

§ 10. Section 311

Background

Section 311 of the Congressional Budget Act⁽¹⁾ provides a point of order against the consideration of legislation providing budget authority that exceeds the spending ceiling or reduces revenues below the revenue floor established by the most recent concurrent resolution on the budget. The point of order addresses budget aggregates (*i.e.*, total levels of budget authority and revenues), rather than committee allocations (which are governed by section 302(f)) or individual functional categories.

A point of order under section 311(a) is applicable to bills, joint resolutions, amendments, motions and conference reports. The point of order will be sustained if the enactment of the bill or resolution (in either its reported form or the form recommended in a conference report) or the adoption and subsequent enactment of an amendment would cause a breach of the spending limit (or a reduction of revenues below the revenue floor) established by the concurrent resolution on the budget.⁽²⁾ With respect to revenues, the point of order applies not only to the first fiscal year covered by the budget resolution, but also the total of that first fiscal year and the ensuing fiscal years for which allocations are provided under section 302(a) of the Congressional Budget Act.⁽³⁾ Gramm-Rudman-Hollings⁽⁴⁾ added an exception providing that when a declaration of war by the Congress is in effect, section 311(a) points of order are not applicable.

A waiver of section 311(a) points of order against the initial consideration of a measure in the House does not extend to consideration of amendments to that measure⁽⁵⁾ or to consideration of conference reports on that measure, unless specified in the waiver.⁽⁶⁾ Likewise, a waiver against initial consideration of a measure in the House does not extend to motions to concur in Senate amendments containing additional violations of sections 311(a), such motions requiring separate waivers.⁽⁷⁾

The point of order is applicable in both the House and the Senate.⁽⁸⁾ As with other points of order under the Congressional Budget Act, a vote of

1. 2 USC § 642.

2. See §§ 10.1–10.3, *infra*.

3. 2 USC § 642(a)(1). See § 11, *infra*.

4. Pub. L. No. 99–177.

5. See § 10.8, *infra*.

6. See 128 CONG. REC. 1270, 97th Cong. 2d Sess., Feb. 9, 1982 (H. Res. 356).

7. See § 10.7, *infra*.

8. For an example of a section 311(a) point of order sustained in the Senate for an amendment causing an outlay breach, see 133 CONG. REC. 11990, 100th Cong. 1st Sess., May

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

three-fifths of Senators duly chosen and sworn is required to waive section 311(a), pursuant to section 904(c).⁽⁹⁾

In the House, the point of order must be raised at the time the bill, amendment, or conference report is first considered, and is untimely once debate has begun on the measure.⁽¹⁰⁾

Gramm-Rudman-Hollings also codified the so-called “Fazio exception” at section 311(c) of the Congressional Budget Act.⁽¹¹⁾ That subsection exempts from the application of section 311 certain measures that, although in breach of the overall budget authority ceiling, would not cause the appropriate allocation of new budget authority made pursuant to section 302(a)⁽¹²⁾ of the Budget Act for that fiscal year to be exceeded. Thus, if the enactment of a bill or resolution (in its reported form or the form recommended by a conference report) or the adoption and enactment of an amendment would not cause the bill to exceed that committee’s 302(a) allocation, it would be exempt from 311(a) points of order. The rationale for this exception is to prevent penalizing committees that had avoided breaching their own budget allocations but had, due to overspending by other committees, reported bills breaching the total level of budget authority as established in the most recent concurrent resolution on the budget.⁽¹³⁾

The Budget Enforcement Act of 1990 created a broad exception⁽¹⁴⁾ to certain Congressional Budget Act points of order (including sections 302, 303 and 311), which provided that certain categories of spending (including emergency spending)⁽¹⁵⁾ shall not be taken into account when evaluating

12, 1987. For examples of amendments struck down in the Senate on section 311(a) points of order for reducing revenues below the revenue floor, see, *e.g.*, 129 CONG. REC. 9131, 9132, 9151, 98th Cong. 1st Sess., Apr. 20, 1983; and 129 CONG. REC. 6564, 6565, 6573, 98th Cong. 1st Sess., Mar. 22, 1983. For an example of an amendment struck down in the Senate for reducing a rescission (thus having the net effect of increasing budget outlays above the spending ceiling), see 126 CONG. REC. 17469–79, 96th Cong. 2d Sess., June 27, 1980.

9. 2 USC § 621 note; *House Rules and Manual* § 1127 (2011). For an example of a successful waiver of this point of order, see 140 CONG. REC. 29956, 103d Cong. 2d Sess., Nov. 30, 1994. For an example of an attempted waiver that failed to achieve the necessary three-fifths vote, see 142 CONG. REC. 1462, 1476, 104th Cong., 2d Sess., Jan. 26, 1996.

10. See Deschler-Brown Precedents Ch. 31 § 4.3, *supra*.

11. 2 USC § 642(c).

12. See § 10.9, *infra*.

13. Prior to the advent of Gramm-Rudman-Hollings, concurrent resolutions on the budget would occasionally provide this same exception on an *ad hoc* basis. See § 4, *supra*, and § 10.4, *infra*.

14. This exception was found in the temporary title VI of the Congressional Budget Act, at section 606(d)(2). Pub. L. No. 101–508.

15. See Pub. L. No. 99–177, secs. 251(b)(1), 251(b)(2)(A–D), and 252(e).

points of order under those sections. The BEA of 1990 also clarified the scope of section 311 by substituting “joint resolution” for “resolution” to avoid the possibility that a simple resolution of the House (such as a special order of business reported from the Committee on Rules) could violate section 311.⁽¹⁶⁾ Finally, the BEA of 1990 also inadvertently broke a cross-reference in section 311(c) (the “Fazio exception”) to committee allocations made pursuant to title VI of the Congressional Budget Act.⁽¹⁷⁾ This error was temporarily repaired by a specific clarification contained in the budget resolution for fiscal year 1993.⁽¹⁸⁾

Rule XXI clause 8⁽¹⁹⁾ provides that points of order under title III of the Budget Act (including section 311(a)) apply to unreported as well as reported measures, beginning in 2007.⁽²⁰⁾

Pursuant to section 308(b) of the Budget Act,⁽²¹⁾ the Committee on the Budget must report periodically to the House a status update on current House budget actions as compared to the spending ceiling and the revenue floor of the latest budget resolution in order to aid point of order enforcement (including section 311 of the Budget Act).⁽²²⁾ Section 312(a) provides that evaluation of points of order under titles III and IV of the Budget Act, including section 311(a), shall be made on the basis of estimates provided by the Committee on the Budget.⁽²³⁾ Pursuant to Rule XXIX clause 4, such estimates may be provided by the chairman of that committee.⁽²⁴⁾

-
- 16.** *Parliamentarian’s Note:* Prior to this change, section 311 was liable to the interpretation that a special order of business “self-executing” text containing budget authority violating aggregate budget levels or “hereby” concurring in Senate amendments with similar violations would “provide” such impermissible budget authority and therefore not be in order. The revision described here allowed the Committee on Rules this additional procedural flexibility without the need for Budget Act waivers.
- 17.** Between 1990 and 1998, committee allocations were made pursuant to authority found in section 602 of the Congressional Budget Act, rather than section 302. See § 11, *infra*. However, section 311(c) was not amended to account for this change and its provisions were still textually tied to (non-existent) committee allocations made pursuant to section 302. As noted in the following footnote, a clarifying statement was carried in the budget resolution for fiscal year 1993 to reflect congressional intent to continue the “Fazio exception” during this time period.
- 18.** 138 CONG. REC. 12156, 102d Cong. 2d Sess., May 20, 1992 (H. Con. Res. 287, sec. 11). See § 4, *infra*.
- 19.** *House Rules and Manual* § 1068c (2011).
- 20.** See § 11, *infra*.
- 21.** 2 USC § 639(b).
- 22.** See § 7, *supra*.
- 23.** 2 USC § 643(a). A form of this provision (applicable only to section 311 points of order) was originally found in section 311(b) of the Congressional Budget Act, prior to Gramm-Rudman-Hollings.
- 24.** *House Rules and Manual* § 1105d (2011).

Provisions Constituting a Breach

§ 10.1 Against a motion to concur in a Senate amendment with an amendment providing additional new budget authority for a fiscal year for which current levels of such authority were already in breach of the totals and allocations established under the pertinent budget resolution, the Speaker sustained points of order raised under sections 302(f) and 311(a) of the Congressional Budget Act⁽¹⁾ as further exceeding the relevant levels.

On Sept. 28, 1989,⁽²⁾ the following occurred:

The text of the amendment is as follows:

Senate amendment No. 6: Page 12, line 10, strike out “\$124,532,000” and insert: “\$48,000,000”.

POINT OF ORDER

Mr. [William] FRENZEL [of Minnesota]. Mr. Speaker, I make a point of order against the language in the pending motion as a violation of section 311(a).

The SPEAKER pro tempore.⁽³⁾ The gentleman will suspend and let the motion be read first.

MOTION OFFERED BY MR. FAZIO

Mr. [Victor] FAZIO [of California]. Mr. Speaker, I offer a substitute motion. The SPEAKER pro tempore. First the Clerk will report the original motion. The Clerk read as follows:

Mr. FAZIO moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: “\$115,661,000, of which \$29,379,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, \$54,561,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, and \$31,721,000 is an additional amount for fiscal year 1989”.

Mr. [Jerry] LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HERTEL). Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I want to hear the amendment. I object to the request of the gentleman from California.

The SPEAKER pro tempore. The Clerk will read the motion.

The Clerk read the balance of the motion.

The SPEAKER pro tempore. The Clerk read the original motion, not the substitute motion of the gentleman from California [Mr. FAZIO].

1. 2 USC §§ 633(f), 642(a).
2. 135 CONG. REC. 22267, 101st Cong. 1st Sess.
3. Dennis Hertel (MI).

Does the gentleman from Minnesota [Mr. FRENZEL] have a point of order on that motion?

Mr. FRENZEL. Mr. Speaker, I do have a point of order against the original motion.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Speaker, I make a point of order against the language in the pending motion under section 311(a) and section 302(f)(1) of the Congressional Budget Act of 1974.

This language violates the above-mentioned sections of the Budget Act because it contains \$31.7 million in new budget authority for fiscal year 1989.

Section 311(a) of the Budget Act provides a point of order against any bill, amendment, or conference report which provides new budget authority that would cause the appropriate level of total new budget authority for a fiscal year to be exceeded. According to the Parliamentarian's status report filed in the CONGRESSIONAL RECORD of September 19, 1989, the appropriate level of total new budget authority contained in House Concurrent Resolution 268, the concurrent budget resolution for fiscal year 1989, has been exceeded by \$16.6 billion. This language would add an additional \$31.7 million to the amount of this excess.

Section 302(f)(1) of the Budget Act provides that it shall not be in order to consider a bill, amendment, or conference report providing new budget authority which would cause the appropriate committee allocation to be exceeded. The Appropriations Committee has exceeded its committee allocation for fiscal year 1989 by \$1.3 billion. This language would add \$31.7 million new budget authority to this overage, thereby violating section 302(f)(1) of the Budget Act.

I believe the motion before us constitutes a violation of both of those sections.

The SPEAKER pro tempore. Does the gentleman from California [Mr. FAZIO] wish to be heard on the point of order?

Mr. FAZIO. Yes, I do, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. FAZIO. Mr. Speaker, this is simply an effort to keep our commitment to pay for the bills that have been incurred. We are paying in this supplemental appropriation for the current fiscal year, \$31.7 million which has already been expended. Rather than carry that forward into the future as has been the case in the past on occasion, we felt it was most appropriate to pay it in this fiscal year as part of the supplemental attached to this bill. This money ought not to be paid by the public through postal rates. It certainly has been incurred by the Congress. We believe that we ought to keep faith with the Postal Service and pay every one of the bills that come due for services rendered. I hope we will be willing to continue our record of having paid all our bills.

Therefore I would hope the gentleman would withdraw his point of order.

The SPEAKER pro tempore. Does the gentleman from Minnesota insist on his point of order?

Mr. FRENZEL. Mr. Speaker, I do insist.

Mr. FAZIO. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore (Mr. HERTEL). For the reasons stated by the gentleman from Minnesota, the point of order is sustained by the Chair based on the estimate furnished by the Budget Committee.

Provisions Not Constituting a Breach

§ 10.2 Sections 311(a) and 302(f) of the Congressional Budget Act⁽¹⁾ prohibit consideration of bills and amendments containing new

1. 2 USC §§ 642(a), 633(f).

budget authority or outlays in excess of aggregate totals or amounts allocated to committees, but do not apply to provisions which do not constitute new budget authority or outlays but instead result in outlay savings such as prepayment of government loans.

On June 30, 1987,⁽²⁾ an amendment was found not to violate section 311(a) of the Budget Act:

The SPEAKER pro tempore.⁽³⁾ The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 223: Page 49, after line 17, insert:

RURAL ELECTRIFICATION ADMINISTRATION

Notwithstanding the amount authorized to be prepaid under section 306A(d)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)(1)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) that serves six or fewer customers per mile may, at the option of the borrower, prepay such loan (or any loan advance thereunder) during fiscal year 1987 or 1988, in accordance with section 306A of such Act.

MOTION OFFERED BY MR. WHITTEN

Mr. [Jamie] WHITTEN [of Mississippi]. Mr. Speaker, I offer a motion. The SPEAKER pro tempore. The Clerk will designate the motion. The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 223 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

RURAL ELECTRIFICATION ADMINISTRATION

Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.

PARLIAMENTARY INQUIRY

Mr. [Ronald] PACKARD [of California]. Mr. Speaker, I have a parliamentary inquiry. The SPEAKER pro tempore. The gentleman will state it.

Mr. PACKARD. Mr. Speaker, is this the amendment that deals with the Rural Electrification [sic] Administration?

The SPEAKER pro tempore. The gentleman is correct.

2. 133 CONG. REC. 18307, 18308, 100th Cong. 1st Sess. For section 302(f) points of order, see § 11, *infra*.

3. Daniel Glickman (KS).

POINT OF ORDER

Mr. PACKARD. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PACKARD. Mr. Speaker, I make a point of order, the following points of order, actually:

No. 1, that subject to rule 21, clause 2, this amendment is legislating on appropriation bills.

No. 2, that this amendment is not germane to the supplemental appropriations bill.

No. 3, that this amendment violates section 302(f) of the Congressional Budget Act.

No. 4, that this amendment violates section 311(a) of the Congressional Budget Act.

The SPEAKER pro tempore. Does the gentleman from Mississippi wish to be heard on the point of order?

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the point of order. This amendment is germane to the amendment of the Senate.

What the amendment does is quite straightforward. It removes the phrase "that serves 6 or fewer customers per mile" from the Senate amendment. This has the direct result of allowing REA's that have population density of up to 12.4 customers per mile to qualify, rather than just 6 customers per mile.

The amendment does not change the class of borrowers that can prepay; it simply enlarges the same class. It does not add some other type of borrower.

The Senate amendment allows Rural Electrification Administration borrowers who serve six or fewer customers per mile of line to refinance their REA guaranteed debt with the Federal Financing Bank without being assessed a prepayment penalty.

There are 51 borrowers whose loans bear an interest rate such that they would be worthwhile to refinance at present interest rates.

At present there are 31 borrowers with loans whose density is 6 or fewer per mile.

There are 20 borrowers with loans whose density is greater than 6 customers per mile of line.

The conference agreement would allow all 51 borrowers to refinance their loans rather than only 31 borrowers.

This type of amendment is clearly in order and is germane.

Cannon's procedures states, "A general subject may be amended by specific proposition of the same class." Mr. Speaker, this is exactly what is being done.

In fact, the amendment is even stricter. In effect, what is involved is a proposition being amended by the same proposition in the same class. Clearly, such an amendment expands the scope, but is germane.

Mr. Speaker, I respectfully request that the point of order be overruled.

I believe this is not a violation of any provision of the Budget Act. It is not in violation, since no allocation of discretionary budget authority has been exceeded.

The SPEAKER pro tempore. Are there other Members who wish to be heard on the point of order?

Mr. PACKARD. Simply, Mr. Speaker, that it appears to me obvious that this is legislating differently than what is in the supplemental, in that it does change the Government's budget responsibilities to the loans that have been executed some years ago by the different providers from the REA.

I cannot conceive that changing those budget requirements and obligations would be a legislative matter.

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

The SPEAKER pro tempore. The Chair is prepared to rule.

With respect to the issue of whether this motion constitutes legislation on an appropriations bill, the Chair rules that it is not in violation of clause 2 ----XX, since the amendment was brought back in disagreement for a separate vote, not as part of the conference report. Therefore, the Chair rules that the motion, while continuing legislation on an appropriation bill; does not violate any rule of the House at this stage of the proceedings as an amendment to the Senate amendment.⁽⁴⁾

With respect to the germaneness issue that the gentleman raises, the motion is germane to the Senate amendment since relating to the same class of borrowers covered by the Senate amendment and the Senate amendment itself is being brought back in disagreement for a separate vote. Therefore, there is no valid germaneness point of order with respect to the motion disposing of the Senate amendment.⁽⁵⁾

With respect to the Budget Act points of order, the sections that the gentleman cited, this motion provides for a prepayment provision on loans. It involves no budget authority or budget outlays in fiscal year 1987. It actually results in outlay savings, not expenditures, in 1987, since it involves prepayment of loans.

Therefore, the Chair overrules the various points of order.

§ 10.3 To an appropriation bill containing new budget outlays already in excess of the total level permitted by the second concurrent resolution⁽¹⁾ on the budget for that fiscal year, where the bill was considered under a waiver of section 311(a) of the Congressional Budget Act,⁽²⁾ an amendment striking a proposed rescission of existing budget authority in the bill was ruled out in the House for violating section 311(a), as further exceeding the total budget outlay ceiling in the second concurrent resolution on the budget.

Section 311(a) of the Budget Act, precluding any amendment “providing additional new budget authority” which would cause the appropriate level of total new budget authority or budget outlays to be exceeded, has been interpreted to prohibit consideration of an amendment striking out a rescission of existing budget authority where its effect was to increase the net total new budget authority in the bill (an amount calculated by offsetting rescissions in the bill against new appropriations) resulting in a further breach of the spending ceiling in the applicable budget resolution.

On May 12, 1981,⁽³⁾ the following occurred:

The Clerk read as follows:

4. For more on points of order under Rule XXI clause 2, see generally Deschler’s Precedents Ch. 26, *supra*.
5. For more on the germaneness rule, see generally Deschler-Brown Precedents Ch. 28, *supra*.
1. The revisions to the Congressional Budget Act made by Gramm-Rudman-Hollings eliminated the requirement of a second annual budget resolution.
2. 2 USC § 642(a).
3. 127 CONG. REC. 9314, 9315, 97th Cong. 1st Sess.

PAYMENTS IN LIEU OF TAXES

(RESCISSION)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriations Act, 1981 (Public Law 96-514) and previous Interior Department Appropriations Acts \$108,000,000 are rescinded.

AMENDMENT OFFERED BY MR. LUJAN

Mr. [Manuel] LUJAN [of New Mexico]. Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mr. LUJAN: Page 57 strike out line 7 through line 12.

Mr. [Sidney] YATES [of Illinois]. Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. YATES. Mr. Chairman, I insist on my point of order.

The CHAIRMAN pro tempore.⁽⁴⁾ The gentleman will state his point of order.

Mr. YATES. Mr. Chairman, I make a point of order against the amendment.

I make a point of order against the gentleman's amendment because it provides additional budget authority and budget outlays in excess of the budget authority and budget outlay totals agreed to in the latest concurrent budget resolution and is in violation of section 311 of the Congressional Budget Act (Public Law 93-344).

The gentleman's amendment proposes to delete language (to reduce an amount) in the bill which has the effect of providing budget authority and budget outlays in excess of the current budget ceilings for fiscal year 1981. Section 311 of the Congressional Budget Act states that it shall not be in order to consider any amendment providing additional budget authority or spending authority the adoption of which would cause the appropriate level of total budget authority of total budget outlays set forth in the most recently agreed to concurrent resolution on the budget to be exceeded.

As we all know, on March 18, 1981, Mr. JONES, chairman of the House Budget Committee, placed in the CONGRESSIONAL RECORD the reestimates of budget authority and budget outlays required of him by the Congressional Budget Act which indicate that the fiscal year 1981 budget authority ceiling has been exceeded by \$19.6 billion and the budget outlay ceiling has been exceeded by \$27.6 billion. The House has recently passed a measure adjusting those ceilings upward but that measure must still be worked out in conference with the Senate.

With these reestimates in place and in the absence of a new resolution having been agreed to raising these ceilings, there is no room left to provide any additional budget authority or outlays. In fact, these budget levels are currently in deficit by billions of dollars.

The gentleman's amendment therefore exceeds the current budget ceilings and is in violation of section 311 of the Congressional Budget Act. It is out of order.

The CHAIRMAN pro tempore. Does the gentleman from New Mexico care to respond to the point of order?

Mr. LUJAN. I would like to address the point of order; I certainly would, Mr. Chairman.

4. Jonas Frost (TX).

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

What the gentleman says is absolutely correct, but I think we are forgetting one fact here. The previous amendment that just passed reduced that budget amount by \$376 million. Certainly, \$108 million would fit very nicely under that figure of \$376 million.

The CHAIRMAN pro tempore. The Chair is prepared to rule. The amendment offered by the gentleman from New Mexico proposes to strike a rescission of funds contained in the bill.

The amendment, by striking the amount of the rescission in the bill, has the effect of increasing the net amount of new budget authority contained in the bill as a whole, and also has the obvious effect of increasing total outlay levels further above the ceiling currently in place for fiscal year 1981, contained in House Concurrent Resolution 448 of the 96th Congress.

As indicated in the letter from the Budget Committee to the Speaker inserted in the RECORD of March 18, 1981, the outlay ceiling for fiscal year 1981 as of that date had already been exceeded by \$27 billion. Thus, despite adoption of the prior amendment, the amendment falls within the prohibition stated in section 311 of the Budget Act, as indicated in a ruling by the Presiding Officer in the other body on June 27, 1980, wherein an attempt was made to reduce a rescission in last year's supplemental appropriation bill.

The Chair, therefore, sustains the point of order raised by the gentleman from Illinois (Mr. [Sidney] YATES).

Rejection of Legislation

§ 10.4 During debate on the second concurrent resolution on the budget,⁽¹⁾ the chairman of the Committee on the Budget evinced his opinion⁽²⁾ that a resolution of disapproval under the Trade Act of 1974 (disapproving of the President's recommendation to extend most-favored nation status) would not violate the Congressional Budget Act (even though its rejection would cause a decrease in revenues).⁽³⁾

On Sept. 19, 1979,⁽⁴⁾ the following occurred:

1. The revisions to the Congressional Budget Act made by Gramm-Rudman-Hollings eliminated the requirement of a second annual budget resolution.
2. These comments are especially noteworthy given the present authorities of the chairman of the Committee on the Budget under section 312(a) of the Congressional Budget Act (2 USC § 643(a)) and Rule XXIX clause 4 (*House Rules and Manual* § 1105d (2011)). See § 7, *supra*.
3. *Parliamentarian's Note*: The extension of most-favored nation status was scored to provide a small revenue loss. The extension (and thus the revenue loss) would occur automatically unless Congress adopted a resolution of disapproval under the procedures of the Trade Act. If Congress were to reject such a resolution of disapproval, the extension would go into effect along with the resulting revenue loss. However, section 311(a) of the Congressional Budget Act only prohibits consideration of measures whose *enactment*, not whose *rejection*, would cause a breach of the relevant budgetary levels. Thus, the revenue loss occasioned by such rejection would have no cognizance under section 311(a).
4. 125 CONG. REC. 25409, 96th Cong. 1st Sess.

Mr. [Robert] GIAIMO [of Connecticut]. Mr. Chairman, I move to strike the last word. The CHAIRMAN.⁽⁵⁾ The gentleman from Connecticut (Mr. GIAIMO) is recognized for 5 minutes.

Mr. GIAIMO. Mr. Chairman, I yield to the gentleman from Ohio (Mr. VANIK) who is concerned about a matter which he wishes to discuss with me.

Mr. [Charles] VANIK [of Ohio]. Mr. Chairman, later during this session or during the fiscal year for which we are preparing the budget, the administration may submit a most-favored-nation treaty for the approval of the Congress. Under the Trade Act, such recommendation takes effect unless the Congress does not disapprove. Now, such an extension of most-favored-nation status involves a small revenue loss.

Can the chairman of the committee advise me as to whether in his opinion such resolutions of disapproval would be subject to points of order under the provisions of the Budget Act?

Mr. GIAIMO. Mr. Chairman, I have checked into this matter, and my best understanding is that since they are resolutions of disapproval, they would not be subject to a point of order under the provisions of the Budget Act.

Mr. VANIK. Mr. Chairman, I thank the distinguished chairman of the Committee on the Budget.

Waivers

§ 10.5 Although under section 311(a) of the Congressional Budget Act⁽¹⁾ a point of order that new budget authority or outlays in the bill exceeds the spending ceiling of a concurrent resolution on the budget must be made against initial consideration of the bill, and not against separate paragraphs therein, the Committee on Rules may report a special order waiving that point of order against consideration but providing instead for separate points of order against designated paragraphs containing excessive budget authority or outlays.

On May 6, 1982,⁽²⁾ a Member called up the following special order of business resolution (not ultimately agreed to by the House) providing that some portions of the bill (but not others) would be subject to points of order under section 311(a) of the Congressional Budget Act:

H. RES. 415

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5922) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and the provisions of section 311(a) of the Congressional Budget Act of 1974. [sic] (Public

5. William H. Natcher (KY).

1. 2 USC § 642(a).

2. 128 CONG. REC. 8905, 97th Cong. 2d Sess.

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Law 93-344) are hereby waived only against the initial consideration of said bill in the House: *Provided, however,* That it shall be in order, when each of the following paragraphs of the bill is read, and before debate thereon or amendment thereto, to make a point of order that the paragraph contains new budget authority for fiscal year 1982 which would cause the appropriate level of total new budget authority or total budget outlays set forth in the second concurrent resolution on the budget for fiscal year 1982 (S. Con. Res. 50) to be exceeded in a manner which would be proscribed by section 311(a) of the Congressional Budget Act if such paragraph were considered as a separate bill, and if the Chair sustains any such point of order the paragraph in question shall be stricken from the bill without further action of the House: page 4, lines 1 through 4 (“Special Institutions-Howard University”); page 4, lines 5 through 12 (“Related Agencies—Action—Operating Expenses, Domestic Programs”); page 10, lines 1 through 9 (“Bureau of Alcohol, Tobacco and Firearms—Salaries and Expenses”); page 11, lines 3 through 6 (“Department of Commerce—General Administration—Salaries and Expenses”); page 11, lines 7 through 12 (“Economic Development Administration—Salaries and Expenses (Transfer of Funds)”); and page 11, lines 13 through 16 (“National Oceanic and Atmospheric Administration—Operations, Research, and Facilities”). During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived: beginning on page 2, lines 4 through 10; beginning on page 2, lines 11 through 17; beginning on page 2, lines 18 through 24; beginning on page 3, lines 8 through 15; beginning on page 4, line 16 through page 7, line 10; beginning on page 7, lines 11 through 18; beginning on page 7, line 20 through page 8, line 8; beginning on page 9, lines 3 through 6; beginning on page 9, lines 12 through 16; beginning on page 10, lines 10 through 13; and beginning on page 12, lines 12 through 21.

□ 1200

The SPEAKER.⁽³⁾ The gentleman from Mississippi is recognized for 1 hour.

§ 10.6 The House has agreed to a special order of business resolution reported from the Committee on Rules containing an explicit waiver of points of order under section 311 of the Congressional Budget Act.⁽¹⁾

On May 9, 2001,⁽²⁾ the following occurred:

PROVIDING FOR CONSIDERATION OF H.R. 581, WILDLAND FIRE
MANAGEMENT ACT

Mr. [Doc] HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 135 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 135

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R.

3. Thomas O'Neill (MA).

1. 2 USC § 642.

2. 147 CONG. REC. 7474, 7475, 107th Cong. 1st Sess.

581) to authorize the Secretary of the Interior and the Secretary of Agriculture to use funds appropriated for wildland fire management in the Department of the Interior and Related Agencies Appropriations Act, 2001, to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service to facilitate the inter-agency cooperation required under the Endangered Species Act of 1973 in connection with wildland fire management. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 311 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore.⁽³⁾ The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. . . .

The rule further provides that the bill shall be open for amendment at any point and waives all points of order against the bill. Finally, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and provides one motion to recommit, with or without instructions. . . .

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 10.7 By unanimous consent, the House agreed to consider (prior to the stage of disagreement) a motion in the House to concur in a Senate amendment to a special appropriation bill without intervening motion and to waive all points of order⁽¹⁾ against consideration of the Senate amendment (containing new budget authority in excess of the ceiling established by the second concurrent resolution on the budget for fiscal 1982, in violation of section 311 of the Congressional Budget Act).⁽²⁾

3. Judy Biggert (IL).

1. *Parliamentarian's Note*: Although section 311(a) points of order had been waived against initial consideration of the bill in the House, such a waiver does not extend to consideration of a motion to concur in a Senate amendment.

2. 2 USC § 642. See also Deschler-Brown Precedents Ch. 29 § 2.39, *supra*. The revisions to the Congressional Budget Act made by Gramm-Rudman-Hollings eliminated the requirement of a second annual budget resolution.

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

On Feb. 10, 1982,⁽³⁾ the following occurred:

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 389, URGENT SUPPLEMENTAL APPROPRIATION FOR DEPARTMENT OF AGRICULTURE, 1982

Mr. [James] WRIGHT [of Texas]. Mr. Speaker, I ask unanimous consent that it shall be in order today or any day thereafter, any rule of the House to the contrary notwithstanding, to consider a motion in the House to take from the Speaker's table the joint resolution (H.J. Res. 389) making an urgent supplemental appropriation for the Department of Agriculture for the fiscal year ending September 30, 1982, with the Senate amendment thereto, and to concur in said Senate amendment, and that the previous question shall be considered as ordered on said motion to final adoption without intervening motion.

The SPEAKER pro tempore.⁽⁴⁾ Is there objection to the request from the gentleman from Texas?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, if the distinguished majority leader would answer a question.

As I understand the Senate amendment to House Joint Resolution 389, it is in fact the low-income energy assistance bill as that bill was reported out of the House Appropriations Committee before the Broyhill amendment was adopted in this body; is that correct?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

I believe that is essentially correct. I do know that the amendment to this Commodity Credit Corporation bill is the low-income fuel assistance bill which we passed in the House as separate legislation.

Mr. FRENZEL. I thank the gentleman for his comments.

Further reserving the right to object, Mr. Speaker, I do have a strong objection to the low-income energy assistance bill. I think it is a bad thing that it has been attached to House Joint Resolution 389 which in my judgment is absolutely essential.

Because the majority has accepted the suggestion to make the unanimous-consent agreement one for consideration rather than immediate approval and the House will therefore have the opportunity to express its objection, at least as many of those in the House who wish to do so will have that right, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

§ 10.8 The House has adopted a special order of business resolution making in order consideration of a supplemental and continuing appropriation bill and waiving points of order under sections 303(a)⁽¹⁾ and 311(a)⁽²⁾ of the Congressional Budget Act against initial consideration of the bill (but not against amendments thereto).

3. 128 CONG. REC. 1462, 97th Cong. 2d Sess.

4. David Obey (WI).

1. 2 USC § 634(a).

2. 2 USC § 642(a).

On May 12, 1981,⁽³⁾ the following occurred:

Mr. [Richard] BOLLING [of Missouri]. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 137 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 137

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3512) making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981, rescinding certain budget authority, and for other purposes, and the provisions of sections 303(a)(1) and 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived only against the initial consideration of said bill in the House. During the consideration of said bill, the provisions of clauses 2 and 6, rule XXI shall apply as if the bill had been reported from the Committee on Appropriations, and all points of order against the bill for failure to comply with said provisions are hereby waived.

The SPEAKER pro tempore.⁽⁴⁾ The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott).

Mr. Speaker, this rule makes in order a very complicated appropriations bill which includes the supplemental, rescissions and the continuing resolution. It deals with a couple of years, 1981 and 1982. The waivers are necessary because of the Budget Act and the rules of the House. There are a rather limited number of amendments that will be in order. Most of them would be amendments to strike.

Unless there is a desire for a great deal of detail, I would just say that it makes in order the second bill, rather than the first one brought to the Committee on Rules from the Appropriations Committee.

The second bill is somewhat modified. It reduces \$500 million in defense spending and it knocks out some language violently objected to by several of the committees; but I think the matter represents a bipartisan and unanimous, as I understand it, Appropriations Committee.

I therefore think the rule should be passed.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Did I understand in the rule that sections of the Budget Act were waived by the bill itself, but those sections of the Budget Act would not be waived in the amending process; is that the situation?

Mr. BOLLING. That is the effect. As the result of this, there is no way to waive points of order against amendments unless the amendments are listed and we have listed no such amendments.

Mr. WALKER. I thank the gentleman.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

3. 127 CONG. REC. 9272-74, 97th Cong. 1st Sess. See § 10.3, *supra*. See also Deschler-Brown Precedents Ch. 29 § 2.40, *supra*.

4. Joe Moakley (MA).

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this rule. H.R. 3512, which will be made in order if this rule is adopted, contains supplemental appropriations, rescissions, and deferrals for fiscal year 1981, and also extends the continuing resolution for agencies whose regular fiscal year 1981 appropriations were never enacted. . . .

The rule before us makes in order H.R. 3512, instead of H.R. 3400, which is the supplemental bill initially reported out of the Appropriations Committee on April 30 of this year. This parliamentary device is used to accommodate two changes adopted by the Appropriations Committee just last Thursday. One of these changes deletes language in the original bill which would have revised certain procedures of the Nuclear Regulatory Commission, and another change reduces by \$500 million the supplemental appropriations for the Defense Department. The cut in defense supplements was done to avoid the possibility that the bill would breach the fiscal year 1981 spending ceiling adopted by the House last week in the first concurrent budget resolution.

Because of the nature of this bill, certain points of order must be waived to allow its consideration. Clause 2 of rule XXI must be waived because language is included throughout the bill, particularly with regard to rescissions and deferrals, which could be considered legislation. Clause 6 of rule XXI is also waived to provide for the inclusion of transfers, which amount to reappropriations.

Section 311(a) of the Budget Act is waived in this rule because the current budget ceilings, contained in the second concurrent resolution for fiscal year 1981, have been breached due to reestimates. In addition, section 303(a)(1) of the Budget Act is waived to provide for the inclusion in the bill of a \$3.883 billion advance appropriation for the Strategic Petroleum Reserve, as requested by the administration.

To summarize the provisions of this rule, points of order against the bill are waived concerning legislation in an appropriations bill, reappropriations, and certain breaches of the Budget Act. I should point out that these points of order are not waived against amendments to the bill, and therefore any amendments offered must be drafted so as to comply with the House rules and the Budget Act. However, this rule does not preclude consideration of amendments which are otherwise in order. Amendments which will be in order include those which would increase rescissions or deferrals or which would decrease a supplemental appropriation, since such amendments would not operate to exceed the current budget ceiling. In addition, legitimate limitations on the use of appropriated funds will be in order. . . .

Mr. BOLLING. Mr. Speaker, I have one request for time, but I do not see the Member on the floor.

Therefore, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The “Fazio Exception”

§ 10.9 In response to parliamentary inquiries, pending consideration of a reported supplemental appropriation bill, the Speaker affirmed that, pursuant to a provision in the first concurrent resolution on the budget for fiscal year 1984,⁽¹⁾ section 311(a) of the Congressional Budget Act⁽²⁾ would not apply to any measure or amendments thereto whose new budget authority did not exceed the section 302(a) allocation of the reporting committee.

On Mar. 6, 1984,⁽³⁾ the following occurred:

URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF
AGRICULTURE, 1984

Mr. [Jamie] WHITTEN [of Mississippi]. Mr. Speaker, pursuant to the order of the House of Wednesday, February 29, 1984, I call up for consideration in the House as in the Committee of the Whole the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture.

The Clerk read the title of the joint resolution.

PARLIAMENTARY INQUIRY

Mr. [Thomas] LOEFFLER [of Texas]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER.⁽⁴⁾ The gentleman will state it.

Mr. LOEFFLER. Mr. Speaker, I make this parliamentary inquiry because the bills under consideration today—House Joint Resolution 492 and House Joint Resolution 493, which provide for urgent supplementals for the Public Law 480 program and low income energy assistance—are the first appropriation bills to come before the House this year. It is my purpose to be certain that I and other Members fully understood the procedures that will be used in scorekeeping for these and future appropriation bills.

In particular, my inquiry relates to the enforcement of section 311 of the Congressional Budget Act. I have several questions, so if the Chair will bear with me, I will proceed as expeditiously as possible.

Mr. Speaker, I note that the Parliamentarian’s status report on the current level of total Federal spending, printed in the CONGRESSIONAL RECORD of February 22, indicates that there are \$3,079 million in budget authority and only \$16 million in outlays remaining under the aggregate spending ceilings set forth in the concurrent resolution on the budget for fiscal year 1984.

1. H. Con. Res. 91, sec. 5(b).

Parliamentarian’s Note: As noted in Section 4, the budget resolutions for fiscal years 1984, 1985, and 1986 each contained an optional *ad hoc* budgetary enforcement mechanism that operated in the same manner as what was later codified as the “Fazio exception” in section 311(c) of the Congressional Budget Act.

2. 2 USC § 642(a).

3. 130 CONG. REC. 4620–22, 98th Cong. 2d Sess. See also Deschler-Brown Precedents Ch. 31 § 14, *supra*.

4. Thomas O’Neill (MA).

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Under section 311 of the Budget Act, once Congress has completed a second budget resolution, bills, resolutions or amendments providing new budget authority or new spending authority as described in section 401(c)(2)(C) of the Budget Act, would be subject to a point of order against their consideration in the House if their adoption would cause the aggregate budget authority or outlay ceilings in the most recently agreed to budget resolution to be exceeded.

For fiscal year 1984, as was the case in fiscal year 1983, the first budget resolution included language which allows enforcement of section 311 after October 1 of the fiscal year, if Congress does not adopt a second budget resolution by that date.

As reported by the Appropriations Committee, both bills under consideration would cause the aggregate outlay ceilings under the first budget resolution to be breached—although not the aggregate budget authority ceiling—which, under enforcement provisions in effect for fiscal year 1983, would have resulted in these bills being subject to a point of order under section 311.

Is my understanding correct that this year the operation of section 311 has been further modified by a provision, section 5(B), contained in House Concurrent Resolution 91, the first concurrent resolution on the budget for fiscal year 1984—the so-called Fazio language?

Further, could the Chair explain how section 5(B) of House Concurrent Resolution 91 affects the applicability of section 311 points of order to spending bills, including those before us today, and to any amendments that may be offered to such bills?

Is it correct that neither the total level of outlays nor a committee's outlay allocation under section 302(A) of the Budget Act would be considered in determining whether a section 311 point of order would apply to spending bills or amendments thereto?

Could the Chair explain the basis upon which it makes a determination regarding the discretionary budget authority remaining available to committees of the House?

Further, is it not the case that once the Congress adopts a second budget resolution for fiscal year 1984, updating and revising the first budget resolution, that the provisions of section 5(B) in House Concurrent Resolution 91 would no longer be in effect, and section 311 would operate as set forth in the Budget Act, based on the newly established aggregate ceilings and provisions in the second budget resolution? Finally, can one assume that the Appropriations Committee's discretionary budget authority allocation will be reduced by the amounts in these bills plus any amendments adopted that increase spending, once they are enacted? . . .

The SPEAKER. The Chair will respond to the inquiry of the gentleman from Texas.

The gentleman from Texas has requested the Chair to interpret the relationship between [sic] bills providing new spending for fiscal year 1984 and the provisions of the most recently agreed to budget resolution for that fiscal year.⁽⁵⁾

5. The Speaker is referring to section 5(b) of the fiscal year 1984 concurrent resolution on the budget (H. Con. Res. 91), the text of which is follows: "Section 311(a) of the Congressional Budget Act, as made applicable by subsection (a) of this section, shall not apply to bills, resolutions, or amendments within the jurisdiction of a committee, or any conference report on any such bill or resolution, if—(1) the enactment of such bill or resolution as reported; (2) the adoption and enactment of such amendment; or (3) the enactment of such bill or resolution in the form recommended in such conference report; would not cause the appropriate allocation for such committee of new discretionary budget authority, new budget authority, or new spending authority as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 made pursuant to section 302(a) of such Act for fiscal year 1984 to be exceeded."

As the gentleman has pointed out in his inquiry. The first concurrent resolution the budget for fiscal year 1984 (H. Con. Res. 91), adopted by the House and Senate on June 23, 1983, provided, in section 5, that it would become the second concurrent resolution on the budget for the purpose of section 311 of the Budget Act. Failing actual adoption of a second budget resolution by October 1, 1983. However, section 5(b) of the budget resolution provided for a more limited application of section 311 than would apply if a second budget resolution had actually been adopted. The Speaker received today from the chairman of the Committee on the Budget a revised status report on the current level of spending under the budget resolution. The status report indicates that any measure providing budget in excess of \$6 million would cause the total level of outlays under the budget resolution to be exceeded. The chairman of the Committee on the Budget included in that letter a summary and explanation of the operation of section 5 of the budget resolution once outlays are exceeded, and the Chair will now read that statement, which is responsive to much of the gentleman's inquiry: "The procedural situation with regard to the spending ceiling will be affected this year by section 5(b) of House Concurrent Resolution 91. As I explained during debate on the conference report on that resolution, enforcement against breaches of the spending ceiling under section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its appropriate allocation pursuant to section 302(a) of the Budget Act. In the House, the appropriate 302(a) allocation includes "new discretionary budget authority [sic]" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered. This exception is only provided because an automatic budget resolution is in effect and would cease to apply if Congress were to revise the budget resolution for fiscal year 1984.

The intent of the section 302(a) discretionary budget authority and new entitlement authority subceiling provided by section 5(b) of the resolution is to protect a committee that has stayed within its spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 91 were printed in the CONGRESSIONAL RECORD, June 22, 1983, H4326.

The Chair has been advised that each of the supplemental appropriation joint resolutions scheduled for today, House Joint Resolution 492 and House Joint Resolution 493, provides more than \$6 million in budget outlays for fiscal year 1984 and would thus cause the total level of outlays to be exceeded. The Committee on Appropriations has, however, a remaining allocation of \$2 billion, \$351 million in discretionary budget authority, according to tables prepared by the Budget Committee, inserted in the CONGRESSIONAL RECORD of March 1, 1984, and included in today's status report. The amount of budget authority contained in the joint resolutions scheduled for today is well within that allocation. As to amendments to those joint resolutions, or to other spending measures for fiscal year 1984, germane amendments which increase budget authority are in order as long as they do not cause the measure, as amended, to exceed the total remaining allocation of discretionary budget authority to the committee with jurisdiction over the measure or amendment.

The Chair's determination, whether a measure or amendment thereto, violates section 311 as made applicable by the budget resolution, is based upon estimates made by the Committee on the Budget, pursuant to section 311(b) of the Budget Act, of the remaining allocation to each committee. Once a bill providing new budget authority or entitlement

Ch. 41 § 10 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

authority is enacted, the remaining allocation of the committee with subject matter jurisdiction will be changed by the net amount of new budget authority contained in the measure, and the Chair is confident that the Committee on the Budget will keep the Chair currently informed as to the status of each committee.

The Chair would finally point out that the provisions of section 5 of the current budget resolution would cease to apply if Congress does adopt a second concurrent resolution on the budget for fiscal year 1984. In that event, the actual prohibition contained in section 311 of the Budget Act would take effect, unless modified by any special procedures contained in a second budget resolution.

§ 11. Section 302

As noted in Sections 4 and 5, the concurrent resolution on the budget serves as a guide or blueprint for Congress in making spending decisions throughout the appropriations process. An important part of that framework is the division of the recommended totals for new budget authority and outlays into separate portions assigned to the various committees of Congress. Pursuant to section 302(a) of the Congressional Budget Act,⁽¹⁾ the joint explanatory statement accompanying the conference report on the budget must include “allocations” of total new budget authority and total outlays to each House committee with jurisdiction over legislation providing or creating such amounts. As described below, points of order can be raised to keep spending within the limits of these section 302(a) allocations.

As originally written, the Congressional Budget Act mandated that each committee given a section 302(a) allocation of spending authority further subdivide that allocation among its various subcommittees (or programs). Pursuant to the Budget Enforcement Act of 1997,⁽²⁾ however, this requirement was dropped for all committees except for the Committee on Appropriations, which is still required to subdivide its section 302(a) allocation among its subcommittees. The Committee on Appropriations files a report with the House to indicate how the committee has divided its section 302(a) allocation among its subcommittees,⁽³⁾ and supplemental reports may revise such subcommittee allocations.⁽⁴⁾ This requirement is found in section 302(b)

1. 2 USC § 633(a).

2. Pub. L. No. 105-33.

3. For an example of the filing of such a report, see 136 CONG. REC. 14612, 101st Cong. 2d Sess., June 19, 1990.

4. 143 CONG. REC. 12009, 105th Cong. 1st Sess., June 24, 1997.