

The Budget Reconciliation Process

Created by Congress in the Congressional Budget Act of 1974, reconciliation allows for expedited consideration of certain tax, spending, and debt limit legislation. In the Senate, reconciliation bills are not subject to filibuster and the scope of amendments is limited, giving this process real advantages for enacting controversial budget and tax legislation with just 51 votes, rather than the usual threshold of 60 votes.

Background

Prior to this year, 21 budget reconciliation bills have been signed into law. Congress used reconciliation to enact major spending cuts during President Reagan's first year in office, several deficit-reduction packages during the 1980s and 1990s, welfare reform in 1996, and the large Bush tax cuts in 2001 and 2003. More recently, reconciliation was used in 2010 to amend the Affordable Care Act and modify the federal student loan program, and in 2017 to enact large tax cuts. Republican majorities also twice attempted to use the reconciliation process to repeal key elements of the Affordable Care Act; President Obama vetoed the first attempt, in 2016, and the second attempt, in 2017, failed to pass in the Senate.

The purpose of the reconciliation process is to allow Congress to use an expedited procedure when considering legislation that would bring spending, revenue, and debt limit laws into compliance with the current budgetary priorities. The ability to use the reconciliation process is triggered by the inclusion of reconciliation instructions in an annual congressional budget resolution. Reconciliation instructions establish the jurisdiction, authority, and deadlines that congressional committees have in meeting budgetary goals.

While reconciliation instructions provide direction to congressional committees to approve legislation to achieve a budgetary goal, the programmatic details of how each committee arrives at its budgetary goal are left to the discretion of each committee. Therefore, each committee can enact its own policy priorities.

Stages of the reconciliation process

- A budget resolution which includes reconciliation instructions is adopted
- Committees report legislation in response to reconciliation instructions
- The Budget Committee packages committee legislation together and reports the bill to the full chamber
- Reconciliation legislation is considered on the chamber floor
- Differences between the House and Senate versions of the bill are resolved
- The reconciliation bill is signed into law (or vetoed)

Why reconciliation matters

In practice, reconciliation allows Congress to pass significant legislation, like an infrastructure bill, without having to negotiate with the minority party. Each time the reconciliation process is used, targeted policy changes are enacted through changes to mandatory spending and/or the tax code.

While reconciliation is mostly used to pass major legislative priorities, there may be opportunities to include smaller policy changes as part of the larger package. Since each Committee is given discretion in how to meet the targets set in their instructions, other policy priorities are often included (as long as they can withstand the “Byrd” rule – described below).

In the weeds – The Byrd Rule

The Senate Parliamentarian, a career Senate employee, plays an usually important role during consideration of reconciliation bills, often deciding whether or not certain provisions can be included in the bill. In 1985, the Senate adopted the “Byrd rule”, named after the late Sen. Robert Byrd, D-W.Va., because of concerns that committees were putting provisions in reconciliation bills that were not related to budgetary goals. The purpose of the rule is to prevent the majority party from enacting major policy changes via this expedited process. Any Senator can raise a point of order against an extraneous provision in the reconciliation bill. The Senate Parliamentarian decides whether there is a Byrd rule violation and provisions deemed to have violated the Byrd rule are struck from the bill. (Byrd rule points of order can be waived by a vote of 60 Senators.)

What you really need to know

What about the infrastructure bill? Budget reconciliation certainly is one way in which the federal gas tax could be raised; but creating new programs would be hindered by the Byrd Rule. If the Senate parliamentarian ruled that new provisions were outside of the scope of current Senate rules, violating the Byrd Rule, those provisions would automatically be stripped from the bill. House Transportation and Infrastructure Committee Chairman Peter DeFazio, recognizing the limitations of the reconciliation process, has said he hopes the infrastructure bill can be considered by Congress in a bipartisan manner. In the Senate, West Virginia Democratic Senator, Joe Manchin, as said he is unwilling to use reconciliation, as he believes that all voices should be heard when Congress drafts the infrastructure bill. With a 50-50 Senate, his opinion matters and will help shape the consideration of an infrastructure bill.

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