



U.S. SENATE COMMITTEE ON THE BUDGET

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POINTS OF ORDER IN THE SENATE FOR ENFORCING BUDGETARY LEVELS

Points of order are the mechanisms through which congressional budget rules and targets are enforced. Budget points of order can be created through statute or the congressional budget resolution and remain in place unless legislatively sunset. Most points of order take the form of prohibitions against the consideration of legislation that fails to meet certain parameters, while others are designed to allow Members of Congress to challenge the inclusion of specific budgetary provisions in a bill.

In general, when legislation causes spending to rise above or revenues to fall below the levels specified in the budget resolution, a point of order lies. The Chairman of the Budget Committee is the final arbiter of all numerical points of order. Points of order are not self-enforcing, meaning that they must be raised by a Member to be enforced. Below is a list of current points of order in the Senate for enforcing budgetary levels.

Unless otherwise noted, all points of order may be waived by three-fifths of Members duly chosen and sworn, and if the point of order is sustained, the offending measure is sent to the committee of jurisdiction. All years are fiscal years.

POINTS OF ORDER APPLICABLE TO ALL LEGISLATION:

Congressional Budget Act of 1974:

- **302(c) - Appropriations.** Prohibits consideration of legislation from the Appropriations Committee that provides new budget authority if the Committee has not yet filed 302(b) subcommittee allocations.
- **302(f)(2) - Allocations to Committees.** Prohibits consideration of legislation that exceeds an authorizing committee's 302(a) allocation of budget authority and outlays for 2018, 2019, the total for 2019-2023, or the total for 2019-2028; and prohibits consideration of legislation that exceeds each Appropriations subcommittee's 302(b) sub-allocation of budget authority and outlays for the revised security and non-security categories for 2018 or 2019.

- **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. This point of order may be waived by a simple majority vote of members if a quorum is present.
- **303(c) - No Budget—No Appropriations.** Prohibits consideration of any appropriations legislation for 2019 or later years until a budget for each of those years has been agreed to and a 302(a) allocation to the Appropriations Committee has been made. This point of order may be waived by a simple majority vote of members if a quorum is present.
- **306 - Budget Committee Jurisdiction.** Prohibits consideration of any legislation within the jurisdiction of the Budget Committee that has not been reported or discharged from the Budget Committee.
- **311(a)(2) - Spending and Revenue Aggregates.** Prohibits consideration of legislation that would exceed the enforceable levels of total spending (budget authority and outlays) for 2018 and 2019; and prohibits consideration of legislation that would cause total revenues to fall below enforceable levels for 2018, 2019, the total for 2019-2023, or the total for 2019-2028.
- **311(a)(3) - Social Security Aggregates.** Prohibits consideration of legislation that would reduce the difference between Social Security's total off-budget receipts and total off-budget outlays relative to enforceable levels for 2018, 2019, the total for 2019-2023, or the total for 2019-2028.
- **312(b) - Statutory Discretionary Spending Caps.** Prohibits consideration of a bill or concurrent budget resolution that would cause spending to exceed the discretionary limits in section 251(c) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 (BBEDCA). NOTE: A similar point of order exists under section 314(f).ⁱ
- **314(e) - Emergency Designation.** Permits any Senator to strike an emergency designation in an appropriations bill made pursuant to section 251(b)(2)(A)(i) of BBEDCA. This point of order is "surgical," meaning that if the point of order is sustained, the offending provision is struck, but the rest of the legislative text remains pending.ⁱⁱ

- **314(f) - Statutory Discretionary Spending Caps.** Prohibits consideration of a bill or joint resolution that would cause budget authority for any year to exceed the discretionary limits set forth in section 251(c), as revised by section 251A, of BBEDCA, as amended. NOTE: A similar point of order exists under section 312(b).ⁱⁱⁱ
- **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. This point of order can be waived by a simple majority of Members voting if a quorum is present.
- **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. This point of order can be waived by a simple majority of Members voting.
- **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.
- **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 current year (\$80 million in 2018), the budget year (\$82 million in 2019), or any of the following four fiscal years.

Statutory Pay-As-You-Go Act of 2010, or S-PAYGO:

- **4(g)(3) - Emergency Designation.** Permits any Senator to strike an emergency designation of direct spending or revenues made pursuant to section 4(g) of S-PAYGO. This point of order is surgical.^{iv}

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

- **314 - CHIMPS with Net Costs.** Prohibits consideration of any appropriations measures that includes changes in mandatory programs (CHIMPS) that would have been scored as mandatory in any other legislation, if all of the following conditions are met: It would increase budget authority in at least one of the nine years after the budget year

(2019) and over the total of the 10 years (2019-2028); it would increase net outlays over the nine years following the budget year (2020-2028); AND the sum of all such provisions would increase net outlays over those nine years (2020-2028). EXEMPTION: Not applicable to any provision enacted in each of the three years prior to the budget year (2019). This point of order is surgical.

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 during 2019-2028 unless it is fully offset over the same period.
- **405(a) - Surface Transportation Funding.** Prohibits consideration of legislation that extends the authority of or reauthorizes surface transportation programs if it appropriates budget authority from sources other than the Highway Trust Fund, including the Mass Transit Account of such fund.

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):

- **4101(a) - Advance Appropriations.** Prohibits advance appropriations for 2019 except for certain accounts.
- **4102(b) - CHIMPS in Appropriations Acts.** Prohibits consideration of any measure providing full-year appropriations that includes CHIMPS that, if enacted, would cause the absolute value of the total budget authority of certain CHIMPS enacted in 2019 to be more than \$15 billion.
- **4103(b) - Changes to Crime Victims Fund CHIMP.** Prohibits consideration of a provision affecting the Crime Victims Fund that, if enacted, would cause the absolute value of the total budget authority of all CHIMPS affecting the Crime Victims Fund in relation to 2018 to be more than \$11.224 billion. This point of order is surgical.

- **4104(a) - Designation of Funds for Overseas Contingency Operations.** Permits any Senator to strike a designation of overseas contingency spending for fiscal year 2018 designated in accordance with section 251(b)(2)(A) of BBEDCA. This point of order is surgical.
- **4106 - Senate Pay-As-You-Go.** Prohibits consideration of direct spending or revenue legislation that would cause or increase an on-budget deficit for 2018, 2019, the sum of 2018-2023, or the sum of 2018-2028.
- **4112(e) - Emergency Designation.** Permits any Senator to strike any emergency designation made pursuant to section 4112(a) of the 2018 budget resolution. This point of order is surgical.^v

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. This point of order can be waived by a simple majority of Members voting.
- **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 and, by cross reference in section 310(e), to reconciliation legislation. Germaneness is determined on a case-by-case basis.
- **305(c)(4) - Germaneness/Disagreement between Houses.** Prohibits consideration of non-germane amendments to amendments reported in disagreement between the House and the Senate with respect to a budget resolution and, by cross reference in section 310(e), to reconciliation legislation.
- **305(d) - Mathematical Consistency.** Prohibits a vote on the adoption of a budget resolution unless the figures in the resolution are mathematically consistent. This point of order can be waived by a simple

majority of Members voting.

- **310(d)(2) - Noncompliance.** Prohibits consideration of amendments to reconciliation legislation that, on net, would increase the deficit relative to the applicable reconciliation instructions. An exception is provided for motions to strike, which are always in order regardless of their budgetary effect.
- **310(g) - Social Security.** Prohibits consideration of reconciliation legislation that contains changes to title II of the Social Security Act (Old-Age and Survivor's Insurance program and Disability Insurance program).
- **313(b) - Byrd Rule.** Prohibits consideration of extraneous provisions in reconciliation legislation.

ENDNOTES

ⁱ The point of order in section 312(b) applies to bills and "resolutions," which the Senate Parliamentarian has interpreted to include concurrent budget resolutions.

ⁱⁱ There are three separate emergency designations available in budget law, each of which exempts the provision in question from a specific enforcement regime. Discretionary spending designated as emergency under section 251(b)(2)(A)(i) of BBEDCA is exempt from most level-related discipline. This designation may be stricken using section 314(e).

ⁱⁱⁱ The point of order in section 314(f) applies to bills and joint resolutions. This point of order does not apply to budget resolutions, which are concurrent resolutions.

^{iv} Direct spending or revenue measures designated as emergency under section 4(g)(1) of S-PAYGO are exempt from the S-PAYGO scorecards maintained by OMB, which are used to determine if spending levels have been breached, which would trigger a sequester of direct spending. This designation may be stricken using section 4(g)(3).

^v Spending (discretionary and direct) and revenue provisions designated as emergency under section 4112(a) of the 2010 budget resolution are exempt from most level-related discipline. This designation may be stricken using section 4112(e).