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SUMMARY OF THE BYRD RULE

Under the Byrd rule, the Senate is prohibited from considering extraneous matter as part of a reconciliation bill or resolution or conference report thereon. The definition of what constitutes "extraneous matter" is set forth in the Budget Act; however, the term remains subject to considerable interpretation by the presiding officer (who relies on the Senate Parliamentarian). The Byrd rule is enforced when a Senator raises a point of order during consideration of a reconciliation bill or conference report. If the point of order is sustained, the offending title, provision or amendment is deemed stricken unless its proponent can muster a *3/5 (60) Senate majority vote* to waive the rule.

Subject matter - The Byrd rule may be invoked only against reconciliation bills, amendments thereto, and reconciliation conference reports.

Byrd rule tests - Section 313(b)(1) of the Congressional Budget Act sets forth six tests for matters to be considered extraneous under the Byrd rule. The criteria apply to provisions that:

- do not produce a change in outlays or revenues;
- produce changes in outlays or revenue which are merely incidental to the non-budgetary components of the provision;
- are outside the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
- increase outlays or decrease revenue if the provision's title, as a whole, fails to achieve the Senate reporting committee's reconciliation instructions;
- increase net outlays or decrease revenue during a fiscal year after the years covered by the reconciliation bill unless the provision's title, as a whole, remains budget neutral;
- contain recommendations regarding the OASDI (social security) trust funds.

Exceptions to the Byrd Rule - Section 313(b)(2) allows certain otherwise covered Senate-originated provisions to be excepted from the Byrd rule if the provisions are

certified for exemption by the Senate Budget Committee chairman and ranking minority member, as well as the chairman and ranking minority member of the committee of jurisdiction. The permitted exceptions are:

- a provision that mitigates direct effects attributable to a second provision which changes outlays or revenue when the provisions together produce a net reduction in outlays;
- the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill;
- the provision will likely reduce outlays or increase revenues based on actions that are not currently projected by CBO for scorekeeping purposes; or
- such provision will likely produce significant reduction in outlays or increase in revenues, but due to insufficient data such reduction or increase cannot be reliably estimated.

Effect of points of order - The effect of raising a point of order under the Byrd rule is to strike the offending extraneous provision. If a point of order against a conference report is sustained, the Senate may consider subsequent motions to dispose of that portion of the conference report not subject to the point of order.

Waivers - The Byrd rule is not self-enforcing. A point of order must be raised at the appropriate time to enforce it. The Byrd rule can only be waived by a *3/5 (60) majority vote of the Senate*.