

CRS Report for Congress

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Congressional Budget Act Points of Order

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Title III of the Congressional Budget Act (CBA) of 1974 (P.L. 93-344), as amended, establishes the 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. For more information on these and other, related, points of order see CRS Report 97-865 GOV, *Points of Order in the Congressional Budget Process*.

CBA points of order, like most others, 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 house, under section 312(a) of the CBA. Generally, when a point of order is sustained, the violating bill or amendment fails and is not considered or the violating provision of a bill or amendment is stricken.

Congress may, however, waive these points of order. In the House, Budget Act points of order usually are waived by a "special rule" reported by the Rules Committee and adopted by the full House. In the Senate, a waiver motion under section 904 of the CBA may be adopted to waive budget rules. Most Budget Act waiver motions require a three-fifths vote of Senators, although most three-fifths requirements will expire in 2002. In addition, points of order may be waived by unanimous consent in the House or Senate or by suspension of the rules in the House. If enacted into law, legislation violating Budget Act rules has full legal effect.

Procedural points of order. One of the primary objectives of the CBA is to require Congress to adopt a comprehensive budget plan prior to considering budgetary legislation. In this way, Congress can insure that individual measures will fit into the overall plan. Section 303(a) of the CBA 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 CBA 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 CBA 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 CBA 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 CBA 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 subcommittee allocations, under section 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 that do not cause the relevant committee allocation to be exceeded are not subject to this point of order.

If a budget resolution includes reconciliation directives, the CBA provides a point of order against certain amendments to the subsequent reconciliation bill. Any amendment that is not deficit 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 312(b) of the CBA provides a point of order against any legislation that would violate the adjustable discretionary spending limits set forth in the Budget Enforcement Act of 1997 (Title X of P.L. 105-33). In addition, a freestanding point of order under H.Con.Res. 68 (106th Congress), the FY2000 budget resolution, may be raised against any direct spending or revenue legislation that would violate the pay-as-you-go requirements by increasing or causing an on-budget deficit for the first fiscal year, the period of the first five fiscal years, or the following five fiscal years, covered by the most recently adopted budget resolution.

Only in the Senate as well, section 313 (known as the "Byrd rule") of the CBA prohibits provisions in reconciliation legislation or its conference report, as well as amendments, that are extraneous. Under the Byrd 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 violate another committee's jurisdiction.

The Senate also uses points of order under the Budget Act to protect 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 CBA. 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. 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.