

RECONCILIATION AND THE BUDGET RESOLUTION

Budget resolutions and reconciliation bills have a special relationship in the congressional budget process. The adoption of a budget resolution—formally designated a concurrent resolution on the budget—establishes the reconciliation process for a fiscal year in addition to providing rules that assist in guiding a reconciliation bill through the congressional legislative procedure. Conversely, a reconciliation bill may be essential to fulfilling the aims of a given budget resolution.

The Reconciliation Process

The term “reconciliation” refers to both a form of legislation and a specific legislative procedure. Only by adopting a concurrent resolution on the budget that includes reconciliation instructions can Congress initiate the reconciliation process,³ ideally culminating in the enactment of reconciliation legislation. Such a measure is termed a “reconciliation bill” because it is designed to amend existing law to reflect the assumptions underlying the budget resolution from which it has commenced; that is, it reconciles current law to the budget resolution framework.

S. Con. Res. 11, the conference report accompanying the Concurrent Resolution on the Budget for Fiscal Year 2016,⁴ agreed to on May 5, 2015, included reconciliation instructions requiring three House committees and two Senate committees to amend laws in their jurisdictions such that each committee reduces the deficit by \$1 billion over 10 years.⁵ Under the procedure, these legislative amendments were then to be submitted to the Committees on the Budget of the House and Senate by July 24, 2015.

In the House, the Committee on the Budget accepted submissions from the three reconciled committees—the Committees on Education and the Workforce, Energy and Commerce, and Ways and Means—on October 2, 2015. The submissions included legislative text, short summaries, Congressional Budget Office estimates, and other material to assist the Committee on the Budget in preparing this explanatory report.

The basic elements of a reconciliation bill are set forth in the Congressional Budget Act of 1974 [Budget Act]. Additional guidelines over content and procedures governing consideration may be included in budget resolutions.

³Section 310 of the Congressional Budget Act of 1974 (2 U.S.C. § 641).

⁴H. Rept. 114-096.

⁵Sections 2001(a) and 2002(a) of S. Con. Res. 11 (114th Congress).

Reconciliation in the House of Representatives

Reconciliation is defined as a privileged measure in the House and hence takes precedence over certain other matters that may be considered on the floor. When a bill is reported by the Committee on the Budget, comprising the submissions transmitted to it, under House Rules such a bill is “originated” rather than “introduced”. Only certain measures become legislation in this fashion: resolutions providing for consideration of bills on the floor, appropriation bills, and budget resolutions are examples. Therefore, a reconciliation bill neither receives an “H.R.” number nor is considered a legislative matter until the Committee on the Budget votes to report the bill and formally files it with the Clerk of the House.

Budget Resolution Adjustment and House Rules. Under normal circumstances, all points of order and other procedural budget-related requirements apply to House reconciliation bills. For the measure reported by the Committee on the Budget on October 9, 2015, this is not the case. S. Con. Res. 11 specifically provided for the consideration of this bill and took into account its budgetary effects. Therefore, Budget Act points of order, the Cut-As-You-Go point of order,⁶ and the long-term direct spending point of order contained in the fiscal year 2016 budget resolution⁷ do not apply to this House reconciliation bill.

The budget resolution also affirmed and clarified the authority of the Chairman of the Committee on the Budget to determine the cost estimates of legislative measures.⁸ In particular, if the Congressional Budget Office makes adjustments to its baseline subsequent to its official publication, the Chairman is authorized to make decisions as to how to treat those updates. The intent of the provision is to affirm the Chairman’s ability to take into account unforeseeable events that may occur and diverge from the assumptions underlying the budget resolution. This has important implications in how the budgetary effects of reconciliation bills are determined.

Reconciliation and Health Care Legislation. An additional House component of the budget resolution entails providing guidance to the committees receiving reconciliation instructions. They are asked to “note the policies discussed in the fiscal year 2016 budget resolution that repeal the Affordable Care Act and the health care related provisions of the Health Care and Education Reconciliation Act of 2010”.

Reconciliation in the Senate

The two committees in the Senate that received reconciliation instructions are the Committee on Finance and the Committee on Health, Education, Labor, and Pensions. These Senate committees generally have commensurate jurisdiction as those in the House, and each was required to reduce the deficit by \$1 billion over the same 10-year period.

⁶ Clause 10 of rule XXI of the Rules of the House of Representatives.

⁷ Section 3101(b)(2) of S. Con. Res. 11 (114th Congress).

⁸ Section 2002(b)(1)(A) of S. Con. Res. 11 (114th Congress).

Reconciliation and the Deficit Point of Order. The budget resolution amended Senate legislative procedures by repealing the point of order against a reconciliation bill increasing the deficit over 5 or 10 fiscal years.⁹ This prohibition was originally adopted in the 110th Congress and was intended to prevent such bills from reducing taxes. The reconciliation bill considered and reported by the Committee on the Budget of the House does not increase the deficit in either of the periods set forth in the Senate point of order repealed by the budget resolution.

Debt Limit Prohibition. Under the Congressional Budget Act of 1974, reconciliation bills are specifically allowed to include changes in the public debt limit.¹⁰ Section 2001(b)(1) of S. Con. Res. 11, though, overturns that authority and instead establishes a point of order against including a debt limit increase. The Senate may not consider a reconciliation bill, joint resolution, conference report, or an amendment, if it would increase the public debt limit in any year during the period of fiscal years 2016 through 2025.¹¹

This point of order may be waived, but only if two-thirds of the Senate (67 Senators) votes to do so. This supermajority is atypical in that most budget-related points of order may be waived by a three-fifths vote (60 Senators).

Conclusion

The relationship between the concurrent resolution on the budget for a fiscal year, and a reconciliation bill that may result from the adoption of such a measure, is a significant element of the congressional budget process. Budget resolutions not only initiate the reconciliation procedure, but can set key parameters and guidelines by which a reconciliation bill ultimately navigates the sometimes complex legislative process of the U.S. Congress. Conversely, the provisions of a reconciliation bill may be necessary for achieving the budget resolution's goals. Thus, this reconciliation measure represents an important step toward fulfilling the aims of S. Con. Res. 11, the Concurrent Resolution on the Budget for Fiscal Year 2016.

⁹Section 3204 of S. Con. Res. 11 (114th Congress).

¹⁰Section 310(a)(3) of the Congressional Budget Act of 1974 authorizes a reconciliation measure to "specify the amounts by which the statutory limit on the public debt is to be changed and direct the committee having jurisdiction to recommend such change."

¹¹The statutory debt limit is set in 31 U.S.C. § 3101.