

What is Reconciliation?

“Reconciliation” refers to a part of the Congressional budget process established under the Congressional Budget Act of 1974. Reconciliation is a process that allows Congress to make changes to law to impact revenue and spending levels – tax reductions or increases, mandatory spending (entitlements) increases or decreases, or adjustments to the public debt limit – to achieve the spending goals set out in the annual budget resolution with the goal of enacting policies that reduce the deficit. A budget reconciliation bill is not subject to filibuster in the Senate and requires a simple majority of 51 votes to pass. It must be signed into law by the President.

Past Usage

The budget reconciliation process was first used in 1980 and has been used 22 times. Of those attempts, 19 reconciliation bills have been signed into law and 3 were passed by Congress but vetoed (1996, 2000, and 2001).

Past use of the budget reconciliation process includes:

- 1998: Taxpayer Relief Act of 1997 (Work Opportunity Tax Credit, individual capital gains rates, health insurance deduction)
- 2002: Economic Growth and Tax Relief Reconciliation Act of 2001 (lower income tax rates, personal exemptions, estate tax repeal, estate and gift tax changes)
- 2004: Jobs and Growth Tax relief Reconciliation Act of 2003 (bonus depreciation, small business expensing, individual capital gains and dividends rates)
- 2006: Tax Increase Prevention and Reconciliation Act of 2005 (small business expensing, capital gains and dividends rates, increase alternative minimum tax exemption)

The Process

The process begins when reconciliation instructions are included in the annual budget resolution passed by both chambers. For FY 2010, these instructions were written specifically to give Congress the ability to move both a health care reform bill and student loan reform legislation in an omnibus reconciliation bill.

Once the committees who are charged with producing legislation for the reconciliation package report their legislation to the House and Senate Budget Committees, the Budget Committee combines the legislation into one omnibus bill. The House is not required to act first, but in the case where there are revenue provisions the House is required to act before the Senate because all revenue bills must originate in the House.

Looking Forward

The Congressional Budget Act specifies that Congressional action on a reconciliation bill must be completed by June 15th. It also provides for expedited procedures that place limits on the length of debate as well as the type of amendments that may be offered to ensure timely completion. In the House, no amendments are in order unless they are deficit neutral. Non-germane amendments can not be offered absent a waiver from the Rules Committee.

In the Senate, debate on a reconciliation bill is limited to 20 hours, after which amendments may be offered and considered without debate. Amendments must be germane (which in this case has a very narrow meaning) and may not include extraneous matter. The “Byrd Rule” is a budget point of order that governs whether an amendment is extraneous by one of six definitions.

The Senate Parliamentarian plays an important role in advising the Chair on whether the Byrd Rule is violated by a provision or amendment. The Senate Budget Committee engages with the parliamentarian over gray areas involving the Byrd Rule and has discretion in this area. However, the Budget Committee only provides advice and guidance to the parliamentarian.

In most cases, differences between reconciliation bills passed by the House and Senate are resolved in a conference committee before being sent to the President for signature. However, there is precedent for the House and Senate each to pass identical reconciliation bills, and also for the House and Senate to resolve their differences through amendments in disagreement. In this case it appears that Congressional leaders will attempt to have the Senate pass the same version of the reconciliation bill as the House.