Insight

Primer: Budget Reconciliation

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Executive Summary

- The House and Senate Budget Committees have each advanced out of committee fiscal year (FY) 2025 budget resolutions; the House and the Senate must ultimately adopt the same concurrent budget resolution to unlock the pathway for budget reconciliation to implement some of President Trump's domestic policy agenda.
- Reconciliation is a powerful legislative tool that policymakers can employ to make major changes to federal revenues and direct spending under expedited procedures.
- In the Senate, reconciliation legislation is privileged, meaning it requires only a simple majority to be brought to the Senate floor for consideration rather than the usual filibuster-proof (60 vote) majority.
- The reconciliation process faces several limitations: Congress must first adopt a budget resolution; reconciliation can only be invoked a limited number of times under a single budget resolution; and the "Byrd Rule" further limits the scope of reconciliation legislation to purely budget-related matters, among other restrictions.

Introduction

Given the stark policy differences between the two parties, bipartisan support of major initiatives to reform the tax code, immigration policies, energy policies, and other key areas face significant challenges. And despite single-party control of both chambers of Congress and the White House, Republicans in the Senate do not hold the filibuster-proof (60 vote) majority necessary to pass contentious legislation. Policymakers can employ a process known as budget reconciliation, however, to make major changes to federal revenues and direct spending under expedited procedures in the Senate, though the process has a series of limitations that restrict its legislative sweep. Broadly, reconciliation allows for expedited, or filibuster-proof, consideration of budget-related legislation and Senate passage with a simple (51 vote) majority.

Most recently, the reconciliation process was used to secure passage of the Inflation Reduction Act (IRA) and the American Rescue Plan Act (ARPA). Before that, reconciliation was employed to pass the Tax Cuts and Jobs Act (TCJA) during the first Trump Administration. These instances show both its effectiveness as a parliamentary tool, as well as its limitations on policy design.

This primer explains how reconciliation works and examines its effectiveness as a legislative tool.

Budget Reconciliation in the House and Senate

Budget reconciliation is a special legislative process created by the Congressional Budget and Impoundment Control Act of 1974 that allows Congress to make changes to laws affecting direct spending[1] and revenues to achieve a specific budget outcome, as outlined in the congressional budget resolution. The reconciliation process reflects the long-tested notion that fiscal changes, particularly deficit reduction measures, can be politically perilous, and thus more difficult to pass.

Reconciliation is among the most powerful procedural tools available to policymakers because legislation passed through the reconciliation process is considered under expedited rules that limit the time allotted for debate, the scope of amendments, and the number of votes needed for passage. In the House, a simple majority can attach these conditions to most legislative matters, thus the unique parliamentary characteristics of the reconciliation process is intended to override prevailing Senate rules.

In the Senate, reconciliation legislation is privileged, meaning it requires only a simple majority to be brought to the Senate floor for consideration rather than the usual 60 votes. Therefore, floor debate is limited to 20 hours, with further limitations on the scope and time that may be devoted to amendments. The limit on debate time and the non-debatable motion to proceed means that reconciliation legislation cannot be filibustered in the Senate. This means the Senate can pass reconciliation legislation by a simple majority, rather than needing 60 votes to end debate. In the event of a 50-50 vote, the vice president – who is also president of the Senate – can cast a tie-breaking vote.

Budget Reconciliation and the Concurrent Budget Resolution

The budget reconciliation process begins with the adoption of a concurrent budget resolution by the House and Senate that includes reconciliation instructions to achieve specific budgetary outcomes through legislation. Construction of the budget resolution begins in the House and Senate Budget Committees, which build the resolution, set spending and revenue levels, and draft reconciliation instructions. The budget resolution is then marked up and advanced out of the House and Senate Budget Committees[2] for consideration by the full House and Senate.

The reconciliation instructions in the budget resolution must include four key elements:

1. The legislative committee or committees to which the instructions are directed;
2. The deadline by which the relevant committee or committees must comply;
3. The specified dollar amount change to direct spending and/or revenues, budget deficits, and debt held by the public; and
4. The designated timeframe over which the designated budgetary changes must be achieved (typically the first year of the budget resolution and the subsequent five- or 10-year period covered by the budget).

The reconciliation instructions may also direct the House Ways and Means Committee and the Senate Finance Committee to report legislation that raises the statutory debt limit in accordance with the spending levels in the budget resolution (this last occurred in 1997, when the Balanced Budget Act of 1997 increased the debt limit to $5.95 trillion).

It is important to note that the reconciliation instructions do not prescribe how the specified budgetary changes must be achieved. While budget resolutions often assume or even suggest that a committee or committees include specific policies, these suggestions are not binding or enforceable. The budget resolution sets dollar targets, but the committee or committees themselves decide on the policies within their jurisdictions to meet these targets.

Once a budget resolution is agreed to, the committee or committees have until their specified deadlines to produce reconciliation measures. According to the Congressional Research Service, committees often respond to their directions in a timely manner[3]. There have been instances when committees have responded after their deadlines or not at all[4], but without repercussions, however. Once the measures are developed, the committee or committees will vote to report their reconciliation legislation to their respective chamber.

If the reconciliation instructions in the budget resolution are each directed to only one committee, the reconciliation legislation reported by the committee goes directly to the House or Senate floor for consideration. If the budget resolution includes a reconciliation instruction to more than one committee, the various committees must report their reconciliation measures to their respective chamber's Budget Committee. The Budget

Committee then performs what is essentially an administrative function of reviewing the individual measures and packaging them into an omnibus reconciliation measure that is then reported to the respective chamber as a whole. The Budget Committee may not make substantive changes to the measures. Once the omnibus is reported to the full House or Senate, the reconciliation measures are considered under special, expedited procedures. Once considered and if passed, resolution of the differences between the chambers for the most part resembles the usual procedures, though debate time is limited to 10 hours in the Senate.

Notably, Congress can only consider one bill for each of the fiscal changes provided for in the reconciliation instructions. That is, a single budget resolution provides Congress with only one "bite of the apple" each for making changes to revenues, spending, and the debt limit through reconciliation. A concurrent budget resolution can include a maximum of three reconciliation bills: one bill that addresses revenues, one that tackles spending, and one that addresses the debt limit. The important constraint is that Congress may not consider multiple bills satisfying the same instruction in a concurrent budget resolution. Thus, Congress cannot consider multiple tax bills under reconciliation, nor can it consider multiple bills that address both revenue and spending and then another tax bill under the same budget resolution.

If the House and Senate ultimately agree to the same reconciliation legislation – either through conference of amendment exchange – the measure is sent to the president for signature or veto (the last time a president vetoed a reconciliation package was in 2015, when President Obama vetoed legislation that would have repealed large parts of the Affordable Care Act). Congress can attempt to override a veto of reconciliation legislation. Yet once this process is complete, the reconciliation process is finished and the reconciliation instructions that ultimately prompted the law (or vetoed legislation) are effectively exhausted.

Limits to Budget Reconciliation

There are several limitations to budget reconciliation. In 2007, the Senate adopted the "Conrad Rule," which prevented reconciliation legislation from increasing budget deficits. The rule was in effect from 2007 to 2015, when it was repealed in the fiscal year (FY) 2016 budget resolution. Even without the Corad Rule, however, reconciliation legislation cannot increase budget deficits beyond the amounts specified in the reconciliation instructions in the budget resolution – though there is no limit on how large the instructions can be.

Reconciliation legislation is subject to several budget points of order. To avoid a 60-vote point of order in the Senate, the bill must adhere to the spending and revenue levels set in the budget resolution and comply with the Senate's pay-as-you-go (PAYGO) rule, which prohibits the consideration of legislation that increases budget deficits. Changes or exceptions to the Senate's PAYGO rule can be included in the budget resolution, however.

Like other legislation, reconciliation legislation that increases budget deficits is subject to the Statutory Pay-As-You-Go (PAYGO) Act, which prohibits revenue and direct spending legislation from increasing deficits in the year of enactment and the subsequent five- or 10-year period. An exclusion from statutory PAYGO can be included in reconciliation legislation, though it is still subject to a 60-vote point of order.

Last – and perhaps most significant – the measures in a reconciliation bill that increase budget deficits beyond the period covered by the budget resolution are subject to a 60-vote point of order under the "Byrd Rule," unless the costs are offset by savings from other policies in the same title of the bill.

The "Byrd Rule"

A tenet of the evolution of budget reconciliation is the enactment of the "Byrd Rule," named in honor of the late Senator Robert Byrd (D-WV), and codified as section 313 of the Congressional Budget Act. The Byrd Rule was borne out of initial experiences with budget reconciliation whereby the procedure was used to pass measures that did not clearly relate to the reconciliation instructions, arguably an abuse of the fast-track process. In 1985, to limit such perceived abuse, the Senate temporarily adopted a point of order for striking "extraneous" matter from reconciliation bills, which requires a 60-vote threshold to waive. This virtually guarantees that such extraneous matters will be struck insofar as the underlying reconciliation bill likely only has the support of a simple majority. The rule was permanently adopted in 1990.

The Byrd Rule contains six definitions of what constitutes "extraneous matter":

1. It does not produce a change in outlays or revenues;
2. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
3. It is outside of the jurisdiction of the committee that submitted the title or provision;
4. It produces a change in outlays or revenues that is merely incidental to the non-budgetary components of the provision. This restriction kept lawmakers from including a federal minimum wage increase in the ARPA. During the debate over the repeal of the ACA, it kept lawmakers from repealing the law's individual health insurance mandate or modifying rules on how much health insurance companies could adjust

premiums based on age. Lawmakers are often able to work around this restriction; for example, while they were unable to repeal the ACA's individual mandate, through the TCJA they were able to reduce the penalty to zero dollars, thus effectively repealing the policy.

5. It would increase the deficit for a fiscal year beyond those covered by the reconciliation measure. That means reconciliation legislation can increase near-term deficits, but it must hold steady or reduce long-term deficits. To get around this, lawmakers may attach expiration dates that sunset some elements of a reconciliation bill, which could be extended in separate legislation; and
6. It violates section 310(g), which prohibits recommendations in a reconciliation bill with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act (Social Security spending and dedicated revenue is considered "off-budget"; however, non-Social Security policies with an indirect impact on payroll taxes and Social Security benefits can be included in reconciliation legislation).

Lawmakers work with the Senate parliamentarian to address potential Byrd Rule violations before the reconciliation legislation is brought to the floor for a vote by the full chamber. This process is known as a "Byrd Bath."

Reconciliation in Practice

Through budget reconciliation, 23 bills have become law. This includes the Omnibus Budget Reconciliation Act of 1990, the Balanced Budget Act of 1997, the Economic Growth and Tax Relief Reconciliation Act of 2001 ("2001 Bush tax cuts"), the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("2003 Bush tax cuts"), parts of the ACA, the TCJA, the ARPA, and the IRA. In addition to the enacted legislation, four reconciliation bills were passed by both the House and Senate but were ultimately vetoed by the president. The most recent veto of a reconciliation bill was in 2016, when President Obama vetoed the Restoring Americans' Healthcare Freedom Reconciliation Act of 2015.

Conclusion

Reconciliation is a powerful legislative tool that enables the majority in the Senate to pass legislation over minority objection. But this tool is limited. Congress must agree to a budget resolution with reconciliation instructions which can only produce a maximum of three reconciliation bills – one per each of the major budgetary categories – limiting their use. Reconciliation is also limited in the Senate by the Byrd Rule, which strictly limits reconciliation legislation to budgetary matters, in addition to other limitations. These limitations have resulted in significant challenges for past reconciliation bills and will continue to constrain the scope of future reconciliation legislation.

Endnotes

[1] While budget reconciliation rules do not prohibit providing new funding or existing funding for discretionary spending programs through reconciliation, various restrictions on reconciliation may make the process impractical as a vehicle for making changes to discretionary spending. That’s why some reconciliation legislation – such as the ARPA and the IRA – classified additional funding for programs that are normally funded through the annual appropriations process as mandatory spending. This could be done because the committees that received the reconciliation instructions and drafted the reconciliation measures were authorizing committees, not the House and Senate appropriations committees.

[2] Consideration of the budget resolution in the Senate Budget Committee is subject to an unlimited number of amendments through a process known as “vote-a-rama.” However, if the Senate Budget Committee fails to advance a budget resolution for floor consideration by April 2, any senator can introduce their own budget resolution for consideration and amendment by the full Senate, which would be subject to its own vote-a-rama by the Senate.

[3] See Lynch, Megan Suzanne, “Reconciliation Directives: Components and Enforcement,” Congressional Research Service, R41186, April 15, 2010

[4] In some cases, committees may not respond to their reconciliation instructions. This could occur because congressional priorities change, and Congress no longer wishes to pass a reconciliation package or a committee or committees cannot agree on reconciliation measures.