Senate Republicans eye two reconciliation bills in 2025

Incoming Senate Majority Leader John Thune, R-S.D., told his Republican colleagues that he hopes to advance two bills under fast-track budget reconciliation rules in 2025: one addressing energy, defense, and border security, that would move in the early days of the second Donald Trump administration, and a separate, tax-focused package that would follow later in the year to stave off the looming sunset of key provisions in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97), according to GOP senators who spoke to reporters after a meeting of the Republican Conference on December 3.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf

But such a plan, which reportedly is still in the talking stages and is one of several options being considered as Republicans anticipate a trifecta of power in Washington beginning next month, has already sparked objections from some GOP lawmakers in the House.

Two bites at the reconciliation apple?

Budget reconciliation is an expedited legislative process that has been used by both parties several times in recent decades to sidestep a filibuster in the Senate—a procedural hurdle that generally can only be overcome with a 60-vote supermajority—and enact qualifying tax and mandatory spending legislation with just 51 votes (which can include the tie-breaking vote of the vice president) instead of 60. Having the ability to advance legislation with a simple majority would be advantageous for Republicans, who will control only 53 Senate seats in the 119th Congress and are unlikely to win much if any support from Democrats on party-line legislation addressing key GOP priorities, such as extending the 2017 tax cuts. Republicans last used it to pass the TCJA in late 2017, during Trump's first year in office. Democrats used it in 2021 to pass the American Rescue Plan (P.L. 117-2) and in 2022 to pass the Inflation Reduction Act (P.L. 117-169).
URL: https://www.congress.gov/bill/117th-congress/house-bill/1319/text
URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

To put the process in motion, the House and Senate are first required to adopt a joint budget resolution that includes reconciliation instructions directing congressional authorizing committees to report legislation that conforms to certain agreed-upon fiscal parameters. In short, Republicans will have to agree up front on the size of the net fiscal impacts of a tax bill before they can fill in the details; but if they can reach internal agreement on that, they will have the ability to pass legislation without having to secure any votes from the other side of the aisle.

Because there has not been a budget resolution adopted for the current fiscal year, FY 2025, Republicans could adopt one before the fiscal year ends on September 30, 2025, *and* adopt a second one with a separate set of reconciliation instructions for FY 2026, giving them two separate opportunities to use budget reconciliation next year, something Republicans tried with mixed success in 2017 (to advance the TCJA and in a failed effort to repeal the Affordable Care Act) and that Democrats also used in 2021 to advance the American Rescue Plan and the Inflation Reduction Act, even though the latter measure was not completed until the following year.

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Building momentum with two bills?

Some Senate Republicans told reporters after an internal party meeting this week that quickly passing a nontax reconciliation bill early in Trump's second administration would allow the GOP to score a quick policy win and help pave the way for action on a large, complex tax package later in the year.

In comments reported in *Tax Notes*, Senate Republican Policy Committee Chairman Shelley Moore Captio of West Virginia said that the two-bill approach Thune has floated "gives us momentum to tackle maybe some more difficult and more complicated issues. What the voters are telling us they want us to do is very clear in some ways, and we can go to the clearest ones first."

GOP Sen. Kevin Cramer of North Dakota agreed, saying, "I kind of like it because I do think the first one will be easier to do in a short period of time. The tax one will be complicated."

As a practical matter, however, there are questions about just how quickly Republicans may be able to act on a reconciliation measure in the early days of the Trump administration. For example, the GOP will have only a narrow margin of control in the House in the 119th Congress—220 seats, compared to 215 for Democrats—but that majority will quickly shrink by 3 votes, given that now-former Republican Rep. Matt Gaetz of Florida has resigned his seat in the 118th Congress and said he will not take the oath of office for the 119th Congress on January 3, and Reps. Elise Stefanik of New York and Mike Waltz of Florida are expected to leave their respective seats to take positions in the Trump administration. (All three vacancies will have to be filled in special elections. See separate coverage in this issue for additional discussion of the make-up of the incoming 119th Congress.) That means House Republican leaders can afford few, if any, internal defections on party-line legislation that is not expected to get support from Democrats.

House Speaker Mike Johnson, R-La., acknowledged these extremely tight margins in his weekly press conference.

"Do the math," he said in comments reported by *The Washington Post*. "We've got nothing to spare."

Another possible complication stems from the fact that reconciliation measures ultimately must comply with what's known in the Senate as the "Byrd Rule," which provides that such bills cannot include provisions that:

1. Have no budgetary effect or have a budget effect that is only incidental to the policy change or
2. Increase the deficit beyond the budget window (traditionally 10 years, but Congress could dictate a shorter or longer period).

A separate rule prohibits changes to Social Security. Any adverse rulings on specific provisions from the Senate parliamentarian—who serves as the arbiter of what does and does not comply with these restrictions—could hold up action on a larger bill as lawmakers debate whether to strike those provisions from the legislation, look for ways to modify them to make them compliant, seek 60 votes to overcome a point of order against the bill, or challenge the parliamentarian.

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Any reconciliation measure moving through Congress also will bump up against other "must do" priorities facing lawmakers early next year. That includes, most notably, funding the government for fiscal year 2025, which began on October 1. The government is currently operating under a continuing resolution that funds federal departments and agencies (at fiscal year 2024 levels) through December 20. It appears increasingly likely that lawmakers will not be able to reach a deal on a full-year funding measure during the current lame duck legislative session and will instead opt for another short-term continuing resolution that will push the funding debate into the first quarter of 2025. (See separate coverage in this issue for details.)

Vetting and confirming President Trump's nominees for cabinet posts and certain other administrative positions will also consume additional floor time in the Senate.

One and done?

On the other side of the Rotunda, some Republicans in the House questioned the merits of Thune's proposed two-bill strategy and specifically cautioned against delaying action on a tax reconciliation measure until later in 2025.

House Ways and Means Committee Chairman Jason Smith, R-Mo., told *Punchbowl News* December 4 that trying to move two reconciliation bills would be a "reckless" strategy and that putting off the tax component would increase the risk of allowing taxes to increase if TCJA provisions expire before Congress has an agreement on taxes in hand. (Among the provisions scheduled to lapse after 2025 are the reduced income tax rates for individuals, increased exemption amounts for the estate tax and the individual alternative minimum tax, and the 20 percent deduction for passthrough business income.)

Smith doubled down on that position the next day, commenting that other Republican taxwriters agree with him:

"You think I'm out for a walk by myself? Our whole purpose is to make sure we do not allow taxes to increase on small businesses, working families and farmers," he told *Punchbowl*. "[I]f you look at history, in the last 25 years, every Congress has only had one reconciliation bill become law. And we only have a 217 to 215-seat majority. So we think we can pass multiple ones into law? Yeah, I don't know what island some people [are on]."

House GOP taxwriter Rep. Kevin Hern of Oklahoma expressed similar doubts.

"It's always a concern you might run out of time," Hern said in comments reported in *Punchbowl*. "And is there enough courage to do two separate ones?"

For his part, House Budget Committee Chairman—and Ways and Means Committee member—Jodey Arrington, R-Texas, told reporters that a single reconciliation measure that includes key nontax GOP priorities could help shore up support within the conference for the tax component.

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In comments reported in *The Wall Street Journal*, Arrington observed that "[t]here are some constituencies within the House, and the Senate, who would be more inclined to vote for, for example, a tax package or a spending package if there was border."

CBO weighs in on economic impact of TCJA

Much of next year's debate on extending the TCJA will focus on the legislation's impact on the broader economy and whether making those provisions permanent, as President-elect Trump and congressional Republicans have proposed, should require offsets. The nonpartisan Congressional Budget Office (CBO) estimated in May that a permanent extension of the expiring TCJA provisions would cost some $4.6 trillion over 10 years, including additional debt service costs.
URL: https://www.cbo.gov/publication/60114

In a new report released December 4, the agency estimated that allowing the TCJA tax cuts to expire as scheduled would result in "very small changes to gross domestic product." Specifically, the report notes that "expiration modestly reduces the supply of labor by raising tax rates on individual income," but that "[t]he increase in tax revenues stemming from expiration reduce federal deficits and borrowing and, in turn, increases private investment." These twin effects "largely offset each other," the agency said.
URL: https://www.cbo.gov/publication/60986

The CBO also noted in a separate blog post on December 4 that its latest estimate of receipts since the TCJA was signed into law (covering fiscal years 2018 through 2024) is $1.5 trillion higher than earlier projections for that period that it released in April of 2018. Much of that increase—$900 billion—is attributable to "the burst of high inflation that began in March 2021," according to the agency. Other factors contributing to the higher revenues include an increase in real economic activity ($700 billion) and customs duties from new tariffs ($250 billion).
URL: https://www.cbo.gov/publication/60987

Several other soon-to-be-released publications from the CBO are also likely to capture the attention of policymakers as the tax debate unfolds. The agency announced this week that the latest edition of its recurring report on options for reducing the federal deficit will be released on December 12. The report will describe 76 policy options that would decrease federal spending or increase federal revenues over the next decade.
URL: https://www.cbo.gov/publication/61049

A separate report, *Current View of the Economy From 2025 to 2027*, which will provide details about CBO's updated projections of the economy through 2027 and will reflect economic developments as of December 4, 2024, is slated for release on December 18.

Also pending is CBO's *Budget and Economic Outlook: 2025 to 2035*, which will be released on January 17. The report will include the agency's full 10-year economic forecast, as well as its updated 10-year budget baseline projections. The report will be shorter than usual to accommodate a release date earlier in January, the CBO noted, although additional information on the agency's economic forecast will be available "later in January or early February."

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