SENATE BUDGET COMMITTEE

Senator Bernie Sanders, Chairman

UNITED STATES SENATE COMMITTEE ON THE BUDGET

budget.senate.gov @SenateBudget

Senate Budget Points of Order

October 2021

POINTS OF ORDER IN THE SENATE FOR ENFORCING BUDGETARY LEVELS

Congress enacts a budget resolution each year establishing agreed-upon levels for revenue and spending. These levels, as well as budget rules that have enacted over the years, are enforced by ***points of order***. If a measure being debated would violate any of these budget rules or levels, Senators on the floor can raise a point of order. Points of order can be waived, though the threshold to waive varies by the point of order. Most points of order lie against an entire measure; if they are not waived, the measure is sent back to committee. Others are "surgical" and, if sustained, the offending provision(s) is struck from the text without displacing the measure.

The following is an overview of Senate budget points of order and the source of their authority. Unless otherwise noted, 60 votes are needed to waive the point of order. Surgical points of order are denoted with an asterisk (*). All years are fiscal years.

Points of order applicable to <u>all</u> legislation:

<u>Congressional Budget Act of 1974:</u>

302(c) – Appropriations. Prohibits consideration of legislation from the Appropriations Committee that provides new budget authority if the Committee has not yet filed its subcommittee allocations.

302(f)(2) – Allocations to Committees. Prohibits consideration of legislation that exceeds (1) an authorizing committee's allocation of budget authority and outlays or (2) an appropriations subcommittee's sub-allocation of budget authority and outlays.

303(a) – New Spending, Revenue, or Debt-Limit Legislation. Prohibits consideration of any new spending, revenue, or debt-limit legislation for a fiscal year until a budget resolution covering that fiscal year has been approved (50 votes needed to waive).

303(c) – No Budget—No Appropriations. Prohibits consideration of any appropriations legislation until a budget has been agreed to and an allocation to the Appropriations Committee has been made (50 votes needed to waive).

306 – Budget Committee Jurisdiction. Prohibits consideration of legislation that contains matters within the Budget Committee's jurisdiction unless the legislation was reported by or discharged from the Committee or is amending a measure that was reported or discharged from the Committee.

311(a)(2) – Spending and Revenue Aggregates. Prohibits consideration of legislation that would (1) cause budget authority and outlay spending totals to exceed the totals in the budget resolution, or (2) cause total revenues to fall below the totals in the budget resolution.

311(a)(3) – Social Security Aggregates. Prohibits consideration of legislation that would increase the Social Security deficit compared to the levels in the budget resolution.

401(a) – New Borrowing Authority. Prohibits consideration of legislation that would provide new contract authority, borrowing authority, or credit authority not limited by amounts provided in advance in an appropriations act (50 votes needed to waive).

401(b)(1) – New Entitlement Authority. Prohibits consideration of legislation that would provide new entitlement authority that is to become effective during the current fiscal year (50 votes needed to waive).

425(a)(1) – No Unfunded Mandates Without CBO Estimate. Prohibits consideration of any committee-reported legislation unless a CBO estimate of any federal, intergovernmental, or private sector mandates has been printed in the committee report or the *Congressional Record*. NOTE: Does not apply to conference reports (50 votes needed to waive).

425(a)(2) – No Unfunded Mandates in Excess of Limit. Prohibits consideration of any legislation that contains an unfunded intergovernmental mandate in excess of the statutory limit for the fiscal year in which it becomes effective or any of the following four fiscal years (50 votes needed to waive).

Statutory Pay-As-You-Go Act of 2010:

4(g)(3) – Emergency Designation. Permits any Senator to strike an emergency designation of direct spending or revenues made pursuant to Statutory PAYGO.*

2009 Budget Resolution (S. Con. Res. 70, 110th Congress):

314 – Changes in Mandatory Programs (CHIMPs) with Net Costs. Permits any Senator to strike a CHIMP in an appropriations measure if the following conditions are met: (1) the CHIMP would increase budget authority in at least 1 of the 9 years after the budget year and over the 10-year budget window; (2) the CHIMP would increase net outlays over the 9 years following the budget year; and (3) the sum of all such CHIMPs in the measure would increase net outlays over the 9 years after the budget year. NOTE: Provisions enacted in each of the 3 years prior to the budget year are exempted.*

2010 Budget Resolution (S. Con. Res. 13, 111th Congress):

404(a) – Short-Term Deficits. Prohibits consideration of legislation (except appropriations bills) that would cause a net increase in the deficit in excess of $10 billion in any year in the 10-year budget window unless the legislation is fully offset over the same period.

2016 Budget Resolution (S. Con. Res. 11, 114th Congress):

3101 – Long-Term Deficits. Prohibits consideration of legislation that would cause a net increase in the on-budget deficit in excess of $5 billion in any of the four 10-year periods beyond the current window.

2018 Budget Resolution (H. Con. Res. 71, 115th Congress):

4106 – Senate Pay-As-You-Go. Prohibits consideration of direct spending or revenue legislation that would cause or increase an on-budget deficit over the current year, the budget year, or the next five or ten years.

2022 Budget Resolution (S Con. Res. 14, 117th Congress):

4002 – Advance Appropriations. Prohibits consideration of legislation that would provide an appropriation for a fiscal year other than the current fiscal year or budget year. Exceptions: FY23 and FY24 programs that are 1) identified as part of "Accounts Identified for Advance Appropriations" and in the aggregate do not exceed $28.852 billion; 2) the Corporation for Public Broadcasting; 3) certain VA accounts – Medical Services, Medical Community Care, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration; 4) legislation implementing a bipartisan infrastructure agreement; and 5) the Indian Health Services and Indian Health Facilities Accounts.

Points of order applicable only to budget resolutions and reconciliation bills:

Congressional Budget Act of 1974:

301(g) – Assumptions. Prohibits more than one set of economic and technical assumptions in a budget resolution (50 votes needed to waive).

301(i) – Social Security. Prohibits consideration of a budget resolution that would decrease the Social Security surplus in any year covered by the resolution.

305(b)(2) – Germaneness. Prohibits consideration of non-germane amendments to a budget resolution or reconciliation bill.

305(c)(4) – Germaneness/Disagreement between Houses. Prohibits consideration of non-germane amendments to amendments reported in disagreement between the House and the Senate.

305(d) – Mathematical Consistency. Prohibits a vote on the adoption of a budget resolution unless the figures in the resolution are mathematically consistent (50 votes needed to waive).

310(d)(2) – Noncompliance. Prohibits consideration of amendments to reconciliation legislation that, on net, would increase the deficit relative to the applicable reconciliation instructions. NOTE: A motion to strike, regardless of its budgetary effect, is in order.

310(g) – Social Security. Prohibits consideration of reconciliation legislation that contains changes to the Old-Age and Survivor's Insurance program and Disability Insurance program.

313(b) – Byrd Rule. Prohibits consideration of extraneous provisions in reconciliation legislation. Extraneous provisions include: 1) those which do not change revenues or spending; 2) those where the change in revenue or spending is "merely incidental" to the non-budgetary changes; 3) those that are outside the jurisdiction of the committee reporting the provision; 4) those that increase spending or decrease revenue when the committee is not in compliance with its reconciliation instructions; 5) those which increase deficits beyond the budget window if that committee's section as a whole increases deficits beyond the budget window; or 6) those that would change Social Security's Old-Age and Survivor's Insurance program.*