

mittees—working with the leadership—develop alternatives to the committee recommendations. These alternatives may be offered as floor amendments to achieve greater compliance with the reconciliation directives.

The 1974 act requires that amendments offered to reconciliation legislation in either the House or the Senate be deficit-neutral. To meet this requirement, an amendment reducing revenues or increasing spending must offset these deficit increases by equivalent revenue increases or spending cuts. In addition, nongermane amendments may not be offered in either chamber.

During the first several years of experience with reconciliation, the legislation contained many provisions that were extraneous to the purpose of the reconciliation measures, such as reducing the deficit. The reconciliation submissions of committees included such things as provisions that had no budgetary effect, that had a budgetary effect merely incidental to a significant policy change, or that violated another committee's jurisdiction. In 1985, the Senate adopted a rule (commonly referred to as the *Byrd rule*, after Senator Robert C. Byrd, D-WV) on a temporary basis as a means of curbing these practices. The Byrd rule has been extended and modified several times over the years. In 1990, the Byrd rule was incorporated into the 1974 Congressional Budget Act as section 313 and made permanent. The Senate, nonetheless, may waive the Byrd rule by unanimous consent or by a waiver motion requiring a three-fifths vote of the membership. Although the House has no rule comparable to the Senate's Byrd rule, it may use other devices to control the inclusion of extraneous matter in reconciliation legislation. In particular, the House has used *special rules* to make in order amendments to strike extraneous matter. (See § 8.90, *Rules Committee and Special Rules*.)

Senate debate on reconciliation legislation is limited to twenty hours. The Senate may continue to consider amendments, motions, and appeals after that time, but no additional debate is allowed. The House is not restricted by the 1974 act in debate on reconciliation legislation, but it typically adopts a special rule limiting general debate, amendments, and other floor procedures.

§ 9.120 Implementation of the Budget by Executive Agencies

Federal agencies implement the various spending and revenue measures enacted into law through thousands of discrete actions. While the submission of the president's budget proposals and the subsequent consideration of them by Congress in the legislative process usually garner considerable attention in the media, less scrutiny is often paid to what actually happens to funds after congressional action is finished. Three categories of executive agency actions are of particular interest to Congress: apportionment (§ 9.130), transfer and reprogramming (§ 9.140), and impoundment (§ 9.150).

§ 9.130 Apportionment

After budget authority is enacted into law, one of the first steps in making the funds available for spending by agencies is *apportionment*. Apportionment procedures are set forth in the Antideficiency Act (31 U.S.C. §§ 1341–1342, 1512–1519), which evolved from legislation first enacted in the 1870s. Under these procedures, the Office of Management and Budget (OMB) determines how increments of budget authority will be advanced to each agency on an account-by-account basis. For a typical account, OMB apportions one-fourth of the available budget authority at the beginning of each fiscal quarter. A violation of the Antideficiency Act may occur when an agency obligates more funds than were apportioned to it; the comptroller general is tasked by Congress with monitoring such violations.

§ 9.140 Transfer and Reprogramming

After spending measures have been enacted into law, agencies sometimes shift funds from one purpose to another. A *transfer* involves the shifting of funds from one account to another, while a *reprogramming* involves shifting funds from one program to another within the same account. In either case, Congress is involved in these adjustments, although in varying degrees.

Permanent law, in Title 31 (Money and Finance) of the U.S. Code, requires that agencies spend funds only according to the purposes specified in law. For this reason, the transfer of funds from one account to another requires the enactment of a law. In some cases, Congress anticipates the need to transfer funds and may grant a department or agency head transfer authority, subject to limitations. If Congress anticipates this need, it can include a provision in the law providing the funds. In other instances, Congress might enact legislation providing for specified transfers.

Unlike transfers, reprogrammings do not shift funds from one account to another and therefore do not require the enactment of a law. The Appropriations Committees exert control over reprogrammings by establishing specific rules that agencies must follow when pursuing such actions. In recent years, these rules have been included as provisions in annual appropriations acts. The rules set forth restrictions such as requiring prior committee notification and approval for reprogrammings beyond a certain dollar threshold and barring reprogrammings from terminating any program.

§ 9.150 Impoundment: Deferrals and Rescissions

Although an appropriation limits the amounts that can be spent, it also establishes the expectation that the available funds will be used to carry out authorized activities. Hence, when an agency fails to use all or part of an appropriation, it deviates from the intentions of Congress. The Impoundment Control Act of 1974 (*P.L. 93-344, title X; 88 Stat. 332–339*), enacted as part of the Congressional Budget and Impoundment Control Act of 1974, prescribes rules and