CRS Report for Congress

Congressional Budget Act Points of Order

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Title III of the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 88 Stat. 297-332), as amended, contains several points of order that are used to enforce congressional budget procedures and substantive provisions of a budget resolution. These points of order prohibit certain congressional actions and consideration of certain legislation. This fact sheet does not discuss points of order established by other portions of the Budget Act. For more information on the budget process, see [http://www.crs.gov/products/guides/guidehome.shtml].

Budget Act points of order are not self-enforcing. In order to enforce a congressional budget rule, a Member must raise a point of order against the legislation violating it. When a point of order is raised against legislation that may violate a substantive provision of a budget resolution, a determination of whether the legislation would cause spending or revenue levels to be breached is based on estimates supplied by the Budget Committee of the appropriate chamber, under Section 312(a) of the Budget Act. Generally, when a point of order is sustained, the violating bill or amendment effectively fails and is not considered or the violating provision of a bill or amendment is stricken.

Congress, however, may waive these points of order. In the House, a point of order may be waived by a special rule reported by the Rules Committee and adopted by the full House, by unanimous consent, or by suspension of the rules. In the Senate, Budget Act points of order may be waived by unanimous consent or by a vote of the Senate on a waiver motion as provided under Section 904 of the Budget Act. A motion to waive most Budget Act points of order requires a three-fifths vote of all Senators duly chosen and sworn (60 votes if there are no vacancies). This supermajority requirement was extended through September 30, 2010, by the FY2006 budget resolution (see Section 403 of H.Con.Res. 95, 109th Congress). Congress may consider and pass legislation even if it violates the provisions of a budget resolution if no point of order is made or an applicable point of order is waived.

Procedural Points of Order. One of the primary objectives of the Budget Act is to require Congress to adopt a comprehensive budget plan prior to considering budgetary legislation. In this way, Congress can ensure that individual measures will fit into the overall plan. Section 303(a) of the Budget Act serves this purpose by providing a point of order against consideration of any legislation that includes spending, revenue, or debt-limit adjustments, until a budget resolution has been approved. Section 303(b),

however, provides that this point of order does not apply to appropriations bills in the House after May 15.

Another purpose of the Budget Act is to encourage Congress to complete action on appropriations bills and other budgetary legislation prior to the start of the fiscal year on October 1. Sections 309 and 310(f) provide points of order in the House prohibiting an adjournment resolution exceeding three calendar days in July until all the annual appropriations bills for the upcoming fiscal year and any required reconciliation legislation, respectively, are completed.

In addition to these timing points of order, the Budget Act provides a point of order, under Section 306, to protect the Budget Committees' jurisdiction over any legislation related to the budget process.

Budget Resolution Enforcement Points of Order. The Budget Act also provides several points of order designed to ensure that appropriations bills and other budgetary legislation are consistent with the most recently adopted budget resolution. Sections 302(f) and 311(a) of the Budget Act provide points of order to enforce the spending and revenue levels associated with a budget resolution. Specifically, any measure or amendment that would cause the committee or appropriations subcommittee allocations, under Sections 302(a) and 302(b), respectively, to be violated is subject to a point of order. Similarly, the aggregate spending and revenue levels contained in a budget resolution are enforced under Section 311(a). However, Section 311(c) provides that, in the House, measures would be subject to this point of order only if they also would cause the relevant committee allocations to be exceeded.

If a budget resolution includes reconciliation directives, the Budget Act provides a point of order against certain amendments to the subsequent reconciliation bill. Any amendment that is not budget neutral is subject to a point of order under Section 310(d). Also, Section 310(e) prohibits nongermane amendments to reconciliation bills.

Several points of order apply to the Senate only. Generally, these points of order provide further controls on spending and revenue legislation. For example, Section 313 (known as the Byrd rule) of the Budget Act prohibits provisions in reconciliation legislation or its conference report, as well as amendments, that are extraneous. Under the Bryd rule, extraneous matters generally include those that have no direct budgetary effect, increase spending or decrease revenue when a committee is not in compliance with its reconciliation instructions, or that would increase the deficit (or reduce the surplus) for a fiscal year beyond those covered by the reconciliation legislation.

The Senate also uses points of order under the Budget Act to restrict changes to the Social Security program. First, a budget resolution that would decrease the Social Security surplus is subject to a point of order under Section 301(i) of the Budget Act. Second, a point of order under Section 310(g) may be raised against a reconciliation bill that contains recommendations relating to the Social Security program; this point of order applies in the House as well. Lastly, Section 311(a)(3) provides a point of order against any legislation that would cause Social Security surpluses to decrease or deficits to increase relative to the levels set forth in a budget resolution.