget totals had been exceeded, Congress would have to go through a prescribed sequence of steps in an effort to reconcile the discrepancies. First, it would consider a ceiling enforcement bill rescinding appropriations to bring them into line with

the congressional budget. Second, if this was not possible, Congress would adopt a second budget resolution. Third, it would then adopt a ceiling enforcement bill consistent with the second resolution. Fourth, if it was not possible to adopt a second budget resolution or a pursuant enforcement bill, Congress would consider a rescission bill providing pro rata reductions in controllable appropriations.

This complicated process concentrated on the spending side of the budget. It did not specifically provide for reconciliation by means of adjustments in revenues or debt, though these might have been possible through recommendations in the second budget resolution. However, if the second resolution were to call for such adjustments, there was no procedure in the Government Operations Committee bill for implementing them.

The Senate Rules and Administration Committee formulated a comprehensive reconciliation process similar in its significant aspects to that in H.R. 7130. The figures in the first budget resolution would be targets and the appropriations process would proceed without impediment. Congress would adopt a second budget resolution specifying any changes it wished to have made in expenditures, revenues, and debt. These changes would be implemented by means of reconciliation legislation.

Adoption of second budget resolution. No deadline is prescribed for the reporting of this resolution, but the Act provides that it can be reported when the House is not in session. While the second resolution does not have to wait for the enactment of all appropriation bills, its effectiveness might be impaired if the appropriations process has not been completed. The managers statement anticipates "that the Budget Committees may report in some years during

the August recess and that such reports shall be available to Members, so that Congress will be able to consider the concurrent resolution upon its return."^{82/}
This statement suggests that the 10-day layover in the House and the three-day period in the Senate (required by section 305) may include days during which Congress is not in session. Without this interpretation, it might be impossible to adopt the second resolution by September 15.

Content of the second resolution. All of the items specified in section 301 (a) for the first resolution apply to the second one as well. But, in addition, the second resolution may direct the appropriate committees to report legislation changing (1) new or carryover budget authority, (2) new entitlements, (3) revenues, or (4) the public debt limit. Section 301 (a) states that the changes prescribed in the budget resolution are to relate to total spending and total revenues. The intent is to preserve the jurisdiction of the appropriate committees to determine how revenues and spending are to be adjusted. Thus, the budget resolution may not itemize changes in revenues; the specification of these is to be made in the reconciliation bill. But in the case of new budget authority, the role of the second resolution need not be so restricted. Inevitably, the budget resolution will indicate the types of changes that are to be made to bring total spending into line with the congressional budget. For one thing, the resolution itself will provide functional allocations and if these are to have any meaning, they must guide subsequent reconciliation actions. Second, as required in section 302, the managers statement accompanying the resolution is likely to allocate the totals among congressional committees so that there will be a distribution of the changes between appropriatons and backdoor spending, and within the latter among the various committees affected by the changes.

As provided in section 311, once adopted, the second budget resolution establishes limitations on subsequent revenue, entitlement, and spending legislation.

In accord with section 401 (b) new entitlements cannot take effect until the fiscal year starts. The purpose is to make them subject to the second budget resolution and reconciliation.

82/ H. Rept. No. 93-1101, p. 63.

Section 310 (c), (d), (e), and (f). Reconciliation Process

(c) **RECONCILIATION PROCESS.**—If a concurrent resolution is agreed to in accordance with subsection (a) containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a reconciliation bill or reconciliation resolution, and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(d) **COMPLETION OF RECONCILIATION PROCESS.**—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (c) not later than September 25 of each year.

(e) **PROCEDURE IN THE SENATE.**—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills and reconciliation resolutions reported under subsection (c) and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill or resolution reported under subsection (c), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

(f) **CONGRESS MAY NOT ADJOURN UNTIL ACTION IS COMPLETED.**—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless action has been completed on the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and, if a reconciliation bill or resolution, or both, is required to be reported under subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both.

Legislative History

The reconciliation concept was suggested by Charles Schultze in testimony on the budget reform legislation. He proposed that Congress use the same method for finalizing its budget as is used by the executive branch.^{83/} The purpose of the reconciliation process is to implement the determinations made in the second resolution. As indicated, its derivation is from H.R. 7130 and the Rules and Administration Committee bill.

Deadline. September 25 is the scheduled adoption date, only five days before the start of the next fiscal year. Any delay in the congressional budget process can impair the reconciliation process. If the fiscal year has started, it would be difficult to rescind appropriations or entitlements which already have taken effect. On the other hand, if major programs or agencies still are functioning under continuing resolution, it will be difficult to establish firm levels in the second budget resolution. In the Act, the only formal spur to completion of the congressional budget process is the bar against sine die adjournment until Congress has adopted the second budget resolution and any required reconciliation measure.

Type of reconciliation. Reconciliation can be by means of a bill, a concurrent resolution, or both, depending on the procedures used by Congress in its consideration of spending bills. If appropriations, entitlements, and other budget authority legislation proceed to enactment in the ordinary manner, reconciliation will be by means of a bill. However, if Congress exercises the option provided in section 301 (b) requiring that spending legislation not be enrolled until the congressional budget process has been completed, the reconciliation will be implemented by a concurrent resolution directing the enrolling officer in each

House to make certain changes in the bills which have been held. Both a reconciliation bill and a resolution will be needed if Congress uses its section 301 (b) option in the same year that it directs that changes be made in revenues or the public debt.

Implementing Procedure. Implementation of the changes directed in the second budget resolution is to be handled by the committees holding jurisdiction over the particular legislation. The Budget Committees are to be involved in the process only if more than one committee must report implementing legislation, and their role is to be limited to assembling the parts prepared by the various committees into a single bill or resolution. This restricted role is taken from the version of S. 1541 reported by the Rules and Administration Committee.

Floor procedures. No special procedures have been developed for consideration in the House, though the tight deadlines confronting Congress compel the use of expediting methods. The Senate procedures are to be the same as are used for budget resolution (section 305), with the exception that debate is to be limited to 20 hours.

⁸³/ House Committee on Rules, Hearings on Budget Control Act of 1973, 93d Congress, 1st Session (1973). pp. 316-18.

Section 311. Limitation on Budget Authority, Entitlement, and Revenue Legislation

SEC. 311. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—After the Congress has completed action on the concurrent resolution on the budget required to be reported under section 310(a) for a fiscal year, and, if a reconciliation bill or resolution, or both, for such fiscal year are required to be reported under section 310(c), after that bill has been enacted into law or that resolution has been agreed to, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing additional new budget authority for such fiscal year, providing new spending authority described in section 401(c)(2)(C) to become effective during such fiscal year, or reducing revenues for such fiscal year, or any conference report on any such bill or resolution, if—

- (1) the enactment of such bill or resolution as reported;
- (2) the adoption and enactment of such amendment; or
- (3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of revenues set forth in such concurrent resolution.

(b) DETERMINATION OF OUTLAYS AND REVENUES.—For purposes of subsection (a), the budget outlays to be made during a fiscal year and revenues to be received during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

Legislative History

This section establishes the second budget resolution (subject to revision by a subsequent optional resolution) as a limitation on spending and revenue. After the second resolution and any required reconciliation have been adopted, Congress may not consider any appropriation, entitlement, or other spending measure which would cause the total level of new budget authority or outlays to be exceeded. Nor may Congress consider a revenue bill which would reduce total revenues below the level in the latest budget resolution. The Budget Committees are assigned the task of estimating whether legislation would cause the level of outlays or of revenues to be breached.

This section was introduced by the Senate Government Operations Committee during markup of S. 1541 in conjunction with its decision to change the first budget resolution from a "ceiling" into a "target." As part of a package of changes

made in Title III, the Committee decided to impose a ceiling at the end of the congressional budget process rather than at the start, and it thus devised a bar against spending legislation in excess of the final congressional budget determination. As designed by the Government Operations Committee, the ceiling was to be applied only to budget authority legislation, and it was to be keyed to a "ceiling enforcement bill" rather than to a budget resolution. The Rules and Administration Committee retained this concept but utilized the second budget resolution as the determinant of the ceiling.

The conference committee broadened the limitation in a number of ways. First, it extended the prohibition to revenue and entitlement legislation, not only to appropriations. Second, it applied the limitation to regular appropriation bills if their consideration occurs after adoption of the second budget resolution and reconciliation. Third, it gave the Budget Committee the responsibility of determining the effects of legislation on the appropriate levels in the budget resolution. This role is confined on the spending side to outlay estimates, not to budget authority, presumably because of the expectation that the affected legislation would specify the amount of budget authority to be provided. However, much budget authority legislation, particularly in the case of entitlements, is indefinite, with the amount of budget authority determined by outside factors.

It should be noted that the limitation applies to total budget authority and outlays, not to the functional allocations in the budget resolution or allocation to committees. Thus, if an appropriation measure would cause an allocation to be exceeded without breaching the spending total, its consideration would not be barred by section 311. With regard to revenues, the limitation has the effect of prohibiting the consideration of tax expenditure legislation which would reduce total revenues below the appropriate level of the most recent budget resolution.^{84/}

^{84/} See Statement of Managers in H. Rept. No. 93-1101, p. 64.

TITLE IV. PROVISIONS TO IMPROVE FISCAL PROCEDURES

Section 401 (a) and (b) Procedures for Contract, Borrowing, and Entitlement Authority

SEC. 401. (a) LEGISLATION PROVIDING CONTRACT OR BORROWING AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

Legislative History

The term "spending authority" was introduced by the Joint Study Committee to describe legislation which authorizes the expenditure of funds outside of or prior to the appropriations process. The Joint Study Committee identified three types of spending authority which are defined in subsection (c). The common feature of contract, borrowing, and entitlement authority is that Federal agencies are authorized to enter into obligations or make payments through "backdoor" legislation. (S. 1541 as reported by the Senate Government

Operations Committee used the term "advance budget authority" to describe these types of legislation; the Rules and Administration Committee used the term "advance spending authority.")

As proposed by the Joint Study Committee and passed by the House, the legislation would have subjected the three types of spending authority to the same procedure. New contract, borrowing, or entitlement authority could be effective "only to such extent or in such amounts as are provided in appropriation Acts." The Senate Government Operations Committee bill had a similar provision except that it would have allowed such authority to be "exercised" to such extent or in such amounts as are provided in appropriations or other laws. The Government Operations Committee conceived of a new type of exercising legislation which would have the same relation to backdoor spending as appropriations have to standard authorizations. S. 1541 initially gave jurisdiction over backdoors to the Budget Committees, but in later versions the Appropriations Committees were assigned jurisdiction.

The Rules and Administration Committee devised separate procedures for contract and borrowing authority on the one hand and entitlement legislation on the other, and its approach has been followed in the final version. Contract and borrowing authority are to have the status of ordinary authorizations for which funds are to be available only to the extent provided in appropriations. There are a number of exceptions to this rule, as specified in subsection (d). Entitlements, however, are to continue as authorizations of expenditure but such legislation shall be referred to the Appropriations Committee (from the Committee of original jurisdiction) prior to floor consideration if the amount of new budget authority would exceed the appropriate committee allocation made pursuant to section 302. This referral shall be for no more than 15 days and the jurisdiction of the Appropriations Committee shall be limited "to the cost

of the program and not to substantive changes in the program."^{85/} The Appropriations Committee may report the bill with an amendment limiting the total amount of new entitlement authority, but it shall be automatically discharged from consideration if it has failed to report within 15 days.

One reason for specifying a different procedure for entitlements is that if they were converted to standard authorizations, there might be a tendency to inflate an entitlement in the expectation that a lower amount would be appropriated, thus generating the authorizations-appropriations gap which has plagued many Federal programs in recent years. But if an entitlement is authorized at an inflated level, it might be difficult to lower it by means of the appropriations process.

As devised by the Rules and Administration Committee, the referral procedure would have applied to (1) all entitlement legislation and (2) to floor amendments providing new entitlements.^{86/} The conference committee altered both of these features, first by limiting the referral step to entitlements in excess of the budget resolution; second, by striking the requirement that floor amendments be referred to the Appropriations Committee.

The conferees added paragraph (1) of section 401 (b) providing that new entitlements may not take effect before the start of the fiscal year. The purpose of this new provision is to make entitlements fully subject to the reconciliation process prescribed in section 310 and to thereby keep open the option of reducing entitlements as one way of reconciling the budget resolution with expenditures. The conferees also banned the consideration of entitlement legislation prior to adoption of the first budget resolution

^{85/} H. Rept. No. 93-1101, p. 65.

^{86/} An amendment offered on the floor by Senator Ribicoff to allow the Appropriations Committees to provide their recommendations but not to report amendments was rejected by a vote of 31-55. 120 Congressional Record (daily ed. March 21, 1974) S 4104.

(section 303). Having subjected entitlements to the discipline of both the first and the second budget resolution, the conferees decided that referral to the Appropriations Committees should not be required if the entitlement is within the allocations set pursuant to the latest resolution. In such case, Congress has already expressed its will as to the appropriate amount of entitlement. It can further alter its will when it considers the entitlement on the floor, but there should be no need for review by the Appropriations Committee.

The second change was made because referral of floor amendments after they have been adopted would be an awkward and extraordinary procedure. The reason for including amendments in the referral scheme was to avert the attachment of an entitlement as a rider to other legislation as a means of evading Appropriations Committee review. But once an amendment has been adopted by the House or the Senate, referral would slow the legislative process and reverse the usual relationship between a committee and its House.

In determining whether an entitlement measure must be referred to the Appropriations Committee, two matters must be taken into account. First, the relevant amount is budget authority, not outlays. Regardless of the impact of an entitlement on outlays, referral would take place only if the appropriate level of new budget authority would be exceeded. This means that in instances where Congress raises the level of payments without adjusting the amount of new budget authority, the referral process would not apply. In the case of social security programs, this situation sometimes occurs because budget authority is computed in terms of the receipts of the trust funds. If Congress raises benefits but not taxes, the entire impact would register on outlays, not on budget authority.

The second issue relates to the computation of the budget authority impact of entitlement legislation. Many entitlements are open ended and indefinite, with their cost determined by exogenous factors such as the number of beneficiaries, rate of inflation, etc. The legislation itself does not specify the cost and, therefore, comparisons with the section 302 allocations to committees might be difficult. The managers statement on the conference report states that "the Budget Committees shall provide background information as to such allocations,"^{88/} so that their judgment as to the prospective budget authority impact would prevail. A similar role is assigned to the Budget Committees by section 311 (b) of the Act.

^{88/} H. Rept. No. 93-1101, p. 65.

Section 401 (c) Definitions of New Spending Authority(c) DEFINITIONS.—

(1) For purposes of this section, the term “new spending authority” means spending authority not provided by law on the effective date of this section, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term “spending authority” means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under the Second Liberty Bond Act) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; and

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

Legislative History

This subsection supplies the definitions of contract, borrowing, and entitlement authority referred to in subsections (a) and (b). The basic definitions are taken without substantive change from the Joint Study Committee bill. The Joint Study Committee bill as well as H.R. 7130 had a residual definition for any type of spending authority not covered by the three definitions, but this was struck from S. 1541 by the Senate Rules and Administration Committee.

The proviso that the definition does not cover insured or guaranteed indebtedness was added by the Rules and Administration Committee and is comparable to the exception in section 3 (a) (2). However, outlays ensuing from defaults on such indebtedness would be in the definitions of spending or budget authority.

Under the definition of new spending authority, any increase in the amount of existing contract, borrowing, or entitlement authority would be covered by the new procedures.

The effective date for this section determines whether contract, borrowing, or entitlement legislation is subject to the new procedures. Section 905 sets the effective date as the first day of the second session of the 94th Congress (1976), but section 906 gives the Budget Committees the option to make it effective one year earlier.

Section 401 (d) Exceptions(d) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act);

or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

Legislative History

This subsection exempts certain types of legislation from the new procedures for contract, borrowing, and entitlement authority. The exempted categories are (1) social security trust funds, (2) other trust funds which are at least 90 percent self financed, (3) general revenue sharing to the extent provided in renewal legislation, (4) the outlays of certain government corporations and (5) gifts to the United States.

The only exception provided in the Joint Study Committee bill was for fully self-financed trust funds. H.R. 7130 added exemptions for insured and guaranteed loan programs, government corporations, and gifts. In the Senate, S. 1541 as reported by the Senate Government Operations Committee had no exceptions, but the Rules and Administration Committee provided exemptions for general revenue sharing, existing social security trusts, government

corporations, and gifts. The Committee also distinguished between existing and new trust funds. Existing funds (other than those for social security) would be exempt if they were "substantially" self financing--defined in the Committee report to mean that at least 30 percent of their receipts were self generated.^{89/} New trust funds (including social security) would be exempt only if they were 90 percent self financed. But this distinction was removed by a floor amendment and both existing funds (other than social security) and new trust funds were to be exempt only if at least 90 percent of their income was self generated.^{90/} The Act conforms to the provision passed by the Senate.

The special status of general revenue sharing was formulated by the Rules and Administration Committee. It does not dispose the issue one way or the other, but allows Congress to decide the matter without encumbrance when the legislation is considered for renewal. If future revenue sharing legislation reported by committee has an exemption clause, the section 401 (b) procedures will not apply, unless such clause was struck by floor amendment.

^{89/} S. Rept. No. 93-688, p. 58.

^{90/} The amendment, adopted 80-0, was offered by Senator Nunn. 120
Congressional Record, S 4305.

Section 402(a) Reporting Deadline for 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.

Legislative History

The deadline for authorizing legislation was one of the most controversial features of the budget bill. The Joint Study Committee proposed a prohibition on the enactment of authorizing legislation after the start of the fiscal year to which it applied. H.R. 7130 as reported by the House Rules Committee set a March 31 deadline for enactments and a floor amendment to change this to June 30 was rejected 106-300.^{91/} The Senate Government Operations Committee reported a bill with a May 31 deadline but the Rules and Administration Committee abandoned a deadline on enactment and devised a May 15 deadline for reporting by authorizing committees. With only slight revision, that provision was enacted. It is expected that with the advance authorization procedure set in section 607 of the Act, it will be possible for committees to meet the reporting date without much difficulty.

^{91/} The amendment was offered by Rep. Hebert. 119 Congressional Record (daily ed. December 5, 1973) H 10682.

Section 402 (b), (c) and (d) Waiver of Reporting Deadline

(b) **EMERGENCY WAIVER IN THE HOUSE.**—If the Committee on 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 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 of 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 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.

Legislative History

H.R. 7130 determined the waiver procedure applicable to the House; S. 1541 provided the waiver rules for the Senate. Subsection (b) provides for an emergency waiver in the House by means of a resolution reported by the Rules Committee and adopted by the House. This waiver route is the same as was provided for the House in the Joint Study Committee bill.

Subsection (c) provides for a waiver in the Senate if (1) the authorizing committee reports a waiver resolution, (2) the Senate Budget Committee reports or is discharged from consideration of the resolution, and (3) the Senate adopts the resolution. The Joint Study Committee had proposed a waiver procedure controlled by the majority leadership, while the Government Operations Committee bill had no waiver provision. The enacted procedure was devised by the Rules and Administration Committee.

Subsection (d) is a technical provision that allows one House to consider legislation passed by the other House. The second House may consider legislation companion to a measure reported by one of its committees prior to the reporting deadline.

Section 402(e) Exceptions(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).

Legislative History

This subsection exempts entitlement and omnibus social security legislation from the May 15 reporting deadline. The exception was formulated by the conference committee as part of an integrated timetable for the congressional budget process. When they decided to prohibit the consideration of entitlement legislation before adoption of the first budget resolution (section 303), the conferees were faced with the predicament of compressing the time available for the development of such legislation. Consequently, they decided to exempt entitlements from the May 15 deadline.

Social security legislation poses a somewhat different problem. Often such legislation combines trust funds and other programs, because the social security benefits are directly related to other forms of assistance. If the social security portion were reported after May 15 while the related programs were subject to the deadline, Congress would be compelled to split related matters into separate measures. The exemption in subsection (e) allows Congress to consider all facets of social security legislation concurrently even if they are reported after May 15.

Section 402(f) Study of Spending Authority and Permanent Appropriations

(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.

Legislative History

This study requirement was devised as a substitute for a provision in H.R. 7130 which would have terminated most existing spending authority (contract, borrowing, and entitlement authority) as of October 1, 1978. In lieu of the expiration date, the Appropriations Committees are directed to study existing spending authority laws and to report any recommendations for terminating or revising them.

The same study provision applies to permanent appropriations--funds which become available for expenditure without any current action by Congress. The Joint Study Committee bill and H.R. 10961, introduced by Representative Whitten on October 16, 1973, would have permitted permanent budget authority legislation only if it was reported by the Appropriations Committee.^{92/} The conference committee opted for a study of permanent appropriations.

^{92/} Indirectly, H.R. 7130 would have reached permanent appropriations by requiring the termination of most existing contract, borrowing, and entitlement authority after October 1, 1978.

Section 403. Cost Analyses by the Congressional Budget Office

SEC. 403. 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—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate; and

(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

Legislative History

The Congressional Budget Office is to prepare, to the extent practicable, cost analyses to be included in the reports of all committees other than the Appropriations Committees. This procedure will be in addition to the requirement in section 252 of the Legislative Reorganization Act of 1970 mandating cost analyses by all committees (other than Appropriations) in their reports on legislation and the new Section 308 requirement for committees and the CBO.

The new provision was devised by the Senate Government Operations Committee and modified by the Rules and Administration Committee. Originally, it would not have been in order to consider a bill unless the report contained a cost estimate prepared by the budget office. However, this arrangement would have made Members and Committees of Congress dependent upon a congressional agency for the progress of their legislation. Accordingly, the requirement for a cost analysis was modified to make it operative only "to the extent practicable" and only if the analysis is "timely submitted" to the reporting committee. The managers statement defines timely submitted

"to mean that the cost analysis is submitted to the reporting committee sufficiently in advance to allow the committee an opportunity to examine the analysis prior to its publication."^{93/}

The exemption of the Appropriations Committees corresponds to their status in section 252 of the 1970 Act. Originally, the Budget Committees also were exempted, but this was subsequently deemed to be unnecessary because these Committees do not report spending legislation.

^{93/} H. Rept. No. 93-1101, 93d Congress, 2d Session, p. 67.

Section 404. Jurisdiction of Appropriation Committees

SEC. 404. (a) AMENDMENT OF HOUSE RULES.—Clause 2 of rule XI of the Rules of the House of Representatives is amended by redesignating paragraph (b) as paragraph (e) and by inserting after paragraph (a) the following new paragraphs:

“(b) Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).

“(c) The amount of new spending authority described in section 401(c)(2)(A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.

“(d) New spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).”

(b) AMENDMENT OF SENATE RULES.—Subparagraph (c) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended to read as follows:

“(c) Committee on Appropriations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

“1. Except as provided in subparagraph (r), appropriation of the revenue for the support of the Government.

“2. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).

“3. The amount of new spending authority described in section 401(c)(2)(A) and (B) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).

“4. New advance spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).”

Legislative History

The jurisdiction of the House and Senate Appropriations Committees is expanded to include (1) the rescission of appropriations, (2) entitlement legislation referred pursuant to section 401 (b) of the Act, and (3) the funding of contract and borrowing authority.

Jurisdiction over rescissions was proposed in the Joint Study Committee bill. It applies to rescissions considered in the context of regular appropriation bills, not to the rescission process established in the Impoundment Control Act. Because the House Appropriations Committees had taken the position that its jurisdiction did not extend to rescissions, it needed to obtain a rule before bringing an appropriation bill containing any rescissions to the floor. This special procedure no longer is necessary.

The additional jurisdiction over entitlement, contract, and borrowing authority takes into account the procedures established in section 401 of the Act.

Title V. CHANGE OF FISCAL YEAR

Section 501. Fiscal Year to Begin October 1

SEC. 501. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"SEC. 237. (a) The fiscal year of the Treasury of the United States, in all matters of accounts, receipts, expenditures, estimates, and appropriations—

"(1) shall, through June 30, 1976, commence on July 1 of each year and end on June 30 of the following year; and

"(2) shall, beginning on October 1, 1976, commence on October 1 of each year and end on September 30 of the following year.

"(b) All accounts of receipts and expenditures required by law to be published annually shall be prepared and published for each fiscal year as established by subsection (a)."

Legislative History

The shift to an October 1-September 30 fiscal calendar was recommended in the bills reported by the Senate Government Operations and the House Rules Committees. Both committees began their consideration of congressional budget legislation without any proposal to change the fiscal cycle, but as they examined the problems associated with the existing timetable, they became convinced that it would not be feasible to operate the new budget process within the available time. Thus, the sole motivation for converting to an October 1 fiscal start was to give Congress three additional months during which to complete its budget process.

The two committees considered a number of alternatives to the existing budget cycle, including conversion to a calendar-year basis and a fiscal year beginning on August 1. But, in the words of the House Rules Committee report, "an October 1 fiscal start is most in accord with the contemporary work schedule of Congress and would not cause undue disruption to the budget processes of state and local governments which receive Federal assistance."^{94/}

^{94/} H. Rept. No. 93-658 (1973), p. 31. Also, S. Rept. No. 93-579 (1973), pp. 61-63.

Section 502. Transition to new Fiscal Year

SEC. 502. (a) As soon as practicable, the President shall prepare and submit to the Congress—

(1) after consultation with the Committees on Appropriations of the House of Representatives and the Senate, budget estimates for the United States Government for the period commencing July 1, 1976, and ending on September 30, 1976, in such form and detail as he may determine; and

(2) proposed legislation he considers appropriate with respect to changes in law necessary to provide authorizations of appropriations for that period.

(b) The Director of the Office of Management and Budget shall provide by regulation, order, or otherwise for the orderly transition by all departments, agencies, and instrumentalities of the United States Government and the government of the District of Columbia from the use of the fiscal year in effect on the date of enactment of this Act to the use of the new fiscal year prescribed by section 237 (a) (2) of the Revised Statutes. The Director shall prepare and submit to the Congress such additional proposed legislation as he considers necessary to accomplish this objective.

(c) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office jointly shall conduct a study of the feasibility and advisability of submitting the Budget or portions thereof, and enacting new budget authority or portions thereof, for a fiscal year during the regular session of the Congress which begins in the year preceding the year in which such fiscal year begins. The Director of the Office of Management and Budget and the Director of the Congressional Budget Office each shall submit a report of the results of the study conducted by them, together with his own conclusions and recommendations, to the Congress not later than 2 years after the effective date of this subsection.

Legislative History

This section provides for a three-month transition period (July 1-September 30, 1976), for which budget estimates shall be submitted in such form and detail as is determined by the President after consultation with the Appropriations Committees. It also provides for OMB to establish regulations for the transition to the new fiscal cycle and to request any necessary implementing legislation. Finally, section 502 directs CBO and OMB to jointly study (but separately report on) the feasibility and advisability of advance or multiyear budgeting.

Both the House and Senate passed bills provided a transition from the July 1-June 30 to an October 1-September 30 fiscal calendar. H.R. 7130 had a comparatively simple provision authorizing OMB to promulgate regulations and propose necessary legislation. It also would have converted all laws and regulations to the new fiscal timetable. S. 1541 as reported by the Senate Government Operations Committee provided for a 15-month fiscal year as the means of bridging from the old to the new

schedule. The bill developed by the Rules and Administration Committee also had a 15-month transitional year but it also introduced the provisions which, with slight change, were incorporated into section 502 (b) and (c) of the Act.

The conference committee introduced the concept of a 3-month interim period as a means of avoiding a 15-month fiscal year and in order to maintain the comparability of historical series. For the 3-month period, the Act permits the President to decide on the appropriate form of the estimates, taking "into account the needs of Congress and the public for sufficient information, the desirability of maintaining continuity in accounts, and the amount of time available for preparation of the three-month estimates."^{95/}

Implementation

The Administration has taken a number of steps to implement the shift to the new fiscal timetable. Federal agencies were asked to identify and report to OMB any statutes that need to be amended to provide for the transition or to conform to the new fiscal year.^{96/} At the request of the President,^{97/} Congress has provided a blanket extension of all appropriations scheduled to expire on June 30, 1976 until September 30, 1976.^{98/} Appropriation language for the transition period--but not detailed schedules--has been included in the 1976 Budget.

^{95/} H.Rept. No. 93-11101, p. 68.

^{96/} U.S. Office of Management and Budget, Bulletin No. 75-9, October 24, 1974.

^{97/} S. Doc. No. 93-124.

^{98/} Public Law 93-554, section 204.

Section 503. Accounting for Obligated and Unobligated Balances

SEC. 503. (a) Subsection (a)(1) of the first section of the Act entitled "An Act to simplify accounting, facilitate the payment of obligations, and for other purposes", approved July 25, 1956, as amended (31 U.S.C. 701), is amended to read as follows:

"(1) The obligated balance shall be transferred, at the time specified in subsection (b)(1) of this section, to an appropriation account of the agency or subdivision thereof responsible for the liquidation of the obligation, in which account shall be merged the amounts so transferred from all appropriation accounts for the same general purposes; and"

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Any obligated balance referred to in subsection (a)(1) of this section shall be transferred as follows:

"(A) for any fiscal year or years ending on or before June 30, 1976, on that June 30 which falls in the first month of June which occurs twenty-four months after the end of such fiscal year or years; and

"(B) for the period commencing on July 1, 1976, and ending on September 30, 1976, and for any fiscal year commencing on or after October 1, 1976, on September 30 of the second fiscal year following that period or the fiscal year or years, as the case may be, for which the appropriation is available for obligation.

"(2) The withdrawals required by subsection (a)(2) of this section shall be made—

"(A) for any fiscal year ending on or before June 30, 1976, not later than September 30 of the fiscal year immediately following the fiscal year in which the period of availability for obligation expires; and

"(B) for the period commencing on July 1, 1976, and ending on September 30, 1976, and for any fiscal year commencing on or after October 1, 1976, not later than November 15 following such period or fiscal year, as the case may be, in which the period of availability for obligation expires."

Legislative History

This is a technical amendment adjusting the time for the transfer of obligated balances and the lapsing of unobligated balances after the close of the fiscal year. The only substantive change from existing procedures is to shorten from three months to 45 days the deadline for the reversion of unobligated balances to the Treasury. Its purpose is to accelerate the closing of accounts for the past fiscal year because the period of time between the end of a fiscal year and the presentation of the next budget has been reduced from more than six months to approximately three and one half months.

Section 504. Conversion of Authorizations to New Fiscal Calendar

SEC. 504. Any law providing for an authorization of appropriations commencing on July 1 of a year shall, if that year is any year after 1975, be considered as meaning October 1 of that year. Any law providing for an authorization of appropriations ending on June 30 of a year shall, if that year is any year after 1976, be considered as meaning September 30 of that year. Any law providing for an authorization of appropriations for the fiscal year 1977 or any fiscal year thereafter shall be construed as referring to that fiscal year ending on September 30 of the calendar year having the same calendar year number as the fiscal year number.

Legislative History

This section adjusts all annual and multiyear authorizations to the October 1-September 30 fiscal cycle. June 30 dates for authorizations automatically will be converted to September 30.

This section is taken from S. 1541 without substantive change. The Senate bill as reported by the Government Operations Committee also had a provision automatically adding 25 percent to the amounts specified in definite authorizations (authorizations specifying a certain amount or maximum) but this provision was deleted by the Committee on Rules and Administration. It was felt that adaptation to the new fiscal schedule could best be accomplished through the flexible procedures provided in section 502 rather than by means of an across-the-board increase in all authorizations.

Sections 505 & 506. Conforming Amendments

Sec. 505. The following provisions of law are repealed:

(1) the ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) the proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

Sec. 506. (a) Section 105 of title 1, United States Code, is amended by striking out "June 30" and inserting in lieu thereof "September 30".

(b) The provisions of subsection (a) of this section shall be effective with respect to Acts making appropriations for the support of the Government for any fiscal year commencing on or after October 1, 1976.

Legislative History

Section 505 repeals two provisions of law setting a July 1-June 30 fiscal year for the Senate and House of Representatives. Section 506 changes the ending date for fiscal years in appropriation acts beginning with the 1977 fiscal year.

TITLE VI. AMENDMENTS TO THE BUDGET AND ACCOUNTING ACT

Section 601. Matters to be Included in the President's Budget

SEC. 601. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsections:

“(d) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth separately the items enumerated in section 301(a)(1)-(5) of the Congressional Budget Act of 1974.

“(e) The Budget transmitted pursuant to subsection (a) for each fiscal year shall set forth the levels of tax expenditures under existing law for such fiscal year (the tax expenditure budget), taking into account projected economic factors, and any changes in such existing levels based on proposals contained in such Budget. For purposes of this subsection, the terms ‘tax expenditures’ and ‘tax expenditures budget’ have the meanings given to them by section 3(a)(3) of the Congressional Budget Act of 1974.

“(f) The Budget transmitted pursuant to subsection (a) for each fiscal year shall contain—

“(1) a comparison, for the last completed fiscal year, of the total amount of outlays estimated in the Budget transmitted pursuant to subsection (a) for each major program involving uncontrollable or relatively uncontrollable outlays and the total amount of outlays made under each such major program during such fiscal year;

“(2) a comparison, for the last completed fiscal year, of the total amount of revenues estimated in the Budget transmitted pursuant to subsection (a) and the total amount of revenues received during such year, and, with respect to each major revenue source, the amount of revenues estimated in the Budget transmitted pursuant to subsection (a) and the amount of revenues received during such year; and

“(3) an analysis and explanation of the difference between each amount set forth pursuant to paragraphs (1) and (2) as the amount of outlays or revenues estimated in the Budget submitted under subsection (a) for such fiscal year and the corresponding amount set forth as the amount of outlays made or revenues received during such fiscal year.

“(g) The President shall transmit to the Congress, on or before April 10 and July 15 of each year, a statement of all amendments to or revisions in the budget authority requested, the estimated outlays, and the estimated receipts for the ensuing fiscal year set forth in the Budget transmitted pursuant to subsection (a) (including any previous amendments or revisions proposed on behalf of the executive branch) that he deems necessary and appropriate based on the most current information available. Such statement shall contain the effect of such amendments and revisions on the summary data submitted under subsection (a) and shall include such supporting detail as is practicable. The statement transmitted on or before July 15 of any year may be included in the supplemental summary required to be transmitted under subsection (b) during such year. The Budget transmitted to the Congress pursuant to subsection (a) for any fiscal year, or the supporting detail transmitted in connection therewith, shall include a statement of all such amendments and revisions with respect to the fiscal year in progress made before the date of transmission of such Budget.

“(h) The Budget transmitted pursuant to subsection (a) for each fiscal year shall include information with respect to estimates of appropriations for the next succeeding fiscal year for grants, contracts, or other payments under any program for which there is an authorization of appropriations for such succeeding fiscal year and such appropriations are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

“(i) The Budget transmitted pursuant to subsection (a) for each fiscal year, beginning with the fiscal year ending September 30, 1979, shall contain a presentation of budget authority, proposed budget authority, outlays, proposed outlays, and descriptive information in terms of—

“(1) a detailed structure of national needs which shall be used to reference all agency missions and programs;

“(2) agency missions; and

“(3) basic programs.

To the extent practicable, each agency shall furnish information in support of its budget requests in accordance with its assigned missions in terms of Federal functions and subfunctions, including mission responsibilities of component organizations, and shall relate its programs to agency missions.”

Legislative History

This section adds six matters to be included in the President's budget or in periodic updates. The six items are: (1) estimates for all matters contained in the concurrent resolution on the budget; (2) tax expenditure data; (3) variances between expected and actual revenues and uncontrollable outlays; (4) twice yearly updates of the budget; (5) information on advance appropriations; and (6) a statement of national needs.

Estimates for matters in the budget resolution. This item is taken from S. 1541 as reported by the Senate Government Operations Committee and passed by the Senate. Its purpose is to require the President to go on record concerning total revenues, budget authority, outlays, debt, budget surplus or deficit, and functional allocations. The President--like Congress--will have to be explicit about the fiscal policy and priorities in the budget.

Tax expenditure data. Both H.R. 7130 and S. 1541 required the President to include estimates of tax expenditures in his budget. Tax expenditure estimates, under the Act, also would be included in Budget Committee reports on the budget resolutions (section 301) and in committee reports on tax expenditure legislation (section 308). Tax expenditure tables and a special analysis were included for the first time in the 1976 Budget.^{99/}

Variance reports. The Senate Rules and Administration Committee introduced the requirement that the President report on variances between projected and actual revenues and uncontrollable outlays for the last completed fiscal year. In recent years, revenues and uncontrollable outlays have varied substantially from initial estimates and the purpose of this requirement is to encourage more accurate

^{99/} The Budget of the United States Government, Fiscal Year 1976, pp. 67-69, and Special Analysis F.

estimates in the future. In reporting on variances, the President also shall analyze and explain all deviations from the original estimates. The 1976 Budget contains a listing and explanation for variances between estimated and actual uncontrollable outlays.^{100/}

Budget Updates. Twice a year updates of the budget are required by April 10 and July 15, timed to the consideration of the first budget resolution and to the period during which floor action on appropriations and other spending legislation is likely to be scheduled. The provision formulated by the Rules and Administration Committee requires the President to present a comprehensive statement of all budget amendments and revisions proposed or accepted by the executive branch subsequent to submission of the budget.

Under the Legislative Reorganization Act of 1970 as amended by section 602 of this Act, the President is required to submit updated estimates by July 15 of each year. Both the estimates required by the 1970 Act and those newly imposed may be included in the same report.

Advance Appropriations. The President's budget is to present information with respect to any program for which appropriations have been authorized to be made one year in advance of the fiscal year for which they will be available. At the present time, the President has discretion to include advance estimates in his budget; the Act makes such information mandatory, but only for instances (comparatively few thus far) in which advance appropriations have been authorized.

The source of this provision is a floor amendment offered by Senator McGovern requiring estimates for advance appropriations authorized by law.^{101/} The McGovern amendment cited the General Education Provisions Act which authorizes advance appropriations for certain programs and it would have required supplemental budget estimates for the current fiscal year.

^{100/} Ibid. pp. 29-32.

The conferees deleted the reference to education programs as well as the supplemental estimates, and it also modified the language to require the submission of "information" rather than "estimates". Because estimates in the context of the Budget and Accounting Act carry a specific meaning, it was believed that a less formal term--information--would be more appropriate. The 1976 Budget Appendix has a brief list, but no estimates for advance 1977 appropriations.^{102/}

National Needs. The final additional information is for the presentation in the budget of a statement of national needs, agency missions, and programs. The derivation of this requirement is in S. 1414, legislation requiring the budget to be organized on the basis of national needs, agency programs, and basic program steps. S. 1414 was reported by the Senate Government Operations Committee on February 4, 1974,^{103/} and its main features were incorporated into S. 1541 by floor amendment on March 22, 1974.^{104/} The adopted amendment prescribed a series of steps for the formulation and implementation of programs and gave extensive definitions to certain key concepts such as national needs, agency missions, and programs.

The conferees retained only the first portion of this amendment in the enacted bill, dropping both the definitions and specification of program steps. In the managers statement, the conferees suggested "that this need not be a separate classification but can be incorporated, if the President deems it appropriate, into the main budget classifications."^{105/}

^{102/} Appendix, p. 1077.

^{103/} S. Rept. No. 93-675 (1974).

^{104/} Amendment No. 1056, 120 Congressional Record (daily ed.) March 22, 1974, S. 4311.

^{105/} H. Rept. No. 93-1101, p. 70.

Section 602. 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".

Legislative History

The Legislative Reorganization Act of 1970 requires the submission of updated budget estimates and five-year projections by June 1 of each year.^{106/} This section changes the submission date to July 15, making it the same as the date for submission of the additional material required by section 601 of this Act. It is anticipated that a single submission will satisfy the midyear requirements of the 1970 Act and the July 15 requirements of the new Act.

^{106/} 31 U.S.C. 11(b) and (c).

Section 603. Five-Year Budget Projections

SEC. 603. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

- (1) by inserting after "ensuing fiscal year" in paragraph (5) "and projections for the four fiscal years immediately following the ensuing fiscal year";
- (2) by striking out "such year" in paragraph (5) and inserting in lieu thereof "such years"; and
- (3) by inserting after "ensuing fiscal year" in paragraph (6) "and projections for the four fiscal years immediately following the ensuing fiscal year".

Legislative History

Five-year budget projections were required in both the House and Senate bills. This new provision is in addition to existing requirements for projections such as (1) five-year estimates for new and expanded programs; (2) five-year forecasts in the midyear budget review; and (3) projections by congressional committees.^{107/} The Congressional Budget Act also requires five-year projections of budget authority and tax expenditure legislation reported by congressional committees (section 308(a)) as well as annual five-year forecasts by the Congressional Budget Office (section 308(c)), and 5-year cost analysis on bills by the CBO (section 403).

^{107/} The Legislative Reorganization Act of 1970, sections 221(a) and (c) and 252(a) and (b).

Section 604. Allowances for Supplemental and Uncontrollable Expenditures

Sec. 604. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is further amended—

- (1) by striking out "and" at the end of paragraph (11);
- (2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and
- (3) by adding at the end thereof the following new paragraph:
 "(13) an allowance for additional estimated expenditures and proposed appropriations for the ensuing fiscal year, and an allowance for unanticipated uncontrollable expenditures for the ensuing fiscal year."

Legislative History

This section, devised by the Senate Committee on Rules and Administration, provides that the President's annual budget shall include an estimate for supplemental appropriations and uncontrollable expenditures. Its purpose is to provide Congress with a more comprehensive and realistic estimate of budget requirements for the ensuing fiscal year. Although the Federal budget has included an allowance for contingencies, it generally has been a token amount (in fiscal 1975, only \$1 billion in a \$304 billion budget), and has been inadequate to cover either supplemental appropriations which have been averaging approximately \$10 billion a year or uncontrollable costs which often exceed their budget estimates.

As provided for in section 301 (a), it is anticipated that the first concurrent resolution on the budget will have an allocation for contingencies. The draft bill prepared by the Joint Study Committee made provision for contingencies and emergency reserves, but these were dropped in later versions of the legislation. The enacted section requires an estimate for all uncontrollable expenses while the Senate-passed bill required it only for uncontrollables not funded in appropriations.

Section 605. Current Services Budget

SEC. 605. (a) On or before November 10 of each year (beginning with 1975), the President shall submit to the Senate and the House of Representatives the estimated outlays and proposed budget authority which would be included in the Budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for the ensuing fiscal year if all programs and activities were carried on during such ensuing fiscal year at the same level as the fiscal year in progress and without policy changes in such programs and activities. The estimated outlays and proposed budget authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency"), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying the estimated outlays and proposed budget authority, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated outlays and proposed budget authority so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each year.

Legislative History

The idea of a current services budget first appeared in an amendment proposed by Senator Muskie as a substitute for S. 1541.^{108/} The concept was incorporated into the bill reported by the Senate Government Operations Committee and was expanded by the Rules and Administration Committee to include an evaluation by the Joint Economic Committee. The only change made by the conference committee was to delete the provision that the JEC evaluation include a determination of the accuracy, completeness, and validity of the current services estimates.

The purposes of a current services budget are to give Congress an early start on its budget work and to provide "baseline" information against which the President's budget and alternatives can be compared.

^{108/} Amdt. No. 559 (September 28, 1973). 93d Congress, 1st Session.

The November 10 submission date is a modification of the December 1 deadline set in S. 1541 as reported by the Government Operations Committee. At hearings before the Rules and Administration Committee, OMB Director Roy Ash complained that the December 1 date would interfere with preparation of the President's budget and he indicated that an earlier date might be preferable.^{109/} The November 10 date always occurs after Presidential and congressional elections and comes after the preceding fiscal year has ended.

Section 605 does not require a current services budget in the same detail as the President's budget. However, a summary presentation--only by agency or function--would not satisfy the needs of Congress or the intent of this section. As specified in the Act, the current services must go down to the major program level and must spell out the economic and program assumptions upon which it is based.

^{109/} U. S. Senate, Committee on Rules and Administration, Hearings on Federal Budget Control by the Congress, 93d Congress, 2d Session (1974), p. 74.

Off-budget status generally means that an agency's spending is not counted in Federal budget totals and that the agency is not subject to any limitation that might be placed on Federal expenditures.

During Senate consideration of S. 1541, Senator Taft offered but subsequently withdrew an amendment that would have continued the off-budget status of the Federal Financing Bank.^{113/} In conference, section 606 was revised to provide for a study of off-budget agencies rather than for a change in their status.

Implementation

At the time Congress was considering the budget legislation, it also was considering legislation to remove the off-budget status of the Export-Import Bank. During Senate debate on the conference report, Senator Proxmire inquired whether the study provision in section 606 would "preclude any action by the relevant authorizing committees to put exempt agencies like the Export-Import Bank back in the budget...." Senator Percy answered that such action would not be precluded, but he also suggested that the Budget Committees be allowed a reasonable period of time to study the off-budget problem before any change in status is legislated.^{114/}

When the House considered Export-Import Bank legislation during 1974, section 606 was used as an argument against an amendment that would have

^{113/} 120 Congressional Record (daily ed., March 22, 1974) S-4301. Remarks of Senators Taft and Ervin.

^{114/} 120 Congressional Record (daily ed.) June 21, 1974, S-11231. See remarks of Senators Proxmire and Percy.

terminated the Bank's exempt status. Although the House defeated this amendment,^{115/} it was included in the bill that passed the Senate. The provision was deleted in conference, but the conference report was rejected by the Senate and the bill as finally enacted provides for inclusion of the Export-Import Bank in the budget as of October 1, 1976 unless Congress decides to the contrary.^{116/} Approximately one month after the Congressional Budget Act was enacted, Congress gave off-budget status to the Housing to the Elderly or Handicapped Fund.^{117/}

^{115/} The amendment to put the Bank into the budget was defeated 191-202.
120 Congressional Record (daily ed., August 21, 1974) H-8816-H-8823.
In particular, see remarks of Representative Bolling, at H-8817.

^{116/} Public Law 93-646.

^{117/} Section 210 (d) Housing and Community Development Act of 1974.

Section 606. Off-Budget Agencies

Sec. 606. The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis those provisions of law which exempt agencies of the Federal Government, or any of their activities or outlays, from inclusion in the Budget of the United States Government transmitted by the President under section 201 of the Budget and Accounting Act, 1921. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

Legislative History

This section provides for studies by the House and Senate Budget Committees of off-budget agencies, that is, of agencies whose activities and expenditures are not included in the Federal budget.^{110/} Concern with the growth of off-budget agencies was expressed by the Comptroller General in testimony before House and Senate committees^{111/} and a provision removing the off-budget status of six designated agencies and funds was included in the bill reported by the Senate Committee on Rules and Administration. The six off-budget agencies were: (1) Environmental Financing Authority; (2) Export-Import Bank; (3) Federal Financing Bank; (4) Rural Electrification and Telephone Revolving Fund; (5) Rural Telephone Bank; and (6) United States Railway Association.^{112/}

^{110/} Although off-budget agencies are not included in the budget, information and financial statements of these agencies are "annexed" to the budget Appendix.

^{111/} The Comptroller General mentioned only two of the off-budget agencies--the Export-Import Bank and the Rural Electrification Administration's loan programs in arguing for a return to the unified budget. See U. S. Congress, House Committee on Rules, Hearings on Budget Control Act of 1973, 93d Congress, 1st Session (1973), p. 216; and U. S. Congress, Senate Committee on Rules and Administration, Hearings on Federal Budget Control by the Congress, 93rd Congress, 2d Session (1974). p. 47.

^{112/} Apart from its Federal contribution, the Postal Service also is an off-budget agency.

Section 607. Advance Requests for Authorizations

SEC. 607. Notwithstanding any other provision of law, any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins. In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be submitted for at least the first 2 fiscal years.

Legislative History

This section was added in conference and had no direct antecedent in the bills that initially passed the House and the Senate. It requires the submission of requests for authorizing legislation no later than May 15 of the calendar year preceding the year in which the fiscal year to which the legislation applies will begin. For example, authorizing legislation for fiscal year 1977 is to be submitted by May 15, 1975. It also requires authorizations for new programs to be submitted for at least the first two fiscal years.

This section is one of a number of provisions in the new law encouraging advance budgeting. Section 502 (c) provides for a joint CBO-OMB study of the feasibility and advisability of advance budgeting while section 601 provides for the inclusion of advance information when authorized by law. The purpose of advance authorization requests is to enable committees to complete the reporting of authorizing legislation by the May 15 deadline set in section 402. Among the House and Senate conferees, there was agreement that the new congressional budget timetable will work only if authorizing committees develop procedures to consider advance authorizations:

The managers believe that in the future it will be necessary to authorize programs a year or more in advance of the period for which appropriations are to be made. When this is done, Congress will have adequate time for considering budget-related legislation within the timetable of the congressional budget process. The managers call attention to section 607 which requires advance submission of proposed authorizing legislation, and to the expectation that Congress will develop a pattern of advance authorizations for programs now authorized on an annual or multiyear basis. 118/

Section 607 does not preclude "supplementary" authorizations nor does it affect the duty of the President under the Constitution "from time to time [to] give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."119/

Implementation

On October 24, 1974, the Office of Management and Budget issued instructions to all Federal agencies concerning the implementation of section 607. Agencies were directed to submit authorization requests (to OMB) for fiscal years 1976 and 1977. OMB further directed agencies to submit fiscal 1977 authorization requests no later than January 31, 1975. The amounts requested "should be consistent with the five-year projections included in the 1976 Budget."120/

118/ H. Rept. No. 93-1101, p. 56.

119/ Article II, Section 3.

120/ U. S. Office of Management and Budget, Bulletin No. 75-8 (October 24, 1974).

Title VII. PROGRAM REVIEW AND EVALUATION

Section 701. Review and Evaluation by Congressional Committees

SEC. 701. Section 136(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) is amended by adding at the end thereof the following new sentences: "Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time."

Legislative History

This section was devised by the Senate Rules and Administration Committee as a partial substitute for Title VII of the bill reported by the Government Operations Committee. Title VII would have required the pilot testing of major new programs before implementation and would have mandated broad evaluation duties for congressional committees.

The enacted section amends section 136 (a) of the Legislative Reorganization Act of 1946 which provides for continuing reviews by standing committees of the House and Senate of laws within their jurisdictions. The added sentences specifically authorize the conduct of the required reviews by contract, by government agencies, and through techniques such as pilot testing and cost-benefit analysis.

Section 702. Review and Evaluation by the Comptroller General

SEC. 702. (a) Section 204 of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154) is amended to read as follows:

"SEC. 204. (a) The Comptroller General shall review and evaluate the results of Government programs and activities carried on under existing law when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities.

"(b) The Comptroller General, upon request of any committee of either House or any joint committee of the two Houses, shall—

"(1) assist such committee or joint committee in developing a statement of legislative objectives and goals and methods for assessing and reporting actual program performance in relation to such legislative objectives and goals. Such statements shall include, but are not limited to, recommendations as to methods of assessment, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

"(2) assist such committee or joint committee in analyzing and assessing program reviews or evaluation studies prepared by and for any Federal agency.

Upon request of any Member of either House, the Comptroller General shall furnish to such Member a copy of any statement or other material compiled in carrying out paragraphs (1) and (2) which has been released by the committee or joint committee for which it was compiled.

"(c) The Comptroller General shall develop and recommend to the Congress methods for review and evaluation of Government programs and activities carried on under existing law.

"(d) In carrying out his responsibilities under this section, the Comptroller General is authorized to establish an Office of Program Review and Evaluation within the General Accounting Office. The Comptroller General is authorized to employ not to exceed ten experts on a permanent, temporary, or intermittent basis and to obtain services as authorized by section 3109 of title 5, United States Code, but in either case at a rate (or the daily equivalent) for individuals not to exceed that prescribed, from time to time, for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(e) The Comptroller General shall include in his annual report to the Congress a review of his activities under this section, including his recommendations of methods for review and evaluation of Government programs and activities under subsection (c)."

(b) Item 204 in the table of contents of such Act is amended to read as follows:

"Sec. 204. Review and evaluation."

Legislative History

This section expands the authority given the Comptroller General in section 204 of the Legislative Reorganization Act of 1970 to assist Congress in

the performance of its oversight responsibilities. A somewhat different section was contained in the bill reported by the Senate Government Operations Committee but a number of modifications were made by the conference committee.

Subsection (a) is identical to the original section 204 (a) of the 1970 Act with the exception that specific mention of cost-benefit studies is deleted. Subsection (b) authorizes the Comptroller General to assist congressional committees in developing statements of legislative objectives and in assessing program evaluations done by Federal agencies. The main difference between the enacted and original provision is that comparable assistance would have been provided upon request to any Member of Congress, but the Act restricts this assistance to committees. However, statements of legislative intent prepared by the Comptroller General are to be made available to Members.

The remaining subsections instruct the Comptroller General to develop evaluation methods, authorize the establishment of an Office of Program Review and Evaluation in the GAO, and provide for the reporting of evaluation activities.

Section 703. Studies of Budget Reform Proposals

SEC. 703. (a) The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a), together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.

Legislative History

This section originated as a floor amendment offered by Senator Brock during Senate debate on S. 1541.^{121/} The Brock amendment called for continuing study by the Budget Committees in seven broad areas and it further provided that other congressional committees would not be precluded from conducting budget improvement studies of their own. The study concept was a partial substitute for two titles in the bill reported by the Government Operations Committee but struck by the Rules and Administration Committee. Both titles initially were part of a budget reform bill introduced by Senator Brock.^{122/} Title VII of the Senate Government Operations Committee bill would have mandated the review and evaluation of programs while Title VIII would have set a three-year limit on authorizing legislation.

The seven study subjects listed in the Brock amendment were combined into four areas relating to information, analysis and evaluation, time limitations for program authorizations, and human resource accounting.

^{121/} 120 Congressional Record (daily ed., March 20, 1974) S-4017.

^{122/} S. 40, 93d Congress, 1st Session.

TITLE VIII. FISCAL AND BUDGETARY INFORMATION

Section 801. Fiscal and Budgetary Information (section 201)

SEC. 801. (a) So much of title II of the Legislative Reorganization Act of 1970 (31 U.S.C. chapter 22) as precedes section 204 thereof is amended to read as follows:

"TITLE II—FISCAL AND BUDGETARY INFORMATION
AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND
INFORMATION

"FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND
INFORMATION SYSTEMS

"SEC. 201. The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, for use by all Federal agencies, standardized data processing and information systems for fiscal, budgetary, and program-related data and information. The development, establishment, and maintenance of such systems shall be carried out so as to meet the needs of the various branches of the Federal Government and, insofar as practicable, of governments at the State and local level.

Legislative History

Section 801 amends sections 201, 202, and 203 of the Legislative Reorganization Act of 1970 to provide for the development of budgetary information systems, standardized terminologies, classifications and codes, and the availability of information to Congress and State and local governments. In order to facilitate a discussion of section 801, it is divided into three parts, corresponding to sections 201, 202, and 203 of the Legislative Reorganization Act of 1970 as amended.

This portion of section 801 amends section 201 of the 1970 Legislative Reorganization Act.^{123/} As enacted in 1970, section 201 provided for the development of a standardized data processing system by the Treasury and OMB in cooperation with the General Accounting Office. The revised section retains the relationship between

the three agencies but provides for the development of standardized information systems (not a single system) so as to meet the needs of the Federal Government and, insofar as practicable, those of states and localities.

The main changes, therefore, are to allow multiple systems, to expand the systems to program-related data, and to require that, if practicable, the needs of states and localities be taken into account.

This amendment was developed by the Senate Government Operations Committee and no substantive change was made during subsequent consideration of the legislation.

Title VIII. FISCAL AND BUDGETARY INFORMATION

Section 801. Standardization of Terminology, Etc. (section 202).

"SEC. 202. (a) (1) The Comptroller General of the United States, in cooperation with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall develop, establish, maintain, and publish standard terminology, definitions, classifications, and codes for Federal fiscal, budgetary, and program-related data and information. The authority contained in this section shall include, but not be limited to, data and information pertaining to Federal fiscal policy, revenues, receipts, expenditures, functions, programs, projects, and activities. Such standard terms, definitions, classifications, and codes shall be used by all Federal agencies in supplying to the Congress fiscal, budgetary, and program-related data and information.

"(2) The Comptroller General shall submit to the Congress, on or before June 30, 1975, a report containing the initial standard terminology, definitions, classifications, and codes referred to in paragraph (1), and shall recommend any legislation necessary to implement them. After June 30, 1975, the Comptroller General shall submit to the Congress additional reports as he may think advisable, including any recommendations for any legislation he may deem necessary to further the development, establishment, and maintenance, modification, and executive implementation of such standard terminology, definitions, classifications, and codes.

"(b) In carrying out this responsibility, the Comptroller General of the United States shall give particular consideration to the needs of the Committees on the Budget of the House and Senate, the Committees on Appropriations of the House and Senate, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

"(c) The Comptroller General of the United States shall conduct a continuing program to identify and specify the needs of the committees and Members of the Congress for fiscal, budgetary, and program-related information to support the objectives of this part.

"(d) The Comptroller General shall assist committees in developing their information needs, including such needs expressed in legislative requirements, and shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in their reporting requirements to meet congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users and to eliminate duplicative or unneeded reporting.

"(e) On or before September 1, 1974, and each year thereafter, the Comptroller General shall report to the Congress on needs identified and specified under subsection (c); the relationship of these needs to the existing reporting requirements; the extent to which the executive branch reporting presently meets the identified needs; the specification of changes to standard classifications needed to meet congressional needs; the activities, progress and results of his activities under subsection (d); and the progress that the executive branch has made during the past year.

"(f) On or before March 1, 1975, and each year thereafter, the Director of the Office of Management and Budget and the Secretary of the Treasury shall report to the Congress on their plans for addressing the needs identified and specified under subsection (c), including plans for implementing changes to classifications and codes to meet the information needs of the Congress as well as the status of prior year system and classification implementations.

Legislative History

This portion of section 801 amends section 202 of the Legislative Reorganization Act of 1970. The amendment initially was formulated by the Government Operations Committee, revised by the Rules and Administration Committee, and enacted with only minor change.

The original section 202 charged the Treasury and OMB to develop standard budget classifications in cooperation with GAO. The new Act vests lead authority in the Comptroller General who, in cooperation with the Treasury, OMB, and CBO, shall devise standard terminology, definitions, classifications, and codes for use by all Federal agencies in supplying budget related data to Congress. The version reported by the Government Operations Committee would have required that these standards be developed to meet the needs of the various branches of the Federal Government and, insofar as practicable, of states and localities. The enacted amendment implies that the standards are to be used for congressional needs rather than for the Federal Government as a whole.

The Comptroller General is to report his initial determinations by June 30, 1975 and thereafter shall report and recommend legislation as appropriate. In developing the standard classifications, the Comptroller General is to give particular consideration to the needs of the Budget, Appropriations, House Ways and Means, and Senate Finance Committees, as well as to those of the CBO. The Comptroller General shall assist congressional committees in developing their informational needs and shall report annually on the extent to which existing reporting requirements meet the identified needs. Each year, also, OMB and the Treasury shall report to Congress on their plans for satisfying such congressional needs.

Although section 801 gives the Comptroller General authority to prescribe standard classifications for submission of budget information to Congress, it does not preclude--in the words of the managers statement--"either House of Congress

from establishing an office or commission to develop, supervise, and maintain an information classification system for that House, and its committees and Members.^{124/} This language was inserted in anticipation of the establishment of a Legislative Classification Office in the House of Representatives. As established by H. Res. 988, the new Office shall develop "a system linking Federal programs and expenditures to the authorizing statutes, ... showing the committee jurisdiction for each authorization."^{125/} The House Office will be concerned primarily with authorizations and appropriations rather than with accounting and budget procedures.

The origin of section 801's transfer of prime responsibility to the Comptroller General is found in congressional dissatisfaction with implementation of section 202 of the 1970 Act. In a 1972 report, the Joint Committee on Congressional operations criticized OMB for the slow pace and low priority of implementation.^{126/} The revision of section 202 reflects the judgment of Congress that design and implementation must be directed by its own agent if the needs of Congress are to be met in a timely and effective manner.^{127/} However, the amended section does not completely delineate the respective roles of the Comptroller General and OMB or the effects of the new standards on the President's budget. In testimony before the Senate Committee on Rules and Administration, OMB Director Roy Ash questioned

the propriety of requiring...that the President develop his budget using terminology, definitions, classifications, and codes developed by the Comptroller General of the United States.

Section 201(a) of the Budget and Accounting Act of 1921 states that the budget shall be presented "in such form and detail as the President may determine." We believe that removal of this authority from the executive raises serious questions about the proper roles of the executive and legislative branches. ^{128/}

^{124/} H. Rept. No. 93-11101, p. 73.

^{125/} H. Res. 988, section 203. H. Rept. No. 93-916, pp. 86-87.

^{126/} H. Rept. No. 92-1337 (1972).

^{127/} See Report of the Senate Committee on Government Operations, S. Rept. No. 93-579, pp. 69-72.

^{128/} U.S. Senate, Committee on Rules and Administration, Hearings on Federal Budget Control by the Congress, 93d Cong., 2d Sess. (1974), p. 77.

The Rules and Administration Committee subsequently revised the amendment to section 202 to delete any suggestion that the standard classifications would have to serve executive branch requirements.

In its report on S. 1541, the Committee affirmed the power of Congress to determine the form and detail of the budget, but it also expressed the hope that "the President's discretion can be preserved," and it agreed "that the President should be allowed to present budget information in the manner that he desires as well as in the manner needed by the Congress." Thus, the committee does not recommend amending section 201(a) of the Budget and Accounting Act now.^{129/} Moreover, the Committee pointed out that section 206 of the 1970 Legislative Reorganization Act preserves the authority given to OMB.^{130/} However, the Committee also suggested that it would seek changes in such authority if OMB did not cooperate fully in the use of the standard classifications.^{131/}

In sum, section 801 does not preclude different budget classifications by the President and Congress as long as the budget also has the classifications promulgated by the Comptroller General in behalf of Congress. But the preferred course would be for the Comptroller General and OMB to work cooperatively to develop and use a set of classifications that satisfies both executive and congressional needs. Finally, section 801 leaves open the possibility of future legislative changes if cooperation is not forthcoming.

^{129/} S. Rept. No. 93-688, p. 69.

^{130/} 84 Stat. 1168. Section 206 provides: "Nothing contained in this Act shall be construed as impairing any authority or responsibility of the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Comptroller of the United States under the Budget and Accounting Act, 1921 as amended, and the Budget and Accounting Procedures Act of 1940, as amended, or any other statutes."

^{131/} The Committee noted that under the new section 202, the Comptroller General is directed to recommend legislation necessary to carry out the standard requirements.

Section 801. Availability of Information (section 203).**"AVAILABILITY TO AND USE BY THE CONGRESS AND STATE AND LOCAL GOVERNMENTS OF FEDERAL FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION**

"SEC. 203. (a) Upon request of any committee of either House, of any joint committee of the two Houses, of the Comptroller General, or of the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the heads of the various executive agencies shall—

"(1) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office information as to the location and nature of available fiscal, budgetary, and program-related data and information;

"(2) to the extent practicable, prepare summary tables of such data and information and any related information deemed necessary by such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office; and

"(3) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office any program evaluations conducted or commissioned by any executive agency.

"(b) The Comptroller General, in cooperation with the Director of the Congressional Budget Office, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall—

"(1) develop, establish, and maintain an up-to-date inventory and directory of sources and information systems containing fiscal, budgetary, and program-related data and information and a brief description of their content;

"(2) provide, upon request, assistance to committees, joint committees, and Members of Congress in securing Federal fiscal, budgetary, and program-related data and information from the sources identified in such inventory and directory; and

"(3) furnish, upon request, assistance to committees and joint committees of Congress and, to the extent practicable, to Members of Congress in appraising and analyzing fiscal, budgetary, and program-related data and information secured from the sources identified in such inventory and directory.

"(c) The Comptroller General and the Director of the Congressional Budget Office shall, to the extent they deem necessary, develop, establish, and maintain a central file or files of the data and information required to carry out the purposes of this title. Such a file or files shall be established to meet recurring requirements of the Congress for fiscal, budgetary, and program-related data and information and shall include, but not be limited to, data and information pertaining to budget requests, congressional authorizations to obligate and spend, apportionment and reserve actions, and obligations and expenditures. Such file or files and their indexes shall be maintained in such a manner as to facilitate their use by the committees of both Houses, joint committees, and other congressional agencies through modern data processing and communications techniques.

"(d) The Director of the Office of Management and Budget, in cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, shall provide, to the extent practicable, State and local governments such fiscal, budgetary, and program-related data and information as may be necessary for the accurate and timely determination by these governments of the impact of Federal assistance upon their budgets."

(b) The table of contents of the Legislative Reorganization Act of 1970 is amended by striking out—

"TITLE II—FISCAL CONTROLS

"PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA

"Sec. 201. Budgetary and fiscal data processing system.

"Sec. 202. Budget standard classifications.

"Sec. 203. Availability to Congress of budgetary, fiscal, and related data."

and inserting in lieu thereof—

"TITLE II—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

"PART 1—FISCAL, BUDGETARY, AND PROGRAM-RELATED DATA AND INFORMATION

"Sec. 201. Federal fiscal, budgetary, and program-related data and information systems.

"Sec. 202. Standardization of terminology, definitions, classifications, and codes for fiscal, budgetary, and program-related data and information.

"Sec. 203. Availability to and use by the Congress and State and local governments of Federal fiscal, budgetary, and program-related data and information."

Legislative History

The revised section 203 provides for the furnishing of budget and related information to Congress, including the development of data directories and assistance to Congress in analyzing budget data. The Comptroller General is authorized to establish central files for congressional use. OMB, in cooperation with GAO, and CBO shall, to the extent practicable, provide budget impact information to states and localities.

The revised section emanated from the Senate Government Operations Committee and was altered by the Rules and Administration Committee limiting certain assistance to Members of Congress and State and local governments "to the extent practicable."

Section 802. Changes in Functional Categories

SEC. 802. Any change in the functional categories set forth in the Budget of the United States Government transmitted pursuant to section 201 of the Budget and Accounting Act, 1921, shall be made only in consultation with the Committees on Appropriations and the Budget of the House of Representatives and Senate.

Legislative History

This provision as developed by the House Rules Committee provided for consultation with the Budget Committees before any functional categories were changed. In conference, provision was made for consultation with the Appropriations Committees as well.

The congressional Budget Act converts the functional categories from informational to decisional classifications. Congress will determine budget priorities by function and it therefore must have a voice in shaping those categories.

Section 802 impliedly retains executive authority to set the functional categories, though OMB is not mentioned. But as was discussed earlier, section 801 empowers the Comptroller General to establish standard budget classifications, including functional categories.

Implementation

In early 1974, the Office of Management and Budget launched a comprehensive review of the functional classifications used in the budget, the first such review in a dozen years. Following discussions with the Appropriations Committees, new functional codes were promulgated in August 1974.^{132/} Although section 802 permits revisions only in consultation with the Budget and Appropriations Committees, OMB has explained that its work on the 1976 budget classification was well advanced by the time the Budget Committees were established and hence it was unable to consult

^{132/} A listing and explanation of the new functional codes is printed in House Committee on the Budget, The Congressional Budget and Impoundment Control Act of 1974: A General Explanation, December 1974.

with them. OMB was not cognizant of the new status of the functional categories when it undertook its review. Its guidelines for developing the new codes noted that "the appropriation account structure is the one used by the Congress in its review of the budget."^{133/}

^{133/} See Allen Schick, "The New Functional Classification and Its Implications for the Congressional Budget Process," Congressional Research Service, September 1974.

TITLE IX. MISCELLANEOUS PROVISIONS

Section 901. Amendments to the Rules of the House

Sec. 901. (a) Rule XI of the Rules of the House of Representatives (as amended by section 101(c) of this Act) is amended by inserting immediately after clause 22 the following new clause:

"22A. The respective areas of legislative jurisdiction under this rule are modified by title I of the Congressional Budget Act of 1974."

(b) Paragraph (c) of clause 29 of Rule XI of the Rules of the House of Representatives (as redesignated by section 101(c) of this Act) is amended by inserting "the Committee on the Budget," immediately after "the Committee on Appropriations,".

(c) Subparagraph (5) of paragraph (a) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting "and the Committee on the Budget" immediately before the period at the end thereof.

(d) Subparagraph (4) of paragraph (b) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting "and the Committee on the Budget" immediately before the period at the end hereof.

(e) Paragraph (d) of clause 30 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by striking out "the Committee on Appropriations may appoint" and inserting in lieu thereof "the Committee on Appropriations and the Committee on the Budget may each appoint".

(f) Clause 32 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting "the Committee on the Budget," immediately after "the Committee on Appropriations,".

(g) Paragraph (a) of clause 33 of Rule XI of the Rules of the House of Representatives (as so redesignated) is amended by inserting "and the Committee on the Budget" immediately after "the Committee on Appropriations".

Legislative History

Subsection (a) modifies the jurisdiction of various House committees to the extent required by the Congressional Budget Act. The affected committees are Appropriations, Ways and Means, and Government Operations. Subsection (b) exempts the Budget Committee from the oversight duties given to other House committees.

Subsection (c) exempts the Budget Committee from limitations on the size of its professional staff and subsection (d) contains a similar exemption from limitations on the size of its clerical staff. The Budget Committee thus has the same status as the Appropriations Committee and is able to hire personnel above the levels set in the House Rules without receiving special authorization. Subsection (e) similarly authorizes the Budget Committee to appoint such staff as it determines to be necessary. These rule changes were inadvertently omitted from

the codification of Rule XI made by H. Res. 988 during the 93d Congress, but were restored by the House when it readopted the Rules at the start of the 94th Congress.^{134/}

Subsection (f) authorizes the Budget Committee to sit without special leave while the House is in session under the five-minute rule.

Subsection (g) authorizes the Budget Committee to draw from the contingent fund of the House without first obtaining authorization through a primary expense resolution.

^{134/} See 121 Congressional Record (daily ed. January 14, 1975) H7.

Section 902. Amendments to Senate Rules

SEC. 902. Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out "Revenue" in subparagraph (h)1 and inserting in lieu thereof "Except as provided in the Congressional Budget Act of 1974, revenue";

(2) by striking out "The" in subparagraph (h)2 and inserting in lieu thereof "Except as provided in the Congressional Budget Act of 1974, the"; and

(3) by striking out "Budget" in subparagraph (j) (1) (A) and inserting in lieu thereof "Except as provided in the Congressional Budget Act of 1974, budget".

Legislative History

This section adjusts the jurisdictions of the Senate Finance and Government Operations Committees to take into account the establishment of the Senate Budget Committee. The Finance Committee's jurisdiction over revenue and debt measures will continue except to the extent that jurisdiction has been given to the Budget Committee. The jurisdiction of the Government Operations Committee over matters relating to budget and accounting similarly will be limited to the extent that jurisdiction has been given to the Budget Committee.

Section 903. Amendments to Legislative Reorganization Act of 1946

SEC. 903. (a) Section 134(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190b(b)) is amended by inserting "or the Committee on the Budget" after "Appropriations".

(b) Section 136(c) of such Act (2 U.S.C. 190d(c)) is amended by striking out "Committee on Appropriations of the Senate and the Committees on Appropriations," and inserting in lieu thereof "Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget."

Legislative History

These two amendments give the Senate Budget Committee the same status as the Senate Appropriations Committee with regard to meetings and oversight responsibilities. The Senate Budget Committee may sit, without special leave, while the Senate is in session. The Budget Committee is exempt from oversight responsibilities given to other Senate Committees. The reason for this exemption is that the Budget Committee does not have regular legislative jurisdiction over particular agencies or programs.

Section 904. Exercise of Rulemaking Authority

SEC. 904. (a) The provisions of this title (except section 905) and of titles I, III, and IV and the provisions of sections 606, 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

Legislative History

Subsection (a) is a standard provision allowing the House or Senate to change any of the rules enacted in the Congressional Budget and Impoundment Control Act unilaterally. Thus, provisions in Title I pertaining to the House and Senate Budget Committees can be altered by the affected House in accord with procedures for changing its rules. In fact, both the House and the Senate modified the provisions pertaining to the size of their Budget Committees at the start of the 94th Congress. This subsection does not permit unilateral changes in laws; only in those portions of the Act incorporated into the rules of the House or Senate. Only the provisions identified in the subsection have the status of legislative rules.

Subsection (b) is a departure from both the Senate Rules and the proposal of the Joint Study Committee. It permits the waiver or suspension of any provision of Title III or IV by majority vote or unanimous consent of the Senate. There is no comparable provision in the Act for the House of Representatives.

Senate Rule XL states that

No motion to suspend, modify, or amend any rule, or any part thereof, shall be in order, except on one day's notice in writing, specifying precisely the rule or part proposed to

be suspended, modified, or amended, and the purpose thereof. Any rule may be suspended without notice by the unanimous consent of the Senate, except as otherwise provided in clause 1, Rule XII.

Although Rule XL makes no mention of a two-thirds requirement to suspend a rule, Senate Procedure stipulates that:

The standing rules of the Senate may be amended by a majority vote, but a two-thirds vote of the Senators present, a quorum being present, is required for their suspension, including suspensions for the purpose of proposing legislative amendments to general appropriation bills. 135/

The Joint Study Committee proposed that a two-thirds vote be required to waive or suspend any of the new House or Senate rules for the congressional budget process. This provision was struck from H.R. 7130 as passed by the House, thus giving the budget procedures the same status as other House or Senate rules. The two-thirds requirement was retained in S. 1541 as reported by the Senate Government Operations Committee but the Rules and Administration Committee devised the provision which allows suspension or waiver by majority vote or unanimous consent.

Subsection (c) also is a modification of the Joint Study Committee proposal applicable only to the Senate. It provides one-hour of debate on appeals from decisions of the chair.

135/ Senate Procedure: Precedents and Practices: S. Doc. No. 93-21 (1973), p.803. For an analysis of the development of the two-thirds requirement, see Joseph E. Cantor, "The Precedent for the Two-Thirds Requirement to Suspend a Standing Rule in the U.S. Senate," Congressional Research Service, August 15, 1973.

Section 905. Effective Dates

Sec. 905. (a) Except as provided in this section, the provisions of this Act shall take effect on the date of its enactment.

(b) Title II (except section 201(a)), section 403, and section 502(c) shall take effect on the day on which the first Director of the Congressional Budget Office is appointed under section 201(a).

(c) Except as provided in section 906, title III and section 402 shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years, and section 401 shall take effect on the first day of the second regular session of the Ninety-fourth Congress.

(d) The amendments to the Budget and Accounting Act, 1921, made by sections 601, 603, and 604 shall apply with respect to the fiscal year beginning on July 1, 1975, and succeeding fiscal years, except that section 201(g) of such Act (as added by section 601) shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years and section 201(i) of such Act (as added by section 601)

shall apply with respect to the fiscal year beginning on October 1, 1978, and succeeding fiscal years. The amendment to such Act made by section 602 shall apply with respect to the fiscal year beginning on October 1, 1976, and succeeding fiscal years.

Legislative History

This section establishes the effective dates for the various provisions of the Congressional Budget and Impoundment Control Act. Rather than a uniform effective date, the section provides for staggered implementation, with certain features taking effect on the date of enactment and others deferred until one or two years after the initial steps have been taken. The schedule of effective dates as set forth below must be considered in tandem with section 906 which authorizes an optional implementation for fiscal year 1976. For this reason, the legislative history and purpose of section 905 will be reviewed under section 906.

Although section 905 is not explicit on the point, it has been interpreted to establish the date of enactment as the effective date for Title X, the Impoundment Control Act.

Implementation Schedule

<u>Provision</u>	<u>Takes Effect</u>
Budget Committees	Upon enactment
Congressional Budget Office	When the first CBO Director is appointed
Congressional Budget Procedures	1977 fiscal year, or fiscal year 1976 to the extent specified by Budget Committees.
Backdoor Spending Controls	January 1976
Advance Authorization Submissions	1976 fiscal year
Shift in Fiscal Year	October 1, 1976
Current Services Budget	November 10, 1975
Executive Budget Changes (most)	1976 fiscal year
Program Evaluation and Budget Information Titles	Upon Enactment
Impoundment Control	Upon Enactment

Section 906. Optional Implementation for Fiscal Year 1976

SEC. 906. If the Committees on the Budget of the House of Representatives and the Senate both agree that it is feasible to report and act on a concurrent resolution on the budget referred to in section 301 (a), or to apply any provision of title III or section 401 or 402, for the fiscal year beginning on July 1, 1975, and submit reports of such agreement to their respective Houses, then to the extent and in the manner specified in such reports, the provisions so specified and section 202 (f) shall apply with respect to such fiscal year. If any provision so specified contains a date, such reports shall also specify a substitute date.

Legislative History

This section authorizes Congress, pursuant to agreement and reports by the House and Senate Budget Committees to apply the new budget process to the 1976 fiscal year. This optional implementation shall be "to the extent and in the manner" specified by the Budget Committees and the Committees may adjust the congressional budget timetable to facilitate this implementation. If the Budget Committees do not opt for an early application, the provisions of the new Act relating to the congressional budget process will first become effective for fiscal year 1977, as provided in section 905.

The section 906 option was devised by the Senate Committee on Rules and Administration as part of its scheme to phase-in the new budget process over a three-year period. H.R. 7130 as passed by the House did not have an optional feature, nor did S. 1541 as reported by the Senate Committee on Government Operations. But during its consideration of S. 1541, the Senate Rules and Administration Committee decided that it would be unwise to schedule the initial application of new congressional procedures during the transition to an October 1-September 30 fiscal cycle. Inasmuch as the bill then provided for a 15-month fiscal year--from July 1, 1975 through September 30, 1976--the Committee decided to defer the congressional

budget process to fiscal 1977. An additional consideration was the Committee's strong conviction that the congressional budget process would succeed only if ample advance provision was made for organizing and staffing the new budget committees and budget office.

However, the Rules and Administration Committee also was alert to pressures for early implementation of the budget procedures. There was widespread feeling that Congress should take advantage of the prevailing support for budget reform and not risk a loss of momentum and interest by delaying the new process for 2-3 years. The solution was to schedule the new procedures as the final phase of budget reform but to permit their implementation in the second year. This approach was explained in the report of the Senate Committee on Rules and Administration.^{136/}

Past efforts at budget reform suggest that when Congress is not adequately prepared for its new tasks, failure often ensues. It takes time to build staffs, acquire data and information, implement new budget procedures and, most importantly, provide Members and committees with an understanding of how the new process works.

It would be prudent to proceed with a step by step transition from current budget practices to the full process prescribed in S. 1541. A sensible first step would be to set up the Budget Committees and the Congressional Office of the Budget. Provisions relating to these new instrumentalities would take effect on the date of enactment of S. 1541. It is anticipated that these steps will be taken before or during the 1975 fiscal year. Fiscal year 1976 will run from July 1, 1975 to September 30, 1976 and it will provide an orderly transition to the new fiscal calendar.

The Committee believes that it would be appropriate to defer mandatory activation of the concurrent resolution process until the following fiscal year which will begin on October 1, 1976. However, the Budget Committees may report that it is feasible to launch the new process for fiscal year 1976 and if the House and Senate do not disapprove, the earlier date would take effect.

^{136/} S. Rept. No. 93-688, p. 24.

As reported by the Rules and Administration Committee and adopted by the Senate, S. 1541 provided that separate determinations were to be made concerning the feasibility of activating the first and second budget resolutions and the various procedures associated with each. The reasoning was that even if the Budget Committees decided to implement the first "targeting" resolution, they still might be unprepared to report a final "ceiling" resolution and reconciliation measure. S. 1541 also provided that the Budget Committees' determination to apply the budget process to fiscal 1976 could be disapproved by either the House or the Senate.

Although there was no parallel provision in H.R. 7130, House conferees endorsed the concept of a phased implementation coupled with an optional procedure for fiscal 1976. However, they regarded the option as a "dry run" to test and familiarize Members and Committees with the new procedures rather than as a full-scale implementation. The House staff conferees generally wanted Congress to proceed slowly and cautiously while their Senate counterparts tended to prefer a more rapid implementation. The Statement of the Managers tilts toward the House view in urging a cautious and limited implementation:^{137/}

The managers anticipate that this advance application will be undertaken only if adequate preparation has been made, that it will be limited to certain parts of the congressional budget process, and that to the extent necessary substitute dates will be used. The managers recognize that it may not be feasible to go beyond the first budget resolution.

The conference substitute simplified and extended the optional application in four ways. First, the separate determinations relating to the first and second budget resolutions were combined into a single determination by the House and Senate Budget Committees. The net effect remains the same because the Committees have the option of applying Section 906 "to the extent and in the manner" they

consider appropriate. Second, the provision allowing disapproval of the advance implementation by either the House or the Senate was deleted. As incorporated in S. 1541, disapproval by one House still would have permitted implementation by the other House. Of course, the congressional budget process cannot operate properly in one House alone. The unworkable disapproval feature also would have injected an element of uncertainty into the determination by Congress of whether the new procedures are to apply to fiscal 1976. Although the disapproval clause has been dropped, it is likely that the Budget Committees would implement section 906 only if they believe that such a move commands broad support in the House and the Senate.

Third, the fiscal 1976 option was extended to include section 401 procedures for new backdoor legislation. (Section 402 relating to deadlines for the reporting of authorization already was covered.) This was done because of the interdependence of backdoor controls and the new budget process. For example, entitlement legislation in excess of the amounts specified in the budget resolution is to be referred to the Appropriations Committees. Finally, section 202(f) providing for an annual report by the Congressional Budget Office also was made subject to the option.

Implementation

Both the House and the Senate Budget Committees have signalled their expectation that the congressional budget process will be implemented for fiscal 1976 to the extent that time, resources, and circumstances allow. On December 18, 1974, House Budget Committee Chairman Al Ullman issued a **progress report** in which he stated that

The Budget Committee has tentatively agreed to a plan that will include as much of the new process as is reasonable and practical in that test. In cooperation with the Senate Committee, we intend to present a mutually acceptable plan to the leadership and to the Congress. 138/

Concrete implementation plans for fiscal 1976 were filed by the House and Senate budget committees in March, 1975.^{139/} The following excerpt from the House Committee's report summarizes the plans for the year:

The following major parts of the new budget process will be implemented for fiscal year 1976:

- (1) Budget Committees to hold hearings on the budget and economy (section 301(d));
- (2) Committees and joint committees to submit reports to the Budget Committees by March 15 (section 301(c));
- (3) Budget Committees to report first concurrent resolutions on the budget (containing budget aggregates only) by April 15 (section 301(d));
- (4) Congress to adopt first budget resolution by May 15 (section 301(a));
- (5) Budget Committees to report and Congress to complete action on second budget resolution by September 15 (section 310(b)); and
- (6) Congress to complete reconciliation process (to the extent necessary) by September 25 (section 310(d)).

In addition, new backdoor contract and loan authorities would be limited to amounts approved in appropriation acts (section 401(a)) and new entitlement authority legislation could not take effect prior to the start of the new fiscal year (section 401(b)).

The following important parts of the new budget process would *not* be implemented:

- (1) the prohibition against consideration of spending, revenue, and debt legislation prior to adoption of the first concurrent resolution on the budget (section 303(a));
- (2) the April 1 report on budget alternatives, fiscal policy, and national budget priorities by the Congressional Budget Office (section 202(f));
- (3) the inclusion within the first concurrent resolution of budget authority and outlay totals for each major functional category of the budget (section 301(a)(2));
- (4) the May 15 deadline for reporting of authorizing legislation (section 402);
- (5) the allocation of budget authority and outlays to appropriate committees pursuant to the May 15 budget resolution (section 302(a));
- (6) Appropriations Committee review of entitlement authority legislation which exceeds allocations made in the most recent budget resolution (section 401(b)); and
- (7) the deadline—seven days after Labor Day—for completing action on spending bills (section 309).

^{139/} Implementation of New Congressional Budget Procedures for Fiscal Year 1976,
H. Rept. No. 94-25; also S. Rept. No. 94-27.