



Reconciliation 101

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What is reconciliation?

Reconciliation is a special legislative process created as part of the Budget Act of 1974. It is intended to help lawmakers make the tax and mandatory spending changes necessary to meet the levels proposed in the Congressional budget resolution.

Reconciliation instructions are put forward as part of a concurrent budget resolution that is adopted by both chambers of Congress. These instructions set cost or savings targets for Congressional committees, with instructions covering mandatory spending, revenue, or debt limit changes. Following these instructions, committees of jurisdiction identify specific policies to meet these goals in the form of a reconciliation bill, which can be enacted on a fast-track basis.

A reconciliation bill is privileged in several ways, including a 20-hour limit on debate in the Senate, a non-debatable motion to proceed to the bill, and a strict germaneness test for amendments in a process known as “vote-a-rama” that occurs after regular debate has ended.

Most importantly, the limit on debate time and non-debatable motion to proceed means a reconciliation bill cannot be filibustered in the Senate – allowing the Senate to pass a reconciliation bill by a simple majority, with the Vice President able to cast a tie-breaking vote, rather than needing 60 votes to end debate.

How do reconciliation instructions work?

The budget reconciliation process begins with the adoption of a concurrent budget resolution in both chambers of Congress that includes reconciliation instructions. The reconciliation instructions identify the authorizing committee(s) tasked with reconciliation, the dollar amount of budgetary changes that must be achieved over designated time frames (usually the first year of the budget and the five- or ten-year period covered by the budget resolution) that the committee(s) must achieve, and the date by which the committee(s) must report reconciliation legislation.

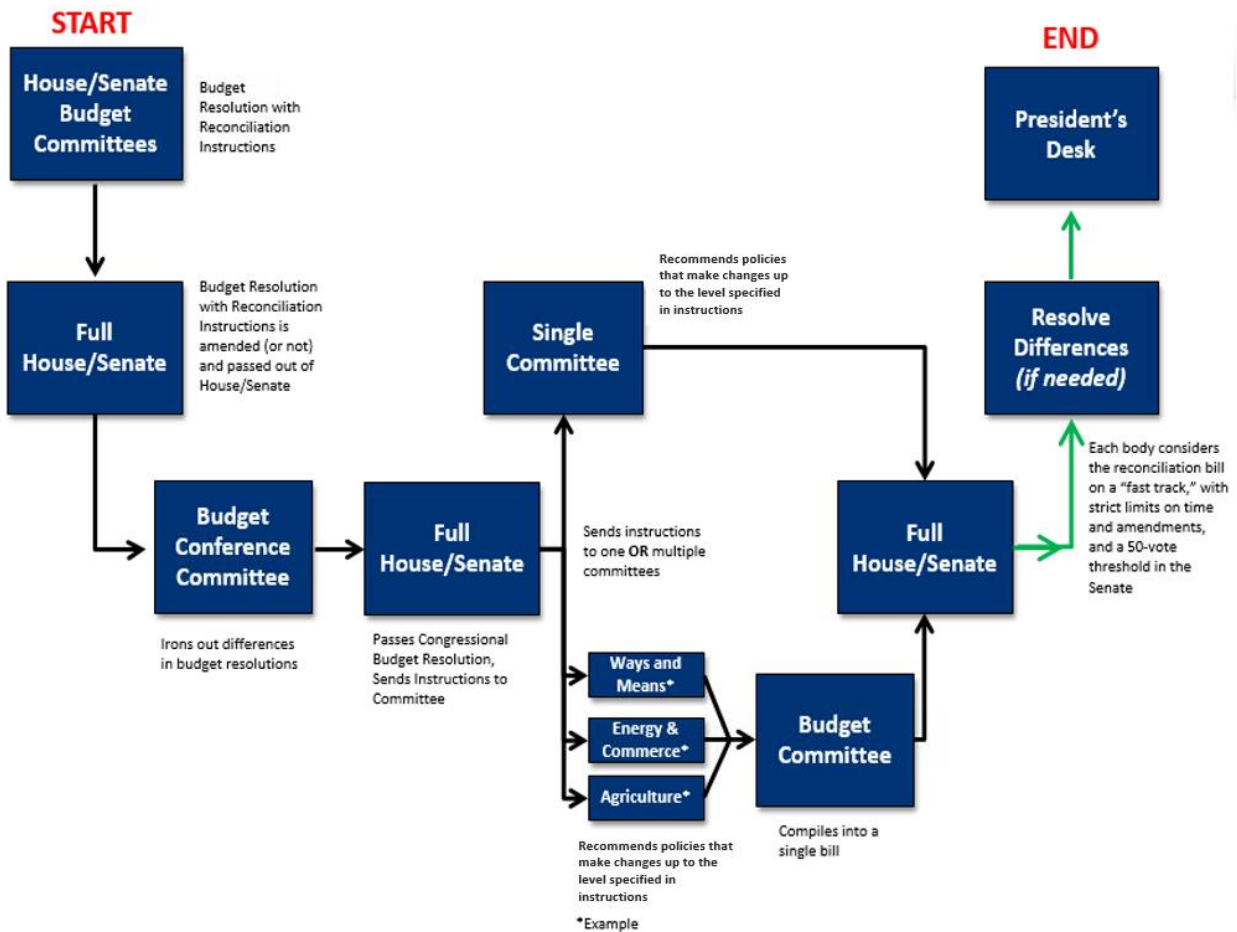
Reconciliation instructions may also direct the House Ways and Means Committee and the Senate Finance Committee to report legislation to change the limit on the public debt in accordance with the spending levels in the budget resolution.

While budget resolutions often assume and even suggest that committees include specific policies, these suggestions are not binding or enforceable. The budget



resolution sets dollar targets, but the committees decide how these targets are met, substantively limited only by their jurisdiction.

If only one committee has reconciliation instructions, the reconciliation legislation reported by that committee goes directly to the House or Senate floor for consideration. Often, instructions will span across multiple committees. In this case, each committee reports its bill to the Budget Committee, which in turn combines the individual bills into an omnibus measure to send to the floor for a vote.



Can a reconciliation bill add to the budget deficit?

A reconciliation bill is allowed to either decrease or increase the deficit over the time period covered by the budget resolution. It is also possible for a reconciliation bill to contain provisions with costs as well as savings so long as the net effect complies with the reconciliation instructions.

In 2007, the Senate adopted the “Conrad rule,” which prohibited reconciliation from increasing deficits. However, the Conrad rule was repealed in the Fiscal Year (FY) 2016 budget resolution ([over our objections](#)). Even without the Conrad rule, reconciliation legislation cannot add more



to the deficit than what is allowed in the instructions under the budget resolution, though there is no limit on how costly these instructions can be.

Reconciliation legislation is also subject to a number of budget points of order. To avoid a 60-vote point of order, the bill must comply with the spending and revenue levels in the budget and abide by the Senate “pay-as-you-go” (PAYGO) rule, which prevents legislation from adding to deficits. However, these rules can be changed – or exceptions added – in the budget resolution itself. An exemption to Senate PAYGO was written into the FY 2021 budget resolution that provided for reconciliation for the American Rescue Plan, and it is written into the Senate-passed FY 2022 budget resolution.

As with any other bill, deficit increases under reconciliation are subject to the statutory PAYGO law, which does not allow net increases in the deficit over the course of a year or the following five-year and ten-year periods. An exclusion from statutory PAYGO as part of a reconciliation bill would be subject to a 60-vote point of order.

Statutory PAYGO can be addressed in separate legislation, subject to a 60-vote threshold. In 2017, a December continuing resolution enacted on the same day as the 2017 Tax Cuts and Jobs Act removed the tax cuts from the statutory PAYGO scorecard. If PAYGO had not been waived, the resulting sequester would have been large enough to [eliminate mandatory programs](#) that are subject to the sequester. Congress has not yet addressed the statutory PAYGO effects of the American Rescue Plan.

Finally, and in many ways more importantly, provisions in a reconciliation bill that increase the deficit 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 provisions in the same title of the bill.

What is the “Byrd Rule”?

Although reconciliation bills are granted many privileges that are not available to most other legislation, they remain bound by several conditions. Some of these restrictions championed by the late Senator Robert Byrd (D-WV) and established in Section 313 of the Budget Act are jointly referred to as the “Byrd Rule.” The Byrd rule disallows “extraneous matter” from a reconciliation bill, including through three major restrictions on reconciliation legislation.

First, reconciliation legislation must only involve budget-related changes and cannot include policies that have no fiscal impact, that have “merely incidental” fiscal impacts, or that increase the deficit if the committee did not follow its reconciliation instructions. For example, the Byrd rule kept lawmakers from including a minimum wage increase along with COVID-19 relief in the American Rescue Plan. During the efforts to repeal and replace the Affordable Care Act (ACA), it prevented lawmakers from repealing the individual health insurance mandate or modifying rules on how much health insurance companies could adjust premiums based on age. Even



though both policies would have budgetary implications, they were considered “merely incidental” budget effects. Often, policymakers can identify workarounds to these rules; for example, while they could not repeal the individual mandate, they were able to reduce the penalty to \$0 and thus effectively eliminate it.

Reconciliation bills also cannot change Social Security spending or dedicated revenue, which are considered “off-budget.” Non-Social Security policies that indirectly affect benefits or payroll tax revenue do appear to be in order, however.

Finally, provisions in a reconciliation bill cannot increase the deficit in any fiscal year after the window of the reconciliation bill unless the costs outside the budget window are offset by other savings in that committee’s section of the bill. This means that while a reconciliation bill can increase near-term deficits, it must maintain or reduce long-term deficits. Policymakers often achieve this objective through artificial expiration dates that sunset some parts of a reconciliation bill that may be extended later in separate legislation. Notably, the long-term deficit test does not account for changes in interest payments or indirect effects on Social Security.

The Byrd rule provides a “surgical” point of order that strikes any provisions in violation without blocking the entire bill. However, the Byrd rule can be waived with 60 votes. Even though this point of order only exists in the Senate, it *de facto* governs the House too, given that it can be applied to any conferenced legislation that must pass both chambers to become a law.

Lawmakers must consult with the Senate parliamentarian to address potential Byrd rule challenges. Typically, they review provisions with the parliamentarian before reconciliation legislation comes to the floor so they can fix or drop provisions as needed.

What are other restrictions on reconciliation?

The Senate parliamentarian has ruled that a budget resolution can only provide for one reconciliation bill each of revenue, spending, and the debt limit. If a reconciliation bill has both spending and revenue provisions, no other reconciliation bill affecting spending or revenues is allowed under that budget resolution’s instructions. A reconciliation bill cannot change the budget process either, such as by establishing or modifying discretionary spending limits, because the changes themselves must directly affect spending or revenues without relying on subsequent congressional action. The Senate parliamentarian has also ruled that a reconciliation bill cannot create or amend any type of fast-track procedure for legislation limiting debate time in the Senate. However, the Senate parliamentarian recently ruled that lawmakers may pass more than one budget resolution per fiscal year with reconciliation instructions, though the process is arduous and time-consuming because it must follow the regular order of passing a budget resolution without any ways to expedite it.

Additionally, reconciliation legislation seems unlikely to be able to be used for specified changes to discretionary spending. This includes the authorization of new appropriations, the passage of



appropriations bills themselves, or special one-time appropriations such as those included in 2020 COVID-19 relief bills. In many cases, lawmakers could avoid this prohibition by classifying and structuring discretionary spending as mandatory spending – a strategy that was utilized for COVID-19 relief under the American Rescue Plan that would have likely been covered by discretionary spending programs under other circumstances.

How has budget reconciliation been used in the past?

In total, 22 bills have become law through reconciliation, including the 1990 Omnibus Budget Reconciliation Act; the Balanced Budget Act of 1997; the 2001, 2003, and 2017 tax cuts; portions of the Affordable Care Act of 2010; and the American Rescue Plan. Some of these efforts, such as the 1990 and 1993 Omnibus Budget Reconciliation Acts, produced significant deficit reduction (each saved nearly \$500 billion over five years), while others, such as the 2001, 2003, and 2017 tax cuts, have increased deficits. We have published a comparison of pre-2008 reconciliation bills [here](#).

In addition to the 22 enacted reconciliation bills, 4 reconciliation bills have passed both chambers of Congress but were subsequently vetoed by the President. The most recent veto of a reconciliation bill occurred in 2015, when President Obama vetoed legislation that would have repealed [large parts of the Affordable Care Act](#). A reconciliation bill to repeal parts of the Affordable Care Act in 2017 ultimately failed in the Senate.

How was reconciliation used for COVID-19 relief?

Reconciliation was used to enact the \$1.9 trillion [American Rescue Plan](#), providing economic relief and stimulus in response to the COVID-19 pandemic through the use of temporary expansions to safety net programs and one-time mandatory spending commitments that in some cases mirrored discretionary spending. Certain priorities of Democratic leadership, notably the increase to the federal minimum wage, were stymied by the limitations of the reconciliation process, though other priorities – like the multiemployer pension bailout – were also included in the bill. Due to the Byrd rule, the COVID-19 relief package could not add to the deficit beyond the budget resolution window, could not change Social Security, and could not include policies that are non-budgetary in nature.

[Major elements](#) of the American Rescue Plan included an extension of expanded unemployment benefits, tax rebates known as Economic Impact Payments, state and local government aid, COVID-19 containment efforts such as testing and tracing, K-12 funding to promote the safe reopening of schools, vaccine-related activities, expanded tax benefits for families and workers, and other [non-COVID-related policies](#). Extensions of certain American Rescue Plan tax credits and health program expansions may become central to any subsequent reconciliation legislation pursued by Democrats.



Can reconciliation be used for other elements of President Biden's agenda?

Reconciliation may be used to enact [trillions of dollars in other priorities](#) from the Biden agenda, including [new spending and tax breaks](#). These policies are on top of the [bipartisan infrastructure bill](#) passed by the Senate, but they have been framed as investment-focused and adjacent to infrastructure rebuilding. A [budget resolution passed by the Senate](#) in early August provided for reconciliation instructions that could increase borrowing over the next decade by up to \$1.75 trillion. Priorities intended for the subsequent reconciliation bill include spending on climate change mitigation and research, extending expanded tax credits for families and workers, expanding Medicare services and lowering the program's age of eligibility, expansions of home and community-based health care systems, improved access to education and child care, and additional funding for affordable housing programs. [Listed offsets](#) include increased revenue from better [tax enforcement](#); tax increases on corporations, international firms, and higher income individuals; health care savings; and a carbon polluter import fee.

Nearly all tax increases previously proposed by [President Biden](#) and Democratic leaders – other than changes to the Social Security payroll tax and some tax compliance measures – would qualify for reconciliation. Many spending increases, especially expansions to existing programs, would also qualify. However, these increases could not be enacted on a permanent basis unless fully offset over the long term in the same title of the final legislation. Changes to discretionary spending would be more challenging to enact through reconciliation, though in many cases short-term outlays can be structured as mandatory spending.

Can reconciliation legislation include budget process changes?

The Byrd rule restriction against provisions that do not directly affect spending or revenues would prohibit most changes to the budget process and budget enforcement rules. Most budget process and budget enforcement provisions do not by themselves change spending or revenues but rather apply to subsequent legislation that does affect spending and revenues.

As a result, provisions adjusting or extending discretionary spending limits could not be considered because the actual increase or decrease in spending would not occur until subsequent action on appropriations bills subject to the limits occurs. The Byrd rule also prohibits provisions that exempt the budgetary effects of reconciliation legislation from budget enforcement rules.

How can Congress pursue a second reconciliation bill in one year?

Ordinarily, Congress enacts only one reconciliation bill each year based on the budget resolution adopted that year, although it is possible to consider separate bills for revenue, spending, and the debt limit (separate revenue and spending bills were enacted in 1982, 1997, and 2006). It is possible to enact multiple reconciliation bills per year, though it lacks precedent.

Because [Congress did not adopt a FY 2021 budget resolution](#) until midway into the fiscal year, they issued one set of reconciliation instructions by passing that budget early in 2021, resulting



in the American Rescue Plan. Lawmakers can also issue a second set of reconciliation instructions by adopting a concurrent budget resolution for FY 2022. Republicans took this approach in 2017, when a FY 2017 budget resolution was adopted in January 2017 with instructions used to attempt to repeal parts of the Affordable Care Act (which failed in the Senate) and a FY 2018 budget resolution was adopted in late October 2017 with instructions used to enact the bill commonly known as the Tax Cuts and Jobs Act (though the Byrd Rule was used to prohibit the law from officially being renamed that).

It is possible that Congress could issue even more instructions by adopting a second budget resolution for each year or a resolution for future years, although those procedures have never been used to enact reconciliation legislation and would significantly break from precedent.

Where should we go from here?

Budget reconciliation can be a powerful tool to enact reforms of mandatory spending and revenues for deficit reduction. New investments that are [carefully and sustainably paid for](#) can contribute positively to economic growth. There is no justification, however, to [borrow even more on top of the \\$6 trillion in debt accumulated over the past two years](#) to pay for permanent spending programs.

Additional spending and tax breaks, especially if intended to be permanent, should be [fully offset over the traditional ten-year budget window](#) in light of today's [high and rising debt levels](#). The reconciliation instructions in the budget resolution itself should [require reconciliation legislation to be fully paid for](#), rather than relying on Congressional committees and promises of economic growth to make up the difference.

To ensure this is the case, Congress should abide by the [Conrad rule](#), which was in force through 2015, and offset the cost of the package over the decade. Ideally, they would go further and use reconciliation as an opportunity to put in place revenue increases and cost reductions to slow the growth of debt over the long term. They should also agree to a [true budget resolution](#), not just a fake one to enable the reconciliation process, that sets real tax and spending goals over the next decade.

There are many [options available](#) to enact budget savings, including trillions of new revenue and health savings proposed by [President Biden](#) and on a [bipartisan basis](#). These offsets can allow the President and Congress to enact their priorities on a permanent basis under reconciliation while improving the fiscal outlook for future generations.