

BUDGETARY RESTRAINTS, RULEMAKING, AND SENSE OF CONGRESS

Title II of the Chairman's Mark contains four sections that provide procedures by which the Chairman may alter the levels in the Budget Resolution to accommodate Senate consideration of important legislation such as: tax relief, tobacco regulation, Superfund reform, and transportation appropriations. Without such provisions, the legislation at issue may be subject to 60-vote Budget Act points of order even if the associated spending will not increase the deficit. Title II contains two additional sections: one permitting adjustments to the budget resolution in case the Line Item Veto is ruled unconstitutional by the Supreme Court and one invoking the standard rulemaking authority granted to Congress.

Tax Cut Reserve Fund (Section 201). The Chairman's Mark provides a **tax cut reserve fund**. This section permits the Senate to consider legislation providing tax relief to the American people in a deficit neutral bill. This "reserve fund" would permit tax relief to be offset by reductions in mandatory spending or tax increases. Such tax reductions could include elimination of the marriage penalty, support for families in caring for their children, and incentives to stimulate savings, investment, job creation and economic growth. The FY 1996 and 1997 budget resolutions contained similar language.

Tobacco Reserve Fund (Section 202). The Chairman's Mark provides a **reserve fund for tobacco legislation** that would dedicate any federal proceeds generated from a tobacco settlement to Medicare. This language in no way impedes the ability of States to recover funds from the tobacco industry. While many members of the Senate and Senate Committees are considering tobacco legislation, a consensus has yet to form around any particular legislative proposal. Moreover, the President has declined to submit any legislative language. In the Senate, several committees (including, Commerce, Finance, Judiciary, and Labor) have jurisdiction over the issues involved in tobacco legislation. The Commerce, Judiciary, and Labor committees have held many hearings on the subject since the June 1997 announcement by the States' Attorneys-General and the tobacco industry that they had reached a settlement.

As the FY 1999 budget resolution is being debated, it is unclear what form tobacco legislation, if any, will take in the Senate. Consequently, the Chairman's mark includes this reserve fund. This section reserves federal tobacco proceeds for Medicare by permitting the Chairman to increase the revenue floor for legislation that "reserves federal receipts from tobacco legislation for the Medicare Hospital Insurance Trust Fund." In addition, subsection (c) provides that the receipts generated by tobacco legislation shall not be put on the Congressional pay-go scorecard. This will prevent the receipts from being used for any purpose other than Medicare solvency.

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Separate Environmental Allocation (Section 203). The Chairman's Mark provides for a special allocation to enable the Senate to consider **Superfund reform legislation**. This section provides that if the Committee on Environment and Public Works reports Superfund reform legislation that appropriates annual spending of up to \$200 million through FY 2003 and is deficit neutral, then the appropriate aggregates and allocations will be adjusted. The Chairman's Mark assumes, but does not require, that the extension of Superfund taxes will offset this increased spending. Similar language was included in the FY 1998 budget resolution (consistent with the Bipartisan Budget Agreement). The Chairman's Mark merely extends this through 2003.

Dedication of Offsets to Transportation (Section 204). The Chairman's Mark permits specific reductions in certain spending programs to be dedicated to increased **transportation spending** provided in the appropriations process. The language provides that the Chairman may "reserve" up to \$1.3 billion in outlays for FY 1999 and not more than \$18.5 billion in outlays for 1999 through 2003 for discretionary highway programs called for in the 1998 reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). In addition, the Chairman may "reserve" from the general fund up to \$1.0 billion in budget authority for FY 1999 and not more than \$5.0 billion in budget authority for FYs 1999 through 2003 for discretionary transit programs called for in the ISTEA reauthorization. This would mean that if savings set out in this section are generated by any committee other than the Transportation Subcommittee of the Appropriations Committee, such savings would not be scored for purposes of enforcing points of order under the Budget Act *unless and until* the Transportation Appropriation bill is considered in the Senate. In effect, this prevents these particular savings from being used as offsets for any purpose other than highways or transit.

Adjustments for Line Item Veto Litigation (Section 205). The Chairman's Mark permits the Chairman to adjust the allocations and aggregates in the budget resolution to reflect "reality" if the Supreme Court rules that the **Line Item Veto Act** is unconstitutional. This is necessary because the FY 1999 Budget Resolution will reflect the effects of the President's cancellations. If the law is struck down, the spending will occur and the budget resolution must reflect this spending. This section does not presume any specific outcome of the Supreme Court's ruling.

Rulemaking Authority (Section 206). The Chairman's Mark contains the usual language regarding the rulemaking authority of each House of Congress.

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Title III of the Chairman's Mark contains non-binding language that expresses the will or intent of either or both Houses of Congress.

Sense of the Senate on Sunsetting the Internal Revenue Code (Section 301). The Chairman's Mark contains a Sense of Congress provision calling for the **sunset of the Internal Revenue Code** of 1986 on December 31, 2001. The purpose of this language is to underscore the importance of enacting fundamental, structural tax reform in the near future. The current tax code is far too complicated, discourages savings and investment and needs to be replaced. This section expresses the support of the Congress for sunsetting the existing tax code and enacting a new code that imposes a lower tax burden on the American people, both in the quantity of dollars sent to Washington and the time and effort involved in doing so.

Sense of the Senate on Social Security (Section 302). The Chairman's Mark contains a Sense of the Senate provision highlighting the importance of **Social Security** and expressing the Senate's commitment to significant and lasting reform of this vital national program. Specifically, it calls for using any unified budget surpluses for reforming Social Security rather than spending them to expand or create domestic spending programs. It also calls for reserving the federal proceeds from tobacco settlement legislation until reform legislation is enacted to make Medicare actuarially sound.

Sense of the Senate on Accrued Liability of Social Security and Medicare (Section 303). The Chairman's Mark contains a Sense of the Senate provision calling for the inclusion in both the budget resolution and the President's budget of a statement of the accrued liabilities of the Social Security and Medicare programs.

Sense of the Seante on IDEA funding (Section 304). The Chairman's Mark contains a Sense of the Senate provision that emphasizes the need for Congress to fully fund the current programs within the Individuals with Disabilities Education Act before creating any new education spending programs.

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