

Act on the Principles of Federation and *Länder* Budgetary Law (Budgetary Principles Act)¹

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Budgetary Principles Act of 19 August 1969 (Federal Law Gazette I, p. 1273), as last amended by Article 10 of the Act of 14 August 2017 (Federal Law Gazette I, p. 3122)

Enacting clause

The Bundestag has adopted the following Act with the consent of the Bundesrat:

Part I

Regulations concerning legislation by the Federation and the *Länder*

Section 1 – Legislative mandate

The regulations contained in this Part set forth principles concerning legislation by the Federation and the *Länder*. Federation and *Länder* shall be obliged to regulate their budgetary law in accordance with these principles.

Section 1a – Budget management

(1) In terms of accounting, budget management may, within the framework of the following regulations, be organised either on a cash basis or in accordance with the principles of government double-entry bookkeeping under section 7a (government double-entry bookkeeping). The preparation and management of the budget and the rendering of accounts for the budget may be carried out by composing the budget using titles, accounts or product structures (product budget).

¹ This working translation of the *Gesetz über die Grundsätze des Haushaltsrechts des Bundes und der Länder (Haushaltsgrundsätze-gesetz – HGrG)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

(2) Where double-entry accounting is used, the provisions of this Act on the budget, on titles, as well as on revenues and expenditures shall apply accordingly. Unless provided otherwise in the following, the earnings budget and the double-entry financial-position budget shall take the place of the budget in Part I and in section 56, while accounts shall take the place of titles. In the place of revenues, the earnings budget shall include earnings and the double-entry financial-position budget shall include incoming payments; in the place of expenditures, the income budget shall include expenses and the double-entry financial-position budget shall include outgoing payments. Product budgets shall include the product structure in the place of the titles and the resources granted for the production of the product in the place of revenues and expenditures.

(3) The preparation and execution of the budget as a product budget shall take place in a performance-related manner, by means of connecting resource grants structured by product with specific performance objectives. The nature and extent of the performance to be delivered shall be set out, with binding status, by a law or in the budget. Cost and activity accounting shall be introduced, in principle, for the areas for which a product budget is prepared.

Division I

General regulations concerning the budget

Section 2 – Purpose of the budget

The budget shall serve to determine, and provide cover for, the financial requirement, or, in the case of double-entry budgetary management, also the expenses, which are expected to be necessary for the Federation or the *Land* to accomplish its tasks during the period for which authorisation is granted. The budget shall be the basis for budgetary and financial management. The requirements of overall economic equilibrium shall be taken into account during its preparation and execution.

Section 3 – Effects of the budget

(1) The budget shall authorise the administration to effect expenditures and to enter into commitments.

(2) The budget shall neither establish nor cancel any claims or liabilities.

Section 4 – Fiscal year

The financial year (fiscal year) shall be the calendar year. The ministry responsible for financial affairs may provide other arrangements for individual areas.

Section 5 – Necessity of expenditures and commitment appropriations

When the budget is being prepared and executed, only those expenditures and those authorisations to enter into commitments to effect expenditures in future years (commitment appropriations) which are necessary for the accomplishment of the tasks of the Federation or the *Land* shall be taken into consideration.

Section 6 – Efficiency and economy, cost and activity accounting

(1) When preparing and executing the budget, the principles of efficiency and economy shall be observed.

(2) Appropriate efficiency analyses shall be conducted for all measures having financial impact.

(3) Cost and activity accounting should be introduced in suitable areas.

Section 6a – Operational budgeting

(1) The revenues, expenditures and commitment appropriations may be budgeted for within the framework of a system where responsibility has been decentralised to an organisational unit. In this event, the financial responsibility shall be transferred, on the basis of the budget authorisation, to the organisational units having technical and operational responsibility. The condition shall be that there are suitable information and control instruments, which ensure, in particular, that the volume of expenditure available in each case is not exceeded. The nature and extent of the performance to be delivered shall be set out by a law or in the budget.

(2) In the cases falling under subsection (1) above, arrangements on earmarking, carry-over and virement for the relevant organisational unit should be set out by a law or the budget.

Section 7 – Principle of universality

All revenues shall serve as cover for all expenditures. Revenues may be restricted to usage for specific purposes insofar as this is prescribed by a law or permitted in the budget.

Section 7a – Principles of government double-entry bookkeeping

(1) Government double-entry bookkeeping shall follow the regulations of the first and second division, first and second sub-division of the third book of the Commercial Code² and the principles of orderly bookkeeping and accounting. This shall particularly encompass the regulations on

1. current bookkeeping (substantive and formal orderliness),
2. drawing up a list of assets and liabilities
3. accounting according to the
 - a) general principles of accounting,
 - b) principles for the composition of the annual financial statements,
 - c) principles for recognition as an asset or liability,
 - d) principles for measurement in the opening balance sheet,
 - e) principles for measurement in the closing balance sheet,
4. the composition of the financial statements.

The provisions for corporations shall be decisive.

(2) Specifics, particularly the exercising of options under commercial law, and arrangements differing from subsection (1) above which are required on the basis of the particularities of public budgeting, shall be produced by the Federation and *Länder* in the committee under section 49a subsection (1).

Division II

Preparation of the budget

Section 8 – Complete and single budget, current year principle

(1) A budget shall be prepared for every fiscal year.

² *Handelsgesetzbuch*

(2) The budget shall contain the following:

1. all the revenues expected during the fiscal year,
2. all the expenditures expected to be effected in the fiscal year,
3. all the commitment appropriations expected to be required in the fiscal year.

Section 9 – Period of validity of the budgets

(1) The budget may be prepared for two fiscal years, each year being dealt with separately.

(2) The budget may be composed of an administrative and a financial budget; both of these may be prepared for two fiscal years, each year being dealt with separately. The periods for which authorisation is granted for these two budgets may commence in successive fiscal years.

Section 10 – Composition of departmental budgets and aggregate budget

(1) The budget shall consist of the departmental budgets and the aggregate budget or, in the case of double-entry accounting, of an earnings budget at the level of the departmental budgets as well as at the level of the aggregate budget, and a double-entry financial-position budget at the level of the aggregate budget.

(2) The departmental budgets shall contain the revenues, expenditures and commitment appropriations of a single branch of the administration or specific classes of revenues, expenditures and commitment appropriations. The departmental budgets shall be sub-divided into chapters and titles. The sub-division into titles shall be governed by administrative regulations on the classification of budget revenues and expenditures by type (system of classification by object). The sub-division according to accounts shall be governed by the administrative regulations on the classification of earnings, expenses and open positions (standard chart of administrative accounts). The sub-division according to product structures shall be conducted in a manner that ensures unequivocal categorisation in accordance with the administrative regulations on the functional composition of the product budget (product framework).

(3) At least the following items shall be presented separately in the system of classification by object:

1. under revenues: taxes, administrative revenues, revenues from sales of assets, incoming loan repayments, grants and subsidies, revenues from borrowing, not counting borrowing to maintain orderly cash management (liquidity loans), withdrawals from reserves and revenues from coin;
2. under expenditures: personnel expenditures, non-personnel administrative expenditures, interest expenditures, grants to political subdivisions, subsidies to enterprises, expenditures on debt repayment, debt service relief, allocations to reserves, expenditures on investments. Expenditures on investments shall be expenditures on:
 - a) construction measures, insofar as they do not relate to military installations,
 - b) the acquisition of movable assets, insofar as they are not budgeted for as non-personnel administrative expenditures or insofar as the expenditures are not for military procurement,
 - c) the acquisition of fixed assets,
 - d) the acquisition of holdings and other capital assets, of claims on and equity interests in enterprises, of securities, as well as on increasing the capital of enterprises,
 - e) loans,
 - f) recourse to guarantees,
 - g) grants and subsidies to finance expenditures for the purposes designated under letters a) to f) above.

(4) The aggregate budget shall contain:

1. a summary of the revenues, expenditures and commitment appropriations in the departmental budgets (budgetary summary),
2. a computation of the financial balance (financing summary). The financial balance is derived by comparing revenues (with the exception of revenues from borrowing on the credit market, withdrawals from reserves, revenues from cash surpluses as well as

revenues from coin), on the one hand, and expenditures (with the exception of expenditures on the repayment of debts incurred on the credit market, allocations to reserves, and expenditures to cover a cash shortfall), on the other hand,

3. a presentation of the revenues from borrowing and of the expenditures on debt repayment (borrowing plan).

In the case of double-entry budgets, in the place of numbers 2 and 3 above there shall be a summary on the cash flows of incoming and outgoing payments from ongoing administrative activity, investment activity, financing activity, as well as on the resultant changes in the cash balance (double-entry financial-position budget), and a summary on the financial balance.

Section 11 – Summaries relating to the budget

(1) The budget shall have the following annexes:

1. presentations of revenues and expenditures
 - a) classified according to specific types (summary of data classified by object or standard chart of accounts),
 - b) composed according to specific functional areas (summary of data classified by function),
 - c) arranged in a breakdown grouping together the data shown under letter a) and letter b) above (cross-section of the budget);
2. a summary of the pass-through items of revenue and expenditure in the budget;
3. a summary of the established posts of tenured civil servants and the posts of employees.

The annexes shall be attached to the draft budget.

(2) The summary of data classified by function shall be governed by administrative regulations on the composition of revenues and expenditures in the budget according to functional areas (the system of classification by function).

(3) In the case of product budgets, the summary of data classified by function under subsection (1) number 1b above shall be replaced by a product summary. The product summary shall be governed by administrative regulations on the functional composition of the product budget (product framework).

Section 12 – Gross budgeting, individual budgeting, resources managed independently, explanatory notes, established posts

(1) Revenues and expenditures in the case of cash-based budgets, expenses and earnings in the case of double-entry budgets, and the resources planned for the production of products in product budgets shall be budgeted in full and separately from each other. Permission may be granted, by means of a law, for the first sentence above not to apply to the budgeting of revenues from borrowing on the credit market and the related expenditures on repayment. In addition, exceptions to the first sentence above may be permitted in the budget, particularly for incidental expenses and incidental receipts in the case of acquisitions or sales. In the cases falling under the third sentence above, the computation of the amount budgeted shall be attached to the budget as an annex or included in the explanatory notes.

(2) The commitment appropriations shall be budgeted separately for the respective expenditures.

(3) Expenditures may be budgeted for independent management if this is in the interests of economical management. Resources managed independently shall be available beyond the end of the current fiscal year. Revenues obtained in the course of such management shall accrue to the resources managed independently. For the purposes of rendering accounts, only the granting of the funds to the agencies concerned shall be shown as expenditure.

(4) Revenues shall be budgeted separately according to origin and expenditures and commitment appropriations shall be budgeted separately according to purpose and, insofar as is required, they shall be explained. In exceptional cases, explanatory notes may be declared binding.

(5) Expenditures and commitment appropriations relating to a common purpose should not be budgeted under different titles.

(6) Established posts shall be stated in the budget in terms of pay grades and official titles.

Section 13 – Borrowing authorisations

(1) The Budget Act³ shall determine the amount up to which the ministry responsible for financial affairs may borrow:

1. to cover expenditures,
2. to maintain orderly cash management (liquidity loans). Insofar as these loans have been repaid, fresh recourse may be taken to the authorisation. Liquidity loans may fall due no later than six months after the end of the fiscal year for which they have been taken out.

(2) The authorisations under subsection (1) number 1 above shall be valid until the end of the subsequent fiscal year and, if the Budget Act is not promulgated in time for the next-but-one fiscal year, they shall be valid until that Budget Act is promulgated. The authorisations under subsection (1) number 2 above shall be valid until the end of the current fiscal year and, if the Budget Act for the next fiscal year is not promulgated in time, they shall be valid until that Budget Act is promulgated.

(3) (repealed)

Section 14 – Allocations

Expenditures and commitment appropriations in respect of payments to be made to agencies not belonging to the federal or *Land* administration in order to accomplish specific tasks (allocations) may only be budgeted if the Federation or *Land* has considerable interest in performance by such agencies and this interest cannot be satisfied at all or to the necessary extent without the allocations.

Section 15 – Carry-over, virement

(1) Investment expenditures and expenditures from earmarked revenues may be carried over. Other expenditures may be declared eligible for carry-over in the budget, if this promotes their efficient and economical use.

³ *Haushaltsgesetz*

(2) Subsection (1) above shall apply accordingly to expenditures in the case of double-entry budgets. Additionally, in the case of double-entry budgets, reserves may be accumulated under section 7a. Authorisation under budgetary law shall be required to accumulate and take recourse to reserves, apart from special items including a reserve element.

(3) Expenditures and commitment appropriations may respectively be declared eligible for mutual or one-way virement in the budget if there is an administrative or material connection or if doing so promotes their efficient and economical use. Expenditures and commitment appropriations budgeted without any detailed indication of their purpose may not be declared eligible for virement.

Section 16 – Construction measures, major procurements, major development projects

(1) Expenditures and commitment appropriations for construction measures may not be budgeted until plans, cost calculations and explanations are available showing the type of work, the cost of the construction measure, of the land transfer and of the installations, as well as the proposed method of financing and a time schedule. An estimate of the annual burdens on the budget which will be incurred after completion of the measure shall be enclosed with these documents.

(2) Expenditures and commitment appropriations for major procurements and major development projects may not be budgeted until plans and estimates of the costs and cost sharing are available. Subsection (1), second sentence, above shall apply accordingly.

(3) Exceptions to subsections (1) and (2) above shall only be permissible if, in the individual case, it is not possible to complete the documents on time and if the Federation or a *Land* would sustain any disadvantage from budgeting at a later date.

Section 17 – Shortfall

A financial shortfall shall be taken up at the latest in the budget for the next-but-one fiscal year. It may be covered by borrowing only insofar as the possibilities for borrowing have not been exhausted.

Section 18 – Enterprises, special funds

(1) Federal or *Land* enterprises shall prepare an operating budget if it is not practical for them to be run on the basis of the Federation's or *Land's* budget. The operating budget or a summary of the operating budget shall be attached to the budget as an annex or included in the explanatory notes. Only the funding to be supplied or the transfers to be received shall be taken up in the budget. Established posts shall be stated in the budget in terms of pay grades and official titles.

(2) In the case of special funds, only the funding to be supplied or the transfers to be received shall be taken up in the budget. Summaries of the revenues, expenditures and commitment appropriations of the special funds shall be attached to the budget as annexes or included in the explanatory notes.

Division III

Execution of the budget

Section 19 – Management of budget appropriations

(1) Revenues shall be collected on time and in full. In government double-entry bookkeeping, earnings and receivables shall be recorded in full. Receivables shall be collected on time.

(2) Recourse to the authorisations in the budget may only be taken as and when they are required for the purpose of efficient and economical administration. The authorisations shall be managed in such a way that they suffice to cover all expenditures falling under the individual purposes prescribed.

(3) The Federation's management requirements shall be taken into consideration for the management of Federation authorisations by *Länder* agencies, unless other arrangements are provided in legislation of the Federation or agreements.

Section 20 – Gross accounting, specific accounting

(1) All revenues and expenditures shall be entered in full under the titles provided for this purpose, unless other arrangements result from section 12 subsection (1), second and third sentences.

(2) Expenditures relating to a common purpose may be effected from different titles only insofar as the budget so permits. The same shall apply to recourse to commitment appropriations.

Section 21 (repealed)

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Section 22 – Commitment appropriations

(1) Measures which may commit the Federation or the *Land* to effect expenditures in future fiscal years shall be permissible only if the budget provides authorisation to do so. The ministry responsible for financial affairs may permit exceptions in the event of an unforeseen and compelling need.

(2) Measures under subsection (1) above shall require the prior consent of the ministry responsible for financial affairs, unless it waives this requirement. Permission may be granted, by means of a law, for the prior consent of the ministry responsible for financial affairs not to be required, insofar as the expected annual amounts of commitments spread over two or more fiscal years are indicated in the budget and there are no considerable deviations from these indicated amounts in the execution of the budget.

(3) In the case of measures under subsection (1) above which are of fundamental or considerable financial importance, the ministry responsible for financial affairs shall be informed of the commencement and course of negotiations.

(4) Commitments for current transactions may be entered into without the conditions stated in subsections (1) and (2) above being met. In cash based-budgets, there shall also be no requirement for a commitment appropriation where commitments which will lead to expenditures in the following fiscal year are entered into against expenditures eligible for carry-over. The details shall be regulated by the ministry responsible for financial affairs.

(5) Subsections (1) to (4) above shall not be applied to treaties within the meaning of the first sentence of paragraph (2) of Article 59 of the Basic Law⁴.

Section 23 – Guarantees, loan commitments

⁴ *Grundgesetz*

(1) The assumption of surety obligations, guarantees or other warranties which may result in expenditures in future fiscal years shall require an authorisation, by a law, for a specified amount.

(2) Loan commitments and the assumption of surety obligations, guarantees or other warranties shall require the prior consent of the ministry responsible for financial affairs. It shall be involved in the negotiations. It may waive the powers under the first and second sentences above.

(3) In the case of measures under subsection (2) above, the competent agencies shall reserve the right for themselves or their representatives to examine the parties concerned at any time, insofar as this is necessary in connection with the commitment. In exceptional cases the choice may be made, with the prior consent of the ministry responsible for financial affairs, not to reserve a right of examination.

Section 24 – Other measures of financial importance

The issuing of administrative regulations, the conclusion of collective wage agreements, the granting of payments outside or in excess of the collectively agreed scale and the setting or amendment of charges for administrative services shall require the prior consent of the ministry responsible for financial affairs if these arrangements may result in reductions in revenue or in additional expenditures in the current fiscal year or in future fiscal years. The first sentence above shall be applied to other measures of fundamental or considerable financial importance if they may result in reductions in revenue in the current fiscal year or in future fiscal years or additional expenditures in the current fiscal year.

Section 25 – Block on expenditure

If developments in the revenues or expenditures so require, the ministry responsible for financial affairs may make entering into commitments or effecting expenditures subject to its prior consent.

Section 26 – Allocations, administration of resources or assets

(1) Allocations may only be granted if the conditions stated in section 14 are fulfilled. In the process, the means by which proof is to be furnished that the allocations have been used in

keeping with their purpose shall be determined. Moreover, a right of examination shall be established for the responsible agency or its authorised representatives.

(2) If resources or assets of the Federation or the *Land* are to be administered by agencies not belonging to the federal or *Land* administration, subsection (1) above shall be applied accordingly.

Section 27 – Material and temporal restrictions

(1) Recourse may be taken to authorisations only for purposes and activities designated in the budget, insofar and as long as those purposes and activities are ongoing, and only up to the end of the fiscal year. Permission may be granted, by means of a law, for commitment appropriations to which no recourse has been taken to remain valid until promulgation of the Budget Act for the next fiscal year.

(2) In the case of expenditures eligible for carry-over, unexpended balances, which remain available for the specific prescribed purpose beyond the fiscal year and up to the end of the second fiscal year following authorisation, may be accumulated in cash-based budgets. This shall apply accordingly to cases falling under section 15 subsection (2). In the case of buildings, the fiscal year in which the major parts of the building are put into use shall take the place of the fiscal year of authorisation. The ministry responsible for financial affairs may permit exceptions in individual cases.

(3) The ministry responsible for financial affairs may permit expenditures to be carried over in specially substantiated individual cases, insofar as expenditures are still to be effected in the next fiscal year on measures that have already been authorised.

(4) The accumulation of, and taking recourse to, double-entry reserves shall require the prior consent of the ministry responsible for financial affairs.

Section 28 – Personnel management principles

(1) An office may only be conferred in conjunction with instalment in an established post that can be filled.

(2) Personnel expenditures not based on a law or a collective wage agreement may be effected only if funds are made available specially for this purpose.

Section 29 – Construction measures, major procurements, major development projects

(1) Construction measures may be started only if detailed design drawings and cost computations are available, unless such measures are minor. Deviations from the documents designated in section 16 shall be permissible in the drawings and computations only if the change is not considerable; more extensive exceptions shall require the prior consent of the ministry responsible for financial affairs.

(2) Sufficient documents shall be provided as a basis for major procurements and major development projects. Subsection (1), second sentence, above shall apply accordingly.

Section 30 – Public invitations to tender

The conclusion of contracts for supplies and services must be preceded by a public invitation to tender or by a restricted invitation to tender that includes pre-qualification and short-listing, unless the nature of the transaction or special circumstances justify an exception. Pre-qualification and short-listing is a procedure in which a contracting authority, following a public call for expressions of interest, selects a restricted number of suitable enterprises on the basis of objective, transparent and non-discriminatory criteria and invites them to submit bids.

Section 31 – Amendment of contracts; modification of claims

(1) Contracts may be cancelled or amended to the disadvantage of the Federation or of a *Land* only in specially substantiated exceptional cases. Settlements may only be concluded if this is practical and economical for the Federation or the *Land*.

(2) Claims may only

1. be deferred if the immediate collection would entail considerable hardship for the obligor and the claim will not be jeopardised by deferment,
2. be written off if it is certain that collection will not be successful or the costs of collection are in no relation to the amount of the claim,
3. be remitted if the individual case is such that the collection would constitute a particular hardship for the obligor. The same shall apply to the refunding or crediting of payments effected.

(3) Measures under subsections (1) and (2) above shall require the prior consent of the ministry responsible for financial affairs, unless it waives this right.

(4) Other arrangements in legislation shall remain unaffected.

Division IV

Payments, keeping of accounts and rendering of accounts

Section 32 – Payments

Payments may be accepted or effected only by cash offices and payment offices. The order for the payment must be issued either in written form or electronically by the responsible ministry or the agency it has authorised. The ministry responsible for financial affairs may permit exceptions.

Section 33 – Keeping of accounts, obligation to keep supporting documents

Chronological accounts shall be kept of payments in accordance with the procedure provided in the budget or otherwise provided. The ministry responsible for financial affairs may order accounts to be kept on commitments entered into, monetary claims and other management operations. All entries in accounts shall be supported by documents.

Section 33a (repealed)

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Section 34 – Entry by fiscal years

- (1) Payments, as well as commitments entered into, monetary claims and other management operations for which the keeping of accounts has been ordered under section 33, second sentence, shall be entered separately by fiscal year.
- (2) All payments except those falling under subsections (3) and (4) below shall be entered in the fiscal year in which they have come in or been effected.
- (3) In the cash-based budget, payments which were due in the preceding fiscal year but do not come in or are not effected until later shall be entered in the accounts of the preceding fiscal year, unless such accounts have been closed. Sections 7a and 49a shall be applied accordingly to double-entry budgets.
- (4) The following shall be entered into the cash-based budget for the new fiscal year:
1. revenues falling due in the new fiscal year but which come in beforehand,

2. expenditures falling due in the new fiscal year but which must be effected in advance to ensure receipt by the payee within the set period,
3. salaries, retirement benefits and like payments, and pensions or annuities payable in advance for the first month of the new fiscal year.

Sections 7a and 49a shall be applied accordingly to double-entry budgets.

(5) Subsections (3) and (4) number 1 above shall not apply to taxes, fees, or any other levies, judicial and administrative fines and connected costs.

(6) Exceptions to subsections (2) to (4) above may be permitted.

Section 35 – Asset accounting, integrated accounting

Accounts or other records shall be kept on assets and debts. The keeping of accounts on assets and debts may be connected with the keeping of accounts on revenues and expenditures.

Section 36 – Closing of the accounts

(1) The accounts shall be closed on an annual basis. The ministry responsible for financial affairs shall determine the date for closing accounts.

(2) Once the accounts have been closed, revenues and expenditures may no longer be entered for the period that has elapsed.

Section 37 – Rendering of accounts

(1) The responsible agencies shall render accounts for each fiscal year on the basis of the closed accounts. With the agreement of the court of audit, the ministry responsible for financial affairs may determine that accounts are to be rendered for a different period.

(2) On the basis of the closed accounts, the ministry responsible for financial affairs shall prepare the budget account for each fiscal year.

(3) In the case of double-entry budgets, the accounts to be rendered shall at least include the account for the earnings budget (earnings account), the account for the double-entry financial-position budget (financial-position account) under section 10 subsection (4), second sentence, and the account of assets and liabilities (balance sheet).

(4) In the case of product budgets, accounts shall be rendered on the granting of resources structured by product, as well as on the nature and extent of the performance delivered.

Section 38 – Composition of the budget account

(1) In the cash-based budget account, the revenues and expenditures shall be listed alongside the budget appropriations in accordance with the procedure designated in section 33, taking outstanding in-payments and unexpended balances (outstanding budgetary balances) and advance expenditures into consideration.

(2) In cash-based budgets, the following shall be indicated separately in respect of each title and accordingly in respect of each sum total:

1. under revenues:

- a) actual revenues,
- b) outstanding in-payments to be carried over,
- c) the total of actual revenues and outstanding in-payments to be carried over,
- d) the capital-building or capital-depleting amounts of actual revenue, insofar as assets and liabilities are subject to accounting,
- e) the budgeted revenues,
- f) the outstanding in-payments carried over from the previous year,
- g) the total of the budgeted revenues and outstanding in-payments carried over,
- h) the positive or negative balance between the total of letter c) and the total of letter g) above;

2. under expenditures:

- a) actual expenditures,
- b) unexpended balances to be carried over or advance expenditures,

- c) the total of actual expenditures and unexpended balances to be carried over or advance expenditures,
- d) the capital-forming or capital-depleting amounts of the actual expenditures, insofar as an account of assets and liabilities is kept,
- e) the budgeted expenditures,
- f) unexpended balances carried over from the previous year or advance expenditures,
- g) the total of the budgeted expenditures and the unexpended balances carried over or the advance expenditures,
- h) the positive or negative balance between the total of letter c) and the total of letter g) above,
- i) the amount of excess or extrabudgetary expenditures and of advance expenditures.

Section 7a, section 37 subsections (3) and (4), as well as section 49a shall be applied accordingly to double-entry budgets.

(3) In respect of each expenditure and accordingly in respect of each sum total, the amount of the commitments entered into and monetary claims shall be indicated separately insofar as they are to be entered into accounts under section 33, second sentence.

Section 39 – Final cash account

In cash-based budgets, the following shall be shown in the final cash account:

1.
 - a) total actual revenues,
 - b) total actual expenditures,
 - c) the difference between letter a) and letter b) above (yearly cash result),
 - d) any cash results of previous years not yet finally accounted for in the budget,
 - e) the total cash result made up of letter c) and letter d) above;

2.
 - a) total actual revenues with the exception of revenues from borrowing on the credit market, withdrawals from reserves, revenue from cash surpluses and revenues from coin,
 - b) total actual expenditures with the exception of expenditures on the repayment of debts incurred on the credit market, allocations to reserves and expenditures to cover a cash shortfall,
 - c) the financial balance between letter a) and letter b) above.

Section 7a, section 37 subsections (3) and (4), as well as section 49a shall be applied accordingly to double-entry budgets.

Section 40 – Final budget account

In cash-based budgets, the following shall be shown in the final budget account:

1.
 - a) the yearly cash result under section 39 number 1 letter c),
 - b) the total cash result under section 39 number 1 letter e);
2.
 - a) the outstanding in-payments and unexpended balances carried over from the previous year,
 - b) the outstanding in-payments and unexpended balances to be carried over to the following fiscal year,
 - c) the balance between letter a) and letter b) above,
 - d) the accounting result for the year, made up of number 1 letter a) and number 2 letter c) above,
 - e) the total accounting result, made up of number 1 letter b) and number 2 letter b) above;

3. the amount of the commitments entered into and monetary claims, insofar as they are to be entered in accounts under section 33, second sentence.

Section 7a, section 37 subsections (3) and (4), as well as section 49a shall be applied accordingly to double-entry budgets.

Section 41 – Final report

The final cash account and the final budget account shall be explained in a report.

Division V

Audit and discharge

Section 42 – Tasks of the court of audit

(1) Courts of audit shall audit the budgetary and financial management of the Federation and the *Länder* in its entirety, including their special funds and enterprises.

(2) The court of audit shall audit in particular

1. the revenues, expenditures and commitments to effect expenditures,
2. measures that may have financial consequences,
3. the assets and debts.

(3) The court of audit may at its discretion limit the scope of the audit and refrain from auditing specific accounts.

(4) Special provisions may be made in law concerning the auditing of matters that are to be kept secret.

(5) The court of audit may give advice on the strength of its audit findings. Details shall be regulated by a law.

Section 43 – Auditing of agencies not belonging to the administration

(1) Without prejudice to more extensive provisions of *Land* law, the court of audit shall be entitled to audit agencies not belonging to the federal or *Land* administration, where such agencies

1. execute parts of the budget, or receive reimbursement of expenses from the Federation or *Land*,
2. administer resources or assets of the Federation or *Land*, or
3. receive allocations from the Federation or *Land*.

Where these agencies pass on the resources to third parties, the court of audit may also audit the latter.

(2) The audit shall cover whether funds have been administered and used economically and for the intended purpose. In the case of allocations, the audit may also cover other budgetary and financial management by the recipient insofar as the court of audit deems this necessary for the purposes of its audit.

(3) Where the Federation or *Land* has granted loans from budget resources or assumed surety obligations, guarantees or other warranties, the court of audit may audit the beneficiaries to ascertain whether they have made sufficient provision to prevent detrimental consequences for the Federation or *Land*, or whether the conditions for recourse to the Federation or *Land* have been met.

Section 44 – Auditing of government participation in private-law enterprises

(1) The court of audit shall audit the participation of the Federation or *Land* in private-law enterprises in which the Federation or *Land* has a direct or indirect holding, giving due consideration to commercial principles.

(2) Subsection (1) above shall apply accordingly to cooperatives of which the Federation or *Land* is a member.

Section 45 – Joint auditing

A joint audit should be carried out where several courts of audit are responsible for auditing. The courts of audit may agree to transfer auditing tasks to one another, unless there is a constitutional requirement for auditing to be carried out by one specific court of audit.

Section 46 – Results of the audit

(1) The court of audit shall collate the results of its audit each year in the form of a report to the legislative bodies, insofar as such results may be of importance for the discharge of the government.

(2) The report may include statements relating to subsequent or previous fiscal years.

(3) The court of audit may at any time inform the legislative bodies and the government of matters of special importance.

Section 47 – Discharge, statement of account of the court of audit

(1) On the strength of the statement of account and the annual report of the court of audit, the legislative bodies shall decide on the discharge of the government.

(2) The statement of account of the court of audit shall be examined by the legislative bodies, which shall also grant discharge.

Division VI

Special funds of the Federation or *Land* and public-law entities established and controlled directly under federal or *Land* law

Section 48 – Principle

(1) This Act shall be applied accordingly to special funds of the Federation or *Land* and public-law entities established and controlled directly under federal or *Land* law, unless other arrangements are provided by a law or on the basis of a law.

(2) Sections 42 to 46 shall be applied accordingly to enterprises in the form of a public law entity, irrespective of the amount of the Federation's or *Land's* holding. Permission may be granted, by means of a law, for the analogous application of sections 42 to 46 to be waived. Any exceptions permitted under existing law shall remain unaffected.

(3) Sections 53 and 54 shall apply accordingly to enterprises in the form of a private-law entity in which the enterprises designated in subsection (2), first sentence, above have a direct or indirect majority holding.

Part II

Regulations applying uniformly and directly

Section 49 – Principle

The regulations laid down in this Part shall apply uniformly and directly to the Federation and the *Länder*.

Section 49a – Committee for the standardisation of government accounting

(1) The Federation and *Länder* shall set up a committee to make sure that the procedures and data for cash-based accounting, double-entry accounting and product budgets have a uniform basis. The committee shall produce standards for cash-based and double-entry budgets, as well as for product budgets, and shall ensure in the process that the requirements of financial statistics, including those of national accounts, are taken into consideration. Decisions must obtain the vote of the Federation and a majority of two-thirds of the *Länder*. The standards in each case shall be implemented by administrative regulations of the Federation and of the *Länder*. The committee shall produce the standards for double-entry budgets and product budgets for the first time by 1 January 2010 and shall subsequently review the standards for double-entry budgets, product budgets and cash-based budgets once a year. Details shall be regulated by an administrative agreement between the Federation and the *Länder*.

(2) To make sure of the comparability of the budgetary management in the case of the Federation and *Länder*, the Federal Government may, by way of statutory instrument requiring the consent of the Bundesrat, issue detailed provisions on the standards for cash-based, double-entry and product budgets, particularly on the systems of classification by object and by function, on the standard chart of administrative accounts and product framework, as well as on the standards under section 7a subsection (2) for government double-entry bookkeeping.

Section 49b – Reporting obligations for financial statistics

Irrespective of the nature of their budgetary management, the Federation and *Länder* shall ensure that the target and actual data are still made available in accordance with the systems of classification by object and function, classified hierarchically into at least three levels, in order to fulfil the requirements of financial statistics, including those of the national accounts, as well as for other reporting obligations.

Section 50 – Financial planning procedures

(1) The Federation and *Länder* shall each base their respective budget management on financial planning covering a five-year period (section 9 subsection (1) and section 14 of the Act to Promote Economic Stability and Growth⁵ of 8 June 1967, Federal Law Gazette I, p. 582).

(2) The first year for the financial planning shall be the current fiscal year.

The financial plan (section 9 subsection (2), second sentence, of the Act to Promote Economic Stability and Growth) shall be submitted to the legislative bodies at the latest upon submission of the draft Budget Act for the following fiscal year. The legislative bodies may demand the submission of alternative accounts.

(4) The financial plan shall explain and substantiate the proposed priorities for investment.

(5) The multi-annual investment programmes (section 10 of the Act to Promote Economic Stability and Growth) which have been revised on the basis of the financial plan shall be submitted to the legislative bodies.

(6) The planning under section 11, first sentence, of the Act to Promote Economic Stability and Growth shall be prepared for investment projects belonging to the third year covered by the plan to a sufficient extent and in such a manner that its implementation can be commenced at short notice.

(7) The government should in good time take any suitable measures that are required, in accordance with the financial planning, for ensuring an orderly development of the budget, taking into consideration the probable overall economic potential in the individual years covered by the plan.

⁵ *Gesetz zur Förderung der Stabilität und des Wachstums der Wirtschaft*

Section 51 – Consultation to coordinate the basic assumptions underlying budgetary and financial planning; observance of budgetary discipline within the framework of European Economic and Monetary Union

(1) To coordinate the budgetary and financial planning of the Federation, of the *Länder*, and of the municipalities and associations of municipalities, the Stability Council shall consult on the underlying macroeconomic and fiscal assumptions. In the process, due regard shall be given to the Federal Republic of Germany's obligations to observe budgetary discipline that result from legal acts of the European Union on the basis of Articles 121, 126 and 136 of the Treaty on the Functioning of the European Union and, within this framework, to the requirements of overall economic equilibrium. The Stability Council may decide on recommendations for the purpose of coordinating budgetary and financial planning. The expected revenues and expenditures of the institutions designated in section 52 should be included in the consultations and recommendations, unless they are already contained in the financial planning of the Federation, the *Länder*, the municipalities and associations of municipalities.

(2) The general government structural deficit of the Federation, *Länder*, municipalities and social security funds must not exceed an upper limit of 0.5% of nominal gross domestic product. Details regarding the delimitation, calculation and permissible deviations from the upper limit, as well as the scope and time frame for reducing the general government structural deficit in the event of a deviation, are governed by Article 3 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012 (Federal Law Gazette 2012 II, p. 1006, 1008) and by Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1), as last amended by Regulation (EU) No 1175/2011 (OJ L 306, 23.11.2011, p. 12).

Section 51a (repealed)

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Section 52 – Obligation to supply information

(1) The Federation and the *Länder* shall, through their ministries responsible for financial affairs, supply the Stability Council with the information it needs to carry out its tasks under

section 51. The supply of information shall include the submission of the financial planning prepared in each area of responsibility using a uniform system.

(2) The *Länder* shall also supply information on behalf of their municipalities and other local-authority bodies. The same shall apply to the special funds and enterprises of the *Länder*, the municipalities and the associations of municipalities, as well as to the public-law entities established and controlled directly under *Länder* law, whose inclusion in the financial planning and consultations of the Stability Council is required. The *Länder* shall regulate the procedure.

(3) Special funds and enterprises of the Federation, as well as the public-law entities established and controlled directly under federal law shall supply the information required to the Federal Ministry of Finance, which shall pass it on to the Stability Council.

(4) The institutions for statutory health insurance, statutory long-term care insurance, statutory accident insurance and statutory pensions insurance, including pensions insurance for farmers, the associations thereof, other associations in the area of social security and the Federal Employment Agency shall, through the Federal Ministry for Labour and Social Affairs, supply the Federal Ministry of Finance with the information required for the Stability Council; bodies established and controlled directly under *Länder* law shall supply such information through the *Land's* supreme administrative authority responsible for social security.

Section 53 – Rights in relation to private-law enterprises

(1) Where a political subdivision holds the majority of shares in a private-law enterprise or where it holds at least one quarter of the shares itself, and together with other political subdivisions holds the majority of the shares, it may demand that the enterprise

1. also have the orderliness of its management examined within the framework of the audit of annual accounts;
2. commission the auditors to include in their report
 - a) the development of assets and earnings as well as the liquidity and profitability of the company,

- b) loss-yielding transactions and the causes of the losses, where such transactions and the causes were of importance to assets and earnings,
 - c) the causes of any annual net loss shown in the profit and loss account;
3. send it the auditors' report without delay upon receipt and, in the event that the enterprise is obliged to prepare group accounts, also send the group auditors' report.

(2) In applying the provisions of subsection (1) above, shares held by a special fund of the political subdivision shall also be regarded as shares held by the political subdivision. Shares held by enterprises in respect of which the political subdivision enjoys the rights established by subsection (1) above shall also be deemed to be shares held by the political subdivision.

Section 54 – Provision of information to the auditing authority

(1) In the cases falling under section 53, a resolution may be included in the articles of association with a three-quarters majority of the capital represented to the effect that the auditing authority of the political subdivision may, in order to clarify issues arising from an audit under section 44, obtain information directly and, to this end, may examine the operation, the accounts and the records of the enterprise.

(2) Any right for the auditing authority to obtain information directly established before the entry into force of this Act shall remain unaffected.

Section 55 – Auditing of public-law entities

(1) If a public-law entity that is not a political subdivision, an association of municipalities, an amalgamation of political subdivisions or associations of municipalities or a public-law religious society under Article 137 paragraph (5) of the German constitution of 11 August 1919 receives from the Federation or from the *Land* subsidies the reason for or the amount of which is established by law, or where the *Federation* or the *Land* is obliged by law to grant guarantees, the federal or *Land* court of audit shall audit the budgetary and financial management of that public-law entity. The same shall apply where the audit is provided for in the articles of association with the consent of a court of audit. Other rights of audit established under section 48 shall remain unaffected.

(2) Section 53 shall be applied accordingly to enterprises in the legal form of a public-law entity, irrespective of the amount of the Federation's or the *Land's* holding, unless such enterprises are exempt from the auditing of accounts (section 48 subsection (2), second and third sentences).

Section 56 – Rights of the auditing authority, mutual provision of information

(1) Where the supreme authorities of a political subdivision issue or explain general regulations relating to the management of the budget resources of another political subdivision or influencing the revenues or expenditures of another political subdivision, the auditing authority of that other political subdivision shall be informed without delay.

(2) The auditing authority of a political subdivision shall be consulted before agencies not belonging to the political subdivision that execute parts of the budget of the political subdivision issue administrative regulations on the implementation of the budget code applicable to the political subdivision or on the implementation of any equivalent law.

(3) Where several courts of audit are responsible for auditing or investigations, they shall inform each other about the planning of work and the audit results.

Section 57 – Federal and *Land* cash offices

(1) The tasks of the cash offices in receiving and effecting payments for the Federation shall be discharged for all agencies belonging to and not belonging to the federal administration by the federal cash offices, unless this concerns the collection of taxes administered by the revenue authorities of the *Länder*.

(2) The tasks of the cash offices in receiving and effecting payments for the *Land* shall be discharged by the *Land* cash offices for all agencies belonging to and not belonging to the *Land* administration, unless other arrangements are provided.

(3) (repealed)

Sections 57a to 57c

(repealed)

Part III

Transitional and final provisions

Section 58 – Public servants; settlement of responsibility

(1) The regulations of this Act governing tenured civil servants shall be applied accordingly to other employment relationships of public servants or officials.

(2) The powers to which the ministry responsible for financial affairs is entitled may be transferred to another agency. In the Free and Hanseatic City of Hamburg, the Senate shall determine which agency shall have the powers to which the ministry responsible for financial affairs is entitled. The arrangements set forth in the Statutes of the Free and Hanseatic City of Hamburg to the effect that only a decision of the City Parliament shall be required for the adoption of the budget and the provision of security which affect more than one financial year or which do not fall within the scope of normal administrative operations shall remain unaffected.

(3) (repealed)

Section 59 (repealed)

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Section 60 Entry into force

This Act shall enter into force on 1 January 1970.