



The United States Senate BUDGET COMMITTEE

Senator Judd Gregg, Chairman

THE "BYRD RULE" POINT OF ORDER SECTION 313 OF THE CONGRESSIONAL BUDGET ACT OF 1974

GENERAL GUIDANCE

Under the Byrd Rule, any Senator may raise a point of order against (and if sustained, strike) extraneous matter that is included as part of the reconciliation bill as reported (or in a conference report), or to prevent the incorporation of extraneous matter through the adoption of amendments or motions.

A point of order may be raised against a single or multiple amendments or provisions (as designated by title or section number, or by page and line number).

Any material stricken as extraneous may not be subsequently offered as an amendment from the floor.

Prior to consideration of a reconciliation bill or conference report, the Senate Budget Committee must provide a list of extraneous material to be printed in the Congressional Record. This list is advisory and does not bind the Chair in ruling on points of order.

Determinations of budgetary levels for purposes of enforcing the Byrd Rule are made by the Senate Budget Committee.

BYRD RULE TESTS: Section 313 (b)(1)

A provision is considered to be extraneous if it falls under at least one of the following six definitions:

- (A) It does not produce a change in outlays or revenues;
- (B) It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
- (C) It is outside of the jurisdiction of the committee that submitted the title or provision (jurisdiction based upon the determination of the Chair);

- (D) It produces a change in outlays or revenues that is merely incidental to the non-budgetary components of the provision;
- (E) It would increase the deficit for a fiscal year beyond those covered by the reconciliation measure;
- (F) It violates Sec. 310(g) which prohibits recommendations to a reconciliation bill regarding the Old-Age and Survivors and Disability Insurance trust funds (Social Security).

BYRD RULE EXCEPTIONS: Section 313 (b)(2)

A provision that does not produce changes in outlays or revenues shall not be considered extraneous if the Chairman and Ranking Member of the Senate Budget Committee and the Chairman and Ranking Member of the Committee that reported the language certify that:

- (A) The provision mitigates direct effects clearly attributable to a provision changing outlays or revenue, and both provisions together produce a net reduction in the deficit;
- (B) It will result in a substantial reduction in outlays or a substantial increase in revenue during fiscal years after the fiscal years covered by the reconciliation bill;
- (C) It will likely reduce outlays or increase revenue based on actions that are not currently projected by CBO for scorekeeping purposes; or
- (D) It will likely produce a significant reduction in outlays or increase in revenue, but due to insufficient data such a reduction or increase cannot be reliably estimated.

WAIVER OF THE BYRD RULE: Section 904(c)

The Byrd Rule point of order may only be waived by the affirmative vote of 3/5ths of the members duly chosen and sworn. Waivers may:

- Apply to the Byrd rule as well as other provisions of the Congressional Budget Act;
- Involve multiple as well as single provisions or amendments;
- Extend (for specified language) through consideration of the conference report as well as initial consideration of the measure or amendment; and
- Be made prior to the raising of a point of order, thus making the point of order moot.

Source: Senate Budget Committee (July 2005)