



Congressional Budget Act Points of Order

Bill Heniff Jr.

Analyst on the Congress and Legislative Process

August 19, 2008

Congressional Research Service

7-5700

www.crs.gov

98-876

Summary

Title III of the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 2 U.S.C. 601-688), 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. For more information on the budget process, see the CRS Guides to Congressional Processes at <http://www.crs.gov/products/guides/guidehome.shtml>.

Contents

Procedural Points of Order.....	1
Budget Enforcement Points of Order.....	2

Contacts

Author Contact Information	2
----------------------------------	---

Title III of the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 2 U.S.C. 601-688), as amended, contains several points of order that are used to enforce congressional budget procedures and substantive provisions of a budget resolution.¹ These points of order prohibit certain congressional actions and consideration of certain legislation. For more information on the budget process, see the CRS Guides to Congressional Processes at <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 unanimous consent, by suspension of the rules, or by a special rule reported by the Rules Committee and adopted by the full House. In the Senate, Budget Act points of order may be waived by unanimous consent or by motion as provided under Section 904 of the Budget Act. A motion to waive most Budget Act points of order requires an affirmative vote of three-fifths of all Senators duly chosen and sworn (60 votes if there are no vacancies). 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 points of order restricting the scope of certain budget-related legislation. Section 305 of the Budget Act prohibits the consideration of non-germane amendments to a budget resolution and, by reference in Section 310(e) of the Budget Act, to a reconciliation measure. Also, the Budget Act provides a point of

¹ This report does not discuss points of order established by other portions of the Budget Act. For more detailed information on points of order related to the congressional budget process, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by (name redacted).

order, under Section 306, to limit consideration of issues within the jurisdiction of the Budget Committees.

Budget Enforcement Points of Order

The Budget Act also provides several points of order designed to constrain legislation affecting the budget. Sections 302(f) and 311(a) of the Budget Act provide points of order to enforce the spending and revenue levels associated with the most recently adopted 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 points of order relating to the consideration of the subsequent reconciliation bill. Section 310(d) of the Budget Act prohibits the consideration of any amendment that would increase the deficit. In addition, in the Senate only, 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 Byrd rule, extraneous matters include, among others, 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.

Author Contact Information

(name redacted)
Analyst on the Congress and Legislative Process
/redacted/@crs.loc.gov, 7-....

EveryCRSReport.com

The Congressional Research Service (CRS) is a federal legislative branch agency, housed inside the Library of Congress, charged with providing the United States Congress non-partisan advice on issues that may come before Congress.

EveryCRSReport.com republishes CRS reports that are available to all Congressional staff. The reports are not classified, and Members of Congress routinely make individual reports available to the public.

Prior to our republication, we redacted names, phone numbers and email addresses of analysts who produced the reports. We also added this page to the report. We have not intentionally made any other changes to any report published on EveryCRSReport.com.

CRS reports, as a work of the United States government, are not subject to copyright protection in the United States. Any CRS report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS report may include copyrighted images or material from a third party, you may need to obtain permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

Information in a CRS report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to members of Congress in connection with CRS' institutional role.

EveryCRSReport.com is not a government website and is not affiliated with CRS. We do not claim copyright on any CRS report we have republished.