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Reconciliation and Tax Recap

FEBRUARY 14, 2025

WELCOME to BGR's weekly update on the efforts of Congressional Republicans to move legislation through the budget reconciliation process this year.
Our goal: give you all the week's news in one place.

News this week: Movement! • Deep dive on tax • Deep dive on Medicaid

Quick Recap!

- **Movement!** – After months of swirl, both the House and Senate moved actual bills through the legislative process, as both the House and Senate Budget Committees passed budget resolutions.
- **…in different directions** – We never said the House and Senate were working on the same bill.
- **What moved?** – The House and Senate each passed "budget resolutions," which simply set financial targets for different committees. No technical meat on the bone beyond what leadership said the targets were intended to include.
- **The Senate seems to be on the "two bill" track** – The Senate Budget Committee advanced a budget resolution that addresses border and energy policies, while leaving tax for a different bill later in the year. The bill moving forward requires minimal offset hunting and thus is less likely to pull in major health policy.
- **The House is sticking to one bill** – Conversely, the House stayed true to the "one bill strategy," moving a budget resolution that would "spend" roughly $4.9 trillion between tax cuts and energy/border investments. The bill created an $880 billion offset hole for the Energy and Commerce Committee.
- **Both efforts appear headed for Floor action** – The Senate expects to take their budget resolution to the floor next week, while the House will likely try to do the same with theirs the week after next.
- **Look for a break in the action soon** – Funding for the federal government is set to expire on March 14. Keeping the lights on requires 60 votes and therefore support from both parties. That's going to require some attention! So, reconciliation discussions are likely to pause for a bit after the budget resolutions pass.
- **More info on tax** – Worth noting we recently got some greater specificity on the White House is hoping to see in a tax package – including a new call for closing the carried interest deduction (more on that here).

- **Who knows?** – Still too early to say how the competing Senate and House efforts resolve.

What's on the table for reconciliation?
Reiterating briefly here what Republicans are hoping to get done via reconciliation.

The three priority policy areas:
- Border/immigration
- Tax – with a focus on extending lower tax rates created by the 2017 Tax Cuts and Jobs Act (TCJA)
- Energy

The more complicated question – how would Congress move to offset the lower revenue created by the tax policies on the table? To that end, Republicans have been bouncing around lengthy lists of policy options that would reduce mandatory federal spending, with significant policies on the table for Medicare, Medicaid, and the marketplace – though with a huge emphasis on the Medicaid program.

Update from the Senate – Budget Committee passes a budget resolution

Last week, the Senate got tired of waiting for the House to move.

Last Friday, Chairman Graham of the Senate Budget Committee released the text of a budget resolution that includes instructions for Committees – the first step in the reconciliation process.

Text of the budget resolution

Reminder – budget resolutions just set the table for Committee action, providing general budget targets. In some cases, legislators have told us what they intend to do to meet their numbers; in others, they have not.

Graham's bill is not the whole hog of what's been discussed in the House. His bill would push major investments in border security and domestic energy production but steers clear of the whole tax cut thing. The bill calls for $342 billion over four years, with responsibilities to offset that spending spread across a number of committees.

Earlier this week, the Senate Budget Committee adopted Graham's budget resolution on a party line vote.

Next step: Reports suggest its heading to the Senate Floor this coming week.

Update from the House

The House also acted this week, advancing a budget resolution through the House Budget Committee late Thursday night.

Leadership introduced the text of the resolution on Wednesday. Unlike the Senate approach, the House is still trying to tackle all the goals for the year – energy, tax cuts, and border security – in a single bill. As such, the bill calls for $4.9 trillion in tax cuts and energy/border investments, with offset assignments for several committees. Of note – an $880 billion target for the Energy and Commerce Committee, which holds jurisdiction over Medicare and Medicaid.

One key note – the House budget resolution also includes a provision that would address the looming debt ceiling issue, potentially setting the table to move the issue through the reconciliation process.

There was some drama along the way. Entering Thursday morning, two key conservative members of the Committee – Reps. Chip Roy (R-TX) and Ralph Northam (R-SC) – appeared interested in seeing more ambitious cuts in the bill. However, Republicans held the line after the Committee adopted a resolution requiring $2 trillion in spending cuts in order to move forward on tax cuts.

Next step: Reports suggest Speaker Johnson will try to bring the resolution up for a vote the last week of this month, after House members return from a week out of session for President's Day.

More Nuance on Tax Priorities

Last week, President Trump put some more details on what he's hoping to see from Congressional Republicans on tax policy in the reconciliation bill.

On the table:

- Extending 2017 tax cuts from TJCA
- "No tax on tips," following through on the well-documented campaign promise.
- No taxes on Social Security benefits or overtime benefit, also in reference to promises made on the campaign trail.
- Reducing taxes on products manufactured domestically
- Increase the State and Local Tax (SALT) deduction, which was modified in TCJA. That policy has been a major priority for Republicans in the Northeast – especially New York.

- Closing the carried interest deduction, sometimes called the "carried interest loophole." President Trump advocated for this policy in 2017, but it was not included in TCJA.
- Eliminating tax breaks for "billionaire sports owners" – It's not entirely clear what President Trump means here; however, it's possible this notion could get at taxation of nonprofit organizations, or tax-free bonds for sports stadiums.

The latter three policies were new to the public dialogue last week, with the proposal on carried interest in particular drawing concerns from industry.

House vs. Senate

As expected, the Senate and House have significantly different perspectives when it comes to the budget reconciliation process—especially related as it relates to tax policy. These differences of opinion set the two chambers on a collision course.

In the Senate, the budget that was released last week by Chairman Lindsay Graham did not require pay-fors to extend current tax policy, which could allow for a theoretically cost-free extension of the TCJA, at least on paper. This decision will be labeled as a budget gimmick by deficit hawks in the House and will cause tension between the House and the Senate.

Similarly, the demands of Senate Finance Republicans—including Majority Leader Thune—yesterday that they would "not support a tax package that that only provides temporary relief from tax hikes" will also cause tension with the House. As this demand would violate the Byrd Rule, causing the provision to drop from any reconciliation package. Recall that the Byrd Rule prevents legislation to move on any reconciliation vehicle if it has a budgetary impact in the "out years" or outside of the 10-year budget window.

Yet, the House has its own, unique, set of problems. Despite assurances from the House Budget Committee that an extension of TCJA would only cost $4 trillion—reserving $500 billion for other tax cuts and hopes of higher economic growth estimates—many House Republicans are worried that the $4.5 trillion top-line figure will limit other tax priorities, including an extension of the state and local tax (SALT) deduction, which President Trump also listed as a priority last week. SALT could cost anywhere from $100 billion to $1 trillion—depending on how the individual and corporate deduction is modified. Striking a balance between pro-SALT Republicans and budget hawks will be one of the most—if not the most challenging—items for Ways & Means in the upcoming weeks.

Medicaid

Reductions in Medicaid spending have been very much on the table in discussions to date, as reflected in some of the early menu documents floated from the Hill. While Congress is always making changes to the Medicaid program, the types of changes on the table for consideration would be among the more significant in recent memory.

The developments of the week have stakeholders in the Medicaid arena concerned. While the Senate's budget committee steered clear of major offset obligations within the Senate Finance Committee, the House's budget resolution called for the House Energy and Commerce Committee to find $880 billion – sparking concerns the Committee will lean on Medicaid to get those savings.

During the House Budget Committee markup, Medicaid was a focal point of the discussion between the parties. Democrats repeatedly raised concerns with cuts to Medicaid, while Republicans largely claimed changes were focused at waste, fraud, and abuse.

What Medicaid policies are on the table?

A note on vocabulary – a number of the policies under discussion are targeted at Medicaid beneficiaries who are eligible by virtue of their income levels, but not by other means.

- The Social Security Act requires ALL Medicaid programs to cover some subsets of consumers, including pregnant women, children, and people with disabilities.
- However, many states have opted to expand eligibility to broader groups of the population based on their income level – particularly after passage of the Affordable Care Act, when the federal government offered to take on the lion's share of costs for that population (vs. splitting more evenly with the state).
- This latter group has a lot of names, depending on who you talk to: "able-bodied adults," "the expansion population," "modified adjusted gross income (MAGI) population." Etc. We're going to call this group the expansion population here for ease.

Some of the key policies under discussion –

- **Creating a national "work requirement**," which would make employment or seeking employment an eligibility requirement for the expansion population. *This policy has broad Republican support across the caucus in the House and Senate.*
- **Establishing "per capita caps"** for the expansion population, which would establish a limit on how much the federal government would match in medical costs for a given beneficiary.

- **Reducing the federal matching rate (FMAP)** paid for the expansion population in states that have undertaken a Medicaid expansion after passage of the Affordable Care Act. Currently, the federal government matches at 90% for these beneficiaries.
- **Capping "State Directed Payments,"** or supplemental payments Medicaid programs make to providers to offset the costs of treating Medicaid beneficiaries and the uninsured.
- **Restricting "health care provider taxes,"** or taxes that states levy on providers as a means to generate the state share of Medicaid funds.

Stakeholder Pushback

Some updates on how stakeholders are reacting to these policies under consideration:

- Ad buys – The non-profit group "Protect Our Care" has launched another round of ads calling for opposition to any/all Medicaid cuts. The ads target House Republicans in swing districts, primarily. The latest round is a part of the broader "Hands off Medicaid" campaign.
- Paragon keeps up the pressure – The Paragon Institute issued another newsletter continuing to call for reforms to the Medicaid program, including reducing the FMAP for the expansion population and changing policy around State Directed Payments and provider taxes. Alumni of the Paragon Institute have now filled a number of key roles in the Trump Administration, so we're continuing to watch their thinking closely.
- Arnold Ventures hops in the discussion – Arnold Ventures offered its perspective on how Republicans might offset the tax reform package on the table, including several recommendations in health care policy. Include: site neutral payments in Medicare, changes to State Directed Payments, and changes to Medicare Advantage.

The Looming March 14 Deadline

As insinuated in the opening summary, there's an awful lot of other federal policy in need of Congressional attention swirling at the moment – much of it outside the reconciliation process.

Government Funding – March 14th

Federal appropriations bills, which support the work of the executive branch, can't move the reconciliation package. As such, they require 60 votes in the Senate – and the votes of Democrats, in its current make-up.

At the end of last year, Congress passed a short-term "Continuing Resolution," which funded government at its current levels through March 14th.

So….before March 14 – either Congress finds some kind of vehicle for federal appropriations that can capture support from both parties or the government will shut down.

Health policy – March 14th

At the end of last year, bipartisan negotiators from the House and Senate assembled a sizable package of health policies, which would travel with the aforementioned Continuing Resolution. Actually, it was really just a sizable package of policies, not necessarily limited to health.

That package included some time sensitive policies – including legislation providing Medicare with continued flexibility to pay for telehealth, extending the bipartisan "hospital at home" demo, and mitigation of scheduled cuts to the Medicare Physician Fee Schedule. It also included significant reforms to the Pharmacy Benefit Manager (PBM) industry, and other transparency provisions.

The larger package collapsed, and Congress acted in bipartisan fashion to extend some of those time sensitive policies through March 14th.

It's possible some of these "must do" policies could be addressed through reconciliation – however, it seems more likely that these policies will become a part of the negotiations on government funding.