

## § 7. Role of Committees

The Committees on the Budget for both the House and the Senate were created by section 101 of the Congressional Budget Act of 1974.<sup>(1)</sup> In the House prior to this time, the Committee on Government Operations had jurisdiction over “budget and accounting measures,” but no single committee had jurisdiction over the budget process generally.<sup>(2)</sup>

Membership on the Committee on the Budget was initially set at 23 members, but was increased to 25 in the 94th Congress.<sup>(3)</sup> Membership was increased again to 30 in the 97th Congress,<sup>(4)</sup> and to 31 in the 98th Congress.<sup>(5)</sup> In the 99th Congress, the numerical limitation on membership was eliminated.<sup>(6)</sup>

Rule X clause 5(a)(2)<sup>(7)</sup> lays out the composition and term-limit requirements for the Committee on the Budget. Originally,<sup>(8)</sup> the House required that all members of the Committee on the Budget be members of other standing committees, with five required to come from the Committee on Appropriations, five required to come from the Committee on Ways and Means, and two others chosen by their respective party leaderships. As noted above, membership of the committee has gradually increased over the years, but the requirements of other standing committee affiliation have not changed. The one exception is a change made at the beginning of the 108th Congress, which required that one member of the Committee on the Budget also be a member of the Committee on Rules.<sup>(9)</sup>

Membership on the Committee on the Budget is subject to term limits, both for the chairman and ranking minority member, as well as rank-and-file members. Originally, no Member could serve on the Committee on the Budget for more than two Congresses out of any five successive Congresses,<sup>(10)</sup> but this restriction was changed to three Congresses (out of five)

1. Pub. L. No 93-344, title I. For an earlier overview of the history, composition, jurisdiction, and specific responsibilities of the Committee on the Budget, see Deschler’s Precedents Ch. 17 § 34, *supra*. However, some of that material has been overtaken by subsequent changes to the budget laws and House rules.
2. *House Rules and Manual* § 691 (1973).
3. 121 CONG. REC. 20, 94th Cong. 1st Sess., Jan. 14, 1975 (H. Res. 5).
4. 127 CONG. REC. 98-113, 97th Cong. 1st Sess., Jan. 5, 1981 (H. Res. 5).
5. 129 CONG. REC. 1791, 1792, 98th Cong. 1st Sess., Feb. 7, 1983 (unanimous-consent request).
6. 131 CONG. REC. 353, 99th Cong. 1st Sess., Jan. 3, 1985 (H. Res. 7).
7. *House Rules and Manual* § 758 (2011).
8. Former Rule X clause 1(e), *House Rules and Manual* § 674(a) (1975).
9. 149 CONG. REC. 7, 108th Cong. 1st Sess., Jan. 7, 2003 (H. Res. 5).
10. *House Rules and Manual* § 674(b) (1975).

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in the 96th Congress.<sup>(11)</sup> In the 104th Congress, the rule was changed to its present form, which prohibits a Member from serving on the committee for more than four Congresses in any period of six successive Congresses (with an exception allowing a Member to exceed such limitation by being elected to a second consecutive term as chairman or ranking minority member of such committee).<sup>(12)</sup> However, these restrictions do not apply to the Members designated by their respective party leaderships.<sup>(13)</sup> The Committee on the Budget is now subject to the same tenure limitations of its chair as other committees—a member may serve as chairman for no more than three successive Congresses—pursuant to Rule X clause 5(c)(2).<sup>(14)</sup>

The Congressional Budget Act, which created the House Committee on the Budget, also specified certain duties of that committee, which were subsequently incorporated into the standing rules of the House. Rule X clause 3(c),<sup>(15)</sup> laying out the special oversight functions of various committees, requires the Committee on the Budget to study on a continuing basis the effect of budget outlays on existing and proposed legislation and to report its findings to the House on a recurring basis. Rule X clause 4(b),<sup>(16)</sup> requires the committee to: (1) review the conduct of the Congressional Budget Office; (2) hold hearings to develop the concurrent resolution on the budget; (3) make all reports required by the Congressional Budget Act; (4) study provisions of law that exclude certain Federal agencies or outlays from inclusion in the budget; (5) study proposals to improve the congressional budget process; and (6) evaluate studies of tax expenditures.

Pursuant to Rule X clause 4(f),<sup>(17)</sup> all House committees are given certain responsibilities with respect to the concurrent resolution on the budget. As noted in Section 2, each standing committee must submit to the Committee on the Budget its views and estimates with respect to all matters set forth in the congressional budget resolution, as well as estimates of new budget authority and outlays authorized in legislation within the jurisdiction of each committee intended to become effective in that fiscal year. Such views and estimates must be submitted no later than six weeks after the submission of the President's budget.<sup>(18)</sup> The Committee on Ways and Means is further required to include views and estimates regarding the appropriate level

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11. 125 CONG. REC. 8, 96th Cong. 1st Sess., Jan. 15, 1979 (H. Res. 5).

12. See 141 CONG. REC. 464, 104th Cong. 1st Sess., Jan. 4, 1995 (H. Res. 6).

13. Rule X clause 5(a)(2)(B), *House Rules and Manual* § 758 (2011).

14. *Id.* at § 761 (2011).

15. *Id.* at § 744 (2011).

16. *Id.* at § 748 (2011).

17. *Id.* at § 756 (2011).

18. For an exchange of letters between a Member and the Parliamentarian regarding proper committee procedure in submitting views and estimates to the Committee on the Budget, see 137 CONG. REC. 7778, 7779, 102d Cong. 1st Sess., Apr. 10, 1991.

of the public debt. The Committee on the Budget accepts these submissions from the other standing committees of the House and uses them in formulating the concurrent resolution on the budget. An additional requirement for the Committee on the Budget to consult with the legislative committees in preparing the concurrent resolution on the budget is found in section 301(h) of the Congressional Budget Act.<sup>(19)</sup>

The Congressional Budget Act requires the Committee on the Budget to provide estimates as to the budgetary effect of legislation in various contexts. Section 312(a) is the primary source for this authority, mandating that levels of new budget authority, outlays, direct spending, new entitlement authority and revenues are to be determined on the basis of estimates provided by the Committee on the Budget for purposes of titles III and IV of the Budget Act.<sup>(20)</sup> Pursuant to section 310(d)(4), budgetary levels for reconciliation enforcement are also to be provided by the Committee on the Budget.<sup>(21)</sup> Finally, section 308(b)(2) mandates that the Committee on the Budget provide Members of the House with periodic “status reports” as to the current state of congressional actions providing new budget authority and comparisons with levels set forth in the most recent concurrent resolution on the budget.<sup>(22)</sup> The Committee on the Budget is required to use Congressional Budget Office estimates in formulating such reports.<sup>(23)</sup>

Pursuant to Rule XXIX clause 4,<sup>(24)</sup> authoritative guidance from the Committee on the Budget regarding the budgetary impact of a legislative proposition may be provided by the chairman of that committee. This rule, adopted at the beginning of the 112th Congress, codified existing practice for obtaining timely guidance as to budgetary matters from the Committee on the Budget.

**19.** 2 USC § 632(h).

**20.** 2 USC § 643(a). A similar authority, applicable only to section 311 points of order, was initially found in former section 311(b), prior to the reforms of Gramm-Rudman-Hollings in 1985. It was then moved to section 311(c) before being subsumed into current section 312(a) by the Budget Enforcement Act of 1997. Likewise, the Committee on the Budget was required under former section 302(g) to provide estimates of budgetary levels for purposes of section 302 enforcement, but this specific requirement was collapsed into the broader authority currently found in section 312(a) by the Budget Enforcement Act of 1997.

**21.** 2 USC § 641(d)(4).

**22.** 2 USC § 639(b)(2). For an example of such a status report, see 146 CONG. REC. 12634, 12635, 106th Cong. 2d Sess., June 27, 2000. Such status reports have been “revised” by supplemental submission, see, e.g., 152 CONG. REC. 3522, 109th Cong. 2d Sess., Mar. 14, 2006.

**23.** *House Rules and Manual* § 1127 (2011).

**24.** *House Rules and Manual* § 1105d (2011).

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Additional duties required of the Committee on the Budget are found in section 301 of the Congressional Budget Act, which describes how the concurrent resolution on the budget is to be prepared.<sup>(25)</sup> Section 301(e)(1)<sup>(26)</sup> requires the Committee on the Budget to hold hearings and receive testimony from various entities in developing the budget. Section 301(e)(2) lays out the requirements for the report to accompany the concurrent resolution on the budget, while section 301(e)(3) describes the optional components of such report.<sup>(27)</sup>

As originally conceived, the jurisdiction of the Committee on the Budget was quite limited, encompassing only concurrent resolutions on the budget and other matters requiring referral to that committee under the Congressional Budget Act.<sup>(28)</sup> Over time, that jurisdiction has been expanded to include additional matters. In the 99th Congress, the committee was given jurisdiction over Senate joint or concurrent resolutions constituting responses to Presidential sequestration orders.<sup>(29)</sup> In the 104th Congress, the committee was given jurisdiction over: (1) other measures setting forth budgetary levels for the United States Government; (2) the congressional budget process generally; and (3) special controls over the Federal budget (including the budgetary treatment of off-budget entities).<sup>(30)</sup> In the 105th Congress, the committee's jurisdiction over the congressional budget process was expanded to include the Federal budget process generally.<sup>(31)</sup> With regard to the special treatment of off-budget entities and the executive branch budget process, jurisdiction over these matters was transferred from the Committee on Oversight and Government Reform (and its predecessor committees) to the Committee on the Budget.<sup>(32)</sup> The Committee on Oversight and Government Reform has retained jurisdiction over "overall economy, efficiency, and management of government operations and activities," and "government management and accounting measures generally," but it no longer has the same role with respect to budgetary matters specifically.

As noted throughout this chapter, budget processes have been incorporated into the standing rules of the House and certain sections of the Congressional Budget Act constitute rulemaking in the House. The Committee

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**25.** 2 USC § 632.

**26.** *Id.* at (e)(1).

**27.** *Id.* at (e)(2), (e)(3).

**28.** *House Rules and Manual* § 674(c) (1975).

**29.** *House Rules and Manual* § 674(b) (1987). See Pub. L. No. 99-177, sec. 232(h). See § 26, *infra*.

**30.** *Id.* at § 673b (1995).

**31.** *Id.* at § 673b (1997).

**32.** For a list of rereferrals reflecting the migration of these jurisdictional matters to the Committee on the Budget, see *House Rules and Manual* § 719 (2011).

on Rules has jurisdiction over the rules and the order of business in the House, pursuant to Rule X clause 1(o).<sup>(33)</sup> Thus, there are many areas in which the Committee on the Budget's jurisdiction over budget-related matters overlap with the Committee on Rules' jurisdiction over the rules of the House.<sup>(34)</sup> As a result, budget resolutions have been sequentially referred to the Committee on Rules.<sup>(35)</sup> Additionally, section 301(c) of the Congressional Budget Act specifies that any concurrent resolution on the budget that would have the effect of changing any rule of the House shall be referred to the Committee on Rules with instructions to report such resolution back to the House within five calendar days.<sup>(36)</sup>

The Congressional Budget Act also provides for a point of order against consideration of any bill, resolution, amendment, motion or conference report that contains subject matter within the jurisdiction of the Committee on the Budget, but which has not been reported (or discharged) from that committee.<sup>(37)</sup>

While many points of order under the Congressional Budget Act apply to measures only as reported from committee (leaving unreported measures uncovered), Rule XXI clause 8 of the standing rules of the House (first adopted in the 110th Congress),<sup>(38)</sup> separately applies all points of order under title III of the Budget Act to unreported as well as reported measures.

Traditionally, the President's budget submission is referred to the Committee on Appropriations, and not to the Committee on the Budget.<sup>(39)</sup>

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- 33.** *House Rules and Manual* § 733 (2011). See Deschler's Precedents Ch. 17 §§ 52, 53, *supra*. The Committee on the Budget's jurisdictional statement can be found in Rule X, clause 1(d), *House Rules and Manual* § 719 (2011).
- 34.** The chairman of the Committee on the Budget inserted into the *Congressional Record* a memorandum of understanding between this committee and the Committee on Rules to clarify each committee's jurisdiction over the congressional budget process. See 141 CONG. REC. 617, 618, 104th Cong. 1st Sess., Jan. 4, 1995.
- 35.** See, e.g., 130 CONG. REC. 7315, 98th Cong. 2d Sess., Apr. 2, 1984; and 129 CONG. REC. 6321, 98th Cong. 1st Sess., Mar. 21, 1983.
- 36.** 2 USC § 632(c). Former section 402(b) of the Congressional Budget Act, repealed by Gramm-Rudman-Hollings, provided specific authority to the Committee on Rules to recommend emergency waivers of former section 402(a). For more on former section 402(a), see § 14, *infra*.
- 37.** Section 306 of the Congressional Budget Act, 2 USC § 637. For additional information on section 306 points of order, see § 16, *infra*.
- 38.** *House Rules and Manual* § 1068c (2011).
- 39.** See, e.g., 149 CONG. REC. 2301, 2302, 108th Cong. 1st Sess., Feb. 4, 2003. For an example of the House dividing a presidential message and referring the portion on the budget to the Committee on Appropriations, see Deschler's Precedents Ch. 17 § 27.4 and Deschler-Brown-Johnson Precedents Ch. 35 § 3.6, *supra*. For more on presidential budget submissions, see § 3, *supra*.

### **Section 308**

Section 308 of the Congressional Budget Act<sup>(1)</sup> requires that certain budgetary information be included in House (and Senate) committee reports. Whenever a committee reports a bill or joint resolution<sup>(2)</sup> providing new budget authority (other than continuing appropriations) or providing an increase or decrease in revenues or tax expenditures, the report accompanying such bill or joint resolution must include a statement (prepared after consultation with the Congressional Budget Office)<sup>(3)</sup> that includes the following items: (1) a comparison of the budgetary levels in such measure with the appropriate allocation under section 302; (2) a projection by the Congressional Budget Office of how such measure will affect the relevant budgetary levels for the current fiscal year and the four ensuing fiscal years; and (3) an estimate by the Congressional Budget Office of the new level of budget authority for assistance to state and local governments provided by such measure. Section 308(a)(2) applies these requirements to conference reports as well.

These requirements have been incorporated into the standing rules of the House, and are currently found in Rule XIII clause 3(c)(2).<sup>(4)</sup> Clause 3(c)(2) provides that all committee reports include the required elements of section 308(a) of the Congressional Budget Act, “except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level of the relevant programs to the appropriate levels under current law.”<sup>(5)</sup> Committees have been given leave to file supplemental reports to correct substantive omissions such as the requirements of section 308(a).<sup>(6)</sup>

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1. 2 USC § 639.

2. *Parliamentarian’s Note*: Prior to the revisions occasioned by the Budget Enforcement Act of 1997, section 308 was applicable to any “bill or resolution,” ostensibly covering simple resolutions of the House (such as special orders of business). For an example of proceedings involving a “self-executed” amendment via a special order of business prior to this revision, see § 7.2, *infra*. A similar issue has arisen with regard to section 306, which also uses the term “resolution.” Beginning with the 107th Congress (and continuing in each subsequent Congress), the House has adopted as a separate order, contained in the opening-day resolution adopting the rules of the House, a provision interpreting the term “resolution” in section 306 to refer to a “joint resolution” only. See, *e.g.*, 147 CONG. REC. 26, 107th Cong., 1st Sess., Jan. 3, 2001 (H. Res. 5, sec. 3(b)(1)).

3. Section 402 (formerly section 403) of the Congressional Budget Act (2 USC § 653) requires the Congressional Budget Office to provide budgetary analysis of certain reported measures and further requires the inclusion of such analysis in the report accompanying such measure if timely submitted to the committee.

4. *House Rules and Manual* § 840 (2011).

5. *Id.*

6. See, *e.g.*, 154 CONG. REC. 14596, 110th Cong. 2d Sess., July 10, 2008; and 156 CONG. REC. H3840 [Daily Ed.], 111th Cong. 2d Sess., May 26, 2010.

**§ 7.1 A committee cost estimate identifying new spending authority in the form of annual salaries for new United States Senators complies with the requirements of section 308 of the Congressional Budget Act<sup>(1)</sup> for a committee reporting new spending authority where such cost estimate states the levels of new spending authority provided by the bill for that fiscal year and the next four fiscal years by incorporating by reference a complete Congressional Budget Office estimate in a previous committee report on a similar bill.**

On Nov. 20, 1993,<sup>(2)</sup> the following proceedings took place:

NEW COLUMBIA ADMISSION ACT

The SPEAKER pro tempore.<sup>(3)</sup> Pursuant to House Resolution 316 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 51.

For what purpose does the gentleman from New York [Mr. SOLOMON] rise?

POINT OF ORDER

Mr. [Gerald] SOLOMON [of New York]. Mr. Speaker, at this point I would make a point of order against the consideration of H.R. 51 on the grounds that it is in violation of House rule XIII, clause 7, as well as section 308(a) of the Budget Act, and I ask to be heard on my point of order.

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

Mr. SOLOMON. Mr. Speaker, House Rule XIII, clause 7(a) requires that the committee report to accompany any bill and I quote—

Shall contain an estimate made by such committee of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the 5 fiscal years following such fiscal year

And clause 7(b) of that rule says, and I quote,

It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

Mr. Speaker, the report to accompany H.R. 51, House Report 103-371, at page 22, notes that a CBO cost estimate, and I quote, “was not received by the Committee from the Director of the Congressional Office prior to the filing of this report.”

The report goes on to state that, “pursuant to clause 7 of rule XIII, the Committee notes that the provisions of H.R. 51 impacting on revenues and expenditures do not differ markedly from those of H.R. 4718 in the 102nd Congress.”

And the report goes on to incorporate that 1992 cost estimate as the committee cost estimate at pages 22 through page 26.

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1. 2 USC § 639.
  2. 139 CONG. REC. 31354, 31355, 103d Cong. 1st Sess.
  3. Cleo Fields (LA).

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However, Mr. Speaker, this does not satisfy the requirements of clause 7(a) of rule XIII since the CBO cost estimate does not contain the required cost of the bill for the fiscal year in which it has been reported—fiscal year 1994—and in each of the 5 fiscal years following such fiscal year . . . .

For the report to be in compliance with the requirements of clause 7(a) of rule XIII, there must be a clearly delineated breakdown of the estimated costs for each of the fiscal years 1994 through 1999.

Nowhere in this report is there such a breakdown.

Mr. Speaker, since the rule providing for the consideration of the bill does not waive points of order anywhere in this rule, in its consideration, this point of order is in order pursuant to clause 7(b) of rule XIII; and, Mr. Speaker, I also make a point of order that the report violates section 308(a), as I mentioned earlier, of the Budget Act, which requires certain cost estimates, including section 402 to be direct spending costs. The CBO report, at page 26, only contains the PAYGO estimates through fiscal year 1995. But this year we extended the requirements of PAYGO through fiscal year 2002.

I therefore urge that my point of order be sustained, Mr. Speaker.

□ 1710

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

Mr. [Pete] STARK [of California]. Mr. Speaker, I rise in opposition to the point of order.

A review of the full text of the CBO estimate on page 22 to 26 of House Report 103–371 clearly indicates that it covers the five years required by the rule, and much beyond.

For example, on page 22, the cost to the Federal Government of administering the federal enclave is \$40 million annually; that is an indefinite period extending beyond the five years of the rule.

Similarly, Mr. Speaker, other estimates are recurring, as follows:

Congressional representation is \$3 million a year, page 23.

Justice services, \$45 million a year.

Finally, Mr. Speaker, if you look at the chart on page 26 of the report, you will note that the net cost to the government for every year is zero—costs are offset by savings.

Thus, the committee report complies fully with the rule.

Mr. SOLOMON. Mr. Speaker, the gentleman clearly has not disputed the fact that the cost estimates are not accurate; but nevertheless, I would stand by the ruling of the Chair.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair is prepared to rule.

Clause 7 of rule XIII requires that the report of the Committee on the District of Columbia on H.R. 51 contain the committee's estimate of the costs which would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the 5 ensuing fiscal years.

On page 22 of House Report 103–371, the Committee on the District of Columbia notes, pursuant to clause 7 of rule XIII, that the provisions of the bill affecting revenues and expenditures are similar to those in an earlier bill, and includes the full text of the Congressional Budget Office cost estimated, dated April 30, 1992, on that earlier form of the bill.

The CBO cost estimate estimates costs and savings as recurring annually and indefinitely.

For example, it estimates the costs of providing services, within and administering the National Capital Service Area as being at least \$40 million annually.

It estimates the costs of additional congressional representation as being “\$3 million a year”, it estimates the cost for the Statehood Transition Commission at less than \$ million, and it estimates the savings from the discontinuation of Federal support for local administration of justice and resulting court services as \$45 million a year.

In addition, clause 7(d) of rule XIII expressly acknowledges the fundamental accuracy of the CBO cost estimates.

The Chair also notes in response to the point of order under section 308 of the Budget Act that the cost of the new Senators salary as stated in the CBO report would result in a direct Federal spending of \$0.3 million annually. Thus the CBO report identifies [sic] new spending authority provided in the bill.

The Chair holds that the committee cost estimate on the bill is not deficient for its being based on the CBO cost estimate where the latter estimate has examined the same subject on an indefinite basis.

The Chair overrules the point of order.

Mr. SOLOMON. Mr. Speaker, I respectfully disagree with the findings of the Chair, but I would not object.

The SPEAKER pro tempore. The Chair overrules the point of order.

**§ 7.2 Section 308(a)(1) of the Congressional Budget Act<sup>(1)</sup> does not apply either pending the consideration or the question of the adoption of a special order reported from the Committee on Rules that “self-executes” the adoption in the House, to a bill to be subsequently considered, of an amendment providing new budget authority, because the amendment is not separately before the House during consideration of the special order and because it is the bill as so amended, and not the special order resolution, that provides the new budget authority.**

On Feb. 24, 1993,<sup>(2)</sup> the following proceedings took place:

EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 103 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 103

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 920) to extend the emergency unemployment compensation program, and for other purposes. The amendment recommended by the Committee on

1. 2 USC § 639(a)(1).

2. 139 CONG. REC. 3542, 3543, 3554, 3555, 103d Cong. 1st Sess. See also Deschler-Brown Precedents Ch. 31 §§ 10.21, 10.22; and the *Parliamentarian’s Note* accompanying Deschler-Brown Precedents Ch. 32 § 5.35, *supra*.

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Ways and Means printed in the bill and the amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, and against its consideration are waived. Debate on the bill shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except one motion to recommit.

POINTS OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order against the resolution.

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

Mr. WALKER. Mr. Speaker, I make a point of order against House Resolution 103 on the ground that two amendments self-executed by the resolution are in violation of two different House rules, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman from Pennsylvania wishes to be heard, and the gentleman may proceed.

Mr. WALKER. Mr. Speaker, first, House Resolution 103 is in violation of clause 5(a) of rule XXI because it proposes to adopt the Ways and Means Committee amendment printed as section 4 in H.R. 920 as reported. That section deals with financing provisions and in effect reappropriates advance account funds to make payments to the States to provide these additional benefits. Clause 5(a) of rule XXI prohibits appropriations provisions in a bill not reported by the appropriations committee.

Second, Mr. Speaker, House Resolution 103 attempts to adopt an amendment contained in the report to accompany the resolution extending coverage of the bill to railroad employees. That amendment is in violation of clause 7 of rule XVI which prohibits the consideration of germane amendments. The amendment contained in the Rules Committee report is under the jurisdiction of the Energy and Commerce Committee and is therefore not germane to this bill from the Ways and Means Committee.

Mr. Speaker, since both of those amendments will be considered to be adopted when this rule is adopted, they are currently before us and must be subject to points of order. It is clear from the rule that once the rule is adopted, the bill as amended by them is not subject to points of order. But, prior to the adoption of this resolution, those two amendments are obviously a part of this resolution and subject to the two points of order I have raised.

The SPEAKER pro tempore (Mr. MAZZOLI). Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The fact that amendments which if offered separately would be violative of the rules does not prevent the Rules Committee from self-executing the adoption of those amendments together in the rule itself, by providing for their adoption upon the adoption of the rule. The amendments are thus not separately before the House at this time.

Mr. WALKER. Mr. Speaker, I make another point of order.

The SPEAKER pro tempore. The point of order that the gentleman raises is overruled. Does the gentleman from Pennsylvania have another point of order?

Mr. WALKER. Mr. Speaker, I make another point of order against House Resolution 103 on the ground that it is in violation of section 308(a) of the Congressional Budget Act of 1974, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WALKER. Mr. Speaker, section 308(a) of the Congressional Budget Act provides that, and I quote, "Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto providing new budget authority \* \* \* new spending authority described in section 401(c)(2), or new credit authority \* \* \* the report accompanying that bill or resolution shall contain a statement, the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement \* \* \* prepared after consultation with the Director of the Congressional Budget Office" detailing the costs of that provision.

Mr. Speaker, the amendment contained in the Rules Committee report, which would be adopted upon the adoption of this resolution, extends coverage of this bill to railroad workers. It is my understanding that this may entail a cost of \$20 million, but the Rules Committee has not provided a cost estimate from CBO in its report on this amendment as required by section 308 of the Budget Act. This is an amendment reported by the Rules Committee and therefore is subject to the CBO cost estimate requirements. I therefore urge that my point of order be sustained.

The SPEAKER pro tempore (Mr. MAZZOLI). Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Pennsylvania raises an objection based on section 308(a) of the Budget Act on the basis that the report accompanying this resolution coming from the Rules Committee would have to have a CBO estimate of the potential cost involved by virtue of adoption of the amendment. However, the Chair, after consulting precedents and the rules of the House, rules that the cost estimate does not have to be made a part of the report accompanying the rule being brought from the Rules Committee, but rather the point of order might lie against the underlying bill. The resolution itself does not enact budget authority and, therefore, the resolution coming from the Rules Committee does not itself have to have the cost estimate in the accompanying report.

Therefore, the Chair now would overrule the gentleman's point of order.

#### PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Is this not a self-enacting amendment proposed by the Rules Committee and contained within the rule?

The SPEAKER pro tempore. Would the gentleman state that again, please?

Mr. WALKER. Is this not a self-enacting amendment contained within the rule and proposed by the Rules Committee?

The SPEAKER pro tempore. Upon adoption of the resolution, the amendments to which the gentleman is—

Mr. WALKER. So it is before the House at the present time as an amendment proposed by the Rules Committee, a self-enacting amendment, and the Chair has ruled, as I understand it, that the Rules Committee is not subject to the Congressional Budget Act under its authority to propose amendments?

The SPEAKER pro tempore. The Chair did not suggest that the Rules Committee is not subject here, but the Chair suggested that the report on the resolution itself does not have to set forth the budget estimates which the gentleman has requested.

Mr. WALKER. But that is the—

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The SPEAKER pro tempore. The budget authority is the underlying amendments which the Chair is advised occur and are considered adopted only upon adoption of the resolution.

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Is the Rules Committee not enacting and including in its resolution a provision which will in fact increase spending and, therefore, is subject to the Congressional Budget Act?

□ 1320

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would state that the Budget Act, section 308(a) of the Budget Act, does not require budget estimates to be included in the report since the amendments are not adopted until such time as the rule is adopted. At that time, then, the amendments which are contained and which would be self-actuated under the rule would then be subject to section 308(a) of the Budget Act.

Prior to the adoption by the House of Representatives of this resolution, that underlying budget estimate is not required to be a part of the report on the resolution itself.

Mr. WALKER. So the Chair is now ruling, or as a further parliamentary inquiry, the Chair has ruled that once we adopt this resolution with the amendment in it, that the Committee on the Budget will be required to file a new report before we can take up the underlying legislation that includes this particular budget estimate? Is that what the Chair is saying?

The SPEAKER pro tempore. The Chair did not make that ruling that there would be a need for the Committee on the Budget to file a budget estimate. The Chair is advised that there is data developing the potential cost in the section to which the gentleman refers in the material which once the rule is adopted, will then be before the House.

Mr. WALKER. Could the Chair tell me what precedents the Chair referred to for this particular ruling that the Committee on Rules is not subject to the provisions of the Budget Act, does not have to include these items in its report, and now does not even have to report on the items before the House takes up the bill?

The SPEAKER pro tempore. The Chair inadvertently may have used the term "precedent." The Chair was misspeaking itself when it referred to the "precedents." There are no precedents for this particular ruling of the Chair.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: so we are setting a new precedent here right now that the Committee on Rules is not subject to the Congressional Budget Act, that they do not have to, in their amendments, prepare the budget material, that they can, in fact, add spending without a requirement under the Budget Act, and that they never have to justify the spending that they are doing to the House before the underlying bill is taken up? Is that the precedent that the Chair has now provided to this House?

The SPEAKER pro tempore. The Chair would suggest that it is not the Chair's understanding that the extent ascribed by the gentleman from Pennsylvania is the extent of the Chair's ruling. The Chair's ruling is more narrow than that, suggesting only that until and unless this resolution is agreed to and adopted, there is no need within that rule, within the report on the resolution offered, to have in it the various cost estimates from the Congressional Budget Office and from the Committee on the Budget which the gentleman wishes. That material would be available at some point later in the discussion once the rule is adopted.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker; since the Chair has taken us into unprecedented grounds here, when is the House going to be provided with this information?

The SPEAKER pro tempore. Until such time as the resolution is agreed to and adopted, the Chair is really in no position to make that declaration or to give that advice.

The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour. . . .

So the previous question was ordered.

The result of the vote was announced as above recorded.

## POINT OF ORDER

Mr. [Robert] WALKER [of Pennsylvania]. Mr. Speaker, I make a point of order against the amendment printed in the Rules Committee report, which I understand is now before us, based upon the Chair's previous ruling.

I make my point of order on the ground that the report in this resolution violates section 308(a) of the Budget Act requiring a cost estimate.

Section 308(a) of the Budget Act, which requires the CBO cost estimate in the report on any committee bill, resolution or amendment, contains no exemption for the report of the Committee on Rules.

I quote from the section 308(a) of the Congressional Budget Act:

Whenever a committee of either house reports to its house a bill or resolution or committee amendment thereto providing new budget authority, new spending authority described in section 402(c)(2) or new credit authority, the report accompanying that bill or resolution shall contain a statement or the committee shall make available such a statement prepared after consultation with the director of the Congressional Budget Office.

Mr. Speaker, earlier in the debate on this particular resolution, the gentleman who purports to be the author of the railroad worker amendment admitted costs are involved in his amendment. The quote that I have just read means that the committee then has an obligation to provide to the House a congressional budget statement.

Section 308(a) clearly applies to the committee amendment, and the amendment contained in the Rules Committee report is a Rules Committee amendment. It was not reported by the Ways and Means Committee, it was not reported by the Energy and Commerce Committee and so therefore is exclusively in the jurisdiction of the Rules Committee.

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The amendment contained in the Rules Committee report on this resolution will be considered to have been adopted when this resolution is adopted. So there is no question who should provide the CBO cost estimate. It is the Rules Committee. They are not above the rules.

Mr. Speaker, I ask that my point of order be sustained.

The SPEAKER pro tempore (Mr. MAZZOLI).<sup>(4)</sup> Does the gentleman from Michigan wish to be heard on the point of order?

Mr. [David] BONIOR [of Michigan]. I do, Mr. Speaker.

4. Romano Mazzoli (KY).

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We had this argument a little over an hour ago and it is again timely, as the gentleman from Pennsylvania has indicated.

He refers to section 308. Section 308 applies to measures providing new budget authority. The resolution before us does not provide for new budget authority.

The rule makes in order a bill as amended. The bill as amended provides for the new spending.

House Resolution 103 waives all points of order against the bill as amended and against its consideration. It waives all points of order against the bill and against its consideration.

Mr. Speaker, I ask the Chair to rule that the point of order is not in order.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania seek to be heard further on the point of order?

Mr. WALKER. Yes, Mr. Speaker, I wish to be heard further on the point of order.

It is true the Rules Committee has waived all points of order against the bill that would be considered pursuant to this rule. That is the reason why this point of order is timely now.

When it comes to a question in the bill itself, the point of order with regard to the Budget Act will not be in order because that point of order has been waived. The only time we can get at this particular item is in the self-enacting amendment which is a part of the rule.

The gentleman has not referred to the self-enacting amendment. That is the question to which this particular point of order pertains and it is up to the Chair, I think, to sustain the point of order based upon the fact that the self-enacting amendment within this rule does in fact add costs. It is new budget authority and is therefore in violation of the Congressional Budget Act.

The SPEAKER pro tempore. Do any Members wish to be heard further on the point of order?

Mr. [John] WILLIAMS [of Montana]. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, it does seem to me that my colleagues are correct in wanting to be informed with regard to the cost effect of that provision which is executed by this rule. That provision has been handled this way three times by previous Congresses. The provision includes, this is what we are executing here, it includes coverage, extended unemployment coverage for America's railroad workers who have their own unemployment fund and therefore would not be covered unless there was a separate amendment or unless we do it this way. Previous Congresses have chosen to do it this way.

The cost, Mr. Speaker, is estimated by both the Congressional Budget Office as well as the Railroad Retirement Trust Fund System, to be \$2½ million for the coming year, and the coverage would be extended to 1,200 railroad workers.

I do think my colleagues are correct in asking for that information, and they now have it.

Mr. WALKER. Mr. Speaker, I wish to be heard further on the point of order.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. WALKER] is recognized.

Mr. WALKER. Mr. Speaker, the gentleman from Montana has just made the case. While he has informed the House of his estimate of what this costs, the fact is that the rules of the House require that the statement be a Congressional Budget Office statement contained within the report. That is what the House does not have. That is what the House requires.

The gentleman from Montana has also made the point that his amendment is included in this rule, that it is new budget authority, that it does extend to new people and it does cost at least \$2½ million. That is information that should be contained in the committee report. It is not. It is therefore a violation of the rules of the House. It is a violation of the Budget Act, and my point of order should be sustained.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair is prepared to rule.

The amendment printed in the bill and the amendment printed in House Report 103-18 will be considered as adopted by the operation of House Resolution 103, which is the special order now pending before the House.

After adoption of this special order, House Resolution 103, the bill is called up for consideration as so amended.

A point of order under section 308 of the Budget Act against consideration of the bill in that form could properly come at that point when the bill is called up for consideration.

As the Chair indicated previously, the new budget authority at issue would be provided not by the resolution reported by the Committee on Rules, but rather by the bill as amended.

At this point, the point of order does not lie. That all points of order against the bill as amended will be waived by House Resolution 103, if adopted, does not cause such points of order to lie at some earlier stage.

The rules of the House authorize the Committee on Rules to report a resolution providing a special order of business, and a point of order under Section 308 of the Budget Act does not lie against such a resolution on the ground that its adoption would have the effect of abrogating clause 2(1)(3) of rule XI, which incorporates the requirement of section 308 in the standing rules.

Accordingly, the point of order is overruled.

#### PARLIAMENTARY INQUIRIES

Mr. WALKER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. It was difficult to hear, Mr. Speaker, but I believe I heard the Chair rule that a point of order would lie against the amendment after the amendment had been adopted. Now, that will be a brand new precedent for the House and I am a little confused by it.

Is that what the Chair has ruled in this case, that the point of order would lie on the amendment after the amendment was adopted?

The SPEAKER pro tempore. The point of order could lie against consideration of the bill once the amendment has been adopted.

Mr. WALKER. Well, a further parliamentary inquiry, Mr. Speaker: Is it not true that after the rule has been adopted, a point of order would lie against the bill, but because the bill waives all points of order, the fact is that no point of order lies against this additional spending, is that correct?

The SPEAKER pro tempore. The gentleman is correct. Once the bill is called up, the point of order could lie against an amendment under section 308 of the Budget Act, but because the rule which has by that time been adopted has in its waivers of points of order, that point of order is not to be sustained.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: Just so I understand, the Chair has now ruled that a point of order lies against the amendment after the

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amendment has been adopted as a part of the rule, but it cannot really be, there cannot be a point of order because all points of order were waived in the rules, so the Rules Committee has protected its violation of the rules with another provision in the rule; is that correct?

The SPEAKER pro tempore. The Chair would state that the point of order would not necessarily lie against the amendment at the point when the resolution is agreed to, but that would be the time to raise a point of order; however, because the waiver has been included in the resolution which by that time is adopted, the gentleman's point of order would not be successfully lodged.

Mr. WALKER. Well, a further parliamentary inquiry, Mr. Speaker: So I am correct in stating that the Chair says that the point of order lies against the amendment, however, the Rules Committee has protected itself in a way that allows it to violate the rules.

The SPEAKER pro tempore. The Chair would just state that there are oftentimes when points of order are waived for various reasons on various resolutions and on various pieces of legislation. That is nothing unique and novel and it is not today.

But again, the Chair has ruled.