Budget Reconciliation and the 119th Congress – What You Need to Know

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Navigating Policy Shifts Under a Second Trump Administration

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What Is Budget Reconciliation?

- Budget reconciliation is a special legislative process established under the Congressional Budget Act of 1974 that allows for the privileged consideration of certain tax, spending, and debt limit legislation.
- The process is particularly important in the Senate, where it allows legislation to bypass the filibuster and pass with a simple majority vote instead of the 60 votes typically required to overcome the filibuster.
  - Republicans will hold 53 Senate seats in January.

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Past Uses of the Budget Reconciliation Process

- Since it was first used in 1980, the budget reconciliation process has been used to enact legislation into law 23 times.
- Recent examples that help inform what might be possible in 2025-2026 include:
  - Democratic majorities in Congress with the support of President Biden used the process to enact the American Rescue Plan in 2021 and the Inflation Reduction Act in 2022.
  - During President Trump's first term he worked with Republican majorities in Congress to enact the $1.5 trillion Tax Cuts and Jobs Act in 2017.
  - In 2010 Democratic majorities and President Obama used the process to finalize enactment of the Affordable Care Act.
  - In 2001, 2003, and 2006, President Bush and the Republican Congress used the process to enact tax cuts.

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How Does It Work?

- First the House and Senate must agree on a budget resolution with reconciliation instructions to one or more committees.
- Individual committees in both chambers report legislation consistent with deficit targets in reconciliation instructions.
  - In 2017, instructions simply directed the House Ways and Means Committee and Senate Finance Committee to report legislation increasing the deficit by no more than $1.5 trillion.
  - In 2021, instructions gave 12 House committees and 10 Senate committees specific fiscal targets to increase the deficit by no more than a combined $1.9 trillion.
- Each chamber's Budget Committee combines the legislation from the individual committees into one package for floor consideration.
- The chambers pass their respective reconciliation packages and work to resolve differences as with any other legislation.
- Final compromise package must pass both chambers in the same form and be signed by the President.

The Senate's Byrd Rule

- The Byrd Rule, named after the late Senator Robert Byrd of West Virginia, was introduced in the Congressional Budget Act of 1990.
- The rule ensures that reconciliation is used strictly for its intended purpose of adjusting federal revenues, spending, and debt limits.
- The Byrd Rule allows a senator to strike a provision from a reconciliation bill if the provision is unrelated to budgetary concerns.
- It ensures that reconciliation focuses on fiscal policy rather than broader policy changes.
- The Byrd Rule applies to reconciliation bills, amendments to reconciliation bills, and conference reports related to reconciliation bills.

Enforcement of the Byrd Rule

- Under the Byrd Rule, any Senator may raise a point of order against a provision that is considered “extraneous” to the reconciliation legislation.
- If the presiding officer sustains the objection, the extraneous material is removed.
- The Byrd Rule is enforced only through points of order, meaning provisions in violation may remain if no objection is raised (i.e., the Byrd Rule is not self-executing).
    - The Senate Parliamentarian makes the initial determination (and advises the Senate presiding officer, who issues a ruling from the chair) as to whether a specific provision violates the Byrd Rule.
    - The Senate may waive the presiding officer’s ruling with a three-fifths majority vote (60 votes).

The Byrd Rule: Six Categories of "Extraneous" Provisions

- A provision in a reconciliation bill is considered "extraneous" and may be stricken under the Byrd Rule if the provision:

1. **Fails to impact outlays or revenues**: The provision has no direct budgetary effect.
2. **Fails to meet committee's fiscal target**: The net budgetary effects of the provision fail to meet the fiscal targets outlined in the committee's instructions.
3. **Produces only incidental budgetary effects**: A provision whose primary impact is not budget-related but rather "merely incidental" to the overall policy objective.
4. **Exceeds committee jurisdiction**: A provision that is outside the scope of the relevant committee's responsibilities.
5. **Increases the deficit beyond the budget window**: A provision that would add to the deficit beyond the time frame specified in the reconciliation instructions (usually 10 years).
6. **Changes Social Security**: A provision that alters the *retirement and disability programs* in Title II of the Social Security Act.

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Examples of the Byrd Rule in Use

Category #1 (no impact on outlays or revenue)

- In TCJA, a proposal to expand Section 529 education savings accounts to cover expenses for homeschooling was stricken, as it would not result in a change in outlays or revenues.
- This category explains why reconciliation bills do not include policy statements, Senses of the Congress, and similar non-policy statements.

Category #3 (incidental budgetary effects)

- In the 2021 American Rescue Plan Act (ARPA), the Byrd Rule was invoked to prevent an increase in the minimum wage as well as certain immigration measures.
- During efforts to repeal and replace the Affordable Care Act (ACA), the Byrd Rule was invoked to prevent the repeal of the individual health insurance mandate.

Category #5 (deficit beyond the budget window)

- As a result of this category, the tax reconciliation bills passed during the past 25 years (2001, 2003, 2005, and the 2017 TCJA) sunset within nine years.

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