

BUDGET RECONCILIATION: WHAT TO EXPECT IN THE COMING WEEKS

RECONCILIATION OVERVIEW

Both chambers must adopt the same budget resolution to begin the reconciliation process. The resolution must include instructions — directing one or more committees to change spending, revenues, or deficits by specific amounts. Instructed committees comply with their targets by making changes to any of the programs under their jurisdiction. The Budget Committees then pick up those proposals, bundle them together if they came from multiple committees, and sends the package to the floor for a vote. In the Senate, the resulting reconciliation bill is considered under expedited procedures. Debate on reconciliation legislation is limited to 20 hours and thus is not subject to a filibuster. Once through both chambers, the House and Senate resolve differences between their passed bills and send it to the President's desk.

In the Senate, the Byrd Rule restricts what can be included in reconciliation legislation. At its core, the rule prohibits provisions that are viewed as “extraneous” to the budget. Such measures include those (1) with no budgetary effect; (2) outside the jurisdiction of the committee that submitted the title or provision; (3) that increase deficits for any fiscal year outside the reconciliation window; and (4) all measures that recommend changes in Social Security.

BUDGET RESOLUTIONS

On February 1, House and Senate Democrats introduced a "shell" budget resolution ([text](#)) including reconciliation instructions intended to create a path for COVID-19 relief legislation to pass with a simple majority in both chambers. The measure caps new deficit spending at \$1.9 trillion over 10 years and instructs authorizing committees to craft legislation to align with the resolution's budget targets. Democratic leadership has been adamant that this package will not swell past that threshold. If committees go over that target, they will need to offset the cost above \$1.9 trillion. Provisions that may be incorporated include: (1) \$350 billion toward state and local aid; (2) new economic impact payments and unemployment benefits; (3) funding for COVID-19 vaccines, testing, and public health programs; (4) support for education, child care, and food security; (5) small business relief; (6) investments into broadband infrastructure; (7) relief for the public transportation sector and aviation industry; (8) access to mental health services; (9) "enhanced" telehealth capabilities; (10) relief for rent and mortgage payments; and (11) shoring up the nation's strategic national stockpile.

WHAT TO EXPECT

The week of February 1, both chambers will consider the budget resolution. The House is likely to pass its budget resolution on February 3, with debate limited under a closed rule. The Senate will

then take up the measure the next day. Under the rules set out under the Budget Act, the Senate is allotted 50 hours of debate, leading to a “vote-a-rama.” During the vote-a-rama, the Senate is expected to consider hundreds of amendments, which will largely be messaging exercises. Most, if not all, will fail — Senate Democratic leadership has made it clear that Democratic Senators should not offer amendments and that they should vote against Republican amendments. However, some moderate Democrats may look to vote in favor of certain amendments, though it is likely that these will be amendments that will not get 100 percent Republican support and thus are doomed anyway. The Senate will pass the resolution late the week of February 2. Should the Senate alter the budget resolution from the House-passed version, the House will need to take up the Senate-passed version.

The week of February 8, House committees which received reconciliation instructions will mark up legislation complying with the budget resolution’s parameters. This consideration may stretch into the Presidents’ Day week. Both these weeks are earmarked as “committee work weeks” in the House. Meanwhile, Senators will be tied up with the impeachment trial of former President Donald Trump. Senate Committees likely will not be able to consider reconciliation legislation until Senators return from the Presidents’ Day recess the week of February 22. When Senators do return, Senate committees will mark up reconciliation legislation, setting up floor action on reconciliation as soon as the week of March 1. Some changes to the reconciliation legislation may be possible during the markup process; however, there is very little room for committees to change their legislation and still comply with the budget resolution’s reconciliation instructions.

Once House committees complete their work, the Budget Committee will consolidate committee reports into one package. A similar process will take place in the Senate. The House may consider the reconciliation package as early as the week of February 22, though time will be held in reserve for final passage the following week as well. Amendments on the floor will not be permitted in part as committees have been crafting legislation for weeks and bills are crafted to match reconciliation instructions in the budget resolution. Once the House passes the bill, the Senate will immediately call it up for consideration. The motion to proceed to consideration of the bill is not debatable, and debate time in the Senate is limited to 20 hours. This debate time may be followed by an additional amendment vote-a-rama with very limited debate. Few if any amendments are likely to be adopted.

The Senate parliamentarian is responsible for determining whether the contents of reconciliation legislation comply with the Byrd Rule. Democrats may include certain provisions that will be struck by the parliamentarian while pressuring her to approve other provisions that are less clearly contrary to the Rule. Besides pressuring the parliamentarian, Senate Democrats have two blunter tools at their disposal: (1) firing the parliamentarian and (2) overriding the parliamentarian. The latter is considered more drastic and sets new precedents. The House is *de facto* bound by the Byrd Rule as nothing it passes can be passed by the Senate without being found to comply with the Rule.

If the Senate version does not heavily differ from the House version and is not too distasteful to the House’s narrow Democratic majority, the House will likely pass the Senate version. It is unlikely that the House and Senate will go to conference. Federal pandemic unemployment benefits run out March 14. Thus, the two chambers are looking to have reconciliation wrapped up by then.

TIMELINE

