

Ch. 41 § 4 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Mr. CONTE. Really all the provisions of the House concurrent resolution.

Mr. PANETTA. The gentleman is moving notwithstanding all the provisions of House Concurrent Resolution 115?

Mr. CONTE. Yes, in particular House Joint Resolution 357.

Mr. PANETTA. Mr. Speaker, further reserving the right to object, as I understand it, this provision would then allow for the continuing resolution to be enrolled.

Mr. CONTE. That is right, and go to the President.

Mr. PANETTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? There was no objection.

§ 5. Consideration of Concurrent Resolutions on the Budget

Procedures in the Congressional Budget Act

The annual adoption of a concurrent resolution on the budget is an important part of the Federal budget process. Consequently, the Congressional Budget Act accords the concurrent resolution on the budget high privilege for consideration in the House and Senate and special procedures to expedite such consideration. Provisions relating to the consideration of concurrent resolutions on the budget are found in section 305 of the Congressional Budget Act.⁽¹⁾ In addition to the special procedures contained in that section, the House has frequently adopted standing rules that pertain specifically to the budget process and may affect how budget resolutions are considered.⁽²⁾ For many years, the House has also considered budget resolutions pursuant to a special order of business resolution reported by the Committee on Rules.⁽³⁾

Section 305 of the Congressional Budget Act prescribes procedures relating to various aspects of considering budget resolutions in the House, including privileged status, layover requirements, debate, the amendment process, consideration of conference reports, and appeals. Pursuant to section 305(a)(1), a concurrent resolution on the budget reported by the Committee on the Budget and referred to the appropriate calendar may be considered “any day thereafter” and the motion to proceed to consideration is “highly privileged” and not debatable.⁽⁴⁾ To further expedite consideration, such motion is neither amendable nor subject to the motion to reconsider.⁽⁵⁾

1. 2 USC § 636.

2. See *Procedures Contained in the Rules of the House, infra*.

3. See *Consideration by Special Order, et seq., infra*.

4. 2 USC § 636(a)(1).

5. *Id.* For a clarifying statement by the Chair regarding the applicability of motions to reconsider, see 123 CONG. REC. 12549, 95th Cong. 1st Sess., Apr. 27, 1977.

In its original form, the Congressional Budget Act provided for a ten-day layover period for budget resolutions. This requirement prevented consideration of budget resolutions that had not been available to Members for the full ten-day period. After the Gramm-Rudman-Hollings reforms of 1985,⁽⁷⁾ however, this period was reduced to five days, and a corresponding change to the House rules was made at the beginning of the 102d Congress.⁽⁸⁾ The Budget Enforcement Act of 1997 removed the special five-day requirement and applied the normal House rule (former Rule XI clause 2(1)(6))⁽⁹⁾ regarding layover periods (three days for bills) to budget resolutions as well.⁽¹⁰⁾

Debate on a qualifying concurrent resolution on the budget is limited to ten hours, equally divided between the majority and minority parties.⁽¹¹⁾ A motion to further limit debate is available, and such motion is itself not debatable.⁽¹²⁾ The Humphrey-Hawkins Full Employment Act of 1978 revised section 305 to add additional debate time (up to four hours) on “economic goals and policies.”⁽¹³⁾

The amendment process for budget resolutions is likewise governed by special procedures under section 305 of the Congressional Budget Act. Section 305(a)(5) provides that the concurrent resolution on the budget be considered in the Committee of the Whole and under the five-minute rule “in accordance with the applicable provisions of rule XXIII.”⁽¹⁴⁾ Section 305(a)(4) permits germane amendments (subject to certain limitations) relating to economic goals, should the budget resolution carry such types of provisions. Section 305(a)(5) also provides broad authority to offer amendments any time prior to final passage changing numerical figures within the budget resolution in order to achieve “mathematical consistency.”⁽¹⁵⁾ Budget resolutions are not subject to the motion to recommit.⁽¹⁶⁾

7. See § 1, *infra*.
8. 137 CONG. REC. 39, 102d Cong. 1st Sess., Jan. 3, 1991 (H. Res. 5, sec. 7(B)).
9. At the beginning of the 106th Congress, the House rules were recodified, resulting in extensive changes to rule and section numbering. However, no corresponding changes were made to section 305 of the Congressional Budget Act, the text of which still references the old rule precodification. The current House rule regarding layover requirements is found in Rule XIII clause 4. *House Rules and Manual* § 850 (2011).
10. 2 USC § 636(a)(1); Pub. L. No. 105–33, sec. 10109.
11. 2 USC § 636(a)(2). For yielding blocks of time under the statute, see Deschler-Brown Precedents Ch. 29 § 68.70, *supra*.
12. *Id.*
13. Pub. L. No. 95–523; 2 USC § 636(a)(3). See § 5.4, *infra*.
14. As noted earlier, the Congressional Budget Act was not updated to reflect extensive changes in House rule and section numbering that occurred at the beginning of the 106th Congress. The current rule for applicable procedures in the Committee of the Whole is Rule XVIII. *House Rules and Manual* §§ 970–993 (2011).
15. 2 USC § 636(a)(5). See §§ 5.8–5.10, *infra*.
16. 2 USC § 636(a)(2).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Section 305(a)(6) of the Congressional Budget Act provides for special consideration of conference reports on budget resolutions. Debate on such conference reports is limited to five hours, divided equally between the majority and minority parties.⁽¹⁷⁾ As with budget resolutions themselves, conference reports on budget resolutions may be subject to a non-debatable motion to further limit debate, and such conference reports are likewise not subject to the motion to recommit.⁽¹⁸⁾ Formerly, section 305(d) also addressed conference reports on budget resolutions, but this provision was repealed by the Budget Enforcement Act of 1990.⁽¹⁹⁾ Although the House may use these expedited procedures contained in the Congressional Budget Act to consider conference reports on budget resolutions, more often the House has chosen to structure consideration of such conference reports through a special order of business resolution reported by the Committee on Rules.⁽²⁰⁾

The Congressional Budget Act also provides mechanisms to move the budget resolution toward a vote on final adoption without the possibility of intervening motions or other procedural delays. Section 305(a)(5) provides that, after the Committee of the Whole rises and reports the resolution back to the House, the motion for the previous question (terminating debate) shall be considered as ordered on the resolution itself and any amendments thereto, to final passage without intervening motion.⁽²¹⁾ The only exception is the possibility of amendments to achieve mathematical consistency (described above), which may be offered even after the previous question is ordered.⁽²²⁾ The vote on final adoption of a concurrent resolution on the budget (or a conference report thereon) is not subject to the motion to reconsider.⁽²³⁾

Finally, appeals from decisions of the Chair on any issue related to these procedures for the consideration of budget resolutions shall be “decided without debate.”⁽²⁴⁾

17. 2 USC § 636(a)(6). In cases where conferees report in disagreement, debate on motions to dispose of amendments in disagreement is not covered by the statute and proceeds under the general “hour” rule. See Deschler-Brown Precedents Ch. 29 § 17.14, and Ch. 33 § 28.14, *supra*. For additional discussion of conference reports on budget resolutions filed in disagreement (including recognition for motions to dispose of Senate amendments and debate thereon), see Deschler-Brown Precedents Ch. 29 §§ 17.25, 17.36, 17.59, 68.67, 68.68, and Ch. 33 §§ 29.9, 29.17, *supra*.

18. *Id.*

19. Pub. L. No. 101–508, title XIII. The former section 305(d) of the Budget Act provided for a non-binding instruction to conferees on the budget resolution to report back to their respective Houses if an agreement on the budget was not reached within seven days. See § 5.16, *infra*.

20. See, e.g., Deschler-Brown Precedents Ch. 33 § 26.24, *supra*.

21. 2 USC § 636(a)(5).

22. See § 5.9, *infra*.

23. 2 USC § 636(a)(2), (a)(6).

24. 2 USC § 636(a)(7).

Procedures Contained in the Rules of the House

The standing rules of the House provide for special procedures relating to the consideration of concurrent resolutions on the budget.⁽¹⁾ Most of these provisions are found in Rule XVIII clause 10, which describes procedures in the Committee of the Whole.⁽²⁾ Clause 10(a) provides that, following general debate, the concurrent resolution on the budget shall be considered as read and open for amendment at any point. Clause 10(b) places certain restrictions on types of amendments that may be offered to budget resolutions, in order to maintain mathematical consistency and include content required by the Congressional Budget Act.⁽³⁾ Finally, clause 10(c) provides restrictions on amendments that attempt to change the amount of the appropriate level of the public debt as set forth in the budget resolution.⁽⁴⁾

Additional rules of the House affecting the consideration of budget resolutions include Rule XX clause 10 and Rule XXI clause 7. Rule XX clause 10 provides for an automatic vote by the yeas and nays on the vote on final adoption of a concurrent resolution on the budget (including conference reports thereon).⁽⁵⁾ Rule XXI clause 7 provides for a point of order against consideration of a budget resolution (or an amendment thereto, or a conference report thereon) that contains certain kinds of reconciliation directives.⁽⁶⁾ Specifically, such directives may not instruct committees to report reconciliation legislation that would cause a net increase in direct spending over a specified period.⁽⁷⁾

1. The Committee on Rules has broad authority to recommend that the House vary or waive the operation of rules of the House, including rulemaking contained in statute (such as the expedited procedures found in the Congressional Budget Act). For more on the House's ability to alter statutory rulemaking, see § 8, *infra*. In addition to the specific budget-related provisions described here, budget resolutions are also subject to the regular rules of the House, such as the germaneness rule. For germaneness rulings involving concurrent resolutions on the budget, see Deschler-Brown Precedents Ch. 28, §§ 9.37, 9.38, 21.14, 21.21, 42.55, 46.3, *supra*.
2. *House Rules and Manual* § 990 (2011).
3. *Id.*
4. *Id.* See § 29, *infra*.
5. *House Rules and Manual* § 1033 (2011). This requirement is obviated in cases where the House adopts a concurrent resolution on the budget by unanimous consent. See 155 CONG. REC. 10354, 10368, 10374, 111th Cong. 1st Sess., Apr. 22, 2009 (note: the *Congressional Record* does not carry the Chair-initiated unanimous-consent request); and 150 CONG. REC. 5506, 5515, 108th Cong. 2d Sess., Mar. 29, 2004.
6. See § 20, *infra*. This clause was made part of the rules of the House in the 110th Congress (2007). In its original form, it prohibited reconciliation directives in a budget resolution that called for either a reduction in a surplus or an increase in the deficit. It was changed to its present form at the beginning of the 112th Congress (2011).
7. *House Rules and Manual* § 1068b (2011).

The expedited procedures for consideration of budget resolutions in the House found in section 305 of the Congressional Budget Act were explicitly enacted into law as an exercise of the joint rulemaking authority of both Houses.⁽⁸⁾ As such, they can be superseded by subsequent rulemaking in the House, either in the standing rules or by other order of the House. From the earliest days after enactment of the Congressional Budget Act, the House has almost always chosen to structure the consideration of budget resolutions by way of a special order of business resolution reported by the Committee on Rules. These “special orders” or “special rules” may determine virtually every aspect of consideration—from the length of debate to the amendments permitted to be offered—and may also waive rules of the House or rulemaking contained in statute.

In addition to consideration by special order, a concurrent resolution on the budget may also be considered pursuant to a unanimous-consent order.⁽⁹⁾

Finally, it should be noted that unless otherwise superseded by statutory rulemaking or another order of the House, the normal rules of House procedure, including the availability of certain motions, apply to concurrent resolutions on the budget as well. So, for example, a motion to instruct conferees is available when a budget resolution goes to conference.⁽¹⁰⁾

Consideration By Special Order—Initiating Consideration

As noted above, the Congressional Budget Act of 1974 established expedited procedures in the House (and the Senate) for the consideration of annual concurrent resolutions on the budget. Under the Act, a motion to proceed to consider such a concurrent resolution is accorded high privilege in the House and is in order any time after such resolution is reported.⁽¹⁾ The budget resolutions for fiscal years 1976 through 1980 were all considered pursuant to the expedited procedures of the Budget Act, a privileged motion being made to initiate consideration and the amendment process restricted only by the terms of section 305 of the Budget Act.

The (first) concurrent resolution on the budget for fiscal year 1981 was the first instance of the House adopting a special order of business resolution (a “rule”) reported by the Committee on Rules to structure the consideration of a budget resolution. The rule, H. Res. 642,⁽²⁾ did not make in order

8. Section 904 of the Congressional Budget Act (2 USC § 621 note). See § 8, *infra*.

9. See, e.g., 155 CONG. REC. 10354, 10368, 10374, 111th Cong. 1st Sess., Apr. 22, 2009 (note: the *Congressional Record* does not carry the Chair-initiated unanimous-consent request); and 150 CONG. REC. 5506, 5515, 108th Cong. 2d Sess., Mar. 23, 2004.

10. Deschler-Brown Precedents Ch. 33 § 9.20, *supra*.

1. 2 USC § 636(a)(1).

2. 126 CONG. REC. 8789, 96th Cong. 2d Sess., Apr. 23, 1980.

consideration of the resolution, the House instead adopting a privileged motion to initiate consideration pursuant to the Budget Act. Rather, the rule merely structured the amendment process in derogation of the expedited procedures contained in section 305.⁽³⁾ Specifically, the rule made in order two amendments to the budget resolution (and certain substitutes therefor), five amendments in the nature of a substitute (and certain substitutes therefor),⁽⁴⁾ and one motion to strike a section of the budget resolution relating to reconciliation.⁽⁵⁾ The rule further permitted amendments to achieve “mathematical consistency,” as provided by section 305(a)(5) of the Budget Act. With respect to the amendments in the nature of a substitute, the rule provided for so-called “king of the hill” procedures, which specified that if multiple amendments in the nature of a substitute were adopted in the Committee of the Whole, only the last such amendment adopted would be reported back to the House.

The (second) budget resolution for fiscal year 1981 was the first instance of the House adopting a special order (H. Res. 810) that authorized a motion to resolve into the Committee of the Whole for consideration of a budget resolution, rather than allowing the House to initiate consideration by privileged motion under the Budget Act.⁽⁶⁾ The special order of business further structured the amendment process by restricting authorized amendments to those specifically recommended by the Committee on the Budget, certain minority-party amendments, and amendments to achieve mathematical consistency. From this point onward, the consideration of all concurrent resolutions on the budget would be initiated by special order (or unanimous-consent agreement); the privileged motion to proceed to consider budget resolutions pursuant to the Budget Act has not been used since 1980.

To begin consideration of a budget resolution in the Committee of the Whole, a special order may authorize (as we have seen above) a motion, available to any Member, to resolve into the Committee of the Whole for such consideration. Alternatively, the special order may provide authority to the Speaker unilaterally to declare (at any time, or at specified times) the House resolved into the Committee of the Whole for consideration of the resolution. In the early 1980s, the former method was used frequently but the

-
3. For more on the House’s constitutional authority to supersede prior rulemaking (including rulemaking contained in statutes) via special orders of business, see § 8, *infra*, and Deschler-Brown Precedents Ch. 31 § 10.1, *supra*.
 4. On Apr. 30, 1980, the House adopted a second special order of business (H. Res. 649) permitting the offering of alternative substitutes (containing modified text) in lieu of substitutes made in order by the original special order. This second special order did not otherwise alter the amendment process. 126 CONG. REC. 9467, 96th Cong. 2d Sess.
 5. See § 19, *infra*.
 6. 126 CONG. REC. 30005, 30006, 96th Cong. 2d Sess., Nov. 18, 1980.

House switched to the latter method beginning with the budget resolution for fiscal year 1984.⁽⁷⁾ The advantage of vesting this authority with the Speaker lies primarily in the greater flexibility it offers House leadership in scheduling measures for floor consideration.

On occasion, the House has chosen to begin consideration of a budget resolution by one method and complete consideration by another. For example, the House has on several occasions agreed to a unanimous-consent request to begin consideration of the budget resolution in the Committee of the Whole, solely to conduct general debate.⁽⁸⁾ Consideration of amendments would then be conducted under a special order that structured the amendment process (as described below). The House has also used two special orders for the consideration of a single budget resolution—one to cover general debate only and a second to cover the amendment process through to final adoption.⁽⁹⁾

Consideration by Special Order—Waivers

An important use of special orders of business has been to waive or render inapplicable any rules or orders of the House that might inhibit consideration of the underlying measure, and this has been true for special orders providing for consideration of budget resolutions as well.⁽¹⁾ In the early 1980s, as the House first began using special orders for the consideration of budget resolutions, waivers (if included at all) were typically limited to layover requirements contained in the Budget Act or House rules.⁽²⁾ These provisions mandated the expiration of a certain number of days following the reporting of the resolution before it could be considered on the floor of the House, and thus the waiver provided protection from a point of order for earlier consideration than would otherwise be permitted under the rules.

The first “blanket” waiver—waiving all points of order, including those contained in the Budget Act—was provided by H. Res. 177 in the 99th Congress,⁽³⁾ providing for consideration of the (first) budget resolution for fiscal

7. 129 CONG. REC. 6460, 98th Cong. 1st Sess., Mar. 22, 1983 (H. Res. 144).

8. See 150 CONG. REC. 4926, 108th Cong. 2d Sess., Mar. 23, 2004; 147 CONG. REC. 4271, 107th Cong. 1st Sess., Mar. 22, 2001; 142 CONG. REC. 11196, 104th Cong. 2d Sess., May 14, 1996; 136 CONG. REC. 7912, 101st Cong. 2d Sess., Apr. 24, 1990.

9. See 155 CONG. REC. 9686, 111th Cong. 1st Sess., Apr. 2, 2009 (H. Res. 316); 155 CONG. REC. 9515, 111th Cong. 1st Sess., Apr. 1, 2009 (H. Res. 305); 152 CONG. REC. 8464, 109th Cong. 2d Sess., May 17, 2006 (H. Res. 817); 152 CONG. REC. 5386, 109th Cong. 2d Sess., Apr. 6, 2006 (H. Res. 766); 139 CONG. REC. 5593, 103d Cong. 1st Sess., Mar. 18, 1993 (H. Res. 133); 139 CONG. REC. 5320, 103d Cong. 1st Sess., Mar. 17, 1993 (H. Res. 131).

1. See Deschler’s Precedents Ch. 21 § 23, *supra*.

2. The rule for consideration of the (second) budget resolution for fiscal year 1981 contained the first ever waiver of the layover requirement contained in section 305 of the Budget Act. 126 CONG. REC. 30005, 30006, 96th Cong. 2d Sess., Nov. 18, 1980 (H. Res. 810). For the consequences of failing to waive applicable layover requirements contained in House rules, see § 5.3, *infra*.

3. 131 CONG. REC. 13001, 99th Cong. 1st Sess., May 22, 1985.

year 1986. But it was not until the mid-1990s that blanket waivers of this sort became the norm for budget resolutions. Since 2000, every special order for consideration of a budget resolution has contained language waiving all points of order against consideration of the resolution.⁽⁴⁾

For waivers with respect to amendments, see below.

Consideration by Special Order—Structuring Debate Time

The Congressional Budget Act provides for up to ten hours of general debate on any qualifying concurrent resolution on the budget.⁽¹⁾ In addition, the Humphrey-Hawkins Full Employment Act of 1978⁽²⁾ provides additional debate time (up to four hours) on the subject of “economic goals and policies.”⁽³⁾ While the earliest special orders for consideration of budget resolutions maintained these same parameters for general debate (often with explicit reference to section 305 of the Congressional Budget Act),⁽⁴⁾ by the mid-1980s, the House had begun to adopt special orders that provided for much shorter periods of general debate. Recent special orders have, for example, provided for four hours of general debate, with an additional hour of debate on economic goals and policies.⁽⁵⁾

The special order for consideration of the budget resolution for fiscal year 1993 (H. Res. 386)⁽⁶⁾ provided, for the first time, additional general debate time *after* the amendment process was completed. This “wrap-up” debate offered proponents and opponents of the resolution (as amended to that point) an opportunity to make final closing remarks. Typically, the period of wrap-up debate has been short, often just ten or 20 minutes divided equally between the chair and ranking minority member of the Committee on the Budget.⁽⁷⁾

Consideration by Special Order—The Amendment Process

The Congressional Budget Act provides that concurrent resolutions on the budget be considered for amendment in the Committee of the Whole under the five-minute rule “in accordance with the applicable provisions of rule

4. See, e.g., 146 CONG. REC. 3442, 106th Cong. 2d Sess., Mar. 23, 2000 (H. Res. 446).

1. 2 USC § 636(a)(2).

2. Pub. L. No. 95-523.

3. 2 USC § 636(a)(3).

4. See, e.g., 127 CONG. REC. 7993, 97th Cong. 2d Sess., Apr. 30, 1981 (H. Res. 134).

5. See, e.g., 158 CONG. REC. H1654 [Daily Ed.], 112th Cong. 2d Sess., Mar. 28, 2012 (H. Res. 597).

6. 138 CONG. REC. 4389, 4390, 102d Cong. 2d Sess., Mar. 4, 1992.

7. See, e.g., 158 CONG. REC. H1654 [Daily Ed.], 112th Cong. 2d Sess., Mar. 28, 2012 (H. Res. 597).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

XXIII.”⁽¹⁾ There are no further restrictions in the Budget Act on the number of amendments that may be offered, the form of such amendments, or who may offer them. Even mathematically inconsistent amendments (for instance, adjusting subtotals without a corresponding change to the total figure) are not out of order, the corrective being broad authority to offer additional amendments at the end of the amendment process to achieve mathematical consistency across the entire resolution.⁽²⁾ However, the basic prohibition against amending figures already amended (unless waived or altered by order of the House) remains applicable to concurrent resolutions on the budget.⁽³⁾

As the House moved away from consideration of budget resolutions by the terms of the Congressional Budget Act and toward reliance on special orders reported by the Committee on Rules, the amendment process for budget resolutions has become highly structured. Even in the earliest special orders, amendments were often limited to those authorized by the resolution. This pre-defined set of permissible amendments was typically described in the special order by reference to the author of the amendment and the date on which the amendment was printed in the *Congressional Record*.⁽⁴⁾ These amendments could be either perfecting amendments to the text of the resolution, or wholesale alternate budgets taking the form of amendments in the nature of a substitute. Debate parameters for such amendments varied from fully “open” and virtually unlimited (*i.e.* debate proceeds pursuant to the five-minute rule with no other limitations)⁽⁵⁾ to highly restrictive (*i.e.* a fixed block of time equally divided by a proponent and an opponent).⁽⁶⁾ To expedite consideration of these amendments, special orders would often provide, for example, that such amendments be considered as read,⁽⁷⁾ or that such amendments shall not themselves be subject to further amendment.⁽⁸⁾ In the case of multiple amendments in the nature of a substitute being made in

1. 2 USC § 636(a)(5). It should be noted that following the recodification of the House rules at the beginning of the 106th Congress (1999), the provisions of Rule XXIII (relating to procedures in the Committee of the Whole) were moved to what is now Rule XVIII. See *House Rules and Manual* §§970, *et seq.* (2011). The Congressional Budget Act has not been updated to reflect this change of placement.
2. 2 USC § 636(a)(5).
3. See Deschler’s Precedents Ch. 27 § 33.3, *supra*.
4. See, *e.g.*, 126 CONG. REC. 8789, 96th Cong. 2d Sess., Apr. 23, 1980 (H. Res. 642).
5. See, *e.g.*, 127 CONG. REC. 7993, 97th Cong. 2d Sess., Apr. 30, 1981 (H. Res. 134).
6. See, *e.g.*, 131 CONG. REC. 13001, 99th Cong. 1st Sess., May 22, 1985 (H. Res. 177). See also Deschler’s Precedents Ch. 27 § 3.76 and Deschler-Brown Precedents Ch. 29 § 28.20, *supra*.
7. See, *e.g.*, 134 CONG. REC. 4988, 100th Cong. 2d Sess., Mar. 23, 1988 (H. Res. 410).
8. *Id.*

order, the special order would typically waive the prohibition against amending sections of the resolution already amended, to allow further substitutes to be offered even if one were adopted.⁽⁹⁾

By the early 1990s, a norm had developed in how the amendment process for budget resolutions would be structured by the special order. Specifically, the special order would make in order only a small set of complete substitutes for the resolution as reported from the Committee on the Budget. These amendments in the nature of a substitute would be considered as read, considered in a specified order, not subject to further amendment, and debatable for a specified amount of time equally divided between the proponent of the amendment and an opponent. Each amendment in the nature of a substitute would typically be submitted by a particular bloc or constituency within the House, such as the Congressional Black Caucus or the Republican Study Committee.⁽¹⁰⁾ The special order often provides additional procedural safeguards, such as waiving all points of order against the substitutes.⁽¹¹⁾ Only on rare occasions has the House proceeded to consider a budget resolution under a “closed” rule that allowed no amendments to be considered.⁽¹²⁾

With respect to the text being amended, the House has on many occasions used special orders to alter the text of the budget resolution as reported from the Committee on the Budget prior to the consideration of alternative substitutes. To make such changes, special orders have either “self-executed” the adoption of an amendment prior to consideration of the budget resolution⁽¹³⁾ or made in order an amendment in the nature of a substitute to be considered as original text for purposes of amendment.⁽¹⁴⁾ These methods are procedurally very similar and both have the effect of replacing the original budget resolution with modified text before the consideration of

-
9. See, *e.g.*, 126 CONG. REC. 8789, 96th Cong. 2d Sess., Apr. 23, 1980 (H. Res. 642).
 10. While such an amendment process theoretically allows for the adoption of any of the permitted amendments in the nature of a substitute, in practice no alternative has ever received a majority vote.
 11. See, *e.g.*, 158 CONG. REC. H1654 [Daily Ed.], 112th Cong. 2d Sess., Mar. 28, 2012 (H. Res. 597).
 12. See 127 CONG. REC. 30585, 97th Cong. 1st Sess., Dec. 10, 1981 (H. Res. 295) and 148 CONG. REC. 3671, 107th Cong. 2d Sess., Mar. 20, 2002 (H. Res. 372). See “*The President’s Budget*,” *infra*, for a discussion of the “President’s budget,” often considered under a closed rule (if at all).
 13. By adopting the special order, the House is considered to have adopted the amendment.
 14. The amendment in the nature of a substitute thus supplants the original text of the resolution, and further substitutes are drafted as amendments to it. When the amendment process is complete, the House must take the additional step of formally adopting the original amendment in the nature of a substitute.

Ch. 41 §5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

other amendments. The purpose is often to accommodate last-minute agreements on the form of the budget resolution to be taken up for floor consideration.

There have been two primary mechanisms for determining which amendment in the nature of a substitute will be reported back to the House when multiple such amendments are considered in the Committee of the Whole. The first is the so-called “king of the hill” procedure, which provides that if multiple amendments in the nature of a substitute are adopted in the Committee of the Whole, only the last such amendment adopted will be reported back to the House for further disposition. The second is the “first amendment adopted” approach, which provides that the amendment process ends upon the adoption of an amendment in the nature of a substitute, whereupon that amendment is reported back to the House.⁽¹⁵⁾ Throughout the 1980s, “king of the hill” procedures were most often used. The special order to consider the budget resolution for fiscal year 1996 marks the switch to “first amendment adopted” procedures, which have been used in virtually every special order since.⁽¹⁶⁾

The House has employed additional procedural mechanisms (contained in special orders) to further structure how amendments to budget resolutions are voted on. Since the early 1990s, special orders have generally restricted the ability for Members to demand a division of the question for voting with respect to the different amendments in the nature of a substitute made in order by the special order.⁽¹⁷⁾ On rare occasions, the House has permitted Members to demand a separate vote in the House on any amendments adopted in the Committee of the Whole.⁽¹⁸⁾ More commonly, the special order will provide that the previous question be considered as ordered on the budget resolution and on any amendments adopted in the Committee of the Whole to final adoption without intervening motion (thus denying any opportunity to demand a separate vote on any of the amendments).

With respect to waivers of points of order, it has been common for special orders providing for consideration of budget resolutions to waive points of

15. Another procedure in this vein is known as the “queen of the hill” or “top vote getter,” which provides for the substitute receiving the most votes to be reported to the House. However, this procedure has not been used for budget resolutions.

16. The only exception has been the budget resolution for fiscal year 2003, considered under a closed rule with no amendments. 148 CONG. REC. 3671, 107th Cong. 2d Sess., Mar. 20, 2002 (H. Res. 372). An alternative budget resolution, representing the “President’s budget” was also considered under a closed rule. 141 CONG. REC. 37595, 104th Cong. 1st Sess., Dec. 19, 1995 (H. Res. 309).

17. See, e.g., 139 CONG. REC. 5593, 103d Cong. 1st Sess., Mar. 18, 1993 (H. Res. 133). For more on division of the question for voting, see Deschler-Brown Precedents Ch. 30 §§ 42, *et seq.*, *supra*.

18. See, e.g., 131 CONG. REC. 13001, 99th Cong. 1st Sess., May 22, 1985 (H. Res. 177); and 144 CONG. REC. 11098, 105th Cong. 2d Sess., June 4, 1998 (H. Res. 455).

order against any amendments in the nature of a substitute made in order by the special order. Although more limited waivers have been granted,⁽¹⁹⁾ it is more often the case that a blanket waiver of all points of order will be provided by the special order.⁽²⁰⁾

Consideration by Special Order—Additional Procedural Provisions

On occasion, the House has adopted special orders for the consideration of budget resolutions that provide further restrictions on the availability of procedural motions in the Committee of the Whole during such consideration. The most notable instance of such additional procedural restrictions can be found in the special order for consideration of the fiscal year 2009 budget resolution.⁽¹⁾ There, a separate section limited rank-and-file Members to a single motion to rise from the Committee—once one such motion had been rejected on any given legislative day, only the chairman of the Committee on the Budget or the Majority Leader was authorized to make the motion. That section also provided that once one motion to strike the resolving clause⁽²⁾ has been rejected during consideration of the budget resolution, no further such motions may be entertained.

The Chair has also been given additional authority to unilaterally postpone consideration of the budget resolution to a later time to be designated by the Speaker. This additional flexibility in scheduling the consideration of the budget resolution was included in the special orders for consideration of the fiscal year 2008 and 2009 budget resolutions.⁽³⁾

The former so-called “Gephardt rule” (repealed at the beginning of the 112th Congress) provided for the automatic generation and passage of a joint resolution increasing the statutory limit on the public debt to correspond to the figures contained in that year’s budget resolution.⁽⁴⁾ Special orders for the consideration of budget resolutions have occasionally contained separate provisions disabling the operation of this rule of the House, such that the automatic engrossment of the debt-limit measure does not occur. The “Gephardt rule” was disabled by special order in every year from

19. See, e.g., 133 CONG. REC. 8307, 100th Cong. 1st Sess., Apr. 8, 1987 (H. Res. 139).

20. See, e.g., 135 CONG. REC. 8016, 101st Cong. 1st Sess., May 3, 1989 (H. Res. 145).

1. 154 CONG. REC. 3865, 3866, 110th Cong. 2d Sess., Mar. 12, 2008 (H. Res. 1036).

2. For more on this motion, see Deschler’s Precedents Ch. 19 §§ 10, *et seq.*, *supra*.

3. See 153 CONG. REC. 8129, 8130, 110th Cong. 1st Sess., Mar. 28, 2007 (H. Res. 275); and 154 CONG. REC. 3865, 3866, 110th Cong. 2d Sess., Mar. 12, 2008 (H. Res. 1036). This authority was made part of the standing rules in the 111th Congress (Rule XIX clause 1(c)). *House Rules and Manual* § 1000a (2011).

4. For more on the former so-called “Gephardt rule,” see § 29, *infra*.

fiscal year 1996 through 2001.⁽⁵⁾ In the 1980s, the “Gephardt rule” was adjusted to vary its applicability, though it was never fully disabled.⁽⁶⁾ The “Gephardt rule” has also been disabled by other resolutions adopted by the House, such as special orders for the consideration of conference reports on budget resolutions.⁽⁷⁾

Consideration by Special Order—Authority to go to Conference

Special orders for the consideration of budget resolutions have occasionally authorized (or executed) certain procedural steps to bring the House-adopted budget resolution into conference with its Senate counterpart. The special order providing for consideration of the (first) budget resolution for fiscal year 1983 contained additional language declaring that, upon adoption of the budget resolution in the House, the House was considered to have: (1) taken up the Senate budget resolution; (2) amended the text of such resolution by substituting the text of the House-adopted budget; (3) adopted such amended text; and (4) requested a conference with the Senate.⁽¹⁾ This was the first special order for the consideration of a budget resolution to effectuate these additional procedural steps towards establishing a conference committee.⁽²⁾

Such additional language to “hook up” the House-adopted budget with the Senate-adopted version has not been common, but such language was included in several recent special orders beginning with the special order for

-
5. The former so-called “Gephardt rule” was repealed for the 107th Congress (though reinstated in the 108th), so there was no need to disable the rule during consideration of the fiscal year 2002 budget.
 6. When initially passed, the “Gephardt rule” was applicable to fiscal years following fiscal year 1981. Pub. L. No. 96–78. Reflecting a desire to apply the “Gephardt rule” during the fiscal year 1981 budget process, the special order for consideration of the (first) budget resolution for fiscal year 1981 included a separate section extending the applicability of the “Gephardt rule” to that budget resolution, any subsequent budget resolutions for that fiscal year, and the revised budget for fiscal year 1980. 126 CONG. REC. 8789, 8790, 96th Cong. 2d Sess., Apr. 23, 1980. The “Gephardt rule” was modified (Pub. L. No. 98–34) to provide a single debt-limit bill covering all fiscal years contemplated by the corresponding budget resolution (rather than a separate bill for each fiscal year). This change had been foreshadowed some months earlier by the special order for consideration of the fiscal year 1984 budget resolution, which provided for a single debt-limit bill to cover all fiscal years contemplated by the budget resolution. 129 CONG. REC. 6460, 98th Cong. 1st Sess., Mar. 22, 1983 (H. Res. 144).
 7. See § 29, *infra*.
 1. 128 CONG. REC. 13352, 97th Cong. 2d Sess., June 10, 1982 (H. Res. 496).
 2. The language used in this instance was arguably the most aggressive method for “hooking up” the House and Senate versions by “self-executing” those additional procedural steps rather than merely authorizing motions to achieve the same goals.

consideration of the fiscal year 2006 budget.⁽³⁾ That special order, in addition to structuring the consideration of the House budget resolution, also contained a separate section that: (1) made in order consideration of the Senate budget resolution; (2) waived all points of order against such resolution and its consideration; (3) authorized a motion to substitute the House-adopted text in lieu of the Senate-adopted text; and (4) waived all points of order against such motion. Identical language was contained in the special order for consideration of the budget resolution for fiscal year 2009.⁽⁴⁾ Similar language was used in the special orders for consideration of the fiscal year 2007 and 2010 budget resolutions.⁽⁵⁾ These two special orders also took the additional step of authorizing a motion to insist on the House's amendment to the Senate budget resolution and to request a conference with the Senate.

“The President’s Budget”

In two instances since the advent of the Congressional Budget Act, the House has considered a budget resolution styled the “President’s budget.” Both of these occurred when the House and the presidency were controlled by different political parties and in both cases, these budgets were introduced by the majority party “by request.”⁽¹⁾

In 1986, the House adopted a special order making in order consideration of the “President’s budget” in the Committee of the Whole. The special order provided for four hours of general debate, but no amendments (a “closed” rule).⁽²⁾ In 1995, the House adopted a “closed” special order, making in order consideration of the “President’s budget” in the House (rather than the Committee of the Whole). General debate was confined to two hours.⁽³⁾

On occasion, a special order has made in order an amendment in the nature of a substitute ostensibly reflecting the President’s budget priorities and permitted such amendment to be offered by a designated Member.⁽⁴⁾ In one instance, this amendment in the nature of a substitute was, pursuant to the terms of the special order, made the pending question even if no Member offered it, in order to guarantee a vote on the President’s budget priorities.⁽⁵⁾

3. 151 CONG. REC. 4865, 4866, 109th Cong. 1st Sess., Mar. 16, 2005 (H. Res. 154).

4. 154 CONG. REC. 3865, 3866, 110th Cong. 2d Sess., Mar. 12, 2008 (H. Res. 1036).

5. See 152 CONG. REC. 8464, 109th Cong. 2d Sess., May 17, 2006 (H. Res. 817); and 155 CONG. REC. 9686, 111th Cong. 1st Sess., Apr. 2, 2009 (H. Res. 316).

1. Neither budget garnered a majority vote: 12–312 for fiscal year 1987; and 0–412 (5 present) for fiscal year 1996.

2. 132 CONG. REC. 4628, 4629, 99th Cong. 2d Sess., Mar. 13, 1986 (H. Res. 397).

3. 141 CONG. REC. 37595, 104th Cong. 1st Sess., Dec. 19, 1995 (H. Res. 309).

4. See, e.g., 136 CONG. REC. 8343, 101st Cong. 2d Sess., Apr. 26, 1990 (H. Res. 382).

5. See, e.g., 137 CONG. REC. 8154, 102d Cong. 1st Sess., Apr. 16, 1991 (H. Res. 123).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

In 2004 the House, having adopted its budget resolution three months earlier, took up an alternative budget propounded by the minority party as part of a negotiation over the annual appropriations bills. This minority budget was considered pursuant to a unanimous-consent request providing for consideration in the House (rather than the Committee of the Whole), 90 minutes of debate, and no amendments.⁽⁶⁾ As with the alternative budgets described above, it was also defeated.

Privilege

§ 5.1 Where the inclusion of reconciliation directives covering multiple years (beyond the current fiscal year) destroyed the privilege of a concurrent resolution on the budget, the House has adopted a special order of business resolution making in order consideration of said concurrent resolution, structuring the amendment process, and separately engaging other procedures contained in section 305(a) of the Congressional Budget Act.⁽¹⁾

On Apr. 30, 1981,⁽²⁾ the House adopted the following resolution:

Mr. [Richard] BOLLING [of Missouri]. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 134 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 134

Resolved, That at any time after 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 concurrent resolution (H. Con. Res. 115) revising the congressional budget for the United States Government for the fiscal year 1981 and setting forth the congressional budget for the United States Government for the fiscal years 1982, 1983, and 1984, and the first reading of the resolution shall be dispensed with. The provisions of subsection 305(a) of the Congressional Budget Act of 1974 and rule XXIII, clause 8, of the Rules of the House of Representatives shall apply during the consideration of the concurrent resolution in the House and in the Committee of the Whole: *Provided, however*, That no amendment to the resolution shall be in order except the following amendments, which shall be considered only in the following order if offered, which shall all be in order even if previous amendments to the same portion of the concurrent resolution have been adopted, and which shall not be subject to amendment except pro forma amendments for the purpose of debate: (1) an amendment printed in the *Congressional Record* of April 29, 1981, by, and if offered by, Representative Hefner of North Carolina; (2) the amendment in the nature of a substitute printed in the *Congressional Record* of April 29, 1981, by, and if offered

6. 150 CONG. REC. 13288, 108th Cong. 2d Sess., June 22, 2004.

1. 2 USC § 636(a). See Deschler-Brown Precedents Ch. 29 § 2.35, *supra*.

2. 127 CONG. REC. 7993, 97th Cong. 1st Sess.

by, Delegate Fauntroy of the District of Columbia; (3) the amendment in the nature of a substitute printed in the *Congressional Record* of April 29, 1981, by, and if offered by, Representative Obey of Wisconsin; and (4) the amendment in the nature of a substitute printed in the *Congressional Record* of April 29, 1981, by, and if offered by, Representative Latta of Ohio. It shall also be in order to consider the amendment or amendments provided for in section 305(a)(6) of the Congressional Budget Act of 1974 necessary to achieve mathematical consistency. If more than one of the amendments in the nature of a substitute made in order by this resolution have been adopted, only the last such amendment which has been adopted shall be considered as having been finally adopted and reported back to the House.

The SPEAKER.⁽³⁾ The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

§ 5.2 The House has adopted a special order of business resolution reported from the Committee on Rules that merely structured the amendment process for the concurrent resolution on the budget, but did not make in order consideration of the resolution itself (the resolution being brought up under its own privilege) or otherwise modify the debate parameters contained in the Congressional Budget Act.

On Apr. 23, 1980,⁽¹⁾ the House adopted the following resolution:

Mr. [Richard] BOLLING [of Missouri]. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 642 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 642

Resolved, That during the consideration of the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the United States Government for the fiscal years 1981, and 1982, and 1983 and revising the congressional budget for the United States Government for the fiscal 1980, in the Committee of the Whole House on the State of the Union, no amendments to the concurrent resolution shall be in order except the following amendments, which shall be considered only in the following order, and shall all be in order even if previous amendments to the same portion of the concurrent resolution have been adopted, and which shall not be subject to amendment except pro forma amendments for the purpose of debate and except as provided in this resolution: (1) an amendment printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Giaimo of Connecticut, which shall not be subject to a demand for a division of the question in the House or in Committee of the Whole; (2) an amendment printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Conable of New York, which shall be subject to amendment by a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Quillen of Tennessee, and said substitute shall not be subject to amendment except pro forma amendments for the purpose of debate; (3) an amendment in the nature of a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Obey of Wisconsin, which shall

3. Thomas O'Neill (MA).

1. 126 CONG. REC. 8789, 96th Cong. 2d Sess.

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

be subject to amendment by the following substitutes which shall be considered only in the following order and shall not be subject to amendment except pro forma amendments for the purpose of debate; (a) a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Mitchell of Maryland, and (b) a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Solarz of New York; (4) an amendment in the nature of a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Ottinger of New York; (5) an amendment in the nature of a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by Representative Holt of Maryland; (6) an amendment in the nature of a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Latta of Ohio; (7) an amendment in the nature of a substitute printed in the *Congressional Record* of April 21, 1980, by, and if offered by, Representative Rousselot of California; and (8) a motion to strike section 3 of the concurrent resolution, or the corresponding section of the concurrent resolution as amended, relating to reconciliation. It shall also be in order to consider the amendment or amendments provided for in section 305(a)(6) of the Congressional Budget Act of 1974 (Public Law 93-344) necessary to achieve mathematical consistency. If more than one of the amendments in the nature of a substitute made in order by this resolution has been adopted, only the last such amendment which has been adopted shall be considered as having been finally adopted and reported back to the House.

SEC. 2. Notwithstanding the provisions of section 203 of Public Law 96-78, the provisions of section 201 of said public law, amending the Rules of the House of Representatives to establish the public debt limit as part of the congressional budget process, shall apply with respect to section 6 of H. Con. Res. 307 or the corresponding section of any concurrent resolution as finally adopted revising the second concurrent resolution on the budget for fiscal year 1980, as well as to section 1 of H. Con. Res. 307 or the corresponding section of any concurrent resolution as finally adopted, setting forth the congressional budget for the fiscal year 1981.

Layover Requirements

§ 5.3 A special order of business that waives only the application of a ten-day layover requirement⁽¹⁾ contained in the Congressional Budget Act for a concurrent resolution on the budget does not, in so doing, waive other applicable layover requirements contained in the House rules.

On Mar. 22, 1983,⁽²⁾ at the outset of consideration of the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91), the following point of order was raised:

1. The ten-day requirement has been changed on several occasions. The current layover requirement for budget resolutions is the same as that for bills in the House (three days). 2 USC § 636(a)(1).
2. 129 CONG. REC. 6501, 6503, 98th Cong. 1st Sess. See also Deschler-Brown Precedents Ch. 29 § 9.66, *supra*.

POINT OF ORDER AGAINST CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 91, FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1984

Mr. [Thomas] LOEFFLER [of Texas]. Mr. Speaker, I have a point of order against consideration of this budget resolution.

The SPEAKER pro tempore.⁽³⁾ The gentleman will state his point of order.

Mr. LOEFFLER. Mr. Speaker, I make a point of order against the consideration of House Concurrent Resolution 91, which is the House concurrent budget resolution for fiscal year 1984, on the grounds that its consideration would violate the provisions of clause 2(1)(6) of rule XI of the rules of the House.

I refer specifically to the language of the rule which reads, and I quote: “Nor shall it be in order to consider any measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill—

Mr. [Thomas] O’NEILL [of Massachusetts]. Mr. Speaker, would the gentleman yield?

The SPEAKER pro tempore. The gentleman reserves his point of order and is recognized for 1 minute.

Mr. LOEFFLER. I will be happy to yield to my distinguished Speaker.

Mr. [Thomas] O’NEILL [of Massachusetts]. May I say that we are aware of the fact that a point of order does lie. . . .

Mr. LOEFFLER. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. The gentleman insists upon it?

Mr. LOEFFLER. Yes, Mr. Speaker.

The SPEAKER pro tempore. Are there any further Members who want to speak on the point of order? Apparently not. . . .

The SPEAKER pro tempore. The Chair believes that while House Resolution 144 was intended to permit immediate consideration of House Concurrent Resolution 91, the provisions of clause 2(L)(6), rule XI do technically—under the second sentence of that clause—separately require a 3-day availability of the Budget Committee’s report. That part of the rule was not separately waived, and although the 10-day rule was waived effectively, the Chair will sustain the point of order and advise that under that rule the Rules Committee may immediately report out and call up a special order waiving a 3-day rule.

Humphrey-Hawkins Debate

§ 5.4 During the four hours of general debate on economic goals and policies provided for in a concurrent resolution on the budget by section 305(a)(3) of the Congressional Budget Act,⁽¹⁾ the debate must be relevant to the subject of such goals and policies.⁽²⁾

On Apr. 23, 1980,⁽³⁾ during consideration of the concurrent resolution on the budget for fiscal years 1981, 1982, and 1983 (H. Con. Res. 307) in the

3. Charles Bennett (FL).

1. 2 USC § 636(a)(3).

2. See also Deschler-Brown Precedents Ch. 29 §§ 31.24, 31.38, 39.4, 67.16, 68.69, *supra*.

3. 126 CONG. REC. 8809, 8815, 96th Cong. 2d Sess.

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Committee of the Whole, the Chairman responded to parliamentary inquiries relating to the scope of debate on the matter:

Mr. [Robert] GIAIMO [of Connecticut]. Mr. Speaker, pursuant to section 305(a) of Public Law 93-344, the Congressional Budget Act of 1974, and House Resolution 642, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980.

GENERAL LEAVE

Mr. Speaker, pending that motion, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter during consideration of House Concurrent Resolution 307.

The SPEAKER.⁽⁴⁾ Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 307) with Mr. BOLLING in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN.⁽⁵⁾ Without objection, the first reading of the concurrent resolution will be dispensed with.

There was no objection.

□ 1350

The CHAIRMAN. Pursuant to section 305(a), title 3, of Public Law 93-344, as amended, of the Congressional Budget Act of 1974, the gentleman from Connecticut (Mr. GIAIMO) will be recognized for 5 hours, and the gentleman from Ohio (Mr. LATTA) will be recognized for 5 hours.

After opening statements by the chairman and ranking minority member of the Committee on the Budget, the Chair will recognize the gentleman from Connecticut (Mr. GIAIMO) and the gentleman from Ohio (Mr. LATTA) for 2 hours each to control debate on economic goals and policies. After these 4 hours of debate have been consumed or yielded back, the Chair will recognize the chairman and ranking minority member of the Committee on the Budget to control the remainder of their 10 hours of debate.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO). . . .

The CHAIRMAN pro tempore. The gentleman has consumed 45 minutes. The Chair will now recognize the gentleman from Connecticut (Mr. GIAIMO) and the gentleman from Ohio (Mr. LATTA) for 2 hours each to control debate on economic goals and policies.

4. Thomas O'Neill (MA).

5. Richard Bolling (MO).

PARLIAMENTARY INQUIRY

Mr. [Robert] BAUMAN [of Maryland]. Mr. Chairman, I have a parliamentary inquiry. The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, as I understand the statutory requirements, the debate now will be confined to economic policy and goals; is that correct?

The CHAIRMAN pro tempore. That is correct.

Mr. BAUMAN. What if a Member strays from that and starts talking about other things, should other Members make points of order and point out that they are out of order? I mean, I do want to do this under the rule.

The CHAIRMAN pro tempore. The Chair would have to interpret at that time whether they were within the bounds of the rule or not, and the rules relating to relevancy in debate would apply.

The Amendment Process

§ 5.5 A member of the Committee on Rules rose to address the House for one minute regarding certain guidelines that Members should abide by for submitting amendments for the concurrent resolution on the budget.

On Apr. 1, 1987,⁽¹⁾ the following took place:

Mr. [Claude] PEPPER [of Florida]. Mr. Speaker, I rise to explain the Rules Committee position on proposed amendments to the budget resolution.

It is my understanding that the Budget Committee has adopted a budget resolution today. The Committee on Rules expects to consider the budget resolution next Tuesday, April 7. I am informed that the Budget Committee may seek a restrictive rule.

With that possibility in mind, Mr. Speaker, I would like to remind my colleagues of the Rules Committee position on amendments to a budget resolution. In the last few years, the Rules Committee has requested that certain guidelines be followed in order to insure that all amendments receive fair and orderly consideration by the committee and on the floor.

Today, I ask Members wishing to offer amendments to adhere to the following guidelines.

First, the Rules Committee will make in order only broad substitutes, not simple cut-and-bite amendments making small changes in one or two functions. The Rules Committee has followed this practice in the past few years. And it is our intention once again to do so. The debate on a budget resolution should be focused on questions of national priorities and fiscal policy. Only major substitutes allow the House to debate those questions.

Second, submit 35 copies of each substitute to the Rules Committee before 5 p.m. Monday, April 6. I call your attention to the Monday deadline. It is the intention of the committee not to consider any amendment that has been submitted after the Monday deadline. With the press of time and the need to consider the budget resolution before the Easter recess, the committee must expedite consideration. Members may want to keep that deadline in mind when they make their weekend plans.

1. 133 CONG. REC. 7702, 7703, 100th Cong. 1st Sess.

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Finally, please attach an explanatory statement with each substitute. The statement should briefly state the purpose of the substitute and explain any provisions, including reconciliation instructions. Please indicate if any provisions would change House rules, procedures or enforcement of the Budget Act.

Mr. Speaker, I remind Members that the purpose of these guidelines is to provide fair and orderly consideration of the budget resolution in the Rules Committee and on the floor. I have sent out a “Dear Colleague” letter to all Members explaining these guidelines. I appreciate my colleagues’ cooperation in this matter.

□ 1720

Mr. [Trent] LOTT [of Mississippi]. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, the chairman of the Committee on Rules, as I understand it, is not asking for unanimous consent that any binding request or rule be made in order here; is that right?

Mr. PEPPER. The gentleman is correct; this is only advisory.

Mr. LOTT. Mr. Speaker, the gentleman indicated that he thought perhaps the budget resolution would be available tomorrow. Is that correct? Can we count on that?

Mr. PEPPER. My understanding is that it will be available by tomorrow afternoon from the Committee on the Budget.

Mr. LOTT. I think that the Members understand what the distinguished chairman is trying to do. The Committee on Rules likes to be able to see amendments before they make them in order. But I would like to remind the chairman that in order for the members to have amendments, they need to see what it is that they are trying to amend. So I would hope that the Committee on Rules would give us at least that much latitude. If the resolution is not ready until Friday afternoon, it is very hard for Members to have their amendments ready.

With that in mind, we certainly understand what the gentleman is trying to do, but I would like to urge the committee to give us a resolution, so we can properly prepare our amendments.

Mr. PEPPER. I thank my colleague for his additional explanation. We are not trying to foreclose anybody or be overly rigid. We are simply trying to be helpful to the Members in allowing them a fair opportunity to offer major amendments in the nature of substitutes.

Mr. WALKER. Mr. Speaker, will the distinguished chairman yield?

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

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, do I understand that essentially the Committee on Rules is announcing that we are going to have a closed rule on this bill and that Members will not be able to offer individualized amendments with regard to particular functions of the bill?

Mr. PEPPER. Well, I am not speaking for the Committee on Rules now, because we have not acted on the matter. I am simply giving advice as best I can in the light of our practices of the past for the guidance of the Members in helping us to give fair consideration to the budget resolution.

Mr. WALKER. If the gentleman would yield further, my understanding of the guidelines was that Members were not to bring to the Committee on Rules any individualized amendments. Is that true?

Mr. PEPPER. This budget resolution is probably the major matter that the Congress shall endorse during this session of the Congress, and we wanted to discourage if we could sort of picayunish amendments that did not really go to the policy involved and the essential questions related to this budget process. I do not say that any specific amendment might not be considered by the Committee on Rules, but I am trying to be helpful to the Members in offering general guidelines as to what in general has been our practice in the past in relation to this matter.

§ 5.6 The House has, pursuant to unanimous-consent requests, permitted Members to submit amendments to a concurrent resolution on the budget until a time certain and for such amendments to be printed in the portion of the *Congressional Record* reserved for amendments to reported measures.

On Apr. 3, 1984,⁽¹⁾ during consideration of a concurrent resolution on the budget for fiscal year 1985 and revising the budget resolution for fiscal year 1984 (H. Con. Res. 280), the House agreed to the following unanimous-consent request:

Mr. [Joe] MOAKLEY [of Massachusetts]. Mr. Speaker, I ask unanimous consent that all Members may have until 6 p.m. today to submit amendments to the budget resolution for printing in the RECORD.⁽²⁾

The SPEAKER.⁽³⁾ Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Later that same day,⁽⁴⁾ a further unanimous-consent request was agreed to:

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that amendments to House Concurrent Resolution 280 may be printed in that portion of the RECORD entitled "Amendments submitted under clause 6 of rule XXIII," pursuant to the previous order of the House allowing Members until 6 p.m. today, April 3, 1984, to submit such amendments.

The SPEAKER pro tempore.⁽⁵⁾ Is there objection to the request of the gentleman from Massachusetts?

1. 130 CONG. REC. 7518, 98th Cong. 2d Sess.
2. *Parliamentarian's Note*: Under former Rule XXIII clause 6 (now Rule XVIII clause 8(a)), a Member submitting an amendment to the *Congressional Record* at least one day prior to floor consideration is guaranteed time to debate such amendment, notwithstanding the adoption of motions to close debate on particular portions of the measure under consideration. Thus, the effect of these unanimous-consent requests was to extend the deadline for submitting such amendments and to ensure that such amendments were printed in the portion of the *Congressional Record* necessary to trigger the rule. See *House Rules and Manual* § 987 (2011).
3. Thomas O'Neill (MA).
4. 130 CONG. REC. 7541, 98th Cong. 2d Sess.
5. Daniel Rostenkowski (IL).

There was no objection.

§ 5.7 Prior to consideration of a budget resolution, the chairman of the Committee on the Budget objected to a unanimous-consent request to waive certain House rules and alter the procedures for offering amendments to the resolution.

On May 2, 1978,⁽¹⁾ pending consideration of the concurrent resolution on the budget for fiscal year 1979 (H. Con. Res. 559), the manager objected to a unanimous-consent request to waive certain House rules (as well as Congressional Budget Act procedures), to have the resolution read by section, and to restrict the offering of amendments in the nature of a substitute. Debate under a reservation of the right to object proceeded as follows:

Mr. [Clair] BURGNER [of California]. Mr. Speaker, I ask unanimous consent that notwithstanding any rule of the House of Representatives or provision of title III of the Congressional Budget Act of 1974 to the contrary, when the House in the Committee of the Whole reads House Concurrent Resolution 559 for amendment under the 5-minute rule that said concurrent resolution shall be read by sections.

Mr. Speaker, I ask unanimous consent further that no amendment in the nature of a substitute shall be in order for House Concurrent Resolution 559 in the Committee of the Whole and all amendments to section 1 of said resolution shall be considered and disposed of prior to the consideration of any amendment to section 2 of said resolution.

Section 301(a)(2) of the law requires that the first concurrent resolution on the budget shall set forth—

(2) an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, for contingencies, and for undistributed intragovernmental transactions, *based on allocations of the appropriate level of total budget outlays and of total new budget authority;*² (emphasis added).

I, therefore, submit that our present law was intended to require the House to consider its priorities of spending among the major functional categories based on those determinations of the appropriate level of total budget outlays and new budget authority which the House would have previously determined to be appropriate to suit the immediate fiscal situation. In this manner we would first consider our fiscal policy, then determine the allocation of expenditures among the major functional categories. This is absolutely necessary since the appropriate Federal fiscal policy at a given point in time is completely independent of, and indeed, often completely opposite of, what we as politicians would like to spend on each of several thousand Federal programs.

The SPEAKER pro tempore.⁽²⁾ Is there objection to the request of the gentleman from California? . . .

Mr. BURGNER. If the gentleman will yield, Mr. Speaker, I appreciate the gentleman's reservation, and I would be very pleased to explain briefly what I am proposing. The gentleman can then decide whether or not to object, based on my explanation. . . .

Mr. [Robert] GIAIMO [of Connecticut]. Mr. Speaker, reserving the right to object, while I understand and sympathize with the concerns of the gentleman, I believe that it would

1. 124 CONG. REC. 12074, 12075, 95th Cong. 2d Sess.

2. John McFall (CA).

be improper and impractical to consider the budget aggregates before we have had an opportunity to look at the components that make up the budget.

As many of the Members of this body know, budgets are developed by looking at both overall fiscal policy considerations and specific budgetary considerations. When the Budget Committee or OMB prepares budgets, we have in our minds relatively clear ideas of what the size of the budget should be given fiscal policy demands. At the same time we proceed from the bottom up looking at what programs and activities will need to be funded. We always meet somewhere in the middle, tailoring, program demands to conform to fiscal policy needs while maintaining a certain degree of flexibility with respect to the functions of the budget when legitimate program needs justify it.

But if we attempt to set overall budget limits without going into the specific functional categories and taking into account programs and activities which may be funded, we will be proceeding in a factual vacuum. Suppose the gentleman from California proposes to reduce outlays by some figure, say \$10 billion. A number of Members might like to support such an aggregate figure. But how are we to know where the cuts are to come? Will they be in defense? Will they be in human resources, urban programs? Or will they be in public works? In short, there is no way for us to know what the implications of such a procedure would be for various programs.

Secondly, setting budget aggregate figures which are different from those proposed by the Budget Committee and without corresponding changes in functional categories would necessitate rewriting the entire budget resolution. For if we do not know the impact of changes in budget aggregates on the functional categories, then we must go through each function and rewrite it in order to reach the desired aggregate result. This means that the House sitting as the Committee of the Whole will also sit as the Budget Committee rewriting from the very beginning the entire Federal budget.

Mr. Speaker, I believe that this procedure is unworkable and unwise. Therefore, I am constrained to object.

Mr. BURGNER. Mr. Speaker, will the gentleman yield so that I may respond briefly?

Mr. GIAIMO. I yield, briefly.

Mr. BURGNER. I am merely asking that we obey the present law, because a careful reading of it says that we will adopt all these categories after the spending outlays have been adopted.

Mr. GIAIMO. Let me say that I think we are obeying present law. It well may be in the future that we will have to refine it in some way, but at present I think the gentleman's proposal would be unworkable.

Therefore, I must object.

The SPEAKER pro tempore. Objection is heard.

“Mathematical Consistency”

§ 5.8 The adoption of a perfecting amendment changing figures in a concurrent resolution on the budget precludes further perfecting amendments changing only those figures, but does not preclude more comprehensive amendments changing not only those figures but also other portions of the resolution that had not been amended, nor does it preclude amendments offered pursuant to section

305(a)(5) of the Congressional Budget Act⁽¹⁾ to achieve “mathematical consistency.”

On Apr. 28, 1976,⁽²⁾ during consideration of the concurrent resolution on the budget for fiscal year 1977 (H. Con. Res. 611) in the Committee of the Whole, the Chairman responded to parliamentary inquiries relating to the effect of the adoption of an amendment on the ability of Members to offer certain further amendments:

Mr. [Omar] BURLESON of Texas. . . .

My inquiry, Mr. Chairman, is this: If the Wright amendment is adopted, does this preclude other changes in the macro figures with respect to other amendments which may affect those figures?

The CHAIRMAN.⁽³⁾ Will the gentleman from Texas (Mr. BURLESON) advise the Chair as to whether he is saying “macro” or “micro” figures?

Mr. BURLESON of Texas. The macro figures, whatever they are. They are the figures in the resolution, both as to budget authority and outlays.

The Wright amendment, if adopted, would change those figures. If other amendments are subsequently adopted which would likewise change those figures, would it be necessary in the presentation of the amendment to make adjustments in the macro figures?

The CHAIRMAN. If the Chair understands the gentleman from Texas (Mr. BURLESON), the Wright amendment, if adopted, would not prevent further amendments being offered to section I.

Let the Chair be precise. It would prevent some amendment, but the amendments that could still be offered to section I would be amendments that would be more comprehensive, because the Wright amendment only changes some of the figures in section I.

Mr. BURLESON of Texas. Then subsequent amendments which would alter the same figures that are altered by the Wright amendment, if adopted, could also be altered by subsequent amendments; is that correct?

The CHAIRMAN. If they were more comprehensive than the amendment already adopted and amend a portion of the resolution not yet amended; that is correct.⁽⁴⁾

Mr. BURLESON of Texas. Mr. Chairman, I do not understand the Chair’s explanation. However, it is rather simple to me.

I wonder whether I might ask the chairman, if, at the end of the consideration of this resolution, whatever amendments may be adopted, including the Wright amendment or any others, which alter the figures that are in the resolution, would it then be in order for the chairman to offer committee amendments adjusting the figures affected by the amendments already adopted?

Mr. [Brock] ADAMS [of Washington]. Mr. Chairman, will the gentleman yield?

Mr. BURLESON of Texas. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, if it is necessary, the statute provides that we can go back into the full House and offer a reconciling amendment that makes the resolution mathematically consistent in the first and second sections.

1. 2 USC § 636(a)(5).

2. 122 CONG. REC. 11599, 94th Cong. 2d Sess.

3. Richard Bolling (MO).

4. For more on the so-called “bigger bite” rule regarding amendments generally, see Deschler’s Precedents Ch. 27 §§ 29.9, 31.18, *supra*.

Mr. BURLERSON of Texas. And there would not be a point of order against amendments which would make those alterations; is that correct?

Mr. ADAMS. There would not be a point of order against that because they are provided for under the statute.

I should be addressing this to the Chair, but that is my interpretation.

The CHAIRMAN. The colloquy in the nature of parliamentary inquiry is accurate.

§ 5.9 Amendments to budget resolutions to achieve “mathematical consistency,” pursuant to section 305(a)(5) of the Congressional Budget Act,⁽¹⁾ have been offered in the House (after rising from the Committee of the Whole) after the previous question has been ordered.

On May 23, 1985,⁽²⁾ during consideration of the concurrent resolution on the budget for fiscal year 1986 (H. Con. Res. 152) in the Committee of the Whole, proceedings ensued as indicated below:

The CHAIRMAN.⁽³⁾ Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 152) revising the congressional budget for the U.S. Government for the fiscal year 1986 and setting forth the congressional budget for the U.S. Government for the fiscal years 1986, 1987, and 1988, pursuant to House Resolution 177, he reported the concurrent resolution back to the House.

The SPEAKER.⁽⁴⁾ Under the rule, the previous question is ordered.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY].

AMENDMENT OFFERED BY MR. GRAY OF PENNSYLVANIA

Mr. [William] GRAY of Pennsylvania. Mr. Speaker, pursuant to section 305(a)(6) of the Congressional Budget Act of 1974, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAY of Pennsylvania: On page 3, line 17 is amended to read as follows:

“Fiscal Year 1985: \$941,650,000,000.”

The SPEAKER. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GRAY].

The amendment was agreed to.

The SPEAKER. The question is on the concurrent resolution, as amended.

§ 5.10 Amendments to budget resolutions to achieve “mathematical consistency,” pursuant to section 305(a)(5) of the Congressional

1. 2 USC § 636(a)(5).

2. 131 CONG. REC. 13407, 99th Cong. 1st Sess.

3. Joe Moakley (MA).

4. Thomas O'Neill (MA).

Budget Act, have been offered in the Committee of the Whole prior to the Committee rising and reporting the resolution to the House.⁽¹⁾

On Apr. 29, 1976,⁽²⁾ during consideration of the concurrent resolution on the budget for fiscal year 1977 (H. Con. Res. 611) in the Committee of the Whole, proceedings ensued as indicated below:

Mr. [Brock] ADAMS [of Washington]. Mr. Chairman, I offer a perfecting amendment. The Clerk read as follows:

Perfecting amendment offered by Mr. ADAMS: Page 2, line 5, strike out the dollar figure and insert in lieu thereof "\$52,435,000,000".

Page 2, line 7, strike out the dollar figure and insert in lieu thereof "\$713,710,000,000".

Page 2, line 10, strike out the dollar figure and insert in lieu thereof "\$67,510,000,000".

The CHAIRMAN⁽³⁾. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. ADAMS).

The perfecting amendment was agreed to.

Mr. ADAMS. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the concurrent resolution, as amended, be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the concurrent resolution (H. Con. Res. 611) setting forth the congressional budget for the U.S. Government for the fiscal year 1977, and revising the congressional budget for the transition quarter beginning July 1, 1976, had directed him to report the concurrent resolution back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the concurrent resolution, as amended, be agreed to.

The SPEAKER.⁽⁴⁾ Pursuant to section 305(a) of Public Law 93-344, the previous question is ordered.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

1. *Parliamentarian's Note*: Section 305(a)(5) of the Congressional Budget Act (2 USC § 636(a)(5)) conveys broad authority to offer "at any time prior to final passage" amendments to achieve "mathematical consistency." See also § 5.9, *supra*.
2. 122 CONG. REC. 11916-18, 94th Cong. 2d Sess.
3. Richard Bolling (MO).
4. Carl Albert (OK).

Mr. [Delbert] LATTA [of Ohio]. Mr. Speaker, on that I demand the yeas and nays.
The yeas and nays were ordered.
The question was taken; and there were—yeas 221, nays 155, not voting 56, as follows:

[Roll No. 215] . . .

So the concurrent resolution was agreed to.
The result of the vote was announced as above recorded.

Motion to Strike the Resolving Clause

§ 5.11 A concurrent resolution on the budget, being considered in the Committee of the Whole, has been subject to a motion that the Committee rise and report the resolution back to the House with a recommendation that the resolving clause be stricken.⁽¹⁾

On Mar. 18, 1993,⁽²⁾ during consideration of the concurrent resolution on the budget for fiscal years 1994–1997 (H. Con. Res. 64) in the Committee of the Whole, a Member made the following preferential motion:⁽³⁾

PREFERENTIAL MOTION OFFERED BY MR. BURTON OF INDIANA

The clerk read as follows:

Mr. BURTON of Indiana moves that the committee do now rise and report the resolution back to the House with the recommendation that resolving clause be stricken.

The CHAIRMAN.⁽⁴⁾ The gentleman from Indiana [Mr. BURTON] will be recognized for 5 minutes.

Mr. [Dan] BURTON of Indiana. Mr. Chairman, as I understand it, it is 5 minutes on each side, is that correct?

The CHAIRMAN. The gentleman is correct. . . .

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Consideration of Conference Reports

§ 5.12 A special order of business resolution reported by the Committee on Rules has “hereby” recommitted a conference report on a concurrent resolution on the budget to an existing conference committee upon adoption of the special order.⁽¹⁾

1. See Deschler’s Precedents Ch. 19 § 10, *supra*.

2. 139 CONG. REC. 5658, 5660, 103d Cong. 1st Sess.

3. For another example of this motion being made with respect to a concurrent resolution on the budget, see 125 CONG. REC. 10490, 96th Cong. 1st Sess., May 9, 1979.

4. Jose Serrano (NY).

1. *Parliamentarian’s Note*: The conference report had been filed in the House with two critical pages inadvertently missing. The Senate had not at this time acted upon the

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

On May 8, 2001,⁽²⁾ a member of the Committee on Rules called up the following resolution, which was agreed to by the House:

Mr. [Porter] GOSS [of Florida]. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 134 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 134

Resolved, That upon adoption of this resolution the conference report to accompany the concurrent resolution (H. Con. Res. 83) establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011 is hereby recommitted to the committee of conference.

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

Mr. GOSS. . . .

Mr. Speaker, the legislation before us grants us a rule that provides that upon adoption of the rule the conference report to accompany H. Con. Res. 83 shall be recommitted to the conference committee.

Simply put, and in plain English for Members, what we are doing is we are taking care of the necessary procedure to get the budget debate on the floor tomorrow. What is going to happen is we are going to pass this rule, then the matter is going to go to the other body. The Committee on Rules is going to meet a little later in the evening, put out a rule to get the new conference report on the floor tomorrow with an appropriate rule, and the House will go about the business of deliberating and voting on the budget, which we are all anxious to get to after the long opportunity we have had to review it in the past several days.

§ 5.13 A special order of business resolution reported by the Committee on Rules has “deemed” a conference report on the concurrent resolution on the budget to have been recommitted (to the existing conference) upon adoption of the special order, further waived all points of order against consideration and content of any subsequent conference report filed on that measure and precluded other motions as to the disposition of the report unless by further order of the House.

On Oct. 6, 1990,⁽¹⁾ a member of the Committee on Rules called up the following resolution, which was agreed to by the House:

conference report and thus the conference committee had not yet been disbanded, allowing the House to recommit the conference report.

2. 147 CONG. REC. 7358, 107th Cong. 1st Sess.

3. Mac Thornberry (TX).

1. 136 CONG. REC. 27919, 101st Cong. 2d Sess. See § 20.3, *infra*. See also Deschler-Brown Precedents Ch. 33 §§ 28.3, 31.4, 31.5, *supra*, for additional related proceedings. For

Mr. [Joe] MOAKLEY [of Massachusetts]. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 496 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 496

Resolved, That upon adoption of this resolution the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, shall be considered as recommitted to conference, notwithstanding the prior action of the House on the conference report.

SEC. 2. All points of order against any subsequent conference report on House Concurrent Resolution 310 and against its consideration are hereby waived. Any such conference report shall be considered as read when called up for consideration. Debate on any conference report shall be limited to not more than 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 3. No motion with respect to disposition of House Concurrent Resolution 310 shall be in order except pursuant to this resolution or a subsequent order of the House.

SEC. 4. The allocations of spending and credit responsibility to the committees of the House, to be printed in the *Congressional Record* by the chairman of the Committee on the Budget as soon as practicable, shall be considered to be the allocations required to be printed in the joint statement of the managers on House Concurrent Resolution 310 pursuant to section 302(a) of the Congressional Budget Act of 1974.

SEC. 5. Rule XLIX shall not apply with respect to the adoption by the Congress of any conference report on the concurrent resolution (H. Con. Res. 310).

The SPEAKER pro tempore (Mr. MFUME).⁽²⁾ The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour. . . .

§ 5.14 By unanimous consent, the House agreed to waive the requirement of a two-thirds vote to consider a special order of business resolution from the Committee on Rules (providing for consideration of a conference report on the budget) on the same day it was reported.

On Aug. 1, 1985,⁽¹⁾ the following unanimous-consent request was agreed to by the House:

Mr. [Thomas] FOLEY [of Washington]. Mr. Speaker, I ask unanimous consent that if the Committee on Rules reports a special order providing for the consideration of the conference report and any amendment in disagreement on Senate Concurrent Resolution 32, it shall be in order to consider the same on this legislative day notwithstanding the provisions of clause 4(b) of rule XI.⁽²⁾

recommittal of a conference report on reconciliation legislation (achieved by motion rather than special order of business), see Deschler-Brown Precedents Ch. 33 § 32.2, *supra*.

2. Kweisi Mfume (MD).

1. 131 CONG. REC. 22591, 99th Cong. 1st Sess.

2. These provisions are now found in Rule XIII clause 6(a). *House Rules and Manual* § 857 (2011).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

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

There was no objection.

§ 5.15 Where conferees on a concurrent resolution on the budget report in total disagreement, the conference report is not acted upon, and debate on motions to dispose of Senate amendments proceeds under the “hour” rule rather than the special procedures under section 305(a)(6) of the Congressional Budget Act.⁽¹⁾

On Sept. 16, 1976,⁽²⁾ the following proceedings occurred in the House:

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 139, SECOND
CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1977

Mr. [Brock] ADAMS [of Washington]. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 139) revising the congressional budget for the U.S. Government for the fiscal year 1977, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER.⁽³⁾ The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 11, 1976.)

Mr. ADAMS (during the reading). Mr. Speaker, I ask unanimous consent that the conference report be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Washington?
There was no objection.

The SPEAKER. The Chair lays before the House the Senate amendment to the House amendment, which the Clerk will read.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is \$362,500,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is \$15,300,000,000;

1. *Parliamentarian's Note*: Section 305(a)(6) of the Congressional Budget Act (2 USC § 636(a)(6)) provides for up to five hours of debate on conference reports on budget resolutions. However, when conferees report in total disagreement, the conference report is merely laid before the House and not acted upon. Thus, the procedures of section 305(a)(6) are not applicable to subsequent motions (such as a motion to concur in Senate amendments) and debate proceeds under the normal operation of the “hour” rule. See Deschler-Brown Precedents Ch. 32 § 5, *supra*.
2. 122 CONG. REC. 30890, 94th Cong. 2d Sess.
3. Carl Albert (OK).

- (2) the appropriate level of total new budget authority is \$451,550,000,000;
- (3) the appropriate level of total budget outlays is \$413,100,000,000;
- (4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is \$50,600,000,000; and
- (5) the appropriate level of the public debt is \$700,000,000,000. . . .

Mr. ADAMS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment to the House amendment.

The SPEAKER. Is there objection to the request of the gentleman from Washington? There was no objection.

MOTION OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ADAMS moves to concur in the Senate amendment to the House amendment.

The SPEAKER. The gentleman from Washington (Mr. ADAMS) is recognized for 1 hour in support of his motion.

On May 13, 1976,⁽⁴⁾ the following proceedings occurred in the House:

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1977

Mr. [Brock] ADAMS [of Washington]. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the U.S. Government for the fiscal year 1977—and revising the congressional budget for the transition quarter beginning July 1, 1976—and ask for its immediate consideration.

The SPEAKER.⁽⁵⁾ The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report, see proceedings of the House of May 7, 1976.)

The SPEAKER. The Chair lays before the House the Senate amendment to the House amendment, which the Clerk will read.

The Clerk read the Senate amendment to the House amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House insert: That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976— . . .

Mr. ADAMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ADAMS moves that the House concur in the Senate amendment to the House amendment.

The SPEAKER. The gentleman from Washington (Mr. ADAMS) is recognized for 1 hour.

4. 122 CONG. REC. 13756, 94th Cong. 2d Sess.

5. Carl Albert (OK).

§ 5.16 A Member raised and later withdrew a point of order under former section 305(d)⁽¹⁾ of the Congressional Budget Act regarding the 7-day deadline for conferees on a concurrent resolution on the budget to report back to their respective Houses.

On Oct. 19, 1979,⁽²⁾ the following proceedings occurred in the House:

Mr. [John] ASHBROOK [of Ohio]. Mr. Speaker, I rise to make a point of order.

The SPEAKER pro tempore (Mr. WATKINS).⁽³⁾ The gentleman from Ohio (Mr. ASHBROOK) will state his point of order.

Mr. ASHBROOK. Mr. Speaker, section 305(d) of Public Law 93-344 states as follows, as far as the Committee on the Budget is concerned, it indicates:

If, at the end of 7 days, excluding Saturdays, Sundays, and legal holidays, after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution. * * *

I would raise the point of order that, according to the calendar of the House of Representatives, on October 5, the second concurrent budget was sent to conference, and even under the most liberal interpretation of the days we have been in session since that point, section 305(d) of Public Law 93-344 has not been followed.

The SPEAKER pro tempore. Under the Budget Act, this is a matter that is under the control of the conferees.

Mr. ASHBROOK. Mr. Speaker, I would make a further point of order that the rule says, "shall submit to their respective Houses * * *."

I would indicate that is not discretionary. That is a requirement which has not been met inasmuch as a conference report has not been brought back to the House either in disagreement or agreement. I would raise that point of order at this point.

Mr. [Leon] PANETTA [of California]. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. Mr. Speaker, I yield to the gentleman from California.

The SPEAKER pro tempore (Mr. WATKINS). The Chair will hear the gentleman from California on the point of order.

Mr. PANETTA. Mr. Speaker, I am a member of that conference. This issue was raised yesterday evening in discussions in the conference. The interpretation of that provision

1. *Parliamentarian's Note*: Former section 305(d) of the Congressional Budget Act was repealed by the Budget Enforcement Act of 1990 and replaced with a different provision. While ostensibly a requirement on conferees to report within seven days if an agreement had not been reached, former section 305(d) contained no parliamentary enforcement mechanism and consequently there would be no procedural effect were a point of order sustained under that section.
2. 125 CONG. REC. 28914, 28915, 96th Cong. 1st Sess.
3. Wesley Watkins (OK).

was that we felt if in fact the members of the conference were in disagreement that, therefore, a report should be made to the respective Houses indicating that that was the case.

The fact is that that is not the case, that both sides are moving toward an agreement; and it was the feeling that the intent of that section was to insure that if in fact the parties were moving toward an agreement, that this ought to proceed, and we ought not to be cut off with a report back to the House if in fact we are moving toward agreement.

Today, we have extended it. We are going to be back in conference at 11 o'clock. Should it appear that there is no agreement as to the terms, that, indeed, we would come back to our respective Houses; but that was the feeling and the interpretation of that particular section.

Mr. ASHBROOK. Mr. Speaker, I withdraw my point of order until at least Tuesday then.

Voting

§ 5.17 Former Rule XXI clause 5(c),⁽¹⁾ requiring a three-fifths vote to pass certain kinds of tax rate increases, does not apply to resolutions (simple or concurrent), and thus does not apply to concurrent resolutions on the budget.

On May 18, 1995,⁽²⁾ at the conclusion of debate on the concurrent resolution on the budget for fiscal years 1996 through 2002 (H. Con. Res. 67), the Speaker affirmed, in response to parliamentary inquiries, that Rule XXI clause 5(c) XXI does not apply to concurrent resolutions:

The CHAIRMAN.⁽³⁾ No further debate is in order. Accordingly, pursuant to House Resolution 149, the Committee rises.

Accordingly, the Committee rose; and the Speaker having assumed the chair, Mr. SENBRENNER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, as amended, he reported the concurrent resolution, as amended, back to the House.

The SPEAKER.⁽⁴⁾ Under the rule, the amendment printed in H. Rept. 104-125 is adopted.

Under the rule, the previous question is ordered.

PARLIAMENTARY INQUIRIES

Mr. [Ronald] WYDEN [of Oregon]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WYDEN. Mr. Speaker, does House rule XXI(c) requiring a three-fifths vote to increase Federal taxes apply to the \$17.4 billion tax increase contained in the Republican budget resolution due to the consumer price index cut?

-
1. Now Rule XXI clause 5(b). *House Rules and Manual* § 1067 (2011).
 2. 141 CONG. REC. 13499, 104th Cong. 1st Sess.
 3. Jim Sensenbrenner, Jr. (WI).
 4. Newt Gingrich (GA).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

The SPEAKER. The Chair appreciates the gentleman's parliamentary inquiry, and the Chair interprets clause 5(c) of rule XXI to apply only to the passage or adoption of a bill, a joint resolution, an amendment thereto, or a conference report thereon. The rule does not apply to the adoption of a concurrent resolution.

Mr. [Michael] WARD [of Kentucky]. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WARD. Mr. Speaker, I am a freshman. On my first day here I voted that a three-fifth vote of this body be required to pass a tax increase.

The SPEAKER. The gentleman is not in order.

Mr. WARD. Is this not a bill, Mr. Speaker?

The SPEAKER. This is not a bill. The gentleman is a freshman. He should study this. It is not a bill.

Mr. WARD. It is not a question of studying, Mr. Speaker. What is the voter to think if we do not call a bill a bill?

The SPEAKER. The question is on the concurrent resolution, as amended.

§ 5.18 A concurrent resolution on the budget has been subject to a demand for a division of the question on adoption, the resolution being composed of grammatically and substantively separable portions.⁽¹⁾

On Mar. 5, 1992,⁽²⁾ at the end of consideration of the concurrent resolution on the budget for fiscal years 1993 through 1997 (H. Con. Res. 287), a Member demanded a division of the question in order to obtain a separate vote on section 3 of the resolution:

Mr. [Leon] PANETTA [of California]. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am surprised to hear—although perhaps I should not be surprised—that the minority may move to divide the question. The gentleman from Ohio [Mr. GRADISON] has not even indicated that to me, but I think it is only in fairness to the Members that we get some indication as to whether or not that would be the case because Members are anxious to get home.

Mr. Chairman, I yield to the gentleman from Ohio for that purpose. Would he advise us as to his intention?

Mr. [Willis David] GRADISON [Jr., of Ohio]. Mr. Chairman, at the appropriate time we will follow the rules. It is our intention to do that on the floor, as we attempted to do it unsuccessfully in the committee.

Mr. PANETTA. Mr. Chairman, reclaiming my time, let me just say to the Members that I think the members of the Committee on the Budget deserve the respect of having a vote on the resolution as we brought it to the floor. If the move is to divide it, then I would ask Members to support both votes.

I will tell the Members I regret that there may be two votes, but that is the minority's decision. I would just ask the Members on our side to please stick with the committee and vote aye on both proposals.

1. See Deschler-Brown Precedents Ch. 30 § 42.5, *supra*.

2. 138 CONG. REC. 4657, 4658, 102d Cong. 2d Sess.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MFUME).⁽³⁾ Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. MFUME, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the concurrent resolution (H. Con. Res. 287) setting forth the congressional budget for the U.S. Government for the fiscal years 1993, 1994, 1995, 1996, and 1997, pursuant to House Resolution 386, he reported the concurrent resolution back to the House.

The SPEAKER.⁽⁴⁾ Under the rule, the previous question is ordered.

Mr. GRADISON. Mr. Speaker, I demand a division of the question on the resolution and specifically ask for a separate vote on section 3. Pending the determination of the Chair as to the resolution's divisibility, I would like to be heard on that question.

The SPEAKER. The gentleman may not debate a demand which has not been subject to a point of order.

Section 3 is subject to a division of the question, and a separate vote will be held on that portion of the concurrent resolution.

PARLIAMENTARY INQUIRIES

Mr. [Richard] GEPHARDT [of Missouri]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GEPHARDT. Mr. Speaker, I would simply ask the Chair to clarify this decision and the fact that there will be a separate vote on both parts of this budget.

□ 1850

The SPEAKER. The demand has been made that there be a division of the question and a separate vote on section 3. The Chair has ruled and is prepared to put the question in a divided form, the two parts of the vote to occur immediately without further intervening debate, so that what would normally have been accomplished in a single vote on the adoption of the resolution will now require two votes.

Mr. GEPHARDT. I thank the Chair.

The SPEAKER. This vote will be on sections 1, 2, and 4. The second vote will be on section 3.

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. With respect to the Chair's statement, we just could not hear on this side of the aisle. Let me just state it as I understood it.

My parliamentary inquiry is that the Chair has held that the question is divisible and, therefore, the first vote would occur on sections 1, 2, and 4, the so-called plan A no firewalls budget, and Members then would have a separate vote on which to express themselves as to whether or not they want a budget without firewalls. I am just asking for clarification because I thought that is what the Chair said.

The SPEAKER. The gentleman is going beyond a parliamentary inquiry. The Chair has ruled that the demand for a division of the question is in order, and the Chair will put the question separately.

3. Kweisi Mfume (MD).

4. Thomas Foley (WA).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

Mr. PANETTA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PANETTA. Mr. Speaker, is it not true that if both passed, the resolution would unify both so that the decision ultimately as to what path would be taken will be voted on next week?

The SPEAKER. The gentleman is correct.

The question is on sections 1, 2, and 4 of House Concurrent Resolution 287.

Without objection the yeas and nays are ordered.⁽⁵⁾

There was no objection.

The vote was taken by electronic device, and there were—yeas 215, nays 201, not voting 19, as follows:

[Roll No. 41] . . .

Mr. HUCKABY changed his vote from “yea” to “nay.”

So sections 1, 2, and 4 of House Concurrent Resolution 287 were agreed to.

The SPEAKER. The question is on section 3 of House Concurrent Resolution 287.

Without objection, the yeas and nays are ordered.

There was no objection.

The vote was taken by electronic device, and there were—yeas 224, nays 191, not voting 20, as follows:

[Roll No. 42] . . .

So section 3 of House Concurrent Resolution 287 was agreed to.

The result of the vote was announced as above recorded.

Similarly, on May 7, 1980,⁽⁶⁾ at the end of consideration of the concurrent resolution on the budget for fiscal years 1981, 1982, and 1983 and revising the budget resolution for fiscal year 1980 (H. Con. Res. 307), a Member demanded a division of the question in order to obtain a separate vote on the revision to the budget resolution for fiscal year 1980:

Mr. [Robert] GIAIMO [of Connecticut]. I would remind my colleagues that our first vote here last week was on the Giaimo amendment, which revised the 1980 budget. We voted for it overwhelmingly. I would urge my colleagues to vote the way they voted on the Giaimo amendment last week.

Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with an amendment, with the recommendation that the amendment be agreed to and that the concurrent resolution, as amended, be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for

5. For a discussion of the Chair’s failure in this instance to put the question to a voice vote, see Deschler-Brown Precedents Ch. 30 § 7.1, *supra*.

6. 126 CONG. REC. 10185–87, 96th Cong. 2d Sess.

the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980, had directed him to report the concurrent resolution back to the House with an amendment, with the recommendation that the amendment be agreed to and that the concurrent resolution, as amended, be agreed to.

The SPEAKER.⁽⁷⁾ Under the statute, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. [Robert] MICHEL [of Illinois]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MICHEL. Mr. Speaker, has the Speaker put the question on final passage?

The SPEAKER. Not yet.

The question is on the concurrent resolution.

Mr. MICHEL. Mr. Speaker, I demand a division of the question. Specifically I ask that a separate vote be taken on section 6, the so-called third budget resolution for fiscal year 1980.

The SPEAKER. The first question is on agreeing to sections 1 through 5 and section 7 of House Concurrent Resolution 307.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MICHEL. Mr. Speaker, in dividing the question, is it not correct that the first vote is on the 1981 budget resolution and the second vote is on the 1980 budget resolution?

The SPEAKER. The gentleman is correct. We are voting on the 1981 resolution.

The question is on agreeing to sections 1 through 5 and section 7 of the concurrent resolution.

Mr. [Delbert] LATTA [of Ohio]. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 193, not voting 14, as follows:

[Roll No. 219] . . .

So sections 1 through 5 and section 7 of the concurrent resolution were agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to section 6 of the concurrent resolution.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 241, nays 174, answered present 1, not voting 16, as follows:

[Roll No. 220] . . .

So section 6 of the concurrent resolution was agreed to.

7. Thomas O'Neill (MA).

Ch. 41 § 5 DESCHLER-BROWN-JOHNSON-SULLIVAN PRECEDENTS

The result of the vote was announced as above recorded.

Section 309

§ 5.19 The House has, pursuant to a special order of business resolution reported by the Committee on Rules, waived the application of section 309 of the Congressional Budget Act⁽¹⁾ to any adjournment resolution providing for the “July 4th” recess.⁽²⁾

On June 27, 1996,⁽³⁾ the House adopted the following special order of business resolution:

Mr. [Lincoln] DIAZ-BALART [of Florida]. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 465

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mr. LAHOOD).⁽⁴⁾ The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 465 provides for the consideration in the House of a concurrent resolution providing for the adjournment of the House and Senate for the Independence Day district work period. All points of order are waived against the resolution and its consideration.

Because of the many open rules that have been granted by this Congress’ Rules Committee—60 percent have been open or modified open—which have led to many vigorous but lengthy debates and amending processes on the floor, the House has not yet been able to complete action on all of the appropriation bills and reconciliation legislation. Therefore, while adjournment resolutions are usually privileged, a rule is needed to waive the point of order that could be raised against the Fourth of July district work period resolution on the grounds that it violates sections 309 and 310(f) of the Budget Act. These sections prohibit the House of Representatives from adjourning for more than 3 days in July unless the House has completed action on all appropriation bills and any required reconciliation legislation.

1. 2 USC § 640.

2. For similar special orders, see, e.g., 152 CONG. REC. 16013, 110th Cong. 2d Sess., July 26, 2006 (H. Con. Res. 454); and 148 CONG. REC. 15138, 15319, 107th Cong. 2d Sess., July 26, 2002 (S. Con. Res. 132).

3. 142 CONG. REC. 15906, 104th Cong. 2d Sess.

4. Ray LaHood (IL).

§ 5.20 The House has, by unanimous-consent, made in order consideration of a resolution providing for an adjournment of more than three days during the month of July, notwithstanding the prohibition contained in section 309 of the Congressional Budget Act.⁽¹⁾

On June 19, 1986,⁽²⁾ during debate on a special order of business (H. Res. 479), the Majority Leader, James C. Wright, Jr., of Texas, was yielded to for the purposes of offering the following unanimous-consent request to waive portions of the Congressional Budget Act that would have prevented consideration of certain adjournment resolutions:

Mr. [Butler] DERRICK [Jr., of South Carolina]. Mr. Speaker, for the purpose of a unanimous-consent request, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

MAKING IN ORDER CONSIDERATION OF ANY RESOLUTION PROVIDING FOR A CERTAIN
ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it be in order to consider any resolution providing for an adjournment period of more than 3 calendar days during the month of July, notwithstanding any provision of Public Law 99-177.

The SPEAKER pro tempore.⁽³⁾ Is there objection to the request of the gentleman from Texas?

There was no objection.

-
1. 2 USC § 640. See, *e.g.*, 147 CONG. REC. 12150, 107th Cong. 1st Sess., June 27, 2001 (H. Con. Res. 176); and Deschler-Brown-Johnson Precedents Ch. 40 § 11.1, *supra*. For additional examples of unanimous-consent requests to consider similar adjournment resolutions notwithstanding the requirements of section 309 of the Congressional Budget Act, see, *e.g.*, 146 CONG. REC. 16620, 16621, 106th Cong. 2d Sess., July 27, 2000; and Deschler-Brown-Johnson Precedents Ch. 40 §§ 11.2, 16.1, *supra*.
 2. 132 CONG. REC. 14644, 99th Cong. 2d Sess.
 3. Thomas Carper (DE).