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## **The Budget Reconciliation Process: House and Senate Procedures**

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# The Budget Reconciliation Process: House and Senate Procedures

## Summary

The budget reconciliation process is an optional procedure that operates as an adjunct to the budget resolution process established by the Congressional Budget Act of 1974. The chief purpose of the reconciliation process is to enhance Congress's ability to change current law in order to bring revenue, spending, and debt-limit levels into conformity with the policies of the annual budget resolution.

Reconciliation is a two-stage process. First, reconciliation directives are included in the budget resolution, instructing the appropriate committees to develop legislation achieving the desired budgetary outcomes. If the budget resolution instructs more than one committee in a chamber, then the instructed committees submit their legislative recommendations to their respective Budget Committees by the deadline prescribed in the budget resolution; the Budget Committees incorporate them into an omnibus budget reconciliation bill without making any substantive revisions. In cases where only one committee has been instructed, the process allows that committee to report its reconciliation legislation directly to its parent chamber, thus bypassing the Budget Committee.

The second step involves consideration of the resultant reconciliation legislation by the House and Senate under expedited procedures. Among other things, debate in the Senate on any reconciliation measure is limited to 20 hours (and 10 hours on a conference report) and amendments must be germane and not include extraneous matter. The House Rules Committee typically recommends a special rule for the consideration of a reconciliation measure in the House that places restrictions on debate time and the offering of amendments.

As an optional procedure, reconciliation has not been used in every year that the congressional budget process has been in effect. Beginning with the first use of reconciliation by both the House and Senate in 1980, however, reconciliation has been used in most years. In three years, 1998 (for FY1999), 2002 (for FY2003), and 2004 (for FY2005), the House and Senate did not agree on a budget resolution. Congress has sent the President 19 reconciliation acts over the years; 16 were signed into law and three were vetoed (and the vetoes not overridden).

Following an introduction that provides an overview of the reconciliation process and discusses its historical development, the report explains the process in sections dealing with the underlying authorities, reconciliation directives in budget resolutions, initial consideration of reconciliation measures in the House and Senate, resolving House-Senate differences on reconciliation measures, and presidential approval or disapproval of such measures. The text of two relevant sections of the Congressional Budget Act of 1974 (Sections 310 and 313) is set forth in the appendices, along with a list of other Congressional Research Service products pertaining to reconciliation procedures.

This report will be updated as developments warrant.

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# The Budget Reconciliation Process: House and Senate Procedures

## Introduction

### Overview of the Budget Reconciliation Process

The Congressional Budget Act of 1974 established the congressional budget process.<sup>1</sup> Under the act, the House and Senate are required to adopt at least one budget resolution each year.<sup>2</sup> The budget resolution, which takes the form of a concurrent resolution and is not sent to the President for his approval or veto, serves as a congressional statement in broad terms regarding the appropriate revenue, spending, and debt-limit policies, as well as a guide to the subsequent consideration of legislation implementing such policies at agency and programmatic levels. Budget resolution policies are enforced through a variety of mechanisms, including points of order.<sup>3</sup> The House and Senate Budget Committees, which were created by the 1974 act, exercise exclusive jurisdiction over budget resolutions and are responsible for monitoring their enforcement.

In developing a budget resolution, the House and Senate Budget Committees use various sources of budgetary information and analysis, including baseline budget projections of revenue, spending, and the deficit or surplus prepared by the Congressional Budget Office (CBO). A budget resolution typically reflects many different assumptions regarding legislative action expected to occur during a session that would cause revenue and spending levels to be changed from baseline amounts.

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<sup>1</sup> Titles I-IX of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; July 12, 1974; 88 Stat. 297-339) are cited as the “Congressional Budget Act of 1974”; Title X is cited as the “Impoundment Control Act of 1974.” Both the Congressional Budget Act of 1974 and the Impoundment Control Act of 1974 have been amended many times over the years, and all references to them in this report are to the amended versions, unless otherwise noted. Sections of the acts dealing with congressional procedure are codified at 2 U.S.C. 621-692.

<sup>2</sup> Beginning with the inception of the congressional budget process in 1975 (for FY1976), the House and Senate have met this requirement every year except in 1998 (for FY1999), 2002 (for FY2003), and 2004 (for FY2005). For background information on budget resolutions, see: CRS Report RL30297, *Congressional Budget Resolutions: Selected Statistics and Information Guide*, by Bill Heniff Jr.

<sup>3</sup> The congressional budget process, and its enforcement procedures, are discussed in more detail in CRS Report 98-721, *Introduction to the Federal Budget Process*, by Robert Keith and Allen Schick. Also, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

Most revenue and direct spending,<sup>4</sup> however, occurs automatically each year under permanent law; therefore, if the committees with jurisdiction over the revenue and direct spending programs do not report legislation to carry out the budget resolution policies by amending existing law, revenue and direct spending for these programs likely will continue without change.

The budget reconciliation process is an optional procedure that operates as an adjunct to the budget resolution process. The chief purpose of the reconciliation process is to enhance Congress's ability to change current law in order to bring revenue, spending, and debt-limit levels into conformity with the policies of the budget resolution. Accordingly, reconciliation can be a potent budget enforcement tool for a large portion of the budget.

Reconciliation is a two-stage process. First, reconciliation instructions are included in the budget resolution, directing the appropriate committees to develop legislation achieving the desired budgetary outcomes. If the budget resolution instructs more than one committee in a chamber, then the instructed committees submit their legislative recommendations to their respective Budget Committees by the deadline prescribed in the budget resolution; the Budget Committees incorporate them into an omnibus budget reconciliation bill without making any substantive revisions.<sup>5</sup>

The second step involves consideration of the resultant reconciliation legislation by the House and Senate under expedited procedures. Among other things, debate in the Senate on any reconciliation measure is limited to 20 hours (and 10 hours on a conference report) and amendments must be germane and not include extraneous matter. The House Rules Committee typically recommends a special rule for the consideration of a reconciliation measure in the House that places restrictions on debate time and the offering of amendments.

In cases where only one committee has been instructed, the process allows that committee to report its reconciliation legislation directly to its parent chamber, thus bypassing the Budget Committee. In some years, budget resolutions included reconciliation instructions that afforded the House and Senate the option of considering two or more different reconciliation bills. Once the reconciliation legislation called for in the budget resolution has been approved or vetoed by the President, the process is concluded; Congress cannot develop another reconciliation

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<sup>4</sup> *Direct spending* is provided mainly in substantive law under the jurisdiction of the legislative committees, in contrast to *discretionary spending*, which is provided in annual appropriations acts under the jurisdiction of the House and Senate Appropriations Committees. Most direct spending programs are entitlements, such as Social Security, Medicare, federal civilian and military retirement, and unemployment compensation.

<sup>5</sup> The use of omnibus legislation is not unique to the budget reconciliation process. In the case of most "omnibus" measures, however, the term is not used in the legislation's title, as is often done with respect to reconciliation measures. During the past decade or two, the terms "omnibus" or "consolidated omnibus" have been applied to some annual appropriations acts; these measures have no connection to the reconciliation process. (For examples of the application of this term to annual appropriations acts, see CRS Report RL32473, *Omnibus Appropriations Acts: Overview of Recent Practices*, by Robert Keith.)

bill in the wake of a veto without first adopting another budget resolution containing reconciliation instructions.

As an optional procedure, reconciliation has not been used in every year that the congressional budget process has been in effect. Beginning with the first use of reconciliation by both the House and Senate in 1980, however, reconciliation has been used in most years. (In three years, 1998 (for FY1999), 2002 (for FY2003), and 2004 (for FY2005), the House and Senate did not agree on a budget resolution.) Congress has sent the President 19 reconciliation acts over the years; 16 were signed into law and three were vetoed (and the vetoes not overridden). **Table 1** provides a list of these 19 reconciliation acts.

Not every reconciliation measure considered by one chamber has been considered by the other chamber, or been regarded as a reconciliation measure when considered by the other chamber. In 2000, for example, the House considered and passed several reconciliation measures, but they were not considered by the Senate.<sup>6</sup>

In 1976, the Senate considered a House-passed revenue bill under reconciliation procedures, although the measure had not been considered as a reconciliation bill in the House; the bill later was vetoed.<sup>7</sup> Conversely, in 1984, the House and Senate agreed to deficit-reduction legislation that had been considered as a reconciliation bill by the House but not the Senate; the bill, the Deficit Reduction Act of 1984, was signed into law by President Ronald Reagan (P.L. 98-369) but was not designated as a reconciliation measure.

## Historical Development

The budget reconciliation process reflects a complex set of rules, procedures, and practices employed by the House and Senate. Like other complex processes of the House and Senate, such as the annual appropriations process, the reconciliation process has been marked by significant change over time. The House and Senate have adapted reconciliation procedures to fit changing political and budgetary circumstances.

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<sup>6</sup> See CRS Report RL30714, *Congressional Action on Revenue and Debt Reconciliation Measures in 2000*, by Robert Keith.

<sup>7</sup> On December 15, 1975, the Senate considered, amended, and passed H.R. 5559, the Revenue Adjustment Act of 1975, which reduced revenues by about \$6.4 billion pursuant to a directive in the second budget resolution for FY1976. The measure was not regarded as a reconciliation bill when it was considered by the House, but it was considered under reconciliation procedures in the Senate. President Gerald Ford vetoed the measure later in the year and the House sustained his veto. See the remarks of Senator Russell Long and the presiding officer, on page 40540, and the remarks of Senator Edmund Muskie and others, on pages 40544-40550, in the *Congressional Record*, vol. 121, Dec. 15, 1975, regarding the status of H.R. 5559 as a reconciliation bill.



**Table 1. Reconciliation Resolutions and Resultant  
Reconciliation Acts: FY1981-FY2005**

<b>Fiscal Year</b>	<b>Budget Resolution</b>	<b>Resultant Reconciliation Act(s)</b>	<b>Date Enacted</b>
1981	H.Con.Res. 307	Omnibus Reconciliation Act of 1980 (P.L. 96-499)	12-05-80
1982	H.Con.Res. 115	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35)	08-13-81
1983	S.Con.Res. 92	Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248)	09-03-82
		Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253)	09-08-82
1984	H.Con.Res. 91	Omnibus Budget Reconciliation Act of 1983 (P.L. 98-270)	04-18-84
1986	S.Con.Res. 32	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272)	04-07-86
1987	S.Con.Res. 120	Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509)	10-21-86
1988	S.Con.Res. 93	Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203)	12-22-87
1990	H.Con.Res. 106	Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239)	12-19-89
1991	H.Con.Res. 310	Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508)	11-05-90
1994	H.Con.Res. 64	Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66)	08-10-93
1996	H.Con.Res. 67	Balanced Budget Act of 1995 (H.R. 2491)	12-06-95 (vetoed)
1997	H.Con.Res. 178	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)	08-22-96

<b>Fiscal Year</b>	<b>Budget Resolution</b>	<b>Resultant Reconciliation Act(s)</b>	<b>Date Enacted</b>
1998	H.Con.Res. 84	Balanced Budget Act of 1997 (P.L. 105-33)	08-05-97
		Taxpayer Relief Act of 1997 (P.L. 105-34)	08-05-97
2000	H.Con.Res. 68	Taxpayer Refund and Relief Act of 1999 (H.R. 2488)	09-23-99 (vetoed)
2001	H.Con.Res. 290	Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810)	08-05-00 (vetoed)
2002	H.Con.Res. 83	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16)	06-07-01
2004	H.Con.Res. 95	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27)	05-28-03

**Source:** Prepared by the Congressional Research Service.

The framers of the Congressional Budget Act of 1974 anticipated that changes might be made from time to time in the budget resolution and reconciliation processes that it established. In an effort to provide limited procedural flexibility, the act contains a provision referred to as the “elastic clause.” Originally framed as Section 301(b)(2), the elastic clause authorized the House and Senate to include in a budget resolution, at their discretion, “any other procedure which is considered appropriate to carry out the purposes of this Act.” The clause later was redesignated as Section 301(b)(4) and revised to read:

The concurrent resolution on the budget may — ... (4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act.

The House and Senate have used authority under the elastic clause to modify reconciliation procedures over time in many significant ways, including advancing the use of reconciliation to the spring budget resolution and extending the reconciliation time frame from one year to multiple years. While some innovations in reconciliation procedure were dropped, others persisted and eventually were incorporated into the 1974 act as required elements of reconciliation procedure.

Two of the most significant changes in reconciliation procedure involved advancing its use to the spring budget resolution and extending its time frame from one year to multiple years (paralleling the changes in budget resolution scheduling and time frame). As originally framed, the 1974 act required the adoption of two budget resolutions each year. The first budget resolution, to be adopted in the spring, set advisory budget levels for the upcoming fiscal year. The second budget resolution, to be adopted on September 15, just before the start of the new fiscal year

on October 1, set binding budget levels for the year. Reconciliation was established as an adjunct to the adoption of the second budget resolution. Congress and the President could use reconciliation procedures to quickly make any adjustments in existing law or pending legislation that were required to achieve budget policies as they changed between the adoption of the spring and fall budget resolutions. Action on any required reconciliation legislation was expected to be completed by September 25.

In the early 1980s, the House and Senate abandoned the practice of adopting a second budget resolution, choosing instead to adopt a single budget resolution in the spring of each year (although the schedule often slipped, sometimes markedly). This change in practice formally was incorporated into the 1974 act by the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177; December 12, 1985; 99 Stat. 1037-1101).

The growing prominence of the spring budget resolution was indicated by the decision in 1980 to use it to initiate reconciliation procedures for FY1981. Reconciliation procedures were used again the following year as an adjunct to the adoption of the FY1982 budget resolution in the spring, but the budget resolution and reconciliation time frame was extended to three years, FY1982-FY1984 (although figures for the latter two years were considered to be “planning” levels). These changes occurred for several reasons, including the belief that an advancement in the reconciliation schedule was needed to allow committees more time to develop their reconciliation recommendations, and to allow the House and Senate more time to consider them on the floor and reconcile their differences in conference, and that an extended time frame would promote more effective and lasting changes in budgetary policy while discouraging evasions of enforcement.

In addition to the changes made with respect to the timing and scheduling of reconciliation, the 1974 act has been amended to bar in the Senate the inclusion of extraneous matter in reconciliation legislation (see later discussion of Section 313 of the act, known as the “Byrd rule”). Although Section 313 operates as a rule of the Senate, it has also dramatically affected the development of reconciliation legislation in the House and, at times, been a source of friction between the two chambers.

Other significant changes in reconciliation practice have derived from the changing political and budgetary environment, or changes in precedent, and have not relied upon the elastic clause. Initial actions under reconciliation, for example, focused on deficit-reduction efforts. Consequently, the procedures were employed to achieve spending reductions and revenue increases on a net basis. In the latter part of the 1990s, particularly when large surpluses emerged in the federal budget for the first time in decades, the focus of reconciliation action was shifted to reducing revenues, which continued into the 2000s. Most recently, for FY2006, reconciliation directives entail reductions in both revenues and spending.

## Underlying Authorities of the Reconciliation Process

The principal authorities underlying the reconciliation process are set forth in two key sections of Title III (“Congressional Budget Process”) of the Congressional Budget Act of 1974. Section 310 (2 U.S.C. 641) establishes the basic reconciliation procedures, and Section 313 (2 U.S.C. 644) establishes a Senate rule aimed at preventing the inclusion of extraneous matter in reconciliation legislation. The text of Section 310 and Section 313 is provided in **Appendix A** and **Appendix B**, respectively.

In addition, other provisions in Title III have a bearing on the reconciliation process. Section 300 (2 U.S.C. 631), for example, lays down the timetable of the congressional budget process, indicating the Congress should complete action on any required reconciliation legislation by June 15 during a session.

Section 301 (2 U.S.C. 632) contains a provision authorizing the inclusion in a budget resolution of reconciliation directives (in subsection (b)(2)), a deferred enrollment procedure to used in connection with reconciliation (in subsection (b)(3)), and other appropriate “matters” and “procedures” under the elastic clause (in subsection (b)(4)).

Section 305 (2 U.S.C. 636) sets forth, in subsection (b), Senate procedures for the consideration of budget resolutions, which, by virtue of a reference in Section 310(e), also apply to the consideration of reconciliation measures (except for the time limit on debate).

Points of order pertaining to the enforcement of timing requirements, substantive budget resolution policies, and the jurisdiction of the House and Senate Budget Committees, that could apply to the consideration of reconciliation measures, are found in Sections 302, 303, and 311. Additional points of order that could apply to reconciliation measures, dealing with budgetary legislation not subject to appropriations and unfunded mandates, are set forth in Title IV of the act. Finally, Section 904 (2 U.S.C. 621 note) imposes a three-fifths vote requirement on waivers (and appeals of the ruling of the chair) with respect to certain points of order under the act.

### Section 310 of the Congressional Budget Act of 1974

Section 310(a) of the 1974 act provides for the inclusion of reconciliation directives in a budget resolution. The directives shall, “to the extent necessary to effectuate the provisions and requirements of such resolution,” specify the total amounts by which spending, revenues, the public debt limit, or a combination of these elements are to be changed. The directives take the form of instructions to each appropriate committee to make changes in the laws under its jurisdiction to achieve the specified budgetary results.

Under Section 310(b), when only one committee in the House or Senate is subject to reconciliation directives, it reports its recommendations directly to its

chamber. When two or more committees in the House or Senate receive reconciliation instructions, each committee submits its recommendations to its respective Budget Committee. The Budget Committee incorporates the recommendations of all of the instructed committees, “without any substantive revision,” into an omnibus measure, which it then reports to its chamber.

The subsection refers to a reconciliation resolution, which is a concurrent resolution directing the Clerk of the House or the Secretary of the Senate to make changes in legislation that has not yet been enrolled. A reconciliation resolution is intended to be used with a “deferred enrollment” procedure (see discussion below), but the House and Senate instead have always used reconciliation bills.

Section 310(c), known informally as the “fungibility rule,” grants some flexibility to committees subject to reconciliation directives pertaining to both spending and revenues. This provision applies principally to the House Ways and Means Committee and the Senate Finance Committee because they exercise jurisdiction in their chambers over tax legislation generally; some other committees exercise jurisdiction over matters, such as certain fees, involving budgetary transactions that are treated as revenues. In essence, the fungibility rule deems either committee to be in compliance with its reconciliation directives if its recommended legislation does not cause either the spending changes or the revenue changes to exceed or fall below its instruction by more than 20% of the sum of the two types of changes, and the total amount of changes recommended is not less than the total amount of changes that were directed.

Section 310(d) imposes a requirement in the House and Senate that amendments be deficit neutral, but suspends the requirement if a declaration of war is in effect. The subsection provides that, in the Senate, a motion to strike always is in order, notwithstanding the deficit-neutrality requirement. Further, the subsection authorizes the House Rules Committee to make in order amendments to achieve compliance with the reconciliation instructions in the event one or more of the instructed committees fail to submit recommendations.

Senate procedures for the consideration of budget resolutions are made applicable to the consideration of reconciliation measures by Section 310(e), except that the 50-hour debate limit applicable to budget resolutions is reduced to a 20-hour limit for reconciliation bills.

Section 310(f) is intended to enforce in the House the June 15 deadline for completing action on reconciliation legislation (as indicated in the timetable in Section 300). It does so by barring the consideration in July of an adjournment resolution providing for the traditional August recess if the House has not completed action. There is no comparable provision in the act for the Senate.

Finally, Section 310(g) prohibits the consideration of any reconciliation measure, including a special reconciliation measure under Section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985 (see discussion below), that contains recommendations with respect to the Social Security program.

## Section 313 of the Congressional Budget Act of 1974

Section 313 of the 1974 act is informally known as the “Byrd rule,” after its chief sponsor, Senator Robert C. Byrd. The Byrd rule originated on October 24, 1985, as Amendment No. 878 (as modified) to S. 1730, the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985. The Senate adopted the amendment by a vote of 96-0. In this form, the Byrd rule applied to initial Senate consideration of reconciliation measures, but a short while later its coverage was extended to conference reports.

Senator Byrd explained that the basic purposes of the amendment were to protect the effectiveness of the reconciliation process (by excluding extraneous matter that often provoked controversy without aiding deficit reduction efforts) and to preserve the deliberative character of the Senate (by excluding from consideration under expedited procedures legislative matters not central to deficit reduction that should be debated under regular procedures).

The rule achieves its purposes by defining six categories of extraneous matter in reconciliation legislation, and several exceptions thereto, and providing points of order against any such matter. The Byrd rule, and its operation, is discussed in more detail in the section of this report dealing with “Initial Consideration in the Senate.”

During the first five years that the Byrd rule was in effect, from late 1985 until late 1990, it consisted of two separate components: (1) a provision in statute applying to initial Senate consideration of reconciliation measures; and (2) a Senate resolution extending application of portions of the statutory provision to conference reports and amendments between the two chambers. Several modifications were made to the Byrd rule in 1986 and 1987, including extending its expiration date from January 2, 1987, to January 2, 1988, and then to September 30, 1992, but the two separate components of the rule were preserved. In 1990, these components were merged together and made permanent when they were incorporated into the 1974 act as Section 313. There have been no further changes in the Byrd rule since 1990.

## Procedural Provisions in Budget Resolutions

Pursuant to authority granted in Section 301(b) of the 1974 act, including the elastic clause, the House and Senate have, on occasion, included procedural provisions in budget resolutions that affect the reconciliation process. Several examples are discussed below.

In 1980, the second budget resolution for FY1981 contained a bar against House or Senate consideration of a resolution providing for *sine die* adjournment of either chamber “unless action has been completed on H.R. 7765, the Omnibus Reconciliation Act of 1980,” which had been developed in response to reconciliation directives in the first budget resolution for FY1981.<sup>8</sup>

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<sup>8</sup> See Section 7 in the conference report, *Second Concurrent Resolution on the Budget — Fiscal Year 1981* (to accompany H.Con.Res. 448), H.Rept. 96-1469, Nov. 19, 1980, p. 9.

In 1987, a provision in the FY1988 budget resolution declared that any reconciliation recommendations developed by the House Ways and Means Committee and the Senate Finance Committee pertaining to the establishment of a special Deficit Reduction Account would not be considered extraneous matter under the Byrd rule.<sup>9</sup>

Most recently, the FY2006 budget resolution included a procedural provision applying a three-fifths vote requirement to waivers and appeals of points of order dealing with unfunded mandates and the consideration of certain measures prior to passage of a budget resolution, but provided that the change not apply in the case of reconciliation legislation.<sup>10</sup>

In 1993, the Senate established a “pay-as-you-go” (PAYGO) rule as part of the FY1994 budget resolution. The rule, which has been modified several times and extended through September 30, 1998, was not part of the statutory PAYGO requirement in effect from FY1992-FY2002 (see discussion below).

The Senate’s PAYGO rule generally prohibits the consideration of direct spending and revenue legislation that is projected to increase (or cause) an on-budget deficit in any one of three time periods: the first year, the first five years, and the second five years covered by the most recently adopted budget resolution. Any increase in direct spending or reduction in revenues resulting from such legislation must be offset by an equivalent amount of direct spending cuts, tax increases, or a combination of the two. Without an offset, such legislation would require the approval of at least 60 Senators to waive the rule and be considered on the Senate floor. An exception is made for revenue or spending legislation assumed in the budget resolution levels.<sup>11</sup>

Prior budget resolutions containing reconciliation directives explicitly exempted reconciliation legislation from the Senate’s PAYGO rule; reconciliation legislation also was exempted by virtue of being assumed in budget resolution levels.

Section 301(b)(3) of the 1974 act authorizes an optional “deferred enrollment” procedure. Under the procedure, if reconciliation is triggered by the budget resolution, all or certain spending bills (i.e., bills providing new budget authority or new entitlement authority) for the upcoming fiscal year that have passed the House and Senate may be held at the desk rather than being enrolled. This affords the House and Senate an opportunity, through a reconciliation resolution, to direct the

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<sup>9</sup> See Section 6 in the conference report, *Concurrent Resolution on the Budget — Fiscal Year 1988* (to accompany H.Con.Res. 93), H.Rept. 100-175, June 22, 1987, p. 17. The provision referenced the Byrd rule as it existed at that time (i.e., Section 20001 of the Consolidated Omnibus Reconciliation Act of 1985).

<sup>10</sup> See Section 403(b) in the conference report, *Concurrent Resolution on the Budget — Fiscal Year 2006* (to accompany H.Con.Res. 95), H.Rept. 109-62, Apr. 28, 2005, p. 21.

<sup>11</sup> For more information on the Senate’s PAYGO rule, see CRS Report RL31943, *Budget Enforcement Procedures: Senate’s Pay-As-You-Go (PAYGO) Rule*, by Bill Heniff Jr., and CRS Report RL32835, *PAYGO Rules for Budget Enforcement in the House and Senate*, by Robert Keith and Bill Heniff Jr.

Clerk of the House or the Secretary of the Senate to make changes in the enrollment of pending legislation, rather than having to use a reconciliation bill to make the changes in existing law. Once action has been completed on the reconciliation resolution, and any necessary changes are made in the enrollment of the spending measures held at the desk, they are cleared for the President.

Several budget resolutions in the early 1980s contained deferred enrollment provisions, but the release of the deferred measures was made contingent upon the adoption of the then-required second budget resolution, not upon the passage of reconciliation legislation.

## Other Authorities

Key elements of the methodology used to prepare budget baselines and score budgetary legislation are laid out in Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. Other scoring practices that underpin the congressional budget process, including reconciliation procedures, are rooted partly in scorekeeping guidelines that were included in the joint explanatory statements accompanying two reconciliation acts — the Omnibus Budget Reconciliation Act of 1990 and the Balanced Budget Act of 1997.<sup>12</sup>

One of the guidelines, number 3, specifically refers to the treatment of reconciliation legislation under certain circumstances. Guideline number 3 requires that changes in direct spending (i.e., entitlement and other mandatory spending, including offsetting receipts), made in annual appropriations acts, be scored against the Appropriations Committees' Section 302(b) allocations of spending made under the budget resolution. The guideline states, in part, that “direct spending savings that are included in both an appropriations bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriations bill.”

Section 258C (2 U.S.C. 907d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177, as amended) established a special reconciliation process in the Senate, but not the House, tied initially to statutory deficit targets, and subsequently, to a statutory pay-as-you-go (PAYGO) requirement. Violations of the deficit targets and PAYGO requirement were to be enforced by “sequestration,” a process entailing the automatic imposition of largely across-the-board spending cuts.

Section 258C, which was never invoked, provided for the consideration of reconciliation legislation in the fall in order to achieve deficit reductions that would obviate the need for an expected sequester under the PAYGO requirement (or, previously, the deficit targets). The PAYGO requirement effectively expired at the end of the 107<sup>th</sup> Congress.<sup>13</sup> All of the reconciliation measures considered by the

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<sup>12</sup> The guidelines are set forth as Appendix A to Office of Management and Budget *Circular A-11 (Preparation, Submission, and Execution of the Budget)*, which is available on the OMB Web site at: [[http://www.whitehouse.gov/omb/circulars/a11/current\\_year/app\\_a.pdf](http://www.whitehouse.gov/omb/circulars/a11/current_year/app_a.pdf)]

<sup>13</sup> For additional information, see CRS Report RS21378, *Termination of the “Pay-As-You-”* (continued...)



Senate thus far have originated pursuant to Section 310 of the 1974 act. (Sections 310 and 313 of the 1974 act currently reference the reconciliation process under Section 258C of the 1985 act.)

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<sup>13</sup> (...continued)

*Go” (PAYGO) Requirement for FY2003 and Later Years*, by Robert Keith.

# Reconciliation Directives in Budget Resolutions

## Features of Reconciliation Directives

The fundamental purpose of reconciliation directives is to compel committees to develop legislation to achieve certain goals reflected in the budget resolution that require changes in existing law (or pending legislation) to be realized. A directive to a committee represents an expression of the intent of the parent chamber that the specified legislative action be carried out.

Reconciliation directives, and the budget resolution policies that underpin them, are expressed in terms of highly aggregated dollar amounts and do not determine the budgetary outcomes for individual accounts, programs, or activities. Decisions at these levels remain the prerogative of the committees with jurisdiction over spending and revenue legislation. In a few rare instances, however, reconciliation directives have been couched in programmatic terms. In the FY1981 budget resolution, for example, the Senate Appropriations Committee was instructed to “limit appropriations for fiscal year 1981 subsidies to the U.S. Postal Service” to a particular level as part of the reconciliation directives.<sup>14</sup> In response to a parliamentary inquiry on May 19, 1982, however, the Senate Presiding Officer advised that reconciliation directives may not specify that the instructed committee must achieve its changes from certain types of programs or in specific ways.<sup>15</sup>

Nonetheless, the Budget Committees may indicate particular options or assumptions that would allow an instructed committee to meet its spending or revenue reconciliation directives, partly to garner credibility and support for the budget resolution and partly to influence the subsequent policy debates.

A reconciliation directive to a committee usually consists of several components: (1) an identification of the House or Senate committee being instructed; (2) the type of budgetary changes that are intended to be achieved by changes in laws, bills, and resolutions within the instructed committee’s jurisdiction, together with specified amounts; (3) the fiscal year periods to which the changes apply; and (4) a deadline by which the instructed committees must submit their recommendations to their respective Budget Committee, or, if singly instructed, report them to their chamber. Each dollar amount of change for a fiscal year time period is regarded as a separate directive. A committee instructed to achieve savings in direct spending outlays of \$100 million for the first fiscal year and \$800 million for a five-fiscal year period, for example, is considered to be subject to two different directives.

Given that the language authorizing reconciliation directives refers to “changes,” such directives may properly recommend both increases and decreases in revenues, spending, and the debt limit (see further discussion below).

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<sup>14</sup> See Section 3(a)(10) in the conference report, *First Concurrent Resolution on the Budget, Fiscal Year 1981* (to accompany H.Con.Res. 307), H.Rept. 96-1051, May 23, 1980, p. 6.

<sup>15</sup> See *Congressional Record* (daily ed.), vol. 128, May 19, 1982, p. S5506.

**Types of Directives.** Section 310(a) of the 1974 act enumerates three different types of budgetary changes that reconciliation directives may require: (1) *spending*, in the form of new budget authority for the budget year and thereafter, budget authority initially provided for prior fiscal years, new entitlement authority, and credit authority; (2) *revenues*; (3) and the *statutory limit on the public debt*. In addition, Section 310(a) provides that reconciliation directives may combine any of the three types of changes, including “a direction to achieve deficit reduction” (representing a combination of spending reductions and revenue increases).

The type of budgetary changes included in the reconciliation directives determines the type of legislation that will result. After the first several years of experience with reconciliation, spending directives have applied almost exclusively to direct spending (also known as mandatory spending), rather than discretionary spending. Direct spending, which is under the jurisdiction of the legislative committees of the House and Senate, funds entitlements and other mandatory programs (e.g., Medicare, unemployment compensation, federal employee retirement), largely on a permanent basis. Discretionary spending, which mainly funds the ongoing operations of federal agencies, falls under the jurisdiction of the House and Senate Appropriations Committees and is provided in annual appropriations acts.

Under current practice, reconciliation directives for direct spending generally refer to changes in outlay levels.<sup>16</sup> While such directives usually specify the dollar amounts by which outlay levels are to be changed, for a time the House Budget Committee specified the total outlay level that should occur after the required changes had been made. (Therefore, the amount of changes involved had to be calculated by comparing baseline levels to the levels expected to occur following reconciliation.) In the course of complying with a directive to change spending, a committee may recommend changes in offsetting collections or offsetting receipts within its jurisdiction; offsetting collections, which include many user fees, are treated as negative spending.

Reconciliation directives have sometimes been used to affect discretionary spending levels, although this is not the usual practice. Initially, reconciliation was used to directly change the levels of discretionary spending. The House Appropriations Committee (in the FY1981 budget resolution) and the Senate Appropriations Committee (in the FY1981 and FY1982 budget resolutions) were instructed to reduce spending for the fiscal year already in progress. In order to comply with these instructions, the committees recommended rescissions of annual appropriations that already had been enacted. (The rescissions were considered separately from the reconciliation legislation for those years.)

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<sup>16</sup> Congress and the President create new budget authority through the enactment of laws. Agencies incur obligations (that is, financial liabilities through such means as employing personnel, entering into contracts, and submitting purchase orders) within the framework of available budget authority. Finally, outlays (sometimes referred to as expenditures) ensue when obligations are liquidated or paid off through such means as electronic fund transfers, the issuance of checks, or the disbursement of cash. Outlays levels, not budget authority levels, are compared to revenue levels to determine the level of the deficit or surplus.

A more expansive, and indirect, attempt to reduce discretionary spending through the reconciliation process occurred in 1981. The FY1982 budget resolution included reconciliation directives that, in part, required legislative committees to reduce authorizations of appropriations. The intent behind this approach was to set in place reduced authorization levels over a three-year period that would reduce spending levels in the annual appropriations acts considered in each of those years. This approach was widely regarded as having unnecessarily complicated the reconciliation legislation and strained relationships between the authorizing committees and the Appropriations Committees. The House and Senate Budget Committees have not returned to this approach, except occasionally on a much more selective basis. In the Senate, such language probably would be judged extraneous under the Byrd rule, on the ground that it does not affect outlays.

Due to the dispersal of spending jurisdiction to almost every standing committee of the House and Senate, nearly every one of them has been involved in reconciliation at least once.

Directives to change revenue levels have been less complicated generally in that they have not differentiated between different sources of revenue, such as individual incomes taxes, corporate income taxes, or excise taxes. On occasion, revenue reconciliation directives have been accompanied by directives to change outlays because some tax-related changes, such as increases in refundable tax credits, are scored as outlays. (Conversely, in some instances changes in spending programs may affect revenue levels.)

As mentioned previously, reconciliation directives may also instruct a committee to achieve a level of “deficit reduction,” reflecting a combination of spending reductions and revenues increases at the committee’s discretion.

In the reconciliation process, compliance with reconciliation directives is judged on a net basis, or on the basis of the “bottom line.” Consequently, directives to reduce spending or increase revenues in order to achieve deficit reduction generally may include “sweeteners” that increase spending and reduce revenues, so long as the required amount of deficit reduction is accomplished.

As practiced by the House and Senate, a reconciliation instruction to reduce spending, or increase revenues, includes a target that is a *minimum* amount of spending reduction, or revenue increase (a floor). Similarly, a reconciliation instruction to increase spending, or reduce revenues, includes a target that is a *maximum* amount of spending increase, or revenue reduction (a ceiling).

For years, the public debt limit has been codified in Section 3101(b) of Title 31, *United States Code*. Periodic adjustments in the debt limit take the form of amendments to 31 U.S.C. 3101(b), usually by striking the current dollar limitation and inserting a new one. While most adjustments to the debt limit have been increases, in some instances the debt limit has been reduced or extended at its current level for a specified interval. For example, P.L. 455 of the 79<sup>th</sup> Congress (60 Stat. 316; June 26, 1946) reduced the debt limit from \$300 billion to \$275 billion as budget surpluses reemerged following World War II. While the debt limit has been adjusted in reconciliation legislation, in most instances Congress employs another

type of measure for this purpose. The House Ways and Means Committee and the Senate Finance Committee exercise jurisdiction over the debt limit.<sup>17</sup>

From time to time, budget resolutions have included contingent reconciliation directives. Under a contingent directive, the amount of changes in spending or revenue that a committee is directed to achieve may be adjusted at a later time upon the happening of a contingency. The FY1998 budget resolution, for example, provided for an adjustment in the Senate Finance Committee's reconciliation directives (as well as the committee's spending allocations and other budget levels) to accommodate a five-year children's health initiative of up to \$16 billion. The adjustments were made contingent upon the committee reporting reconciliation legislation with an excess of outlay savings so that the additional spending on the children's health initiative would be deficit neutral.<sup>18</sup>

In at least one instance, reconciliation directives to a committee became effective (without any adjustment) upon the happening of a contingency. The FY1996 budget resolution contained directives to the Senate Finance Committee to reduce revenues by \$245 billion over seven years upon the certification by the Congressional Budget Office that spending reconciliation legislation would lead to a balanced budget by FY2002. Under the budget resolution, if CBO did not certify a balanced budget, the revenue reconciliation directives to the committee would not become effective, and the revenue reductions could not be included in the final reconciliation bill.<sup>19</sup>

## Multiple Directives

The House and Senate typically use multiple directives, in terms of the number of committees instructed and the types of budgetary changes designated, when initiating the reconciliation process. Whenever the House and Senate included spending reconciliation directives in a budget resolution, more than one House and Senate committee received them, except for the FY2002 and FY2004 budget resolutions; in these two cases, the House Ways and Means Committee and the Senate Finance Committee received instructions regarding outlays in order to accommodate the outlay effects of certain changes in revenue laws.

The number of House and Senate committees given spending reconciliation directives in a budget resolution ranged from one, for both chambers (both in the FY2002 and FY2004 budget resolutions), to 14 for the Senate and 15 for the House (both in the FY1982 budget resolution).

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<sup>17</sup> For more information on this topic, see CRS Report RS21519, *Legislative Procedures for Adjusting the Public Debt Limit: A Brief Overview*, by Robert Keith and Bill Heniff Jr.

<sup>18</sup> See Section 104(d) of the conference report on the FY1998 budget resolution, *Concurrent Resolution on the Budget for Fiscal Year 1998* (to accompany H.Con.Res. 84), H.Rept. 105-116, June 4, 1997, pp. 16-17.

<sup>19</sup> See Section 105(b) and Section 205 of the conference report on the FY1996 budget resolution, *Concurrent Resolution on the Budget for Fiscal Year 1996* (to accompany H.Con.Res. 67), H.Rept. 104-159, June 26, 1995, pp. 24, 29-30, 94-95.

Reconciliation directives to change the statutory limit on the public debt are made only to a single committee in each chamber, because the House Ways and Means Committee and the Senate Finance Committee exercise sole jurisdiction in their chambers over this matter. While reconciliation directives to change revenue levels principally involve the Ways and Means Committee and the Finance Committee, other committees sometimes receive such instructions as well. As stated previously, the Ways and Means Committee and Finance Committee exercise jurisdiction in their chambers over the tax code and revenues generally, but some other committees exercise jurisdiction over matters, such as certain fees, involving budgetary transactions that are treated as revenues.

When reconciliation directives require different types of budgetary changes, the committee recommendations affecting revenues, spending, or the debt limit, as appropriate, may be incorporated into a single omnibus measure or considered as separate measures, depending on how the directives are fashioned. In the FY1998 budget resolution, for example, the Senate Finance Committee received a two-part reconciliation directive in Section 104(a). Section 104(a)(5)(A) instructed the committee to reduce outlays (by \$40.911 billion for FY2002 and \$100.646 billion for FY1998-FY2002) and Section 104(a)(5)(B) instructed the committee to increase the statutory limit on the public debt (to not more than \$5.950 trillion). Seven other Senate committees received an instruction to reduce spending (or the deficit) in Section 104(a). In a separate provision, Section 104(b), the Finance Committee was instructed to reduce revenues (by not more than \$20.5 billion in FY2002 and \$85 billion for FY1998-FY2002). Accordingly, in response to its directives, the Finance Committee could develop reconciliation legislation reducing spending and raising the debt limit, for inclusion in an omnibus bill, and reducing revenues in a separate bill.

Under current procedures in the Senate, only one reconciliation measure of each type of budgetary change is allowed. Thus, a budget resolution may create as many as three reconciliation bills — one for spending, one for revenues, and one for the debt limit. The reconciliation directives, however, may not lead to two reconciliation bills for spending, or two for revenues, or two for the debt limit. In the case of the FY2006 budget resolution, for example, the directives to eight Senate committees to reduce direct spending, and to the Senate Finance Committee to reduce revenues and increase the debt limit, are expected to result, at most, in three reconciliation measures — a spending bill, a revenue bill, and a debt-limit bill.

House practices in this regard allow for greater latitude in the development of multiple reconciliation measures. Reconciliation measures may mix together different types of reconciliation changes, and more than one reconciliation measure involving a particular type of budgetary change may be provided for under the reconciliation directives. The FY1997 budget resolution, for example, provided for the potential consideration of three separate reconciliation measures in the House, including a “Welfare and Medicaid Reform and Tax Relief” act, a “Medicare Preservation” act, and a “Tax and Miscellaneous Direct Spending Reforms” act. As explained by the House Budget Committee:

The House conferees note that the multi-reconciliation process provides maximum flexibility to achieve the changes in spending and the tax relief assumed in this conference report. For example, any of the spending or revenue changes assumed in the first bill could — if not enacted — be achieved in the third bill.<sup>20</sup>

Given that the Senate's flexibility in packaging reconciliation legislation is relatively more constrained under its current practices compared with past ones, the House is more constrained in its choice of reconciliation packaging as well. Consequently, a reconciliation procedure in the House as flexible as the one proposed for FY1997 may no longer be practicable.

## Impact of Directives on the Deficit or Surplus

During the period covering FY1981 through FY2006, the House and Senate adopted 18 budget resolutions containing reconciliation directives. (The budget resolutions for FY1985, FY1989, FY1992, FY1993, and FY1995 did not include reconciliation directives; also, the House and Senate did not reach final agreement on budget resolutions for FY1999, FY2003, and FY2005.) The reconciliation directives included in budget resolutions through FY1998 were intended to reduce the deficit in the net; the directives in budget resolutions since then (through FY2006), while part of an overall budget resolution policy to improve the budgetary posture over time, on their own terms proposed reducing the surplus or increasing the deficit in the net (by virtue of revenue reductions).

The reconciliation directives to House and Senate committees during this period generally were of comparable scope, although there were some significant differences in particular years. **Table 2** and **Table 3** present information on the reconciliation directives to House committees during this period to illustrate the relationship taken generally by the House and Senate between reconciliation and deficit reduction.

As **Table 2** shows, all 18 of the budget resolutions recommended policies that assumed an improvement in budgetary posture from the budget year to the final fiscal year covered, either by changing a deficit into a surplus (seven instances), reducing a deficit to a lower level (eight instances), or increasing a surplus to a higher level (three instances).<sup>21</sup> For example, over a five-year time frame, the budget resolution for FY1991 called for a deficit of \$64 billion in the first year and surplus of \$156 billion in the final year; the budget resolution for FY1994 called for a deficit of \$254 billion in the first year and a deficit of \$202 billion in the final year; and the budget resolution for FY2001 called for a surplus of \$170 billion in the first year and a surplus of \$232 billion in the final year.

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<sup>20</sup> See the conference report on the FY1997 budget resolution, *Concurrent Resolution on the Budget for Fiscal Year 1997* (to accompany H.Con.Res. 178), H.Rept. 104-612, June 7, 1996, p. 81.

<sup>21</sup> The “budget year” is the upcoming fiscal year (beginning on October 1) at the time the budget resolution is under consideration. Budget resolutions sometimes include revised figures for the “current year,” which is the fiscal year in progress at the time the budget resolution is under consideration; current-year levels are not reflected in Tables 1 and 2.

The reconciliation directives in the first 10 budget resolutions listed in **Table 2**, covering through FY1981-FY1994, all recommended net deficit reduction in the aggregate, ranging from \$12 billion (in the FY1981 budget resolution) to \$343 billion (in the FY1994 budget resolution). The reconciliation directives included revenue increases, spending decreases (and other changes), or a combination thereof intended to eliminate or reduce the deficit by the final year.

With regard to the next three budget resolutions (for FY1996, FY1997, and FY1998), precise data are not available because the reconciliation directives to House committees were not expressed as amounts of change from baseline levels, but rather were expressed as the levels of revenue and direct spending outlays that were to result from the changes. The reconciliation directives in these three budget resolutions, however, generally were regarded as containing revenue reductions that were expected to be more than offset by reductions in direct spending.<sup>22</sup>

The remaining five sets of reconciliation directives (in the FY2000-FY2002, FY2004, and FY2006 budget resolutions), all recommended net reductions in the surplus/increases in the deficit, ranging from \$35 billion (over six years) to \$1.350 trillion (over 11 years).

The budget resolutions for FY2000-FY2002 included directives that recommended large revenue reductions (and a \$100 billion increase in outlays in the FY2002 budget resolution) without offsetting changes. These resolutions recommended allocating a portion of the projected surpluses for tax cuts; in each case, the estimated final year surplus was larger than estimated for the first year.

The FY2004 budget resolution included reconciliation directives that recommended large revenue reductions (and a \$27 billion increase in outlays) without any offsetting changes. Despite aggregate reductions in the surplus/increases in the deficit through reconciliation of \$550 billion over 11 years, covering FY2003-FY2013, the budget resolution envisioned a deficit of \$385.0 billion for the budget year becoming a surplus of \$36.8 billion by the final year.

The FY2006 budget resolution included reconciliation directives that recommended revenue reductions of \$70 billion over five years (FY2006-FY2010) and outlay reductions of \$35 billion over six years (including FY2005) in the context of a decline in the total deficit over the period.

**Table 3** provides more detailed information on the overall deficit and surplus levels and the reconciliation directives to House committees in the budget resolutions for this period.

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<sup>22</sup> The amounts of revenue reduction expected to occur over the multiyear period, apparently by means of reconciliation, were indicated in the joint explanatory statement accompanying the conference report for each of the fiscal years involved. While the amounts of direct spending reductions in reconciliation directives to House committees were not indicated in the joint explanatory statements, such amounts in reconciliation directives to Senate committees yielded estimated net savings of \$387.1 billion (over seven years) in the FY1996 budget resolution, \$228.9 billion (over six years) in the FY1997 budget resolution, and \$52.2 billion (over five years) in the FY1998 budget resolution.



**Table 2. Summary of Reconciliation Directives to House Committees and Overall Deficit or Surplus Levels in Budget Resolutions for FY1981-FY2006**

(amounts in \$ billions)

Budget Resolution <sup>a</sup>	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>c</sup>	
	Number of Fiscal Years Covered	Revenue Changes <sup>b</sup>	Outlay (or Deficit Reduction) Changes <sup>b</sup>	Net Decreases (-) or Increases (+) <sup>b</sup>	Budget Year	Final Year
FY1981	2	+4	-7	-12	+1	—
FY1982	3	0	-137	-137	-38	+1
FY1983	3	+98	-27	-125	-104	-60
FY1984	3	+73	-12	-85	-170	-127
FY1986	3	0	-88	-88	-172	-113
FY1987	3	0	-24	-24	-143	-78
FY1988	3	+64	-29	-93	-108	-50
FY1990	2	+11	-13	-24	-100	-66
FY1991	5	+119	-127	-246	-64	+156

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Budget Resolution <sup>a</sup>	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>c</sup>	
	Number of Fiscal Years Covered	Revenue Changes <sup>b</sup>	Outlay (or Deficit Reduction) Changes <sup>b</sup>	Net Decreases (-) or Increases (+) <sup>b</sup>	Budget Year	Final Year
FY1994	5	0	-343 <sup>d</sup>	-343 <sup>d</sup>	-254	-202
FY1996	7	-245	— <sup>e</sup>	— <sup>e</sup>	-170	+6
FY1997	6	-122	— <sup>e</sup>	— <sup>e</sup>	-153	+5
FY1998	5	-85	— <sup>e</sup>	— <sup>e</sup>	-91	+2
FY2000	10	-778	0	+778	+141	+248
FY2001	5	-150	0	+150	+170	+232
FY2002	11	-1,250	+100	+1,350	+219	+514
FY2004	11	-535	+15	+550	-385	+37
FY2006	6	-70	-35	+35	-383	-211

**Sources:** conference reports on budget resolutions (see **Table 3** for complete listing).

<sup>a</sup> The budget resolutions for FY1985, FY1989, FY1992, FY1993, and FY1995 did not contain reconciliation directives; also, the House and Senate did not reach final agreement on budget resolutions for FY1999, FY2003, and FY2005. Details may not add to totals due to rounding.

- <sup>b</sup> The “revenue changes” column reflects reconciliation directives to the House Ways and Means Committee to change revenue levels, and the “outlay (or deficit reduction) changes” column reflects reconciliation directives to all House committees to change outlay levels or to achieve deficit reduction, which in some cases could have allowed additional revenue increases beyond those reflected in the preceding column. “Net decreases (-)” in the deficit also refers to net increases in the surplus; “net increases (+)” in the deficit also refers to net decreases in the surplus.
- <sup>c</sup> Although the text of the budget resolution reflects only the *on-budget* deficit or surplus (as required by law), tables in the joint explanatory statement accompanying the conference report usually reflect the *total* deficit or surplus (which includes the off-budget Social Security trust funds and Postal Service Fund). This column presents *total* deficit or surplus levels, unless otherwise noted.
- <sup>d</sup> The \$343.1 billion in “outlay (or deficit reduction) changes” and “net decreases” excludes \$42.953 billion in reconciled reductions in authorizations.
- <sup>e</sup> Reconciliation directives to House committees in the budget resolutions for FY1996-FY1998 were not expressed as amounts of change from baseline levels, but rather were expressed as the levels of revenue and direct spending outlays that were to result from the changes. The amounts of revenue reduction expected to occur over the multiyear period, apparently by means of reconciliation, were indicated in the joint explanatory statement accompanying the conference report for each of the fiscal years involved; see H.Rept. 104-159, page 89 (for FY1996), H.Rept. 104-612, page 51 (for FY1997), and H.Rept. 105-116, page 100 (for FY1998). While the amounts of direct spending reductions in reconciliation directives to House committees were not indicated in the joint explanatory statements, such amounts in reconciliation directives to Senate committees yielded estimated net savings of \$387.1 billion (over seven years) in the FY1996 budget resolution, \$228.9 billion (over six years) in the FY1997 budget resolution, and \$52.2 billion (over five years) in the FY1998 budget resolution.

**Table 3. Detailed Information on Reconciliation Directives to House Committees and Overall Deficit or Surplus Levels in Budget Resolutions for FY1981-FY2006**

(amounts in \$ billions)

Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
1981	H.Con.Res. 307	2 (1980-1981)	+4.2	-7.4 <sup>f</sup>	-11.6	<i>(on budget)</i> Budget year: +0.5
1982	H.Con.Res. 115	3 (1982-1984)	0.0	-137.0	-137.0	<i>(on budget)</i> Budget year: -37.7 Second year: -19.1 Third year: +1.1
1983	S.Con.Res. 92	3 (1983-1985)	+98.3	-27.2	-125.4	<i>(on budget)</i> Budget year: -103.9 Second year: -83.9 Third year: -60.0
1984	H.Con.Res. 91	3 (1984-1986)	+73.0	-12.3	-85.3	<i>(on budget)</i> Budget year: -169.9 Second year: -156.3 Third year: -127.2

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Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
1985	[No reconciliation directives in budget resolution]					
1986	S.Con.Res. 32	3 (1986-1988)	0.0	-88.2	-88.2	<i>(on budget)</i> Budget year: -171.9 Second year: -154.7 Third year: -112.9
1987	S.Con.Res. 120	3 (1987-1989)	0.0	-24.2	-24.2	Budget year: -142.6 Second year: -115.7 Third year: -77.9
1988	H.Con.Res. 93	3 (1988-1990)	+64.3	-28.6	-92.9	<i>(on budget)</i> Budget year: -108.0 Second year: -89.9 Third year: -50.3
1989	[No reconciliation directives in budget resolution]					
1990	H.Con.Res. 106	2 (1990-1991)	+10.6	-13.3	-23.9	Budget year: -99.7 Second year: — 88.4 Third year: -65.8

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Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
1991	H.Con.Res. 310	5 (1991-1995)	+118.8	-127.4	-246.2	Budget year: -64.0 Second year: -8.5 Third year: 44.8 Fourth year: 108.5 Fifth year: 156.2
1992	[No reconciliation directives in budget resolution]					
1993	[No reconciliation directives in budget resolution]					
1994	H.Con.Res. 64	5 (1994-1998)	0.0	-343.1 <sup>g</sup>	-343.1 <sup>g</sup>	Budget year: -253.8 Second year: -236.9 Third year: -205.0 Fourth year: -192.6 Fifth year: -201.9
1995	[No reconciliation directives in budget resolution]					

Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
1996	H.Con.Res. 67	7 (1996-2002)	-245.0 <sup>h</sup>	— <sup>h</sup>	— <sup>h</sup>	Budget year: -170.3 Second year: -152.2 Third year: -115.8 Fourth year: -100.4 Fifth year: -80.8 Sixth year: -33.1 Seventh year: 6.4
1997	H.Con.Res. 178	6 (1997-2002)	-122.4 <sup>h</sup>	— <sup>h</sup>	— <sup>h</sup>	Budget year: -153.4 Second year: -146.7 Third year: -117.2 Fourth year: -89.0 Fifth year: -41.6 Sixth year: 4.6
1998	H.Con.Res. 84	5 (1998-2002)	-85.0 <sup>h</sup>	— <sup>h</sup>	— <sup>h</sup>	Budget year: -90.5 Second year: -89.5 Third year: -82.9 Fourth year: -53.1 Fifth year: 1.8
1999	[House and Senate did not reach final agreement on a budget resolution]					

Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
2000	H.Con.Res. 68	10 (2000-2009)	-777.9	0.0	+777.9	Budget year: 141.4 Second year: 148.2 Third year: 158.0 Fourth year: 165.2 Fifth year: 174.8 Sixth year: 199.7 Seventh year: 215.1 Eighth year: 225.1 Ninth year: 237.9 Tenth year: 248.0
2001	H.Con.Res. 290	5 (2001-2005)	-150.0	0.0	+150.0	Budget year: 170.0 Second year: 183.5 Third year: 198.4 Fourth year: 212.4 Fifth year: 232.3



Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
2002	H.Con.Res. 83	11 (2001-2011)	-1,250.0	+100.0	+1,350.0	Budget year: 218.6 Second year: 246.5 Third year: 265.9 Fourth year: 276.9 Fifth year: 294.5 Sixth year: 331.0 Seventh year: 362.7 Eighth year: 407.7 Ninth year: 466.6 Tenth year: 514.2
2003	[House and Senate did not reach final agreement on a budget resolution]					

Fiscal Year	Budget Resolution	Reconciliation Directives: Increases (+) or Decreases (-) in the Deficit				Deficit (-) or Surplus (+) Levels Reflected in the Budget Resolution <sup>e</sup>
		Fiscal Years Covered <sup>a</sup>	Change in Revenues	Outlay (or Deficit Reduction) Changes <sup>c</sup>	Net Decreases (-) or Increases (+) <sup>d</sup>	
2004	H.Con.Res. 95	11 (2003-2013)	-535.0	+15.0	+550.0	Budget year: -385.0 Second year: -293.7 Third year: -217.1 Fourth year: -165.8 Fifth year: -151.1 Sixth year: -99.4 Seventh year: -68.6 Eighth year: -71.1 Ninth year: 9.8 Tenth year: 36.8
2005	[House and Senate did not reach final agreement on a budget resolution]					
2005	H.Con.Res. 95	6 (2005-2010)	-70.0	-34.7	+35.3	Budget year: -382.7 Second year: -313.2 Third year: -254.4 Fourth year: -238.4 Fifth year: -210.9

**Sources:**

FY1981 — conference report on H.Con.Res. 307, H.Rept. 96-1051 (May 23, 1980), pages 27 and 28.  
 FY1982 — conference report on H.Con.Res. 115, H.Rept. 97-46 (May 15, 1981), pages 41-43 and 46.

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FY1983 — conference report on S.Con.Res. 92, H.Rept. 97-614 (June 21, 1982), pages 19 and 29;  
FY1984 — conference report on H.Con.Res. 91, H.Rept. 98-248 (June 21, 1983), pages 29, 45, and 46;  
FY1986 — conference report on S.Con.Res. 32, H.Rept. 99-249 (August 1, 1985), pages 24, 32, and 33;  
FY1987 — conference report on S.Con.Res. 120, H.Rept. 99-664 (June 26, 1986), pages 20, 30, and 31;  
FY1988 — conference report on H.Con.Res. 93, H.Rept. 100-175 (June 22, 1987), pages 23 and 30-32;  
FY1990 — conference report on H.Con.Res. 106, H.Rept. 101-50 (May 15, 1989), pages 19, 29, and 30;  
FY1991 — conference report on H.Con.Res. 310, H.Rept. 101-820 (October 7, 1990), pages 21, 26, and 27;  
FY1994 — conference report on H.Con.Res. 62, H.Rept. 103-48 (March 31, 1993), pages 38 and 41-43;  
FY1996 — conference report on H.Con.Res. 67, H.Rept. 104-159 (June 26, 1995), pages 44 and 50-51;  
FY1997 — conference report on H.Con.Res. 178, H.Rept. 104-612 (June 7, 1996), pages 56 and 83-84;  
FY1998 — conference report on H.Con.Res. 84, H.Rept. 105-116 (June 4, 1997), pages 58, 100, and 104-105;  
FY2000 — conference report on H.Con.Res. 68, H.Rept. 106-91 (April 14, 1999), pages 36, and 61;  
FY2001 — conference report on H.Con.Res. 290, H.Rept. 106-577 (April 12, 2000), pages 49 and 66;  
FY2002 — conference report on H.Con.Res. 83, H.Rept. 107-60 (May 8, 2001), pages 48, and 76-77;  
FY2004 — conference report on H.Con.Res. 95, H.Rept. 108-71 (April 10, 2003), pages 38 and 102-104; and  
FY2006 — conference report on H.Con.Res. 95, H.Rept. 109-62 (April 18, 2005), pages 50 and 68-71.

**Note:** Details may not add to totals due to rounding.

<sup>a</sup> The reconciliation directives applied to the budget year (i.e., the fiscal year beginning on October 1 of the calendar year in which the budget resolution was considered) and ensuing fiscal years covered by the budget resolution, except that reconciliation directives in budget resolutions for FY1981, FY2002, and FY2004 also applied to the current year (i.e., the fiscal year in progress at the time).

<sup>b</sup> This column reflects reconciliation directives to the House Ways and Means Committee to change revenue levels.

<sup>c</sup> This column reflects reconciliation directives to all House committees to change outlay levels or to achieve deficit reduction (which in some cases could have allowed additional revenue increases beyond those reflected in the preceding column).

<sup>d</sup> “Net decreases (-)” in the deficit also refers to net increases in the surplus; “net increases (+)” in the deficit also refers to net decreases in the surplus.

<sup>e</sup> Although the text of the budget resolution reflects only the *on-budget* deficit or surplus (as required by law), tables in the joint explanatory statement accompanying the conference report usually reflect the *total* deficit or surplus (which includes the off-budget Social Security trust funds and Postal Service Fund). This column presents *total* deficit or surplus levels, unless otherwise noted, and does not include any revised deficit or surplus figures for the current fiscal year.

<sup>f</sup> In addition to reconciliation directives to House and Senate Committees for FY1981, the budget resolution included reconciliation directives to the House and Senate Appropriations Committees to reduce spending for FY1980. Accordingly, savings of \$1.0 billion in outlays from the directives to the Appropriations Committees are reflected in this figure.

<sup>g</sup> The \$343.1 billion in “other changes” and “net savings” excludes \$42.953 billion in reconciled reductions in authorizations.

<sup>h</sup> Reconciliation directives to House committees in the budget resolutions for FY1996-FY1998 were not expressed as amounts of change from baseline levels, but rather were expressed as the levels of revenue and direct spending outlays that were to result from the changes. The amounts of revenue reduction expected to occur over the multiyear period, apparently by means of reconciliation, were indicated in the joint explanatory statement accompanying the conference report for each of the fiscal years involved; see H.Rept. 104-159, page 89 (for FY1996), H.Rept. 104-612, page 51 (for FY1997), and H.Rept. 105-116, page 100 (for FY1998). While the amounts of direct spending reductions in reconciliation directives to House committees were not indicated in the joint explanatory statements, such amounts in reconciliation directives to Senate committees yielded estimated net savings of \$387.1 billion (over seven years) in the FY1996 budget resolution, \$228.9 billion (over six years) in the FY1997 budget resolution, and \$52.2 billion (over five years) in the FY1998 budget resolution.

## Initial Consideration in the House

Four aspects of House action at this stage of the reconciliation process are addressed in this section: (1) the development of legislative recommendations by the instructed committees; (2) the preparation of an omnibus measure by the House Budget Committee; (3) the special rule providing for the consideration of reconciliation legislation; and (4) floor consideration of reconciliation legislation.

### Development of Legislative Recommendations by the Instructed Committees

Each committee included in the reconciliation directives is instructed to recommend legislative changes to existing law to meet specific budgetary targets by a certain date. The Congressional Budget Act of 1974 does not provide any special requirements (other than meeting those specified in the reconciliation directives in a budget resolution) or any guidance as to the procedures committees must follow to develop their legislative recommendations pursuant to reconciliation directives. The instructed committees generally follow the rules and practices of developing legislation under the normal legislative process.

It is expected that each instructed committee will comply with the pertinent requirements in the Standing Rules of the House, as well as its committee rules, when developing its legislative recommendations pursuant to the reconciliation directives. In particular, clause 2(h)(1) of House Rule XI requires that a committee must meet, with a majority quorum present, to report its reconciliation recommendations.

Prior to marking up and reporting reconciliation recommendations, as in the case of other legislation, instructed committees often hold hearings. In 1997, for example, in developing reconciliation recommendations pursuant to the directives in the FY1998 budget resolution, at least four of the eight instructed committees conducted oversight and legislative hearings related to its reconciliation recommendations subsequently transmitted to the House Budget Committee.<sup>23</sup>

**Committee Markup Procedures.** While there are variations among committees' formal rules and informal practices, House committees typically follow a standard markup process.<sup>24</sup> Under this process, the legislative text to be considered first is read in full, unless waived by a majority vote or unanimous consent, and then it is read for amendment, section by section.<sup>25</sup> Amendments are considered under a

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<sup>23</sup> See House Budget Committee, *Balanced Budget Act of 1997* (report to accompany H.R. 2015), H.Rept. 105-149, June 24, 1997, pp. 497-1619.

<sup>24</sup> For detailed information on House committee markup procedures, see CRS Report RL30244, *The Committee Markup Process in the House of Representatives*, by Judy Schneider.

<sup>25</sup> Under clause 1(a)(1)(B) of House Rule XI, if printed copies of the legislative text to be marked up are available, the reading of the text may be waived by majority vote on a  
(continued...)

five-minute rule. At the end of consideration of the legislative text and amendments, a committee votes to order the legislation reported to the House directly or, if instructed by the reconciliation directives, transmitted to the House Budget Committee.

A key decision in the markup process is selecting the text the committee will consider. A committee may consider a bill introduced and referred to the committee or consider draft legislation that has not been introduced. In most cases, in response to reconciliation directives, committees have considered draft legislation developed by the committee's staff, instead of a bill introduced and referred to the committee.

In 1997, for example, pursuant to the reconciliation directives contained in the FY1998 budget resolution, all eight committees instructed to submit to the House Budget Committee legislative recommendations changing existing law considered original legislative language as the markup text.<sup>26</sup> Three of these committees considered its reconciliation recommendations in the form of committee prints as the markup text. Only one committee considered a bill introduced and referred to the committee. In that case, the Education and the Workforce Committee considered H.R. 1515 and incorporated the text of the bill, as amended during markup, into its reconciliation recommendations; the committee, as well, ordered the bill reported, as amended, to the House directly.<sup>27</sup>

In some cases, however, especially in those cases when a committee received instructions to report legislative recommendations to the House directly, as in recent years, committees have considered a bill introduced and referred to the committee as the markup vehicle. In 2003, for example, the House Ways and Means Committee considered and marked up H.R. 2, which had been previously introduced and referred to the committee, as the legislative vehicle to respond to its reconciliation directives contained in the FY2004 budget resolution.<sup>28</sup>

**Committee Submissions.** As mentioned above, the reconciliation directives contained in a budget resolution specify a certain date in which an instructed committee is required to report its legislative recommendations. In addition, the directives indicate, as provided in the 1974 act, whether a committee is required to report its legislative recommendations to the House directly or to submit such recommendations to the House Budget Committee. Section 310(b) of the 1974 act specifies two options for the submission of legislative recommendations to comply with reconciliation directives: (1) if one committee is instructed, the committee reports its legislative recommendations to its parent chamber directly; or (2) if two

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<sup>25</sup> (...continued)

privileged non-debatable motion. If printed copies are not available, the reading of the text may be waived only by unanimous consent.

<sup>26</sup> House Budget Committee, *Balanced Budget Act of 1997* (report to accompany H.R. 2015), H.Rept. 105-149, June 24, 1997.

<sup>27</sup> *Ibid.*, pp. 977-1089.

<sup>28</sup> House Ways and Means Committee, *Jobs and Growth Reconciliation Tax Act of 2003* (report to accompany H.R. 2), H.Rept. 108-94, May 8, 2003.

or more committees are instructed, the committees submit their legislative recommendations to their respective Budget Committee.

Of the 17 budget resolutions that have contained reconciliation directives, excluding the FY2006 budget resolution, five budget resolutions contained directives instructing a committee to report legislation to the House directly.<sup>29</sup> Thirteen budget resolutions directed two or more committees to submit legislative recommendations to the House Budget Committee.

In either case, the submission material is similar. A committee reporting its reconciliation recommendations to the House directly must include the required contents of a written report to accompany the reported legislation. Such information includes, for example, supplemental, minority, or additional views, a cost estimate, and committee rollcall votes.<sup>30</sup>

In the case of submissions to the House Budget Committee, the Budget Committee typically provides guidance to the instructed committees, requesting that they include with their reconciliation submissions similar material required in a committee report. This year, for example, the Budget Committee requested the following material to be submitted by each instructed committee:

1. legislative text;
2. transmittal letter signed by the committee chairman;
3. summary of the major policy decisions in the legislation;
4. section-by-section description;
5. committee oversight findings;
6. constitutional authority statement;
7. committee votes;
8. Ramseyer statement regarding the text of changes made in existing law;
9. performance goals; and
10. supplemental, additional, and minority views.<sup>31</sup>

When a committee is directed to submit reconciliation recommendations to the Budget Committee, it also may report legislation to the House directly. On at least two occasions, for example, the Ways and Means Committee submitted reconciliation recommendations to the Budget Committee as well as reporting

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<sup>29</sup> The five budget resolutions are those for FY1981, FY2000, FY2001, FY2002, and FY2004. The FY1981 budget resolution contained a separate reconciliation directive to the House Appropriations Committee to report legislation to the House directly, in addition to instructions to multiple committees to submit legislation to the House Budget Committee. Therefore, the FY1981 budget resolution also is counted as one (of the 13) which included instructions to submit legislation to the House Budget Committee.

<sup>30</sup> For additional information on the required contents of committee reports, see CRS Report 98-169 GOV, *House Committee Reports: Required Contents*, by Judy Schneider.

<sup>31</sup> House Budget Committee, *House Reconciliation Guidelines*, June 24, 2005, pp. 2-3 (prepared by the Republican staff). For additional information, see: House Budget Committee, *Budget Reconciliation: What It Is and How It Works*, May 18, 2005 (prepared by the Democratic staff).

legislation, containing those recommendations, to the House directly.<sup>32</sup> In addition, on at least one occasion, several instructed committees reported reconciliation legislation to the House directly instead of submitting their recommendations to the Budget Committee. In 1982, four of the nine instructed committees reported individual reconciliation measures to the House directly. The House considered and passed each of these measures individually and subsequently incorporated them into one omnibus reconciliation bill (H.R. 6955, 97<sup>th</sup> Congress).<sup>33</sup>

**Compliance with Reconciliation Directives.** Each instructed committee is expected to comply with its reconciliation directives, specifically with regard to submitting its reconciliation recommendations by the date specified and recommending legislative changes to existing law projected to produce the budgetary changes specified. Neither the 1974 act nor the Standing Rules of the House provides a point of order, or any other sanction, against a committee's reconciliation recommendations, or the subsequent omnibus reconciliation legislation, for not complying with the reconciliation directives. The House Rules Committee, however, as will be discussed further below, under Section 310(d)(5) of the 1974 act, may make in order amendments to achieve compliance if one or more committees fail to submit their legislative recommendations pursuant to their reconciliation instructions.

In the past, several committees have submitted their reconciliation recommendations after the submission deadline or not at all. In 1995, for example, nine of the 12 instructed committees submitted their reconciliation recommendations to the Budget Committee after the September 22 deadline.<sup>34</sup> All of the tardy submissions were included in the reconciliation measure reported by the Budget Committee. In this case, as in the past, it does not appear that the late submissions caused any procedural consequences.<sup>35</sup>

In several instances, one or more of the instructed committees did not submit any legislative recommendations. In at least two years, 1981 and 1995, the House Rules Committee made in order amendments that provided language within the jurisdiction of the non-compliant committees to satisfy their reconciliation directives. In 1995, for example, the Rules Committee made in order an amendment in the nature of a substitute, offered by then-Budget Committee Chairman John Kasich, that, among other things, achieved compliance for the House Agriculture

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<sup>32</sup> The House Ways and Means Committee reported H.R. 7652 (H.Rept. 96-1150, Part 1, July 2, 1980) pursuant to its FY1981 reconciliation directives and H.R. 3850 (H.Rept. 97-143, Part 1, June 12, 1981) pursuant to its FY1982 reconciliation directives.

<sup>33</sup> See *Congressional Record*, vol. 128, Aug. 10, 1982, p. 20216.

<sup>34</sup> The submission date for each committee is reflected on its transmittal letter to the Budget Committee. See House Budget Committee, *Seven-Year Balanced Budget Reconciliation Act of 1995* (report to accompany H.R. 2491), H.Rept. 104-280, Oct. 17, 1995.

<sup>35</sup> In 1983, due to delays by committees to submit their reconciliation recommendations, the House extended by unanimous consent the submission deadline from July 22 to September 23. See the print of the House Budget Committee, *A Review of the Reconciliation Process*, October 1984, Serial No. CP-9, p. 43. After this instance, it does not appear the House extended the submission deadline again.



Committee.<sup>36</sup> In 1996, several of the instructed committees did not submit reconciliation recommendations to the Budget Committee, but reconciliation legislation applicable to those committees was not developed.

## **Preparation of an Omnibus Measure by the House Budget Committee**

The House Budget Committee plays a significant, if not substantive, role in the development of reconciliation legislation when two or more committees are directed to recommend legislative changes pursuant to reconciliation directives. As mentioned above, when two or more committees are involved, each committee is required to submit its legislative recommendations to the Budget Committee, by a certain date, as specified in the reconciliation directives contained in the budget resolution. Section 310(b)(2) of the 1974 act provides that when the Budget Committee receives all the legislative recommendations from the directed committees, it is required to report to the House “reconciliation legislation carrying out all such recommendations, without any substantive revision.”

In practice, this administrative function has entailed incorporating the committee’s recommendations as separate titles into an omnibus reconciliation measure. The Budget Committee has performed this function formally by conducting a markup of the reconciliation legislation. At the end of the markup, the Budget Committee orders reported the omnibus reconciliation legislation, containing the instructed committees’ submissions, as an original bill.

During the markup, amendments are not considered, as in the case of a standard committee markup, because of the prohibition against any substantive revision to the instructed committees’ recommendations. The Budget Committee, however, traditionally has entertained motions to direct the Budget Committee chairman to request that the Rules Committee make in order certain amendments. In 1997, for example, during the markup of H.R. 2015, the Balanced Budget Act of 1997, committee Members made 11 motions to direct the Budget Committee chairman to request that the rule for floor consideration include an amendment; one motion passed, seven motions were rejected, and three motions were withdrawn.<sup>37</sup>

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<sup>36</sup> In 1995, the House Agriculture Committee was unable to approve and therefore to submit reconciliation recommendations. See David Hosansky, “Panel Rejects Farm Overhaul In a Rebuke to Leadership,” *Congressional Quarterly Weekly Report*, Sept. 23, 1995, pp. 2875-2879. See the print of the House Budget Committee, *The Seven-Year Balanced Budget Reconciliation Act of 1995: An Amendment in the Nature of a Substitute for H.R. 2491*, Oct. 20, 1995, Serial No. CP-3. The House Rules Committee reported a rule (H.Res. 245, H.Rept. 104-292) for the consideration of H.R. 2491 making in order the amendment in the nature of a substitute.

<sup>37</sup> The motion that passed did not explicitly direct the Budget Committee chairman to request an amendment in the rule, but instead directed the chairman to request a certain policy impact; the chairman presumably would request a policy impact by requesting the rule include a certain amendment. See House Budget Committee, *Balanced Budget Act of 1997* (report to accompany H.R. 2015), H.Rept. 105-149, June 24, 1997, pp. 1620-1625.

The Budget Committee formally orders reported the omnibus reconciliation measure to the House with a written report (see **Table 4**). An original bill subsequently is introduced in the House by the chairman of the Budget Committee. Past committee reports have included an overview of the reconciliation measure, occasionally including comments by the Budget Committee on the instructed committees' compliance with the reconciliation directives.

The committee report also typically contains report language submitted by the committees, including a general explanation of the development of the legislative recommendations and a section-by-section analysis of the recommendations. As mentioned above, the committee submissions usually, but not always, include all the information that is required to be printed in committee reports, such as committee votes. In most cases, the Budget Committee report has included a cost estimate prepared by the Congressional Budget Office (or, for revenue measures, the Joint Committee on Taxation) for the recommended legislative changes submitted by each committee.

## **Special Rules and the House Rules Committee**

The House considers most major legislation under the provisions of a special rule, supplementing and at times superseding the Standing Rules of the House. A special rule, when adopted by the House, governs the consideration of the applicable measure, including regulating the amending process.<sup>38</sup> The House Rules Committee has the exclusive responsibility for developing and reporting a special rule providing for the consideration of a measure on the House floor.

The 1974 act contemplates a role for the Rules Committee in the reconciliation process by providing, under Section 310(d)(5), as mentioned above, that the committee may make in order amendments to achieve changes specified by reconciliation directives if one or more committees fails to comply with them. As with most major legislation considered by the House, reconciliation measures typically have been considered under a special rule reported by the Rules Committee.

In most cases, the special rule reported by the House Rules Committee was agreed to by the House (see **Table 5**). Only one special rule was amended (in 1981 for FY1982), after the previous question was defeated, and only two were rejected (in 1984 for FY1985 and 1988 for FY1989).

**Provisions of the Special Rule.** The special rule providing for the consideration of the reconciliation measure usually has provided for general debate; made only certain amendments in order; placed debate limitations on some of these amendments; waived points of order against the consideration of the reconciliation bill, the provisions of the bill, and certain amendments; and provided for a motion to recommit with or without instructions.

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<sup>38</sup> For further information on special rules, see CRS Report 98-612, *Special Rules and Options for Regulating the Amending Process*, by James V. Saturno.

General debate under special rules providing for the consideration of a reconciliation measure has ranged from one hour to 10 hours. In 1980, the first time the House considered an omnibus reconciliation measure, the special rule divided the general debate time among all the instructed committees plus the Budget Committee.

After 1980, general debate on an omnibus reconciliation measure has been equally divided between the chair and the ranking minority member of the Budget Committee. In cases when the reconciliation measure was reported by one committee, such as in recent years with the Ways and Means Committee, the special rule has divided the time for general debate equally between the chair and ranking minority member of that committee.

The special rule providing for the consideration of a reconciliation measure always has limited the consideration of amendments to the bill; a reconciliation measure has never been considered under an open rule, as defined by the Rules Committee. In three instances, the Rules Committee reported and the House adopted a rule prohibiting any floor amendments (defined as a closed rule by the Rules Committee).<sup>39</sup>

On several occasions, especially since the mid-1980s, the special rule provided that an amendment, or modifications to the underlying reconciliation bill, be considered as adopted upon the adoption of the special rule (sometimes referred to as a self-executing provision). The special rule (H.Res. 186) on the Omnibus Budget Reconciliation Act of 1993, for example, included two self-executing provisions involving: (1) about two dozen brief amendments affecting various titles in the bill; and (2) a new title (Title XV) dealing with the budget process. Both of the self-executing provisions were printed in the Rules Committee report on the special rule.

Most special rules for the consideration of a reconciliation measure have made in order very few floor amendments. In fact, many special rules allowed one floor amendment only, usually an amendment in the nature of a substitute. Moreover, only five special rules, excluding those that prohibited any floor amendments, allowed more than two floor amendments; the greatest number of floor amendments made in order by a special rule was 10 in 1989 (H.Res. 249 for H.R. 3299).

In every instance that a floor amendment was made in order by the special rule, debate on the amendment was limited by the rule as well. Debate on individual amendments under the special rules has ranged from 20 minutes to four hours, equally divided between the proponent and an opponent of the amendment. Typically, the special rule provided an hour of debate for each floor amendment.

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<sup>39</sup> The Rules Committee reported and the House agreed to a closed rule in 1985 (H.Res. 301 for H.R. 3128), 1997 (H.Res. 174 for H.R. 2015), and 2003 (H.Res. 227 for H.R. 2). In 1989, the Rules Committee reported and the House agreed to a special rule (H.Res. 245 for H.R. 3299) that provided for general debate only, but the subsequent special rule (H.Res. 249) provided for the consideration of amendments; therefore, for purposes of this report, this special rule is not counted as a closed rule.

All special rules waived one or more points of order against the consideration of the reconciliation bill, the bill itself, or a floor amendment. In most cases, the special rule waived all points of order against the reconciliation bill. Two special rules waived certain points of order against the reconciliation bill except for certain provisions in the bill.<sup>40</sup> In addition, most special rules waived all points of order against the floor amendments, including amendments in the nature of a substitute, made in order by the special rule.

Finally, all the special rules providing for the consideration of a reconciliation measure provided for the offering of a motion to recommit. A motion to recommit may be offered with or without instructions. Most special rules allowed the motion with instructions. Four special rules, however, explicitly prohibited any motion to recommit that contained instructions.<sup>41</sup>

## Floor Consideration: Debate and Amendment

The House floor consideration of a reconciliation measure, as mentioned above, usually is governed by a special rule. Of the 29 reconciliation measures considered on the House floor during the period covering 1980 to 2003, 23 measures were considered under a special rule. Of the remaining six reconciliation measures, five measures were considered under “suspension of the rules” procedures and one was considered by unanimous consent.<sup>42</sup> This section discusses the consideration of reconciliation measures under a special rule.

During the House floor consideration of a reconciliation measure under a special rule, at least three key elements can have a substantive impact on the measure: amendments, points of order, and motions to recommit the measure. The historical experience of the House regarding each of these actions is discussed below.

**Consideration and Disposition of Amendments.** The special rule providing for the consideration of a reconciliation measure limited the consideration of floor amendments to those made in order by the special rule. In only one instance,

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<sup>40</sup> In 1985 and 1989, the special rules providing for the consideration of the reconciliation measures (H.R. 3500 and H.R. 3299, respectively) exempted certain provisions in those bills from the waivers of certain points of order.

<sup>41</sup> The special rules providing for reconciliation measures in 1986 (H.Res. 558 for H.R. 5300), 1987 (H.Res. 298 for H.Res. 3545), 1990 (H.Res. 509 for H.R. 5835), and 1993 (H.Res. 186 for H.R. 2264), prohibited the inclusion of instructions in the motion to recommit.

<sup>42</sup> The House considered reconciliation measures under “suspension of the rules” procedures in 1982 (H.R. 6782) and 2000 (H.R. 4601, H.R. 4866, H.R. 5173, and H.R. 5203). For information on “suspension of the rules” procedures, see CRS Report RL32474, *Suspension of the Rules in the House of Representatives*, by Thomas P. Carr. The House considered a reconciliation measure by unanimous consent in 1982 (H.R. 6955). In that case, to facilitate a conference with the Senate, the measure merged the text of four reconciliation bills previously passed by the House.

a Member offered an amendment not made in order by the rule.<sup>43</sup> In most cases, a Member offered the amendments made in order by the rule. The number of amendments offered to a reconciliation bill ranged from one (eight times) to 10 (once).

In six cases, an amendment made in order by the rule was not offered or was withdrawn by a Member. In one of these cases, a Member attempted to modify his amendment prior to offering it but was unsuccessful; consequently, he did not offer his original amendment made in order by the rule.<sup>44</sup>

With regard to 13 reconciliation measures, one or more amendments were adopted upon the adoption of the special rule; four of these amendments were amendments in the nature of a substitute to the reconciliation bill.

Overall, of the 30 floor amendments offered to reconciliation measures, 19 amendments were agreed to and 11 amendments were rejected (see **Table 6**). This overall success of amendments, however, masks the variation over the years. In the early 1980s, for example, almost all of the amendments offered to the reconciliation measures were agreed to (between 1980 and 1985, 16 of the 19 floor amendments were agreed to). Since 1985, only eight of the 21 floor amendments to reconciliation measures were agreed to. Moreover, over half (five) of these eight floor amendments were offered to one reconciliation measure (H.R. 3299 in 1989).

**Raising and Sustaining Points of Order.** Any Member may make a point of order against a pending matter (e.g., a provision in a bill or an amendment) on the grounds that it violates a rule of the House.<sup>45</sup> Unless a special rule waives the relevant points of order, a reconciliation measure and amendments thereto are subject to the Standing Rules of the House, such as the germaneness requirement under clause 7 of Rule XVI.

In addition, as a budgetary measure, a reconciliation bill is subject to the budget enforcement procedures associated with the Congressional Budget Act of 1974 and the annual budget resolution.<sup>46</sup> In particular, a reconciliation measure and any amendments thereto must not cause the aggregate spending and revenue levels (Section 311), and any committees' spending allocations (Section 302) associated

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<sup>43</sup> In 1982, during the consideration of H.R. 6812, Representative St. Germain asked unanimous consent to offer an amendment to a substitute amendment made in order by the rule. No objection was made and thus Representative St. Germain was able to offer the amendment. See *Congressional Record*, vol. 128, Aug. 5, 1982, pp. 19653-19654.

<sup>44</sup> In 1986, during the consideration of H.R. 5300, Representative Wylie asked unanimous consent to modify his amendment made in order by the rule. An objection was made by Representative Bill Gray, the then-Chairman of the House Budget Committee and thus the modification was not allowed. See *Congressional Record*, vol. 132, Sept. 24, 1986, pp. 25892-25893.

<sup>45</sup> For a general description of points of order in the House, see CRS Report 98-307, *Points of Order, Rulings, and Appeals in the House of Representatives*, by Paul Rundquist.

<sup>46</sup> For more detailed information on these points of order and their application, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

with the annual budget resolution, to be exceeded. Under Section 310(d)(1) of the 1974 act, amendments to a reconciliation measure also must be deficit neutral to the bill.

Most of the special rules providing for the consideration of a reconciliation measure, however, waived one or more points of order against the bill and floor amendments made in order. Therefore, while various provisions in the reconciliation bills or amendments offered thereto might have violated certain points of order under the Standing Rules of the House or the 1974 act, the special rule prohibited a Member from raising such points of order.

Two special rules, as mentioned above, made exceptions to the waiver of certain points of order. In each of these cases, Members raised points of order against the unprotected provisions during the consideration of the reconciliation measure.

In 1985, for example, the special rule providing for the consideration of H.R. 3500, the Omnibus Budget Reconciliation Act of 1985, waived any points of order under clauses 5(a) and (b) of Rule XXI (now clauses 4 and 5(a) of Rule XXI) against the bill except for certain provisions. Clause 5(a) of Rule XXI prohibited an appropriation in legislation reported by a committee not having jurisdiction to report appropriations. Clause 5(b) of Rule XXI prohibited a tax measure reported by a committee not having jurisdiction to report a tax measure.

During the consideration of H.R. 3500, Representative Sidney Yates raised a point of order against one of the unprotected provisions that contained an appropriation in a title of the reconciliation bill reported by a committee not having jurisdiction to report an appropriation. In addition, Representative Dan Rostenkowski raised points of order against two unprotected provisions that contained a tax measure in a title of the bill reported by a committee not having jurisdiction to report tax measures. In all three cases, the points of order were sustained and thus the violating provisions were stricken from the bill.<sup>47</sup>

**Motions to Recommit.** Under the Standing Rules of the House, one motion to recommit a reconciliation measure may be offered by a Member opposed to the measure, with preference given to a Member of the minority party, after the previous question has been ordered on the measure but before the vote on final passage (House Rule XIX, clause 2).<sup>48</sup> The motion may be made with or without instructions.

A motion to recommit with instructions is debatable for 10 minutes, equally divided between the proponent and an opponent of the motion; this debate time may be extended to an hour if requested by the majority floor manager. A motion to recommit without instructions is not debatable.

All special rules providing for the consideration of a reconciliation measure allowed for the offering of a motion to recommit. Members offered 16 motions to

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<sup>47</sup> See *Congressional Record*, vol. 131, Oct. 24, 1985, pp. 28812 and 28826-28827.

<sup>48</sup> For more detailed information on the motion to recommit, see CRS Report 98-383, *Motions to Recommit in the House*, by Stanley Bach.

recommit 15 reconciliation bills. Almost all of these motions to recommit (13 of the 16) included instructions. All of the motions to recommit with or without instructions were rejected. In one case, in 2003, a motion to recommit with instructions fell on a point of order that it was not germane to the bill.<sup>49</sup> Subsequently, another motion to recommit with instructions was offered; it was rejected.

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<sup>49</sup> See *Congressional Record* (daily ed.), vol. 149, May 9, 2003, pp. H3953-H3954.

**Table 4. Initial House Action on Reconciliation Measures: FY1981-FY2005**

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
1981	96 <sup>th</sup> (Second)	Omnibus Reconciliation Act of 1980 (P.L. 96-499; 12-05-80)	H.R. 7765	Budget	H.Rept. 96-1167	07-21-80	09-04-80	294-91
1982	97 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35; 08-13-81)	H.R. 3982	Budget	H.Rept. 97-158	06-19-81	06-25-81 06-26-81	232-193
1983	97 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253; 09-08-82)	H.R. 6782 <sup>a</sup>	Veterans' Affairs	H.Rept. 97-660	07-23-82	07-27-82	400-0
			H.R. 6862 <sup>a</sup>	[none]			08-03-82	268-128
			H.R. 6812 <sup>a</sup>	Banking, Finance, and Urban Affairs	H.Rept. 97-683	07-29-82	08-05-82	Voice
			H.R. 6892 <sup>a</sup>	Agriculture	H.Rept. 97-687	08-02-82	08-10-82	268-121
			H.R. 6955 <sup>a</sup>	[none]			08-10-82	Voice



Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
1984	98 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1983 (P.L. 98-270; 04-18-84)	H.R. 4169	Budget	H.Rept. 98-425	10-20-83	10-25-83	Voice
	98 <sup>th</sup> (Second)	Deficit Reduction Act of 1984 (P.L. 98-369; 07-18-84)	H.R. 4170	Ways and Means	H.Rept. 98-432, Part I	10-21-83	04-11-84	318-97
			H.Rept. 98-432, Part II		03-05-84			
1985	98 <sup>th</sup> (Second)	[did not become law]	H.R. 5394	[none] <sup>b</sup>			04-12-84	261-152
1986	99 <sup>th</sup> (First)	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 04-07-86)	H.R. 3128	Ways and Means	H.Rept. 99-241, Part I	07-31-85	10-31-85	245-174
				Education and Labor	H.Rept. 99-241, Part II	09-11-85		
				Judiciary	H.Rept. 99-241, Part III	09-11-85		

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
			H.R. 3500 <sup>c</sup>	Budget	H.Rept. 99-300	10-03-85	10-23-85 10-24-85	228-199
1987	99 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509; 10-21-86)	H.R. 5300	Budget	H.Rept. 99-727	07-31-86	09-24-86	309-106
1988	100 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203; 12-22-87)	H.R. 3545	Budget	H.Rept. 100-391	10-26-87	10-29-87	206-205
1990	101 <sup>st</sup> (First)	Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239; 12-19-89)	H.R. 3299	Budget	H.Rept. 101-247	09-20-89	09-26-89 09-27-89 09-28-89 10-03-89 10-04-89 10-05-89	333-91
1991	101 <sup>st</sup> (Second)	Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508; 11-05-90)	H.R. 5835	Budget	H.Rept. 101-881	10-16-90	10-16-90	227-203

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
1994	103 <sup>rd</sup> (First)	Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66; 08-10-93)	H.R. 2264	Budget	H.Rept. 103-111	05-25-93	05-27-93	219-213
1996	104 <sup>th</sup> (First)	Balanced Budget Act of 1995 (vetoed; 12-06-95)	H.R. 2491	Budget	H.Rept. 104-280	10-17-95	10-25-95 10-26-95	227-203
1997	104 <sup>th</sup> (Second)	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 08-22-96)	H.R. 3734	Budget	H.Rept. 104-651	06-27-96	07-18-96	256-170
1998	105 <sup>th</sup> (First)	Balanced Budget Act of 1997 (P.L. 105-33; 08-05-97)	H.R. 2015	Budget	H.Rept. 105-149	06-24-97	06-25-97	270-162
		Taxpayer Relief Act of 1997 (P.L. 105-34; 08-05-97)	H.R. 2014	Budget	H.Rept. 105-148	06-24-97	06-26-97	253-179

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
2000	106 <sup>th</sup> (First)	Taxpayer Refund and Relief Act of 1999 (vetoed; 09-23-99)	H.R. 2488	Ways and Means	H.Rept. 106-238	07-16-99	07-22-99	223-208
2001	106 <sup>th</sup> (Second)	Marriage Tax Relief Reconciliation Act of 2000 (vetoed; 08-05-00)	H.R. 4810	[none]			07-12-00	269-159
		[did not become law]	H.R. 4601	Ways and Means	H.Rept. 106-673, Part I	06-12-00	06-20-00	419-5
		[did not become law]	H.R. 4866	[none]			07-18-00	422-1
		[did not become law]	H.R. 5173	Ways and Means	H.Rept. 106-862, Part I	09-18-00	09-18-00	381-3
		[did not become law]	H.R. 5203	[none]			09-19-00	401-20

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial House Action	
				Committee	H. Report Number	Date Reported	Date	Vote
2002	107 <sup>th</sup> (First)	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16; 06-07-01)	H.R. 1836	[none]			05-16-01	230-197
2004	108 <sup>th</sup> (First)	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27; 05-28-03)	H.R. 2	Ways and Means	H.Rept. 108-94	05-08-03	05-09-03	222-202

**Source:** Prepared by the Congressional Research Service.

<sup>a</sup> The first four measures listed, H.R. 6782, H.R. 6812, H.R. 6862, and H.R. 6892, were considered and passed separately by the House, but later were incorporated into H.R. 6955, which became the Omnibus Budget Reconciliation Act of 1982 (except for H.R. 6782, which became public law separately, P.L. 97-306).

<sup>b</sup> The House Budget Committee issued a report, *Efforts to Reduce the Federal Deficit* (H.Rept. 98-673, Apr. 10, 1984) pertaining to the reconciliation recommendations contained in H.R. 5394, but the report did not officially accompany that measure.

<sup>c</sup> Following its passage by the House, H.R. 3500 was incorporated into H.R. 3128 by H.Res. 330.

**Table 5. Special Rules Providing for the Consideration of Reconciliation Measures in the House: FY1981-FY2005**

Fiscal Year	Congress/ Session	Reconciliation Measure	Special Rule	House Rules Committee Report	Vote		
					Previous Question	Special Rule	Date
1981	96 <sup>th</sup> (Second)	H.R. 7765	H.Res. 776	H.Rept. 96-126	230-157	206-182	09-04-80
1982	97 <sup>th</sup> (First)	H.R. 3982	H.Res. 169	H.Rept. 97-160	210-217	214-208	06-25-81
					219-208		
1983	97 <sup>th</sup> (Second)	H.R. 6782	[suspension procedure]				
		H.R. 6862	H.Res. 536	H.Rept. 97-672	—	240-170	07-28-82
		H.R. 6812	H.Res. 547	H.Rept. 97-692	—	Voice	08-05-82
		H.R. 6892	H.Res. 551	H.Rept. 97-702	—	230-156	08-10-82
		H.R. 6955	[unanimous consent]				
1984	98 <sup>th</sup> (First)	H.R. 4169	H.Res. 344	H.Rept. 98-437	—	224-198	10-25-83
		H.R. 4170	H.Res. 376	H.Rept. 98-555	—	204-214	11-17-83
	98 <sup>th</sup> (Second)		H.Res. 462	H.Rept. 98-617	—	Voice	04-11-84

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Fiscal Year	Congress/ Session	Reconciliation Measure	Special Rule	House Rules Committee Report	Vote		
					Previous Question	Special Rule	Date
1985	98 <sup>th</sup> (Second)	H.R. 5394	H.Res. 483	H.Rept. 98-672	—	217-196	04-12-84
1986	99 <sup>th</sup> (First)	H.R. 3500	H.Res. 296	H.Rept. 99-310	—	230-190	10-23-85
		H.R. 3128	H.Res. 301	H.Rept. 99-338	219-205	Voice	10-31-85
		H.R. 3128	H.Res. 330	H.Rept. 99-410	—	Voice	12-05-85
1987	99 <sup>th</sup> (Second)	H.R. 5300	H.Res. 558	H.Rept. 99-871	216-196	255-157	09-24-86
1988	100 <sup>th</sup> (First)	H.R. 3545	H.Res. 296	H.Rept. 100-406	—	203-217	10-29-87
			H.Res. 298	H.Rept. 100-411	—	238-182	10-29-87 (2 <sup>nd</sup> leg. day)
1990	101 <sup>st</sup> (First)	H.R. 3299	H.Res. 245	H.Rept. 101-248	—	316-109	09-26-89
			H.Res. 249	H.Rept. 101-261	—	371-49	09-27-89
1991	101 <sup>st</sup> (Second)	H.R. 5835	H.Res. 509	H.Rept. 101-882	241-184	231-195	10-16-90

## CRS-51

Fiscal Year	Congress/ Session	Reconciliation Measure	Special Rule	House Rules Committee Report	Vote		
					Previous Question	Special Rule	Date
1994	103 <sup>rd</sup> (First)	H.R. 2264	H.Res. 186	H.Rept. 103-112	252-178	236-194	05-27-93
1996	104 <sup>th</sup> (First)	H.R. 2491	H.Res. 245	H.Rept. 104-292	228-191	235-185	10-26-95
1997	104 <sup>th</sup> (Second)	H.R. 3734	H.Res. 482	H.Rept. 104-686	—	258-54	07-18-96
1998	105 <sup>th</sup> (First)	H.R. 2015	H.Res. 174	H.Rept. 105-152	222-204	228-200	06-25-97
		H.R. 2014	H.Res. 174	H.Rept. 105-152	222-204	228-200	06-25-97
2000	106 <sup>th</sup> (First)	H.R. 2488	H.Res. 256	H.Rept. 106-246	—	219-208	07-22-99
2001	106 <sup>th</sup> (Second)	H.R. 4810	H.Res. 545	H.Rept. 106-545	—	407-16	07-12-00
		H.R. 4601	[suspension procedure]				
		H.R. 4866	[suspension procedure]				
		H.R. 5173	[suspension procedure]				
		H.R. 5203	[suspension procedure]				



## CRS-52

Fiscal Year	Congress/ Session	Reconciliation Measure	Special Rule	House Rules Committee Report	Vote		
					Previous Question	Special Rule	Date
2002	107 <sup>th</sup> (First)	H.R. 1836	H.Res. 142	H.Rept. 107-68	—	220-207	05-16-01
2004	108 <sup>th</sup> (First)	H.R. 2	H.Res. 227	H.Rept. 108-94	219-203	220-203	05-09-03

Source: Prepared by the Congressional Research Service.

**Table 6. House Floor Amendments and Motions to Recommit to Reconciliation Measures: FY1981-FY2005**

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
1981	96 <sup>th</sup> (Second)	Omnibus Reconciliation Act of 1980 (P.L. 96-499; 12-05-80)	H.R. 7765	Giaimo	Agreed to	Voice
				Vanick	Agreed to	Voice
				Baumann	Agreed to	309-72
1982	97 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35; 08-13-81)	H.R. 3982	Latta (en bloc)	Agreed to	217-211
				Broyhill	Withdrawn	—
				ANS	Agreed to	Voice <sup>a</sup>
				Schneider (RI) MTR (with instructions)	Rejected	Voice
1983	97 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253; 09-08-82)	H.R. 6782	[none]		
			H.R. 6862	Derwinski MTR (with instructions)	Rejected	160-236
			H.R. 6812	St. Germain	Agreed to	Voice
				Stanton	Agreed to	337-69
				Banking ANS	Agreed to	Voice

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
			H.R. 6892	Agriculture (en bloc)	Agreed to	Voice
				Zablocki	Agreed to	Voice
				Wampler	Rejected	181-210
			H.R. 6955	[none]		
1984	98 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1983 (P.L. 98-270; 04-18-84)	H.R. 4169	Jones	Agreed to	245-176 <sup>b</sup>
				ANS	Agreed to	Voice
				Martin MTR (without instructions)	Rejected	Voice
	98 <sup>th</sup> (Second)	Deficit Reduction Act of 1984 (P.L. 98-369; 07-18-84)	H.R. 4170	Ways and Means ANS	Agreed to	Voice
				Ways and Means	Agreed to	Voice
				Archer MTR (without instructions)	Rejected	Voice
1985	98 <sup>th</sup> (Second)	[did not become law]	H.R. 5394	Jacobs (Ways and Means)	Rejected	Voice
				Moore MTR (with instructions)	Rejected	172-242

## CRS-55

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
1986	99 <sup>th</sup> (First)	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 04-07-86)	H.R. 3500	Latta (as modified by unanimous consent)	Rejected	209-219
				Fazio	Agreed to	222-205
				Florio	Agreed to	Voice
				Latta MTR (without instructions)	Rejected	Voice
			H.R. 3128	Gradison MTR (with instructions)	Rejected	183-238
1987	99 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509; 10-21-86)	H.R. 5300	[none]		
1988	100 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203; 12-22-87)	H.R. 3545	Michel (en bloc)	Rejected	182-229
1990	101 <sup>st</sup> (First)	Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239; 12-19-89)	H.R. 3299	Roukema	Agreed to	250-173
				Dorgan	Agreed to	390-36
				Anderson	Agreed to	305-116

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
				Rostenkowski	Rejected	190-239
				Oxley	Rejected	162-261
				Donnelly	Agreed to	360-66
				Panetta	Agreed to	Voice
				Stark	Rejected	156-269
				Edwards (OK)	Rejected	140-285
				Stenholm	Rejected	195-230
				Petri MTR (with instructions)	Rejected	Voice
1991	101 <sup>st</sup> (Second)	Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508; 11-05-90)	H.R. 5835	Rostenkowski (en bloc)	Agreed to	238-192
				Panetta (en bloc, as modified by unanimous consent)	Agreed to	Voice
1994	103 <sup>rd</sup> (First)	Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66; 08-10-93)	H.R. 2264	Kasich ANS	Rejected	138-295

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
1996	104 <sup>th</sup> (First)	Balanced Budget Act of 1995 (vetoed; 12-06-95)	H.R. 2491	Orton ANS	Rejected	72-356
				Gephardt MTR (with instructions)	Rejected	180-250
1997	104 <sup>th</sup> (Second)	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 08-22-96)	H.R. 3734	Ney	Agreed to	239-184
				Tanner ANS	Rejected	168-258
				Tanner MTR (with instructions)	Rejected	203-220
1998	105 <sup>th</sup> (First)	Balanced Budget Act of 1997 (P.L. 105-33; 08-05-97)	H.R. 2015	Brown (OH) MTR (with instructions)	Rejected	207-223
		Taxpayer Relief Act of 1997 (P.L. 105-34; 08-05-97)	H.R. 2014	Rangel ANS	Rejected	197-235
				Peterson (MN) MTR (with instructions)	Rejected	164-268
2000	106 <sup>th</sup> (First)	Taxpayer Refund and Relief Act of 1999 (vetoed; 09-23-99)	H.R. 2488	Rangel ANS	Rejected	173-258
				Tanner MTR (with instructions)	Rejected	211-220

## CRS-58

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Amendments and Motions to Recommit (MTR)		
				Sponsor	Disposition	Vote
2001	106 <sup>th</sup> (Second)	Marriage Tax Relief Reconciliation Act of 2000 (vetoed; 08-05-00)	H.R. 4810	Rangel ANS	Rejected	198-230
				Rangel MTR (with instructions)	Rejected	197-230
		[did not become law]	H.R. 4601	[none]		
		[did not become law]	H.R. 4866	[none]		
		[did not become law]	H.R. 5173	[none]		
		[did not become law]	H.R. 5203	[none]		
2002	107 <sup>th</sup> (First)	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16; 06-07-01)	H.R. 1836	Rangel ANS	Rejected	188-239
2004	108 <sup>th</sup> (First)	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27; 05-28-03)	H.R. 2	Rangel MTR (with instructions)	Fell on point of order <sup>c</sup>	—
				Moore MTR (with instructions)	Rejected	202-218

**Source:** Prepared by the Congressional Research Service.

**Note:** “ANS” refers to an amendment in the nature of a substitute.

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<sup>a</sup> The previous question on the amendment was agreed to by a vote of 215-212.

<sup>b</sup> The amendment was agreed to in the Committee of the Whole on a division vote of 31-24. The amendment, subsequently, was agreed to in the House on a vote of 245-176, as indicated.

<sup>c</sup> The ruling of the chair was appealed and a motion to table the appeal was agreed to by a vote of 222-202.



## Initial Consideration in the Senate

The initial consideration of reconciliation measures in the Senate is potentially a complex process that parallels House action in some respects, but differs significantly in others. Four aspects of Senate action at this stage of the reconciliation process are addressed in this section: (1) the development of legislative recommendations by the instructed committees; (2) the preparation of an omnibus measure by the Senate Budget Committee; (3) floor consideration of reconciliation legislation; and (4) the operation of the Senate’s “Byrd rule.”

### Development of Legislative Recommendations by the Instructed Committees

The reconciliation directives contained in the budget resolution, as finally agreed to by the House and Senate, inform each instructed Senate committee as to the type and scope of the legislative recommendations it must develop in order to comply with the directives. In addition, the reconciliation directives include a deadline for the submission of legislative recommendations to the Budget Committee or the reporting of legislation directly to the Senate.

Whether a committee has been instructed to submit legislative recommendations to the Senate Budget Committee for inclusion in an omnibus reconciliation measure, or has been instructed to report a reconciliation measure directly to the Senate, it develops its recommendations in generally the same manner as it develops other legislation.<sup>50</sup> In doing so, the committee must adhere to the pertinent requirements in the Standing Rules of the Senate, as well as its own committee rules, including rules regarding the reporting of a measure or matter.<sup>51</sup>

**Relationship With the Budget Committee.** Prior to the commencement of work by the instructed committees on their reconciliation recommendations, the Senate Budget Committee usually sends a set of “guidelines” to the chairman and ranking member of each committee. The guidelines summarize the applicable procedural requirements stemming from the budget resolution containing the reconciliation directives and pertinent provisions of the Congressional Budget Act of 1974, and provide additional information on related matters, such as scoring conventions that will be used to evaluate the reconciliation recommendations. The Budget Committee also may advise each instructed committee on drafting considerations (e.g., the number of the title or titles in the measure for the committee’s recommendations) to avoid confusion when compiling the committee recommendations into a single measure.

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<sup>50</sup> “Fact Sheets” and other reports of the Congressional Research Service on different aspects of Senate committee, floor, and conference procedure may be found on the CRS Web site at: [<http://www.crs.gov/products/guides/senate/explanations/SenateExplanations.shtml>]

<sup>51</sup> For an example of committee rules, see the rules of the Senate Finance Committee for the 109<sup>th</sup> Congress inserted by Chairman Grassley in the *Congressional Record* (daily ed.), vol. 151, Jan. 25, 2005, at pp. S425-S426.

In most instances, the instructed committees maintain an ongoing relationship with the Budget Committee during the process of developing their legislative recommendations, at least informally at the staff level. Consultations occur between the committees to foster a clear understanding of procedural requirements, to assess potential compliance issues with the aim of avoiding them, and for other reasons. In addition, the instructed committees regularly consult with CBO and, if appropriate, the Joint Committee on Taxation (JCT) on the budgetary implications of policy options and other budget-related assessments, and seek appropriate guidance and support from the Parliamentarian, Legislative Counsel, and other offices.

**Hearings, Markup, and Reporting or Submission of Recommendations.** While committees typically are afforded a certain amount of flexibility in conducting their legislative activities, Senate Rule XXVI, entitled “Committee Procedure,” lays out basic requirements with regard to such matters as the scheduling of meetings and hearings, quorums, openness, and voting and reporting requirements.

As in the case of other legislation, instructed committees often hold hearings prior to marking up their legislative recommendations. The Senate Finance Committee, for example, held multiple hearings at the full committee and subcommittee level before marking up a revenue reconciliation measure on June 19, 1997. Over a period spanning from February 4 through June 5 of that year, the committee held 10 full committee and two subcommittee hearings on topics related to the reconciliation recommendations, covering such matters as the status of the Airport and Airway Trust Fund, Individual Retirement Account proposals, capital gains and losses, the Administration’s FY1998 budget, and tax proposals related to education, health care, and small business.<sup>52</sup>

Committees may proceed by marking up a bill that already has been introduced. The most common approach, however, is for the committee to originate legislation in the markup, such as by considering a “chairman’s mark,” which may be altered by the adoption of amendments in committee.

Before an instructed committee can submit reconciliation legislation to the Budget Committee or report it directly to the Senate, it must meet to consider and approve the legislation, including relevant amendments and motions that may be offered, and then order the legislation reported by a majority vote. A majority of the committee must be physically present in order to vote to report the legislation; otherwise, a point of order may be raised on the Senate floor to prevent its consideration.<sup>53</sup>

**Committee Report or Submission Requirements.** In addition to complying with reporting requirements under Senate Rule XXVI, the committee must comply with reporting requirements in Section 308 (2 U.S.C. 637), Section 402

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<sup>52</sup> Senate Finance Committee, *Revenue Reconciliation Act of 1997* (to accompany S. 949), S.Rept. 105-33, June 20, 1997, p. 2.

<sup>53</sup> See CRS Report 98-246, *Reporting a Measure from a Senate Committee*, by Thomas P. Carr, which discusses the requirements under Senate Rule XXVI, Paragraph 7(a)(1) and (3).

(2 U.S.C. 653), and Section 423 (2 U.S.C. 658b) of the 1974 act. These sections pertain to various analyses of budgetary legislation, including cost estimates and assessments of unfunded mandates prepared by CBO and, in the case of revenue legislation, the JCT. The CBO and JCT estimates must be included in committee reports only if they are available in a timely manner.

Further, with respect to revenue legislation, Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (P.L. 105-206) requires the inclusion of a tax complexity analysis in the report accompanying any revenue measure reported by the House Ways and Means Committee, the Senate Finance Committee, or a conference committee, if the measure directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Committee submissions to the Budget Committee usually consist of four required elements. In addition to the legislative text, the submission includes the committee report language, the CBO or JCT estimates, and a transmittal letter signed by the chairman of the instructed committee. In many instances, the ranking member of the instructed committee signs the transmittal letter as well.

Like committee reports on other measures, the committee report language accompanying reconciliation legislation may include additional, supplemental, or dissenting views, which allow committee members individually, or as part of a group, to amplify their views, register their concerns, or express their dissent regarding part or all of the legislation. In the case of 1995 reconciliation legislation, for example, eight minority members of the Budget Committee signed a statement collectively expressing their views.<sup>54</sup>

On occasion, the CBO or JCT estimates may not be prepared in time for inclusion in the committee's submission and are omitted, but usually become available in time for inclusion in the Budget Committee's report on the omnibus reconciliation measure. On other occasions, the instructed committee may include CBO or JCT estimates that are preliminary and are revised later.

While a committee that is participating in the development of an omnibus reconciliation measure must submit its legislative recommendations to the Budget Committee, it may also publish them separately or report them as separate legislation altogether.

Senate committee actions that led to the enactment of two reconciliation acts in one year during the 105<sup>th</sup> Congress, the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997, illustrate the potential complexity involved. The FY1998 budget resolution provided for a revenue reconciliation act and an omnibus spending reconciliation act.

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<sup>54</sup> Senate Budget Committee, *Balanced Budget Reconciliation Act of 1995*, S.Prt. 104-36, October 1995, pp. 11-23.

The initial Senate version of the spending reconciliation measure, the Balanced Budget Act (S. 947), originated in the Budget Committee and was reported on June 20, 1997. In lieu of a written report on the bill, the Budget Committee issued a 241-page committee print containing the transmittal letters, report language, and cost estimates provided by the eight instructed Senate committees.<sup>55</sup> The print included (on pages 71-197) a 126-page submission from the Senate Finance Committee. As a supplement to the Budget Committee's print, the Finance Committee issued its own 474-page committee print, explaining its spending reconciliation recommendations in more detail.<sup>56</sup>

The initial Senate version of the revenue reconciliation measure, the Taxpayer Relief Act of 1997 (S. 949), was reported directly to the Senate by the Finance Committee (because it was the sole committee subject to revenue reconciliation directives) on June 20. The committee issued a written report to accompany the measure.<sup>57</sup>

## **Preparation of an Omnibus Measure by the Senate Budget Committee**

In the course of preparing an omnibus reconciliation measure, the Budget Committee's task usually is described as a "ministerial function." Under Section 310(b)(2) of the 1974 act, after receiving the legislative recommendations of the instructed committees, the Budget Committee must report omnibus reconciliation legislation carrying out the recommendations "without any substantive revision."

**Ensuring Accuracy and Completeness.** Although this task may be described correctly as being ministerial, the Budget Committee still is faced with several issues at this point. First, the Budget Committee must endeavor to ensure that all responses from instructed committees are complete and accurate. As indicated previously, the Budget Committee secures any CBO or JCT estimates that were not prepared in time for inclusion with the committee submissions, or secures final estimates in place of preliminary ones.

In order to ensure accuracy, the Budget Committee from time to time has made technical corrections in the submissions at the request of the instructed committees. In the case of reconciliation legislation in 1996 dealing with welfare reform, for example, both of the instructed committees asked the Budget Committee to make corrections in their previous submissions. On July 9, 1996, Chairman Richard Lugar and Ranking Member Patrick Leahy of the Senate Agriculture, Nutrition, and Forestry Committee sent a letter to Budget Committee Chairman Pete Domenici,

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<sup>55</sup> Senate Budget Committee, *Balanced Budget Reconciliation Act of 1997*, S.Prt. 105-30, June 1997.

<sup>56</sup> Senate Finance Committee, *Budget Reconciliation Recommendations of the Committee on Finance (Spending Provisions)*, S.Prt. 105-29, June 1997.

<sup>57</sup> Senate Finance Committee, *Revenue Reconciliation Act of 1997* (to accompany S. 949), S.Rept. 105-33, June 20, 1997.

with technical corrections to four provisions in the June 28 submission attached.<sup>58</sup> Similarly, on July 15, Chairman William Roth of the Finance Committee sent a letter to Chairman Domenici notifying him that the July 11 submission “inadvertently included a change to the child care section of the bill which was not actually made by the Committee.”<sup>59</sup> The Budget Committee indicated that it had made the changes requested by both committees. It was the instructed committees, and not the Budget Committee, that had the authority to make these changes.

**Dealing With Tardy Responses.** A second issue faced by the Budget Committee is what to do if one or more committees does not submit its recommendations by the deadline. The initial practice of the Senate was to extend the deadline when the Budget Committee felt that such action was warranted. This practice was motivated by the view that including tardy committee submissions could “taint” the reconciliation measure, thereby causing it to lose its privilege and the protection of expedited procedures. In 1985, for example, the Senate extended the September 27 deadline set in the FY1986 budget resolution to October 1 by unanimous consent in order to accommodate the Banking, Housing, and Urban Affairs Committee.<sup>60</sup> In some instances, the deadline was extended in a series of tightly constrained steps. In 1986, for example, the deadline of July 25 set in the FY1987 budget resolution was extended to 6:00 p.m. on July 29, to 12:00 noon on July 30, and then to 3:30 p.m. on that same day, July 30.<sup>61</sup> Finally, the deadline has been extended by larger margins; the July 28 deadline in the FY1988 budget resolution was extended to September 29 and then to October 19.<sup>62</sup>

Under more recent practice, the Budget Committee may be afforded some discretion in awaiting the responses of tardy committees in order to include them in the omnibus reconciliation measure. While the budget resolution provides a deadline for the submissions by the instructed committees, it does not impose a reporting deadline on the Budget Committee. Under Section 310(b)(2) of the 1974 act, the Budget Committee is obliged to report the omnibus reconciliation measure only “upon receiving all such recommendations.” Consequently, the Budget Committee’s obligation to report does not ripen until all recommendations have been received, even tardy ones.<sup>63</sup>

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<sup>58</sup> Senate Budget Committee, *Personal Responsibility, Work Opportunity, and Medicaid Restructuring Act of 1996*, S.Prt. 104-58, July 1996, pp. 12-13.

<sup>59</sup> *Ibid.*, pp. 72-73.

<sup>60</sup> See the remarks of Senator Bob Dole in the *Congressional Record* (daily ed.), vol. 131, Oct. 1, 1985, p. S12344.

<sup>61</sup> See the *Congressional Record* (daily ed.), vol. 132, of July 28 (p. S9709), July 29 (p. S9773), and July 30, 1986 (p. S9840).

<sup>62</sup> See the *Congressional Record* (daily ed.), vol. 133, of July 28 (p. S10800) and Sept. 29, 1987 (p. S13111).

<sup>63</sup> For one Budget Committee chairman’s interpretation of the committee’s discretion, see the remarks of Senator James Sasser in the *Congressional Record* (daily ed.), vol. 134, of Oct. 4, 1989, p. S12589.

Nonetheless, the Budget Committee is expected to report the omnibus reconciliation measure in a reasonably prompt manner. Accordingly, when faced with lingering delay in the responses by one or more instructed committees, it may choose to report the omnibus reconciliation measure without the responses and seek a remedy for the omissions during floor consideration.

**Evaluating Compliance.** A third task facing the Budget Committee at this stage of the reconciliation process, and perhaps the most important one, is evaluating compliance by the responding committees. Compliance may be judged by several criteria. First and foremost, the Budget Committee assesses whether each instructed committee has met the goals laid out in the reconciliation directives. In the case of each committee, the estimated levels of spending changes (and, if appropriate, revenue changes and debt-limit changes) that would be achieved for each time period are measured against the instructed levels.

Although the Budget Committee and each instructed committee receives costs estimates from CBO and the JCT, it is the Budget Committee's responsibility and prerogative to assess committee compliance on the basis of spending or revenue levels. In measuring compliance, the Budget Committee sometimes will make adjustments to the estimates provided by CBO or the JCT. One such adjustment, which occurred in 1995, involved a change in the enactment date assumed by CBO, which shortened the time available in FY1996 for the sale of the Naval Petroleum Reserves. As a consequence of this change, CBO judged that the sale could not be completed in FY1996 and reduced the savings attributed to the Armed Services Committee accordingly. As explained by the Senate Budget Committee:

The FY1996 budget resolution assumed an October 1, 1995 enactment date and the reconciliation instructions to committees were based on this enactment date. Due to the delay of some of the committee's submissions and other factors, CBO is currently using a November 15, 1995 enactment date. As a result, some committees followed the assumptions in the budget resolution and still failed to meet their fiscal year 1996 reconciliation instruction because of this change in the assumption on the enactment date... However, if a committee follows the assumptions in the budget resolution and fails to meet its instructions for fiscal year 1996 solely because of an assumption on the enactment date, the Senate Budget Committee will hold the committee harmless and will score the committee as achieving its instruction. Therefore, with this adjustment, the Armed Services Committee has complied with the budget resolution's reconciliation instructions for FY1996.<sup>64</sup>

A second criterion for determining compliance involves the "fungibility rule," which is set forth in Section 310(c) of the 1974 act.<sup>65</sup> The purpose of the rule is to

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<sup>64</sup> Senate Budget Committee, *Balanced Budget Reconciliation Act of 1995*, S.Prt. 104-36, October 1995, p. 3.

<sup>65</sup> The fungibility rule was established by the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177; December 12, 1985; 99 Stat. 1037-1101).  
(continued...)

allow some flexibility in the response of a committee instructed to change both spending and revenues. The fungibility rule may not apply if revenue and spending changes are reported in separate reconciliation measures pursuant to separate directives.

In sum, the fungibility rule: (1) applies to any Senate (or House) committee that is subject to reconciliation directives in a budget resolution requiring it to recommend reconciliation legislation changing both spending and revenues; (2) deems any such committee to be in compliance with its reconciliation directives if its recommended legislation does not cause either the spending changes or the revenue changes to exceed or fall below the directives by more than 20% of the sum of the two types of changes, and the total amount of changes recommended is not less than the total amount of changes that were directed; and (3) authorizes the chairman of the Senate Budget Committee to file appropriate adjustments in the levels in the budget resolution, and committee spending allocations thereunder, upon the exercise of the rule, and requires any committee receiving revised spending allocations to promptly report Section 302(b) suballocations.

The operation of this rule in the Senate was described in 1993 in a print of the Senate Budget Committee, as follows:

For an example of the rule in operation, take the case of a budget resolution that instructs a committee to achieve \$3 million in outlay reductions and \$7 million in revenue increases, for a total of \$10 million in deficit reduction. By virtue of this section, that committee may permissibly achieve outlay reductions as low as \$1 million (\$3 million minus 20 percent of \$10 million, or \$2 million), as long as it achieves a total of at least \$10 million in deficit reduction by also achieving at least \$9 million in revenue increases. Alternatively, the committee may achieve revenue increases as low as \$5 million (\$7 million minus 20 percent of \$10 million, or \$2 million), as long as it achieves a total of at least \$10 million in deficit reduction by also achieving outlay reductions of at least \$5 million.<sup>66</sup>

In its current form, the fungibility rule authorizes the chairman of the Senate Budget Committee to file changes in budget resolution levels, and committee spending allocations thereunder, whenever the rule is exercised, and to require that

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<sup>65</sup> (...continued)

Section 201(b) of the 1985 act (beginning at 99 Stat. 1040) set forth a substitute for Title III of the Congressional Budget Act of 1974, including a new Section 310(c), "Compliance With Reconciliation Directions" (99 Stat. 1054). Originally, Section 310(c) set forth reporting requirements for when a single committee in each House and when multiple committees in each House are given reconciliation directions and defined the term "reconciliation resolution"; this subject matter was moved to Section 310(b) by the 1985 act. The new Section 310(c) originated in conference; although both the House and Senate initially passed versions of the act containing changes in the reconciliation process, this particular change was not included in the versions that passed each body.

<sup>66</sup> Senate Budget Committee, *Budget Process Law Annotated*, S.Prt. 103-49, October 1993, p. 168 (annotations by William G. Dauster, Chief Counsel).

any committee receiving revised spending allocations promptly report Section 302(b) suballocations.<sup>67</sup>

As Senate and House rules grant jurisdiction over revenue matters primarily to the Senate Finance Committee and House Ways and Means Committee, respectively, these are the two main committees to which the fungibility rule applies.

Finally, a third criterion for assessing committee compliance with the reconciliation directives is the Senate's "Byrd rule," which is discussed in detail below. Briefly, the rule bars the inclusion of matter in reconciliation legislation that is extraneous to the purposes of the reconciliation directives.

The Parliamentarian also plays a role in assessing compliance with reconciliation directives, determining whether provisions from the instructed committees are within their respective jurisdictions. Further, the Parliamentarian determines, as a threshold matter, whether the assembled submissions from the instructed committees constitute a reconciliation bill and, thus, whether the bill may be considered under the expedited procedures of the reconciliation process.

While the Budget Committee must report the legislative recommendations submitted to it, the committee need not necessarily issue a written report. Beginning in the late 1980s, the practice of the Senate Budget Committee has been to report omnibus reconciliation bills without a written report. The purpose of this practice is to avoid both a Budget Committee rule providing for time to submit additional and minority views, and the Senate rule requiring legislation accompanied by a written report to lay over for a period of time before floor consideration. The Budget Committee usually issues a committee print explaining the legislation in lieu of a report.

The Budget Committee, because it must report an omnibus reconciliation bill "without any substantive revision," may not resolve any substantive issues on non-compliance at this point. The Budget Committee may, however, in concert with the leadership, evaluate strategies for remedying the non-compliance on the Senate floor through one or more manager's amendments or by other means.

## **Floor Consideration: Debate and Amendment**

The basic contours of Senate procedure for the consideration of reconciliation measures are shaped by Section 310 of the 1974 act. In particular, Section 310(e) provides that the provisions of Section 305 of the act, which establish procedures for the consideration of budget resolutions and conference reports thereon in the Senate, shall also apply to the consideration of reconciliation measures and conference reports thereon. In one important exception, a 20-hour limit on debate is set for reconciliation measures, instead of the 50-hour limit applicable to budget resolutions.

The timetable for the congressional budget process set out in Section 300 of the 1974 act indicates that Congress should complete action on any required

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<sup>67</sup> See Section 13207(c) of P.L. 101-508 (104 Stat. 1388-618 and 619).



reconciliation by June 15. While Section 310(f) of the act is intended to enforce this deadline in the House (by barring the consideration in July of an adjournment resolution providing for the traditional August recess if the House has not completed action), the act does not contain any comparable provision for the Senate.

Like other budgetary legislation, reconciliation measures generally must be in compliance with budget enforcement procedures in the 1974 act and included in annual budget resolutions. In particular, spending levels in the measure must not cause any committee's spending allocations under the budget resolution to be exceeded (Section 302), revenues levels in the measure must not drop below the revenue floor established in the budget resolution (Section 311), and no policy or procedural matters within the Budget Committee's jurisdiction can be included (Section 306), or the bill will be subject to points of order under these sections that require a three-fifths vote to waive.

### **Patterns in the Consideration of Senate and House Legislation.**

During the period from 1980-2004, covering budget resolutions for FY1981-FY2005, the Senate completed action on a total of 19 reconciliation acts stemming from reconciliation directives in budget resolutions for 17 different years (see **Table 7**). In all but three of these years, the Senate considered a single reconciliation measure in response to the reconciliation directives in the budget resolution. In the three remaining years, the Senate considered two different reconciliation measures each year, resulting in the enactment of five reconciliation acts — one act in 1980 (for FY1981) and two acts each in 1982 and 1997 (for FY1983 and FY1998).

As a general matter, the Senate initially considers a single, Senate-numbered reconciliation measure, either an omnibus reconciliation act reported by the Budget Committee or a reconciliation act reported by the Finance Committee. Following the completion of debate and amendment, the Senate positions itself for conference with the House by taking up the House-passed reconciliation measure, striking all after the enacting clause, and inserting the text of the Senate-passed measure.

This procedure is especially important with respect to reconciliation measures that affect revenues due to the requirement in the Constitution that revenue measures originate in the House. By passing a House-numbered bill in the final instance, the Senate abides by the constitutional requirement. (After the Senate considers the Senate-numbered bill, the 1974 act would allow an additional 20 hours to consider the House-numbered bill, but the Senate usually considered the House-numbered bill by unanimous consent.)

Different patterns of legislative action have occurred as well. In 1980, for example, the Senate Budget Committee reported two different original Senate bills carrying out revenue and spending reconciliation instructions, and the Senate considered each of them separately. Following their consideration, the Senate incorporated both of the measures into the House-passed reconciliation bill.<sup>68</sup>

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<sup>68</sup> See Senate action on S. 2885 and S. 2939, and on H.R. 7765, in the second session of the 96<sup>th</sup> Congress.

**Table 7. Initial Senate Action on Reconciliation Measures: FY1981-FY2005**

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
1981	96 <sup>th</sup> (Second)	Omnibus Reconciliation Act of 1980 (P.L. 96-499; 12-05-80)	S. 2885	Budget	[none]	06-26-80	06-30-80	89-0
			S. 2939	Budget	[none]	07-02-80	07-23-80	Voice
			H.R. 7765	Budget	Discharged	09-17-80	09-17-80	Voice
1982	97 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35; 08-13-81)	S. 1377	Budget	S.Rept. 97-139	06-17-81	06-22-81 06-23-81 06-24-81 06-25-81	80-15
			H.R. 3982	n/a			07-13-81	Voice
1983	97 <sup>th</sup> (Second)	Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248; 09-03-82)	H.R. 4961	Finance	S.Rept. 97-494	07-12-82	07-19-82 07-20-82 07-21-82 07-22-82 07-23-82	50-47

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
		Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253; 09-08-82)	S. 2774	Budget	S.Rept. 97-504	07-26-82	08-04-82 08-05-82	72-24
			H.R. 6955	n/a			08-11-82	Voice
1984	98 <sup>th</sup> (First, into Second)	Omnibus Budget Reconciliation Act of 1983 (P.L. 98-270; 04-18-84)	S. 2062	Budget	S.Rept. 98-300	11-04-03	11-16-83 11-18-83	n/a
			H.R. 4169	n/a			04-05-84	67-26
1986	99 <sup>th</sup> (First, into Second)	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 04-07-86)	S. 1730	Budget	S.Rept. 99-146	10-02-85	10-15-85 10-16-85 10-22-85 10-23-85 10-24-85 11-12-85 11-13-85 11-14-85	[none]
			H.R. 3128 (see also H.R. 3500 for House action)	Finance	[none]	11-14-85	11-14-85	93-6

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
1987	99 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509; 10-21-86)	S. 2706	Budget	S.Rept. 99-348	07-31-86	09-17-86 09-18-86 09-19-86 09-20-86	88-7
			H.R. 5300	n/a			09-25-86	Voice
1988	100 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203; 12-22-87)	S. 1920	Budget	[none]	12-04-87	12-09-87 12-10-87 12-11-87	[none]
			H.R. 3545	n/a			12-11-87	Voice
1990	101 <sup>st</sup> (First)	Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239; 12-19-89)	S. 1750	Budget	[none]	10-12-89	10-12-89 10-13-89	[none]
			H.R. 3299	n/a			10-13-89	87-7
1991	101 <sup>st</sup> (Second)	Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508; 11-05-90)	S. 3209	Budget	[none]	10-16-90	10-17-90 10-18-90 10-19-90	[none]
			H.R. 5835	n/a			10-19-90	54-46

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
1994	103 <sup>rd</sup> (First)	Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66; 08-10-93)	S. 1134	Budget	[none]	06-22-93	06-23-93 06-24-93 06-25-93	[none]
			H.R. 2264	n/a			06-25-93	50-49
1996	104 <sup>th</sup> (First)	Balanced Budget Act of 1995 (vetoed; 12-06-95)	S. 1357	Budget	[none]	10-23-95	10-25-95 10-26-95 10-27-95	[none]
			H.R. 2491	n/a			10-27-95 10-28-95	52-47
1997	104 <sup>th</sup> (Second)	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 08-22-96)	S. 1956	Budget	[none]	07-16-96	07-18-96 07-19-96 07-22-96 07-23-96	[none]
			H.R. 3734	n/a			07-23-96	74-24

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
1998	105 <sup>th</sup> (First)	Balanced Budget Act of 1997 (P.L. 105-33; 08-05-97)	S. 947	Budget	[none]	06-20-97	06-23-97 06-24-97 06-25-97	73-27
			H.R. 2015	n/a			06-25-97	Unanimous Consent
		Taxpayer Relief Act of 1997 (P.L. 105-34; 08-05-97)	S. 949	Finance	S.Rept. 105-33	06-20-97	06-25-97 06-26-97 06-27-97	[none]
			H.R. 2014	n/a			06-27-97	80-18
2000	106 <sup>th</sup> (First)	Taxpayer Refund and Relief Act of 1999 (vetoed; 09-23-99)	S. 1429	Finance	S.Rept. 106-120	07-26-99	07-28-99 07-29-99 07-30-99 08-04-99	57-43 (passage later vitiated)
			H.R. 2488	n/a			07-30-99	Unanimous Consent

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Committee Report			Initial Senate Action	
				Committee	S. Report Number	Date Reported	Date	Vote
2001	106 <sup>th</sup> (Second)	Marriage Tax Relief Reconciliation Act of 2000 (vetoed; 08-05-00)	S. 2839	Finance	S.Rept. 106-329	07-05-00	[none]	[none]
			H.R. 4810	n/a			07-14-00 07-17-00 07-18-00	61-38
2002	107 <sup>th</sup> (First)	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16; 06-07-01)	S. 896	Finance	[none]	05-16-01	[none]	[none]
			H.R. 1836	n/a			05-17-01 05-21-01 05-22-01 05-23-01	62-38
2004	108 <sup>th</sup> (First)	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27; 05-28-03)	S. 1054	Finance	[none]	05-13-03	05-14-03 05-15-03	[none]
			H.R. 2	n/a			05-15-03	51-49

Source: Prepared by the Congressional Research Service.

On two occasions, in 1982 and 1997, the Senate considered separate revenue and spending reconciliation acts that each became law.<sup>69</sup> Three of the four measures were original Senate bills reported by the Budget Committee (two bills) or the Finance Committee (one bill), but in the remaining instance the Finance Committee reported a House-passed bill instead of an original Senate bill.<sup>70</sup>

In 2001 and 2003, the Finance Committee reported original Senate bills carrying out revenue reconciliation instructions, but the Senate did not consider them. Instead, the Senate considered House-passed reconciliation bills under an accelerated schedule.<sup>71</sup>

The Senate usually completes initial action on reconciliation measures over a period of two to four days. In 1980, the Senate devoted only one day each to the initial consideration of two reconciliation bills, but in 1985 it considered a reconciliation measure for eight days.

**Initiating Consideration and Controlling Time.** Although not explicitly stated in the 1974 act, reconciliation measures are privileged measures. Accordingly, the motion to proceed to the consideration of a reconciliation measure is not debatable. In practice, most reconciliation measures are laid before the Senate by unanimous consent.

A reconciliation measure does not need to lie over on the calendar for one legislative day, but if such legislation is accompanied by a written report, the report must be available for 48 hours before the measure can be considered. As stated previously, the usual practice of the Budget Committee since the late 1980s has been to report omnibus reconciliation bills without a written report, issuing a committee print in lieu of a report. The Finance Committee has been instructed to report legislation directly to the Senate on several occasions in recent years, sometimes issuing a written report and sometimes not doing so.

Reconciliation legislation is subject to a 20-hour debate limitation. Debate on first degree amendments is limited to two hours, and debate on second degree amendments and debatable motions or appeals is limited to one hour. In practice, debate time may vary from these limits, pursuant to unanimous consent agreements.

Control of time under the 20-hour limit is equally divided between, and controlled by, the majority leader and the minority leader or their designees. The chairman and ranking member of the Budget Committee usually are designated to

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<sup>69</sup> See the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) and the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) in the first instance, and the Balanced Budget Act of 1997 (P.L. 105-33) and the Taxpayer Relief Act of 1997 (P.L. 105-34) in the second instance.

<sup>70</sup> See Senate action on S. 2774 in the second session of the 97<sup>th</sup> Congress, and on S. 947 and S. 949 in the first session of the 105<sup>th</sup> Congress. In the second session of the 97<sup>th</sup> Congress, the Finance Committee reported H.R. 4961 instead of a Senate bill.

<sup>71</sup> See Senate action on S. 896 and H.R. 1836 in the first session of the 107<sup>th</sup> Congress, and on S. 1054 and H.R. 2 in the first session of the 108<sup>th</sup> Congress.



serve as floor managers and to control the time. With respect to amendments (and debatable motions and appeals), time is divided equally and controlled by the Senator who proposed the amendment and the majority manager (or, if the majority manager favors the amendment, the minority manager).

Not all actions pertaining to a reconciliation measure are counted under the 20-hour time limit. Debate on the measure, all amendments thereto, debatable motions and appeals, and time used in quorum calls (except for those that precede a rollcall vote) is counted under the limit, but time used to read amendments, to vote, or to establish a quorum prior to a rollcall vote is not counted, absent a unanimous consent agreement to the contrary. Therefore, it is possible, especially with the consideration of a large number of amendments under a “vote-arama” situation (discussed below), for consideration to extend well beyond 20 hours. Conversely, because the time for debate may be reduced by yielding back time, by unanimous consent, or by a nondebatable motion, the consideration of a reconciliation measure may not consume the full 20 hours.

**Restrictions on Amendments and Motions to Recommit.** There are several restrictions on the consideration of amendments. First, as provided in Section 305(b)(2) of the 1974 act, amendments must be germane (the germaneness requirement also applies to amendments to budget resolutions).<sup>72</sup> While certain amendments are *per se* germane (e.g., an amendment to strike, or to change numbers or dates), the germaneness of an amendment typically is determined on a case-by-case basis if a point of order is raised.

Once matter has been stricken from the measure by amendment, the matter can no longer be used to justify germaneness. Conversely, matter added to the measure by amendment can be used as the basis for additional amendments to be deemed germane.

An important exception to the germaneness requirement is made in connection with a motion to recommit with instructions intended to bring a committee’s recommendations into full compliance. Although the motion itself must be germane, the amendment reported back by the instructed committee is not subject to a germaneness requirement. This practice recognizes the fact that in order to make the changes in spending or revenues necessary to achieve full compliance, it may be necessary to address matter not included in the instructed committee’s original recommendations.

Section 310(d) prohibits the consideration of any amendment that would cause the reconciliation measure to reduce outlays by less than the amount instructed, or would cause it to increase revenues by less than the amount instructed, unless the resulting deficit increase is offset. The prohibition does not interfere, however, with a motion to strike, regardless of that motion’s effect on the deficit.

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<sup>72</sup> As stated before, Section 305(b)(2) of the 1974 act is made applicable to reconciliation legislation by Section 310(e) of the act.

Section 310(g) bars the consideration of any reconciliation legislation, including any amendment thereto or conference report thereon, “that contains recommendations with respect to” Social Security. For purposes of these provision, Social Security is considered to include the Old-Age, Survivors, and Disability Insurance (OASDI) program established under Title II of the Social Security Act; it does not include Medicare or other programs established as part of that act.

Finally, Section 313, the Senate’s “Byrd rule,” prohibits the consideration of any reconciliation legislation, including amendments, that include extraneous matter (see discussion below). One provision of the Byrd rule buttresses the prohibition against considering recommendations affecting Social Security set forth in Section 310(g).

Each of the restrictions discussed above requires an affirmative vote of three-fifths of the membership (60 Senators, if no seats are vacant) to waive or to appeal the ruling of the chair.

An amendment fashioned to avoid one restriction still may run afoul of another. An amendment may be germane, for example, yet violate the Byrd rule because it has no budgetary effect and therefore is extraneous.

Motions to recommit, as previously indicated, afford a means of bringing committee recommendations into full compliance. Section 305(b)(5) of the 1974 act prohibits any motion to recommit, except for a motion to recommit with instructions to report back within no more than three days. In practice, such motions usually require the instructed committee to report back “forthwith.” While the committee named in the instructions may not be amended, the legislative language included in the instructions is amendable in two degrees. If not necessary to bring a committee into compliance, the amendments proposed by a motion to recommit must be germane.

**“Vote-arama”.** The number of amendments offered to reconciliation measures generally has increased over the history of the reconciliation process. Only a few amendments were offered to the earliest reconciliation bills, but dozens of amendments have been offered to reconciliation bills in recent years.

When the 20-hour debate limit has been reached, Senators may continue to consider amendments and motions to recommit with instructions (and to take other actions as well), but they may not debate them unless unanimous consent is granted. The circumstance under which debate time on a reconciliation measure (or budget resolution) has expired but amendments and motions continue to be considered has come to be known as “vote-arama.” As a general matter, accelerated voting procedures sometimes are put into effect under a vote-arama scenario, allowing two minutes of debate per amendment for explanation and a 10-minute limit per vote.

During the consideration of the three most recent reconciliation measures, in 2000, 2001, and 2003, the Senate considered 162 amendments and motions to recommit (38 in 2000, 59 in 2001, and 65 in 2003). Many of the amendments and motions were considered and disposed of under a vote-arama, as discussed in more detail below.

- ***Marriage Tax Relief Reconciliation Act of 2000 (vetoed)***. The Senate considered H.R. 4810 (S. 2839) on July 14, 17, and 18, 2000. Under a series of unanimous consent agreements, 37 amendments and one motion to recommit were offered and debated on the first day of consideration, July 14, without any final action being taken on them. On the second day of consideration, July 17, the Senate took up these amendments for disposition at 6:15 p.m., with two minutes of debate time available for explanation of each amendment. This procedure was employed on the following day, July 18, as well, ending with final passage of the bill. Over the two days, 37 amendments and one motion to recommit were considered under this procedure; 10 amendments were adopted, three amendments (and one motion to recommit) were rejected, seven amendments fell on a point of order, and 17 amendments were withdrawn.
- ***Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16)***. The Senate considered H.R. 1836 on May 17, 21, 22, and 23, 2001. On the second day of consideration, May 21, after the 20-hour limit on debate apparently had expired,<sup>73</sup> the Senate took up and disposed of a series of amendments under a unanimous consent agreement, propounded by Senator Lott, under which the votes would be limited to 10 minutes each, with two minutes before each vote for an explanation.<sup>74</sup> This procedure was employed on the following two days of consideration, May 22 and May 23, as well, ending with final passage of the bill. Under this procedure, over the three-day period, the Senate considered 59 amendments and motions to recommit; eight were adopted, 20 were rejected, 26 fell on a point of order, and five were withdrawn. Thirty-five of these 59 amendments and motions to recommit had been offered, considered, and temporarily laid aside prior to the expiration of the 20-hour limit. Subsequently, these 35 amendments and motions to recommit were considered under the accelerated voting procedures; three were adopted, 14 amendments were rejected, 13 fell on a point of order, and five were withdrawn.
- ***Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27)***. The Senate considered S. 1054 on May 14 and 15, 2003. On the first day of consideration, the Senate agreed by unanimous consent that the 20-hour limit on debate be expired and that the Senate proceed to vote on amendments at the beginning of the following day.<sup>75</sup> At the end of May 14, Senator Grassley announced that during consideration of the amendments on May 15, all votes

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<sup>73</sup> The Presiding Officer indicated that all time controlled by the majority had expired and Senator Reid indicated that he had yielded back all of his time; see the *Congressional Record* (daily ed.), vol. 147, May 21, 2001, at p. S5246.

<sup>74</sup> *Ibid.*, p. S5248.

<sup>75</sup> *Congressional Record* (daily ed.), vol. 149, May 15, 2003, p. S6196. The Senate did not vote on any amendments on May 14.

after the first vote would be limited to 10 minutes each.<sup>76</sup> On May 15, the Senate considered 65 amendments; 30 amendments were adopted, nine amendments were rejected, 19 amendments fell on a point of order, and seven amendments were withdrawn. Of these 65 amendments, 26 amendments were offered, considered, and set aside prior to the expiration of the 20-hour limit. Subsequently, these 26 amendments were considered under the accelerated voting procedures; eight amendments were adopted, 14 amendments fell on a point of order, and four amendments were withdrawn.

## **The Senate’s “Byrd Rule” Against Extraneous Matter**

During the first several years’ experience with reconciliation, the legislation contained many provisions that were extraneous to the purpose of implementing budget resolution policies. The reconciliation submissions of committees included such things as provisions that had no budgetary effect, that increased spending or reduced revenues when the reconciliation instructions called for reduced spending or increased revenues, or that violated another committee’s jurisdiction.

Reconciliation procedures, and other expedited procedures that limit debate and restrict the offering of amendments, run counter to the long-standing practices of the Senate applicable to most legislation, in which Senators may engage in extended debate and freely offer amendments. Many Senators were willing to surrender customary freedoms with respect to debate and amendment in order to expedite reconciliation legislation, but they sought a means of confining the scope of such legislation to its budgetary purposes.

In 1985 and 1986, the Senate adopted the Byrd rule (named after its principal sponsor, Senator Robert C. Byrd) on a temporary basis as a means of curbing these practices. The Byrd rule has been extended and modified several times over the years. In 1990, the Byrd rule was incorporated into the 1974 Congressional Budget Act as Section 313 and made permanent.<sup>77</sup>

In general, a point of order authorized under the Byrd rule may be raised in order to strike extraneous matter already in the bill as reported or discharged (or in the conference report), or to prevent the incorporation of extraneous matter through the adoption of amendments or motions. A point of order may be raised against a single provision or two or more provisions in the bill (usually as designated by title or section number, or by page and line number), in amendments offered thereto, or in motions made thereon, or against an entire amendment or amendments. The chair may sustain a point of order as to all of the provisions (or amendments) or only some of them. The maker of the point of order defines the scope of the provision or provisions being challenged.

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<sup>76</sup> Ibid., p. S6226.

<sup>77</sup> For a detailed discussion of the Byrd rule, see CRS Report RL30862, *The Budget Reconciliation Process: The Senate’s “Byrd Rule,”* by Robert Keith.

The Byrd rule is nearly unique in that points of order made thereunder bring down the offending matter, but not the entire measure. Once material has been stricken from reconciliation legislation under the Byrd rule, it may not be offered again as an amendment.

A motion to waive the Byrd rule, or to sustain an appeal of the ruling of the chair on a point of order raised under the Byrd rule, requires the affirmative vote of three-fifths of the membership (60 Senators if no seats are vacant).<sup>78</sup> A single waiver motion can: (1) apply to the Byrd rule as well as other provisions of the Congressional Budget Act; (2) involve multiple as well as single provisions or amendments; (3) extend (for specified language) through consideration of the conference report as well as initial consideration of the measure or amendment; and (4) be made prior to the raising of a point of order, thus making the point of order moot. While the point of order itself is not debatable, the motion to waive is debatable, subject to the time limits for debatable motions.

When a reconciliation measure, or a conference report thereon, is considered, the Senate Budget Committee must submit for the record a list of potentially extraneous matter included therein.<sup>79</sup> This list is advisory, however, and does not bind the chair in ruling on points of order.

Determinations of budgetary levels for purposes of enforcing the Byrd rule are made by the Senate Budget Committee.

**Definitions of Extraneous Matter.** Subsection (b)(1) of the Byrd rule provides definitions of what constitutes extraneous matter for purposes of the rule. Some aspects of the Byrd rule require considerable judgment regarding its application to complex legislation. As the Senate Budget Committee noted in its report on the budget resolution for fiscal year 1994, “‘Extraneous’ is a term of art.”<sup>80</sup> In the most general terms, the rule bars the inclusion of matter that is not related to the purposes of the reconciliation process.

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<sup>78</sup> In the Senate, many points of order under the CBA of 1974 require a three-fifths vote of the membership to waive (or to sustain an appeal of the ruling of the chair). Most of these three-fifths waiver requirements are temporary, but in the case of the Byrd rule it is permanent. Section 503 of the FY2004 budget resolution (H.Con.Res. 95, 108<sup>th</sup> Congress), adopted on Apr. 11, 2003, extended the expiration date for the temporary requirements to Sept. 30, 2008.

<sup>79</sup> For an example of such a list, see the remarks of Senator Pete Domenici regarding the conference report on the Balanced Budget Act of 1997 in the *Congressional Record* (daily ed.), vol. 143, July 31, 1997, at pp. S8406-S8408.

<sup>80</sup> See the report of the Senate Budget Committee on the FY1994 budget resolution, *Concurrent Resolution on the Budget, FY 1994* (to accompany S.Con.Res. 18), S.Rept. 103-19, Mar. 12, 1993, p. 49.

A provision is considered to be extraneous if it falls under one or more of the following six definitions:

- (1) it does not produce a change in outlays or revenues;
- (2) it produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
- (3) it is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
- (4) it produces a change in outlays or revenues which is merely incidental to the non-budgetary components of the provision;
- (5) it would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and
- (6) it recommends changes in Social Security.

The last definition complements the ban in Section 310(g) of the 1974 act against considering any reconciliation legislation that contains recommendations pertaining to Social Security. While a successful point of order under the last definition in the Byrd rule would excise the offending provision, a successful point of order under Section 310(g) would defeat the entire bill.

**Exceptions to the Definition of Extraneous Matter.** Subsection (b)(2) of the Byrd rule provides that a Senate-originated provision that does not produce a change in outlays or revenues shall not be considered extraneous if the chairman and ranking minority members of the Budget Committee and the committee reporting the provision certify that:

- the provision mitigates direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; or
- the provision will (or is likely to) reduce outlays or increase revenues: (1) in one or more fiscal years beyond those covered by the reconciliation measure; (2) on the basis of new regulations, court rulings on pending legislation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision; or (3) but reliable estimates cannot be made due to insufficient data.

Subsection (b)(3) of the Byrd rule provides an exception to the definition of extraneousness on the basis of committee jurisdiction for certain provisions reported by a committee, if they would be referred to that committee upon introduction as a separate measure.

Additionally, under subsection (b)(1)(A), a provision that does not change outlays or revenues in the net, but which includes outlay decreases or revenue

increases that exactly offset outlay increases or revenue decreases, is not considered to be extraneous.

The Byrd rule has been applied to 19 reconciliation measures considered by the Senate from 1985 through 2004. In 42 of the 55 actions involving the Byrd rule, opponents were able to strike extraneous matter from legislation (18 cases) or bar the consideration of extraneous amendments (24 cases) by raising points of order. Nine of 41 motions to waive the Byrd rule, in order to retain or add extraneous matter, were successful. The Byrd rule has been used only four times during consideration of a conference report on a reconciliation measure (twice in 1993, once in 1995, and once in 1997).

## Resolving House-Senate Differences on Reconciliation Measures

Under the usual practice, the House and Senate initially consider and pass their own reconciliation measures. In addition, reconciliation measures are complex, and in many instances, quite lengthy legislation. Accordingly, these factors effectively guarantee that the House and Senate bills will be different. The two chambers must, however, as with all legislation, agree to the same reconciliation measure in the exact same form before it can be sent to the President. For the most part, the House and Senate employ the usual legislative procedures and practices under their rules to resolve differences on reconciliation measures, although the Congressional Budget Act of 1974 specifies some aspects of procedure at this stage.

As with other complex legislation, the House and Senate typically use a conference as the means of developing an agreement on reconciliation legislation. In the case of all but one of the 19 reconciliation measures ultimately submitted by Congress to the President, the House and Senate convened a conference on the measure and a conference report was issued. In the one instance involving reconciliation legislation, the two chambers passed identical legislation and there were no differences to resolve. (In response to reconciliation directives in the FY1984 budget resolution, the Senate passed a House-passed reconciliation bill without amendment, clearing it for the President.)

The pattern with regard to conference procedure on reconciliation measures has been for the Senate to consider one or two Senate bills initially, then to take up and amend the House — passed bill in order to proceed to conference. **Table 8** provides information on House and Senate actions on conference reports on reconciliation measures. The one exception to the pattern occurred in 1982. In response to reconciliation directives in the FY1983 budget resolution, the Senate initially considered, and went to conference with the House on, a House-numbered bill, H.R. 4961 (which became the Tax Equity and Fiscal Responsibility Act of 1982).

The House and Senate also may use an amendment exchange instead of a conference in order to resolve differences regarding legislation, or as a fallback procedure when conference agreements are not completed successfully. In the case of reconciliation legislation, amendment exchanges are seldom used. The conference report on the Consolidated Omnibus Budget Reconciliation Act of 1985, for example, was rejected by the House on December 19, 1985, by a vote of 205-151.<sup>81</sup> Between December 19, 1985, and March 20, 1986, the House and Senate exchanged amendments nine times before their disagreements were resolved.<sup>82</sup> In addition, a successful point of order raised under the Byrd rule against the conference report on the Balanced Budget Act of 1995 resulted in the Senate receding and concurring with

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<sup>81</sup> The rejection of the conference report occurred by House approval of a special rule providing for its rejection.

<sup>82</sup> See “Deficit-Reduction Bill Fails to Clear at the Wire,” *Congressional Quarterly Almanac*, vol. XLI, 1985, pp. 498-512; and “Holdover Deficit-Reduction Bill Approved,” *Congressional Quarterly Almanac*, vol. XLII, 1986, pp. 555-559.



a further amendment that effectively deleted the offending matter. Although the House had previously adopted the conference report, it resolved the disagreement by concurring in the further Senate amendment.

## **Initial Motions and Appointment of Conferees**

In order to proceed to conference, the second chamber to act states its disagreement with the recommendations of the first chamber and insists on its disagreement. Then, the second chamber requests a conference with the first chamber in order to resolve the disagreements. In the case of reconciliation legislation, the Senate has always been the “second” chamber to act, with respect to setting up a conference.

After a conference has been requested and agreed to, each chamber appoints conferees. Upon the appointment of conferees by both chambers, the conference committee may then convene to carry out its work. In the Senate, these steps usually are merged together into a single unanimous consent request; in the House, conferees are not necessarily appointed at the time that the other actions occur.<sup>83</sup>

In instances where there is unusual controversy or complications in entering into a conference, each of the three required steps may entail a separate motion (and vote). The House, in a few cases, used special rules reported by the House Rules Committee to go to conference.

In the House, it is the prerogative of the Speaker to appoint conferees, while in the Senate, the usual practice is for the full Senate by unanimous consent to authorize the Presiding Officer to appoint them.

Conferees can be appointed to consider the entire matter in conference or only for limited-purposes. “General conferees” negotiate over the entire bill and any amendments, and “limited-purpose” conferees negotiate only on a portion of the matter in conference designated at the time of appointment.

Both types of conferees are appointed on omnibus reconciliation measures. Members of the House and Senate Budget Committee are appointed as general conferees (and the chairman and ranking member serve as floor managers of the conference report). Members of the committees that submitted reconciliation directives make up the rest of the conference committee. The conferees from the legislative committees have the responsibility of resolving differences in the legislative language within their committee’s jurisdiction, while the conferees from the Budget Committees work to facilitate the conference actions generally and promote a timely resolution of policy disagreements. From time to time, when a Member must drop out of conference proceedings, a replacement may be appointed.

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<sup>83</sup> For additional information on this topic, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki and Stanley Bach.

When a conference committee deals with a reconciliation measure that was reported to each chamber by a single committee, the conferees usually are chosen from the legislative committee's membership.

Sometimes matter within the jurisdiction of a committee in one chamber that did not receive a reconciliation instruction may be before the conferees because of the action of the other body. Therefore, a chamber may include conferees from more committees than were instructed in the budget resolution.

Conferences on reconciliation measures sometimes involve only a few Members from each chamber. The House and Senate appointed three conferees each, for example, on the Marriage Tax Relief and Reconciliation Act of 2000. In many instances, however, the wide range of issues encompassed by reconciliation, and the large number of conferees appointed to address them, leads to the creation of subconferences. The largest conference on a reconciliation measure, the Omnibus Budget Reconciliation Act of 1982, involved 184 Representatives and 69 Senators and relied upon 58 subconferences.

The subconferences are established informally by agreement of the conference leaders. Members of the legislative committees involved in the conference typically are assigned only to the subconferences that deal with matters within their committee's jurisdiction. The general conferees from the Budget Committees also are assigned to subconferences, but they do not directly negotiate the resolution of the pending legislative issues. These procedures are informal in the Senate, for under the Senate rules, a Senate conferee is a conferee for all purposes, and a majority of all Senate conferees must sign the conference report to conclude the conference, regardless of the purposes for which the Senate appointed the conferees.

## **Motions to Instruct Conferees**

When the House and Senate prepare to go to conference on a measure, it is not uncommon in either chamber for one or more motions to be considered that instruct conferees. Instructions to conferees may encourage them to take a particular position on an issue, or set of issues, but neither chamber regards the instructions as binding the conferees in any way.

In the House, the motion to instruct can be offered at three separate times in the legislative process: (1) prior to the appointment of conferees; (2) after the conferees have been appointed for 20 calendar days and 10 legislative days, but before they report to the House; (3) and after the conferees have reported, in conjunction with a motion to recommit the conference report. Only one motion to instruct conferees is allowed prior to the appointment of conferees, and only one in a motion to recommit a conference report; in contrast, the practice of the House is to admit multiple 20-day motions to instruct. Members of the minority party are accorded preference in recognition to offer motions to instruct in the first two instances, but are not accorded preference in recognition to offer the 20-day motion.

Motions to instruct conferees are not as common in the Senate as in the House, in part because Senators generally have more opportunity than Representatives to be heard on measures and to let their views on conference negotiations be known. In

the Senate, motions to instruct can only be offered prior to the appointment of conferees, but Senators also instruct their conferees through simple resolutions and amendments to legislation.

Motions to instruct conferees have been made to reconciliation measures, just as they have been made to budget resolutions. In the case of budget resolutions, motions to instruct conferees have been made regularly in the House but infrequently in the Senate.<sup>84</sup> With respect to reconciliation measures, however, such motions have been made regularly in the House and on occasion in the Senate. Some examples of the circumstances under which motions to instruct conferees were made in each chamber are discussed below:

- **Motions to Instruct in the House.** In the House, the first motion to instruct conferees on a reconciliation measure occurred the first year that reconciliation was used. On September 18, 1980, the House agreed to such a motion with respect to the conference on H.R. 7765 by a vote of 300-73. In 1997, motions to instruct conferees were made in the case of both reconciliation bills that year. A motion offered by Representative John Spratt, ranking member of the Budget Committee, on July 10, 1997, to the Balanced Budget Act of 1997 (H.R. 2015) was approved by a vote of 414-14, but a motion offered the same day by Representative Charles Rangel, ranking member of the Ways and Means Committee, to the Taxpayer Relief Act of 1997, was rejected by a vote of 199-233.
- **Motions to Instruct in the Senate.** The Senate considered a single motion to instruct conferees in 1981 and 1989. The first such motion insisted that funding for the Head Start Program be set at specified levels for FY1982-FY1984, while the second instructed the Senate conferees not to accept any House language that would not result in savings or in revenue increases. During consideration of the Balanced Budget Act of 1995, the Senate on November 13, 1995, considered four different motions to instruct conferees, adopting three of them and tabling the other.

Motions to instruct conferees may be amended. On July 14, 1993, for example, a motion to instruct conferees on the Omnibus Budget Reconciliation Act of 1993 (H.R. 2264) was amended by an amendment in the nature of a substitute, by a vote of 235-183; the motion to instruct, as amended, was agreed to by a vote of 415-0.

## **Conducting the Conference and Reporting the Conference Agreement**

Procedures relating to the conduct of conferences between the House and Senate on legislation are relatively informal, and conferees are granted considerable latitude in resolving the chambers' differences. The chairmanship of the conference

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<sup>84</sup> CRS Report RL31840, *Congressional Budget Resolutions: Motions to Instruct Conferees*, by Robert Keith.

committee is determined by the conferees, who usually select the chairman of the Budget Committee, in the case of omnibus reconciliation bills, or the chairman of the House Ways and Means Committee or the Senate Finance Committee, when those committees were instructed to report separate reconciliation legislation. By tradition, the chairmanship of the conference alternates between the House and Senate.

When the conferees reach agreement with respect to their disagreements on a reconciliation measure, they submit a conference report explaining the agreement. The report consists of two separate items: (1) the conference report, which explains the actions proposed by the conferees to resolve the disagreements between the two bodies, including the recommended legislative text; and (2) the accompanying “joint explanatory statement,” also referred to as the “managers’ statement,” which explains the actions of the conferees with regard to the particular policy issues that they addressed, often in great detail.

The conference report reflects the agreement of a majority of the conferees of the House and a majority of the conferees from the Senate. Each of the conferees that supports the conference report signs a signature sheet for both the conference report and the joint explanatory statement. Any conferee who does not support the agreement is not required to sign the signature sheets, and usually does not do so.

Limited-purpose conferees only sign for the portion of the agreement they were given authority to negotiate. For a conference report to be valid in the House, a majority of the Members from each chamber who were appointed to negotiate each provision must sign the report. For a conference report to be valid in the Senate, a majority of all House conferees and a majority of all Senate conferees must sign the report, regardless of whether or not any of the conferees were appointed for limited purposes.

The conference report and joint explanatory statement are published as a House report and printed in the *Congressional Record*. (Although a conference report may be published as a Senate report too, the Senate usually defers such action.)

## **Consideration of the Conference Report**

Conference reports are privileged matters in both the House and Senate and may be called up for consideration as a priority matter. Motions to proceed to the consideration of a conference report are not debatable. In the House, conference reports typically are considered for one hour, but in the Senate conference reports may be debated for up to 10 hours.

The House usually considers conference reports on major legislation under the terms of a special rule. In recent years, the special rule has provided a “blanket” waiver of all points of order against the conference report and, in some instances, more than the typical hour of debate time. In 1997, for example, special rules extended the debate time on the conference report on the Balanced Budget Act of 1997 to 90 minutes, under H.Res. 202, and extended the debate time on the Taxpayer Relief Act of 1997 to two and one-half hours, under H.Res. 206.

In the Senate, the consideration of a conference report on a reconciliation measure may differ markedly from the consideration of conference reports on other types of measures in one key respect. The Byrd rule, which applies only to reconciliation measures, allows for extraneous matter to be stricken from a conference report pursuant to the successful raising of a point of order. Typically, when a point of order is successfully raised against a conference report in the Senate, the conference report is defeated. Pursuant to the Byrd rule, however, the Senate may remove language from the conference report without causing the remainder of the conference report to be rejected. In that case, under the Byrd rule, the Senate recesses and concurs with a further amendment that effectively deletes the offending matter. The House and Senate may reach final agreement on the measure by resolving their disagreement on the further Senate amendment, as occurred in connection with the Balanced Budget Act of 1995.

The Senate sometimes will use unanimous consent agreements to customize procedures during the consideration of a conference report, and agreements reached during initial consideration of a reconciliation measure often are made applicable to the consideration of the conference report as well. In July of 1997, for example, the Senate considered two reconciliation measures under a unanimous consent agreement that had been entered into on May 21 of that year, at the time the FY1998 budget resolution was under consideration.<sup>85</sup> The agreement suspended the application of one component of the Byrd rule under certain circumstances, during both initial action on the reconciliation measures and during consideration of the conference reports, effectively allowing long-term tax cuts in one act to be offset by long-term spending reductions in the other.

One chamber may recommit the conference report to the existing conference committee if the other chamber has not yet acted on the report. This situation occurred in 1982, during House consideration of the conference report (H.Rept. 97-750) on the Omnibus Budget Reconciliation Act of 1982. On August 17, 1982, the House recommitted the report to the conference by a vote of 266-145. Subsequently, the conference committee reported a second agreement (H.Rept. 97-759), which both chambers accepted.

Once a chamber acts on the conference report, the conference committee formally is dissolved and cannot resume consideration of the measure. If either chamber disagrees to a conference report, “the matter is left in the position it was in before the conference was asked but in the stage of disagreement.”<sup>86</sup> At this point, the chambers may dispose of the matter in disagreement by motion, or send it to a further conference. In the case of reconciliation legislation, a further conference never has been convened.

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<sup>85</sup> See the remarks of Senator Domenici in the *Congressional Record* (daily ed.), vol. 143, May 21, 1997, p. S4873.

<sup>86</sup> U.S. House of Representatives, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House*, by Wm. Holmes Brown and Charles W. Johnson (108<sup>th</sup> Cong., 1<sup>st</sup> sess.), 2003, chapter 13, p. 361. See also, *Riddick’s Senate Procedure*, by Floyd M. Riddick and Alan S. Frumin, S.Doc. 101-28, 1992, pp. 449-451 and p. 489.

## Enrollment and Technical Corrections

The House and Senate often consider measures pertaining to the enrollment of complex and lengthy legislation, either to expedite the enrollment or to make technical corrections.

Title 1, Section 107 of the *United States Code*, requires that measures be enrolled on parchment paper. In order to expedite the enrollment of the measure, thereby speeding up its presentation to the President, the requirement in 1 U.S.C. 107 sometimes is waived (upon certification by the House Administration Committee that a “true” or accurate enrollment is prepared) by the enactment of a joint resolution. On July 31, 1997, for example, the House and Senate agreed to H.J.Res. 90, which waived the enrollment requirements with respect to the two reconciliation measures, H.R. 2014 and H.R. 2015. The measure became P.L. 105-32 (111 Stat. 250) on August 1, 1997.

Second, the House and Senate may make technical corrections in a measure prior to enrollment by adopting a concurrent resolution directing the Clerk of the House or the Secretary of the Senate, as appropriate, to make the necessary changes. Enrollment correction measures may originate in either the House or Senate and often have been used in connection with the reconciliation process. Technical corrections were made, for example, in the Omnibus Budget Reconciliation Act of 1981 pursuant to H.Con.Res. 167, and such corrections were made in the Omnibus Budget Reconciliation Act of 1983 pursuant to S.Con.Res. 102.

**Table 8. House and Senate Action on Conference Reports on Reconciliation Acts: FY1981-FY2005**

Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Conference Report		House Action on Conference Report		Senate Action on Conference Report	
				H. Report Number	Date Reported	Date	Vote	Date	Vote
1981	96 <sup>th</sup> (Second)	Omnibus Reconciliation Act of 1980 (P.L. 96-499; 12-05-80)	H.R. 7765 (see also S. 2885, S. 2939)	H.Rept. 96-1479	11-26-80	12-03-80	334-45	12-03-80	83-4
1982	97 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35; 08-13-81)	H.R. 3982 (see also S. 1377)	H.Rept. 97-208	07-29-81	07-31-81	Voice	07-31-81	80-14
1983	97 <sup>th</sup> (Second)	Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248; 09-03-82)	H.R. 4961	H.Rept. 97-760	08-17-82 (H.Rept.)	08-19-82	226-207	08-19-82	52-47
				S.Rept. 97-530	08-18-82 (S.Rept.)				
		Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253; 09-08-82)	H.R. 6955 (see also S. 2774)	H.Rept. 97-750	08-16-82	08-17-82	266-145 (recom- mitted)	—	—

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Conference Report		House Action on Conference Report		Senate Action on Conference Report	
				H. Report Number	Date Reported	Date	Vote	Date	Vote
				H.Rept. 97-759	11-26-80	12-03-80	243-176	12-03-80	67-32
1984	98 <sup>th</sup> (First, into Second)	Omnibus Budget Reconciliation Act of 1983 (P.L. 98-270; 04-18-84)	H.R. 4169 (see also S. 2062)	[None — Senate passed the House bill without amendment]					
1986	99 <sup>th</sup> (First, into Second)	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272; 04-07-86)	H.R. 3128 (see also H.R. 3500 and S. 1730)	H.Rept. 99-453	12-19-85	12-19-85	205-151 (approved rule rejecting conf. report; further amendment exchange)	12-19-85 12-20-85 03-13-86 03-14-86 03-18-86	78-1 (further amendment exchange)
1987	99 <sup>th</sup> (Second)	Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509; 10-21-86)	H.R. 5300 (see also S. 2706)	H.Rept. 99-1012	10-17-86	10-17-86	305-70	10-17-86	61-25
1988	100 <sup>th</sup> (First)	Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203; 12-22-87)	H.R. 3545 (see also S. 1920)	H.Rept. 100-495	12-21-87	12-21-87	237-181	12-22-87	61-28



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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Conference Report		House Action on Conference Report		Senate Action on Conference Report	
				H. Report Number	Date Reported	Date	Vote	Date	Vote
1990	101 <sup>st</sup> (First)	Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239; 12-19-89)	H.R. 3299 (see also S. 1750)	H.Rept. 101-386	11-21-89	11-22-89	272-128	11-22-89	Voice
1991	101 <sup>st</sup> (Second)	Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508; 11-05-90)	H.R. 5835 (see also S. 3209)	H.Rept. 101-964	10-27-90	10-27-90	228-200	10-27-90	54-45
1994	103 <sup>rd</sup> (First)	Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66; 08-10-93)	H.R. 2264 (see also S. 1134)	H.Rept. 103-213	08-04-93	08-05-93	218-126	08-06-93	51-50
1996	104 <sup>th</sup> (First)	Balanced Budget Act of 1995 (vetoed; 12-06-95)	H.R. 2491 (see also S. 1357)	H.Rept. 104-347 H.Rept. 104-350	11-16-95 11-17-95	11-17-95	237-189	11-17-95	52-47 (further amendment exchange)
1997	104 <sup>th</sup> (Second)	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 08-22-96)	H.R. 3734 (see also S. 1956)	H.Rept. 104-725	07-30-96	07-31-96	328-101	08-01-96	78-21

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Conference Report		House Action on Conference Report		Senate Action on Conference Report	
				H. Report Number	Date Reported	Date	Vote	Date	Vote
1998	105 <sup>th</sup> (First)	Balanced Budget Act of 1997 (P.L. 105-33; 08-05-97)	H.R. 2015 (see also S. 947)	H.Rept. 105-217	07-30-97	07-30-97	346-85	07-30-97 07-31-97	85-15
		Taxpayer Relief Act of 1997 (P.L. 105-34; 08-05-97)	H.R. 2014 (see also S. 949)	H.Rept. 105-220	07-30-97	07-31-97	389-43	07-31-97	92-8
2000	106 <sup>th</sup> (First)	Taxpayer Refund and Relief Act of 1999 (vetoed; 09-23-99)	H.R. 2488 (see also S. 1429)	H.Rept. 106-289	08-04-99	08-05-99	221-206	08-05-99	50-49
2001	106 <sup>th</sup> (Second)	Marriage Tax Relief Reconciliation Act of 2000 (vetoed; 08-05-00)	H.R. 4810 (see also S. 2839)	H.Rept. 106-765	07-19-00	07-20-00	271-156	07-20-00 07-21-00	60-34
2002	107 <sup>th</sup> (First)	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16; 06-07-01)	H.R. 1836 (see also S. 896)	H.Rept. 107-84	05-26-01	05-26-01	240-154	05-26-01	58-33

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Fiscal Year	Congress (Session)	Reconciliation Act	Bill Number	Conference Report		House Action on Conference Report		Senate Action on Conference Report	
				H. Report Number	Date Reported	Date	Vote	Date	Vote
2004	108 <sup>th</sup> (First)	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27; 05-28-03)	H.R. 2 (see also S. 1054)	H.Rept. 108-126	05-22-03	05-23-03	231-200	05-23-03	51-50

**Source:** Prepared by the Congressional Research Service.

## Presidential Approval or Disapproval

Reconciliation measures follow the same legislative path to enactment as other legislation. After a bill is submitted to him, the President has 10 days (excluding Sundays) in which to approve or disapprove it. If the President signs or does not sign the bill during the 10-day period, it becomes law; however, if Congress adjourns *sine die* during the 10-day period, thereby preventing the bill's return, it is disapproved by "pocket veto." If the President vetoes the bill during the 10-day period, it is returned to the chamber in which it originated (as a "return veto"), along with a message explaining the President's objections. The House and Senate then have an opportunity to override the President's veto, thus enacting the measure into law.

In 1996, the Line Item Veto Act conferred line-item veto authority on the President, which President Clinton used in 1997 in connection with two reconciliation measures and several annual appropriations acts; the act was nullified by the Supreme Court in 1998.

### Presidential Approval

Congress has sent the President 19 reconciliation acts, of which 16 have been signed by the President into law. None of these measures became law without the President signing them. Eleven reconciliation acts were signed into law by Republican Presidents — Ronald Reagan (7), George H.W. Bush (2), and George W. Bush (2); five reconciliation acts were signed into law by Democratic Presidents — Jimmy Carter (1) and Bill Clinton (4).

While congressional deliberations on reconciliation legislation are underway, the President may signal his approval of congressional action through various means. In the case of major budgetary legislation, these signals are conveyed principally through the issuance of Statements of Administration Policy (SAPs), which the Office of Management and Budget maintains for the current administration on its Web site ([<http://www.whitehouse.gov/omb/>]). SAPs take on more significance if congressional action is at significant variance with the President's recommendations. In such instances, his advisers may use SAPs to raise the possibility or likelihood of a presidential veto if policy adjustments acceptable to the Administration are not made in the legislation (see discussion below).

In view of the significance usually attached to reconciliation legislation, the President often signs such legislation into law in an official signing ceremony attended by Members of Congress, cabinet members, and other executive officials involved in the process that culminated in the enactment of the legislation. Any official statement issued by the President upon the signing of the measure, as well as any remarks made during the event, are included in the *Weekly Compilation of Presidential Documents*, which is maintained by the National Archives and Records Administration and is available at the GPO Access Web site [<http://www.gpoaccess.gov>].

## Presidential Veto

Three of the reconciliation acts sent to the President by Congress were vetoed, all by President Bill Clinton.<sup>87</sup> In each instance, Republican majorities in Congress fashioned reconciliation measures proposing significant policy changes that were fundamentally at odds with President Clinton's policy agenda.

When an Administration is engaged with Congress in the formulation of budgetary legislation, the SAPs may be used to motivate Congress to adopt policies favored by the Administration and to drop policies that it does not favor. The language of the SAPs may be modulated to present the mix of encouragement and veto threat considered appropriate. With respect to a particular issue encompassed by the legislation, for example, the SAP might express the "concern" of senior Administration officials and indicate the possibility that they might recommend to the President that he veto the bill if the offending provisions are retained or not appropriately modified.

In the case of the three reconciliation acts that President Clinton vetoed, the SAPs clearly communicated his opposition. The SAP issued on July 27, 1999, pertaining to Senate action on the Taxpayer Refund and Relief Act of 1999, for example, stated: "The Administration strongly opposes the package of tax cut proposals contained in S. 1429. If a bill encompassing these proposals were to pass the Congress, the President would veto it." The bluntness of the wording left Congress no doubt regarding how the President would react to such a bill, if it were presented to him.

When the President vetoes a bill, he returns it to the House of its origin with a message notifying the chamber of his action and explaining the basis of his objections. The veto message, together with the vetoed bill, is printed as a House document. President Clinton's message to the House regarding his veto of the Balanced Budget Act of 1995 began:

I am returning herewith without my approval H.R. 2491, the budget reconciliation bill adopted by the Republican majority, which seeks to make extreme cuts and other unacceptable changes in Medicare and Medicaid, and to raise taxes on millions of working Americans.<sup>88</sup>

The veto message continued with a title-by-title summary of the major programmatic objections to the legislation. In addition, a nine-page enumeration of

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<sup>87</sup> In August 2000, President Clinton pocket vetoed H.R. 4810, the Marriage Tax Relief Reconciliation Act of 2000, but returned it to the House "to leave no possible doubt that I have vetoed the measure." The measure was treated as a return veto. See *Presidential Vetoes, 1989-2000*, S. Pub. 107-10, October 2001, p. 23 (veto 2550). Also, see the remarks of Representative J. Dennis Hastert (Speaker of the House) in the *Congressional Record* (daily ed.), vol. 146, Sept. 19, 2000, p. E1523.

<sup>88</sup> Message From the President of the United States, *Veto of H.R. 2491*, H.Doc. 104-141, Dec. 6, 1995, p. 1.

82 specific objections, arranged by program area (e.g., Medicare, Medicaid, student loans, food stamps, and special interest tax provisions), was attached.<sup>89</sup>

Upon the return of a vetoed bill to the Senate (or the House), the veto message is read and the measure either is reconsidered, referred to committee, or tabled. If the chamber to which the vetoed bill was returned passes it by a two-thirds vote, it is then sent to the other chamber. If the second chamber also passes it by a two-thirds vote, then it becomes law over the President's objections.

All of the reconciliation bills sent to the President carried a House number. Consequently, the three vetoed bills were returned to the House. The vetoed bills were referred to the committee that reported them, either the House Budget Committee or the House Ways and Means Committee. Subsequent motions to discharge the bill from committee were made with respect to the two bills referred to the Ways and Means Committee. One discharge motion was tabled by a vote of 215-203, but the other discharge motion was successful. In that instance, the House reconsidered the vetoed bill (the Marriage Tax Relief Reconciliation Act of 2000), but the bill failed on a vote of 270-158, by not securing the necessary two-thirds margin. These actions are discussed in more detail below:

- the Balanced Budget Act of 1995 (H.R. 2491) was vetoed on December 6, 1995, and returned to the House. Later that day, the chair laid the veto message (H.Doc. 104-141) before the House, which referred the message and the bill to the Budget Committee by unanimous consent.
- the Taxpayer Refund and Relief Act of 1999 (H.R. 2488) was vetoed on September 23, 1999, and returned to the House. Later that day, the chair laid the veto message (H.Doc. 106-130) before the House, which referred the message and the bill to the Ways and Means Committee by voice vote. On October 19, a motion to discharge the bill from committee was tabled by a vote of 215-203.
- the Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810) was vetoed on August 5, 2000, and returned to the House. The chair laid the veto message (H.Doc. 106-291) before the House on September 6 and, later that day, the House referred the message and the bill to the Ways and Means Committee by unanimous consent. On September 13, the House discharged the bill from committee and reconsidered it. Upon reconsideration, the bill failed by a vote of 270-158, lacking the necessary two-thirds.

Because the House did not successfully reconsider any of the three vetoed reconciliation bills, they were not sent to the Senate.

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<sup>89</sup> Ibid., pp. 1-12.

## Line-Item Veto

The Line Item Veto Act was enacted into law on April 9, 1996 (P.L. 104-130; 110 Stat. 1200-1212) and became effective on January 1, 1997. The main procedures under the act were incorporated into the Congressional Budget and Impoundment Control Act of 1974, as amended, as a new Part C of Title X (Sections 1021-1027). Reconciliation measures were included in the several types of budgetary legislation subject to line item veto authority.

In 1998, the Line Item Veto Act was nullified by the Supreme Court in *Clinton v. City of New York*, 524 U.S. 417 (1998).<sup>90</sup> The case involved actions taken by President Bill Clinton pertaining to reconciliation legislation enacted in 1997. The reasoning behind the Supreme Court's decision is characterized as follows:

The Court rejected the argument that the President's power to cancel items was a mere exercise of discretionary authority granted by Congress. Instead, the cancellation authority represented the repeal of law that could be accomplished only through the regular legislative process, including bicameralism and presentment. In the two cancellations that reached the Court, Congress did not pass a resolution of disapproval. As a result, the Court concluded that "the President has amended two Acts of Congress by repealing a portion of each."<sup>91</sup>

The act authorized the President to cancel any dollar amount of discretionary budget authority, any item of new direct spending, or any limited tax benefit in an act if such cancellation will reduce the deficit, not impair any essential government functions, and not harm the national interest. The President could exercise this authority only within five days of signing an act into law. If he chose to line-item veto any provisions in an act, he was required to notify Congress in a special message. Each cancellation had to be separately identified by its own reference number. Congress could consider, under expedited procedures set forth in the act, special legislation to disapprove any cancellations.

At the end of July 1997, the House and Senate completed action on two reconciliation measures implementing the tax cuts and most of the deficit reduction called for in the FY1998 budget resolution (H.Con.Res. 84). The first reconciliation act, the Balanced Budget Act of 1997 (H.R. 2015), made net reductions in direct spending of \$122 billion over the five fiscal years and increased the statutory limit on the public debt to \$5.950 trillion. The second reconciliation act, the Taxpayer Relief Act of 1997 (H.R. 2014), contained tax cuts which partially are offset by revenue increases. The net effect of revenue changes in the Taxpayer Relief Act of 1997, coupled with several revenue provisions in the Balanced Budget Act of 1997 (most notably, an increase in the tobacco tax), was a revenue reduction of \$95 billion.

President Clinton signed the two measures into law on Tuesday, August 5 — the Balanced Budget Act of 1997 as P.L. 105-33 (111 Stat. 251), and the Taxpayer Relief Act of 1997 as P.L. 105-34 (111 Stat. 788).

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<sup>90</sup> See CRS Report RS21991, *A Presidential Item Veto*, by Louis Fisher.

<sup>91</sup> *Ibid.*, p. 5.

On Monday, August 11, President Clinton exercised his authority under the Line Item Veto Act to cancel one item of direct spending in the Balanced Budget Act of 1997 and two limited tax benefits in the Taxpayer Relief Act of 1997. These actions represented the first use of the line-item veto authority.

**Cancellation of Limited Tax Benefits.** Section 1027 of the Line Item Veto Act required the Joint Committee on Taxation (JCT) to prepare a statement for any revenue or reconciliation measure (amending the Internal Revenue Code of 1986) for which a conference report was being prepared, identifying whether such legislation contained any limited tax benefits. The conferees, at their discretion, could include the JCT information in a separate section of the measure, using a form prescribed by the Line Item Veto Act. If such a section was included, then the President could use the item-veto authority only against the limited tax benefits identified in the section; otherwise, the President could use the authority against any provision in the measure that he felt met the definition of limited tax benefit provided in the act.

A total of 80 limited tax benefits were identified in the two reconciliation bills sent to the President. The conference report on the Balanced Budget Act of 1997 (H.Rept. 105-217) was filed on July 29. Section 9304 of the act identified one section as providing a limited tax benefit subject to the line-item veto (see the *Congressional Record* of July 29, 1997, vol. 143, no. 109, part II, at page H6140). That section, Section 5406, pertained to the tax treatment of certain services performed by prison inmates.

The conference report on the Taxpayer Relief Act of 1997 (H.Rept. 105-220) was filed on July 30. Section 1701 set forth a list prepared by the JCT of 79 limited tax benefits subject to the line-item veto (see the *Congressional Record* of July 30, 1997, vol. 143, no. 110, part II, at pages H6490-91 and H6607-08).

President Clinton applied the line-item veto to two limited tax benefits in the Taxpayer Relief Act of 1997. The first, identified in his special message as Cancellation No. 97-1, canceled Section 1175 (Exemption for Active Financing Income) of the act. Cancellation No. 97-2 applied to Section 968 (Nonrecognition of Gain on Sale of Stock to Certain Farmers' Cooperatives) of the act. These provisions were identified in Section 1701 of the act as items 54 and 30, respectively, and dealt with the sheltering of income in foreign tax havens by financial services companies and the treatment of capital gains on the sale of certain agricultural assets.

**Cancellation of Direct Spending Item.** Unlike limited tax benefits, there was no special procedure for congressional identification of items of new direct spending. The cost estimate prepared by the Congressional Budget Office on the Balanced Budget Act of 1997 identified about a dozen accounts that had increases in direct spending for one or more fiscal years. Presumably, at least a dozen (if not dozens) of "items" of new direct spending were associated with these accounts.

President Clinton applied the line-item veto to one item of new direct spending in the Balanced Budget Act of 1997. Cancellation No. 97-3 applied to subsection 4722(c) (Waiver of Certain Provider Tax Provisions) of Section 4722 (Treatment of State Taxes Imposed on Certain Hospitals), a Medicaid provision involving New York State.



## Appendices

### Appendix A. Text of Section 310 (Reconciliation) (Section 310 of the Congressional Budget Act of 1974; 2 U.S.C. 641)

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#### Reconciliation

Sec. 310. (a) **Inclusion of Reconciliation Directives in Concurrent Resolutions on the Budget.** — A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall —

(1) specify the total amount by which —

(A) new budget authority for such fiscal year;

(B) budget authority initially provided for prior fiscal years;

(C) new entitlement authority which is to become effective during such fiscal year; and

(D) credit authority for such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) 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; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

(b) **Legislative Procedure.** — If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a) of this section, and —

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which, upon receiving all such recommendations, shall report to its House reconciliation

legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

**(c) Compliance With Reconciliation Directions. —**

(1) Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) of this section with respect to laws within its jurisdiction, shall be deemed to have complied with such directions —

(A) if —

(i) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under such paragraph by more than —

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

(ii) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than —

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

(B) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

(2)(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 632 of this title.

(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 633(b) of this title to carry out this subsection.

**(d) Limitation on Amendments to Reconciliation Bills and Resolutions. —**

(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

**(e) Procedure in Senate. —**

(1) Except as provided in paragraph (2), the provisions of section 636 of this title for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) of this section and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (b) of this section, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

**(f) Completion of Reconciliation Process. —** It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

(g) **Limitation on Changes to Social Security Act.** — Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 632 or 635 of this title, or a joint resolution pursuant to section 907d of this title, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

**Appendix B. Text of Section 313 (the “Byrd Rule”)**  
(Section 313 of the Congressional Budget Act of 1974; 2. U.S.C. 644)

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**Extraneous Matter in Reconciliation Legislation**

Sec. 313. (a) **In General.** — When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to Section 310, (whether that bill or resolution originated in the Senate or the House) or Section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985 upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (b) shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

(b) **Extraneous Provisions.** —

(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to Section 310 shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph);

(B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions;

(C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous;

(D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;

(E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and

(F) a provision shall be considered extraneous if it violates Section 310(g).

(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that:

(A) the provision mitigates direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit;

(B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution;

(C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or

(D) such provisions will be likely to produce a significant reduction in outlays or increases in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if

(A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or

(B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

(c) **Extraneous Materials.** — Upon the reporting or discharge of a reconciliation bill or resolution pursuant to Section 310 in the Senate, and again upon the submission of a conference report on such reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

(d) **Conference Reports.** — When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to Section 310, upon —

(1) a point of order being made by an Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F), and

(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(e) **General Point of Order.** — Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point or order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.



## **Appendix C. Other Congressional Research Service Products on the Budget Reconciliation Process**

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CRS Report 98-814, *Budget Reconciliation Legislation: Development and Consideration*, by Bill Heniff Jr.

CRS Report RL30458, *The Budget Reconciliation Process: Timing of Legislative Action*, by Robert Keith.

CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule,"* by Robert Keith.

CRS Report RL30714, *Congressional Action on Revenue and Debt Reconciliation Measures in 2000*, by Robert Keith.

CRS Report RL31902, *Revenue Reconciliation Directives in the FY2004 Budget Resolution*, by Robert Keith.

CRS Report RS20870, *Revenue Reconciliation Directives to the Senate Finance Committee in Congressional Budget Resolutions*, by Robert Keith.

CRS Report RS21993, *Spending Reconciliation Directives to the Senate Finance Committee in Congressional Budget Resolutions*, by Robert Keith and Bill Heniff Jr.

CRS Report RS22098, *Deficit Impact of Reconciliation Legislation Enacted in 1990, 1993, and 1997*, by Robert Keith.

CRS Report RS22160, *Reconciliation and the Deficit in FY2006 and Through FY2010: Fact Sheet*, by Philip D. Winters.

CRS Congressional Distribution Memorandum, January 14, 2005, *Reconciliation Directives to House Committees in Budget Resolutions for FY1976-FY2005*, by Bill Heniff Jr.

CRS Congressional Distribution Memorandum, *Reconciliation Directives to Senate Committees in Budget Resolutions for FY1976-FY2005*, January 14, 2005, by Bill Heniff Jr.

