

---

**ing a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution<sup>58</sup> pursuant to section 310, upon —**

§ 313(d)(1)

**(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A),<sup>59</sup> (b)(1)(B),<sup>60</sup> (b)(1)(D),<sup>61</sup> (b)(1)(E),<sup>62</sup> or (b)(1)(F),<sup>63</sup> and**



§ 313(d)(2)

**(2) such point of order being sustained,<sup>64</sup> such material**

---

<sup>57</sup>(...continued)

the history of these Senate Resolutions, see *infra* note 65. Section 13214(b)(2)(B) of the Budget Enforcement Act repealed what used to be subsection (c), which read: “(c) This section shall become effective on the date of enactment of this title and shall remain in effect until September 30, 1992.” The Byrd Rule is thus permanent law.

<sup>58</sup> Section 310(b) defines “reconciliation resolution.”

<sup>59</sup> Subsection (b)(1)(A) concerns provisions without deficit effect. *See supra* p. 8. For examples of the application of this subsection to conference reports, see, *e.g.*, 141 CONG. REC. S17,315-27 (daily ed. Nov. 17, 1995) (Exon point of order under subsections (b)(1)(A) and (b)(1)(D) against sections 8001 and 13301 of the bill as proposed by the conference report on application of antitrust rule to provider-sponsored organizations (Medicare Plus) and exemption of physician office laboratories; Abraham motion to waive rejected 54-45; point of order sustained); 143 CONG. REC. S8449-51 (daily ed. July 31, 1997) (Durbin point of order against section 1604(f)(3) of the conference committee-reported bill crediting a new cigarette tax against the global settlement; Roth motion to waive approved 78-22).

<sup>60</sup> Subsection (b)(1)(B) concerns provisions that worsen the deficit where the title fails to comply with instructions. *See supra* p. 14. Section 13214(b)(4)(E) of the Budget Enforcement Act added this reference. The Parliamentarian has advised (in July of 1993) that he considers it impossible to apply subsection (b)(1)(B) to conference reports.

<sup>61</sup> Subsection (b)(1)(D) concerns provisions with deficit effects “which are merely incidental to the non-budgetary components of the provision.” *See supra* p. 14. For examples of the application of this subsection to conference reports, see, *e.g.*, 141 CONG. REC. S17,315-27 (daily ed. Nov. 17, 1995) (Exon point of order under subsections (b)(1)(A) and (b)(1)(D) against sections 8001 and 13301 of the bill as proposed by the conference report on application of antitrust rule to provider-sponsored organizations (Medicare Plus) and exemption of physician office laboratories; Abraham motion to waive rejected 54-45; point of order sustained).

<sup>62</sup> Subsection (b)(1)(E) concerns provisions that worsen the deficit in the out-years beyond the reconciled years. *See supra* p. 19. Section 13214(b)(4)(E) of the Budget Enforcement Act added this reference.

<sup>63</sup> Subsection (b)(1)(F) concerns provisions that deal with Social Security. *See supra* p. 22. Section 13214(b)(4)(E) of the Budget Enforcement Act added this reference.

<sup>64</sup> For examples of the application of this section to conference reports, see, *e.g.*, 141 CONG. REC. S17,315-27 (daily ed. Nov. 17, 1995) (Exon point of order under subsections (b)(1)(A) and (b)(1)(D) against sections 8001 and 13301 of the bill as proposed by the conference report on application of antitrust rule to provider-sponsored organizations (Medicare Plus) and exemption

(continued...)