



BUDGET COMMITTEE



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Brief Summary of Democrats' FY 2010 Budget Conference Report

- 5-year budget
- Deficit falls from 12% of GDP in 2009 to 3% of GDP in 2014 (\$523 billion) – see table below for items left out of the conference agreement's deficit calculations
- Debt held by public continues on an upward path - rises from 55% of GDP in 2009 to 67% of GDP in 2014

Reconciliation

- Senate reconciliation instructions to Senate HELP and Finance Committees for \$1 billion each (2009-2014) deficit reduction; report no later than October 15, 2009.
- House reconciliation instructions “for health care reform” to House Ways & Means, Energy & Commerce and Education & Labor Committees for \$1 billion each (2009-2014) deficit reduction; report no later than October 15, 2009.
- House reconciliation instructions “for higher education” to House Education & Labor Committee for \$1 billion deficit reduction; report no later than October 15, 2009.

Enforcement

- New Senate Point of Order (POO) against a bill that extends or reauthorizes surface transportation programs that appropriates Budget Authority from sources other than the highway trust fund (in neither House- nor Senate-passed budget resolutions).
- Senate exempts health care reform legislation from \$10 billion short-term deficit POO and from first six years of PAY-GO.

PAY-GO

- Senate says PAY-GO still applies to everything, except for six-year test for health reform
- House says PAY-GO is forgiven for two years of doc fix, three years of AMT, middle-class relief and estate tax relief – only if statutory PAY-GO is passed by the House or if the bills that extend those policies include language to reinstate statutory PAY-GO.

Discretionary Spending

- \$556.1 billion in regular defense discretionary in 2010
- \$529.8 billion in regular non-defense discretionary in 2010
- \$1086 billion in regular appropriations total for 2010
 - Plus \$130 billion for war in 2010
 - Plus \$10 billion for disasters in 2010
 - Plus opens up allowable advance appropriations to veterans discretionary spending

Changes to CBO's Baseline for Mandatory Programs

- Requires savings from reconciliation (-\$2 billion)
- Un-offset doc fix for two years (\$38 billion cost over five years)

Changes to CBO's Baseline for Revenues

- \$512 billion for middle-class tax relief
- \$214 billion for three years of AMT fix
- \$72 billion for President's estate tax relief
- \$34 billion in unspecified net revenue increases

Climate Change

The report states: "It is assumed that reconciliation will not be used for changes in legislation related to global climate change." **However, the conference report removes:**

- Three points of order against increased taxes/energy taxes on those families earning below \$250,000 per year.
- A point of order against legislation which would cause significant job losses in manufacturing and coal-dependent states.
- A Hutchison amendment to Energy deficit-neutral reserve fund (DNRFF) adding increased Outer Continental Shelf oil and gas development.
- A Vitter amendment to Energy DNRFF protecting oil and gas protection, farmers, fishermen, and domestic industries against increased costs.
- A Thune amendment (as well as a Boxer amendment) to Climate DNRFF which would provide that climate change legislation could not increase electricity or gasoline prices.
- A DNRFF to increase nuclear plant construction.
- A DNRFF to increase advanced nuclear research.

Costs Left Out of Budget Conf. Agreement That President Included in His Budget

(\$ billions)

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
<u>Conference Report</u>						
Deficits Claimed	1693	1233	916	620	581	523
As a % of GDP	12%	9%	6%	4%	4%	3%
Debt Held By Public as % of GDP	55%	61%	64%	66%	66%	67%
Last 3 years of Doc Fix				8	18	23
Last 2 years of AMT fix					34	37
TARP II	125	125				
Disaster Costs			16	18	20	23
Health Reform (2x President's down-payment; not offset until after 2014)		4	32	88	102	146
Skinner middle-class tax relief			30	40	50	67
Extend Make Work Pay Credit			29	42	43	43
Non-existent disc. offsets (920)			7	12	14	14
Interest	<u>0</u>	<u>2</u>	<u>6</u>	<u>13</u>	<u>27</u>	<u>47</u>
Amount That Deficit is Understated	125	131	120	222	308	400
<u>Conf. Report adjusted to President Obama's Budget Level of Honesty</u>						
Deficits from Desired Policies	1818	1364	1037	842	889	924
As a % of GDP	13%	9%	7%	5%	5%	5%
Debt Held By Public as % of GDP	56%	64%	68%	70%	73%	75%



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Reconciliation Is a Fiscal Policy Tool, Not a Political Tool

- **Reconciliation is a fiscal policy tool.**
 - ✓ Tool to enhance Congress's ability to change current law to bring spending and revenues in line with levels assumed in budget resolution.
 - ✓ Reconciliation instructions are numerical targets and are not program-specific.
 - ✓ Reconciliation allows Congress as a whole to push committees with jurisdiction over direct spending (and taxes) to legislate changes to programs that would otherwise be on automatic pilot to meet the numerical targets included in instructions.
- The principal focus in the reconciliation process has been deficit reduction.
 - ✓ In some years reconciliation has involved revenue reduction and spending increases in selected areas.
- **Reconciliation should not be used as a political tool.**
- Reconciliation is a fast track legislative procedure - debate in the Senate limited to 20 hours (legislation can not be filibustered) - tight germaneness tests on amendments.
- As such, reconciliation can be used to abrogate Minority rights.
- If reconciliation is used for large policy changes like health reform or cap and trade...
 - ✓ Clear signal that Administration and Democratic majority do not want to work in a bipartisan manner
 - ✓ Leaves legitimate stakeholders out of the process – even within their own party
 - Only members of committees receiving reconciliation instructions will have a hand in the final product – all other members are left out
 - ✓ **Limits debate on huge policy changes that would affect the lives of every American to only 20 hours** – less than 3 working days

If The Senate Can't Hold A Full Debate, Who Can?

- Senate as an institution – known for being most deliberative body – unlimited debate and right to amend.
- In the US Senate, a minority of 1 has the unique right to be heard.
- Last election stressed bipartisan cooperation and changing the way Washington works – is killing minority rights the way to go?
- Reconciliation skirts the normal rules and deprives members of their rights.
- Obama's fiscal responsibility and health care summits advertised a new era of working together – just a ruse?
- Using reconciliation to curtail Senate debate and limit amendments would throw future bipartisan cooperation overboard.
- Important policy changes such as health reform and cap and trade deserve an open and vigorous debate.

Things To Watch Out For – Tricks That Could Be Pulled

- Democrats say reconciliation is there “as a fallback” if bipartisan negotiations fail through regular order.
 - ✓ If reconciliation is included, why would Democrats want to work in a bipartisan manner?
 - ✓ Dems will wait a while, say bipartisan negotiations failed, and move forward on their own through reconciliation.
- Democrats say reconciliation “brings Republicans to the table.”
 - ✓ Reconciliation should not be used as a threat.
 - ✓ GOP wants to participate fully in the legislative process – don't need to be scared into working together.
- House budget resolution included reconciliation instructions and Senate budget resolution did not - **Conference report includes reconciliation instructions for both Houses.**
 - ✓ *Completely bypassed* the full Senate's opportunity to debate whether budget resolution should include reconciliation – because conference report on a budget resolution is take it or leave it.

- ✓ Members who opposed including reconciliation in the Senate budget resolution should also oppose reconciliation in a conference agreement.

Byrd Rule

- Some of the first reconciliation bills in the early 1980s contained many provisions that were extraneous to the purpose of implementing budget resolution policies.
 - ✓ Included 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.
- In 1985 and 1986, the Senate adopted the Byrd rule 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 Congressional Budget Act of 1974 as Section 313 and made permanent (2 U.S.C. 644).
- The Byrd rule provides six definitions of what constitutes extraneous matter, but the term is generally described as covering provisions unrelated to achieving the goals of the reconciliation instructions.
- In late 2005, 8 provisions of the conference agreement on the Deficit Reduction Act violated the Byrd rule. Sen. Conrad used the Byrd rule to remove 2 provisions:
 - ✓ Requirement for a Secretary of HHS report and MedPac report on Plan for Hospital Value based purchasing Program
 - ✓ Proposal for a new subsection of the Social Security Act dealing with emergency room copayments for non-emergency care
- In relation to the student loan reconciliation bill in 2007, the policy changes that accompanied the budgetary provisions had to be enacted in a separate measure in order to avoid what would have been rampant Byrd rule violations.



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What Have They Said on Reconciliation?

Senate Budget Committee Chairman Kent Conrad (D-ND):

“Once you’ve unleashed reconciliation, you can’t get it back in the barn, and it could be used for lots of different things that are completely unintended at this moment. People need to think about that very carefully.”

CongressNow, 4/21/09

"When you give a reconciliation instruction to a committee, there is nothing to hold them to use it for the purpose that you intended...[If] "it turns out you don't need it for health care, you do it in regular order, they still have the reconciliation instruction. That is no breach of trust; that is just a change in reality."

Congress Daily, 4/21/2009

“I don’t think this was the purpose for which reconciliation was originally devised. There are many problems that it creates in trying to write substantive legislation. So I would much prefer that we not have reconciliation instruction in this resolution.”

RollCall, 4/21/09

“Reconciliation was never intended for this purpose, and it doesn’t work well...It was never intended for this purpose, and I think there would be a lot of unintended consequences.”

RollCall, 4/21/09

“Reconciliation was designed for deficit reduction. The place where I would agree with the Senator is, I don't believe reconciliation was ever intended to write major substantive legislation.”

Senate floor statement on FY 2010 Budget, 3/31/09

“I have said repeatedly, publicly and privately, that I do not think reconciliation is the appropriate way to do climate change legislation or to do health care reform or other major substantive legislation if it is not deficit reduction. That is the position I have taken.”

Senate floor statement on FY 2010 Budget, 3/31/09

“We allow reconciliation for deficit reduction only, which was the original purpose of reconciliation.”

Senate floor statement on FY 2010 Budget, 3/30/09

“We have no reconciliation instructions in this budget -- not on health care, not on climate change, not on education. My own belief is that was never the purpose of reconciliation. Reconciliation was really designed to be for deficit.”

Senate floor statement on FY 2010 Budget, 3/30/09

“Our distinguished Parliamentarian has said, if you try to write major legislation in reconciliation, you will be left with Swiss cheese. So I hope people are thinking about that. I know there are attractive features of reconciliationI don't think we should do it for substantive legislation that is really not deficit reduction legislation.”

Senate floor statement on FY 2010 Budget, 3/30/09

Senate President Pro Tempore Robert Byrd (D-WV):

“I oppose using the budget reconciliation process to pass health care reform and climate change legislation. Such a proposal would violate the intent and spirit of the budget process and do serious injury to the Constitutional role of the Senate.”

Dear Colleague letter, 4/2/09

“As one of the authors of the reconciliation process, I can tell you that...reconciliation was intended to adjust revenue and spending levels in order to reduce deficits...it was not designed to create a new climate and energy regime, and certainly not to restructure the entire health care system.”

Dear Colleague letter, 4/2/09

“I also compliment the Chairman for making the right decision to forego reconciliation instructions in this budget. Unfortunately, the House budget resolution does include reconciliation instructions, and that should be of concern to every Senator.”

Senate floor statement on FY 2010 Budget, 4/1/09

“I am one of the authors of the reconciliation process. Its purpose is to adjust revenue and spending levels in order to reduce deficits. It was not designed to cut taxes. It was not designed to create a new climate and energy regime, and certainly not to restructure the entire health care system. The ironclad parliamentary rules are stacked against a partisan minority, and also against dissenting views within the majority caucus. It is such a dangerous process that in the 1980s, the then-Republican majority and then-Democratic minority adopted language, now codified as the Byrd Rule, intended to prohibit extraneous matter from being attached to these fast-track measures. The budget reconciliation process will not air dissenting views about health and climate legislation. It will not allow for feedback from the people or amendments that might improve the original proposals.”

Senate floor statement on FY 2010 Budget, 4/1/09

“I understand the White House and congressional leadership want to enact their legislative agenda. I support a lot of that agenda, but I hope it will not require using the reconciliation process. Again, I commend the chairman of the Budget Committee for excluding reconciliation instructions, and look forward to working with him to ensure those instructions are not included in conference.”

Senate floor statement on FY 2010 Budget, 4/1/09

Senate Majority Leader Harry Reid (D-NV):

Reid also offered a novel proposal for paying for redoing the nation's health system. He suggested using \$646 billion that would be collected under a controversial Obama proposal to auction off greenhouse gas pollution allowances. "That's exactly how much we need for the first phase of health care reform," Reid said.

From Associated Press story, 3/26/09



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Contrast Between President Obama's Letter to Senator Reid (Calling For Reenactment of Statutory PAY-GO) and PAY-GO Violations In The Budget Resolution Conference Report

The Letter

- President Obama's letter (April 24) indicts the "fiscal irresponsibility" of the approach in recent years that failed "to pay for new policies – especially large tax cuts that most benefited the well-off and well-connected."
- The President calls for (re)enactment of statutory Pay-As-You-Go legislation. As before, under such a mechanism, new (non-emergency) tax cuts or entitlement expansions would require offsetting revenue increases or spending reductions.
- In his letter, he does not define what is "new." So for example, the stimulus bill included \$479 billion in new, unpaid-for mandatory spending and revenue losses designated as an emergency. But numerous "temporary" policies, such as the Making Work Pay tax credits, will likely be extended after their expiration date. Will statutory PAY-GO, if enacted, apply to extension of such programs if they are not considered "new" tax cuts or mandatory spending?
- He argues that both Houses of Congress have been using congressional rules to enforce PAY-GO, but "we can strengthen enforcement and redouble our commitment by enacting PAY-GO into law."

The Budget Resolution

The President's letter misses the irony that legislation implementing the assumptions in the budget resolution conference report would run afoul of a statutory PAY-GO mechanism.

- The conference report allows **the Chairman of the Budget Committee to exempt from House PAY-GO rules** legislation to extend Medicare physician reimbursement rates, certain middle-class tax cuts (enacted in 2001 and 2003), a patch of the AMT for one year, and estate tax relief (all provided the House has either 1) passed a bill to create statutory PAY-GO or 2) that each bill extending these policies also includes a provision that would enact statutory PAYGO). If all this legislation is enacted, it would amount to a **PAY-GO violation of \$2.3 trillion** over 10 years.
- The application of the conference report to the Senate is not quite as hypocritical as the wholesale exemptions from PAY-GO in the House. While the conference report assumes the Senate will pass legislation resulting in the same \$2.3 trillion in PAY-GO violations, it does not give the Chairman the Senate Budget Committee the same magic wand provided to his House counterpart to make the PAY-GO point of order go away. The

whole Senate would still have to vote to waive the PAY-GO point of order if anyone were to raise it. The resolution also contains a deficit neutral reserve fund for health care reform that exempts legislation covered under the reserve fund from the PAY-GO requirement of deficit neutrality over the first six years.

THE WHITE HOUSE

WASHINGTON

April 24, 2009

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

The Budget that I have proposed and that is currently being considered by Congress would cut the deficit in half by the end of my first term while making key investments in health, energy, and education. Although a plan to cut the deficit in half is an important step in restoring fiscal discipline, it is not enough. After years of fiscal irresponsibility, returning our nation to fiscal health also requires a budget process that can help make those plans a reality.

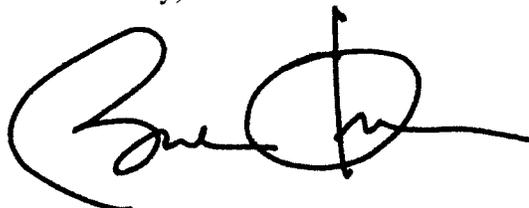
The deficits that my Administration must grapple with reflect years of failing to pay for new policies – especially large tax cuts that most benefited the well-off and well-connected. That is why I am today calling on Congress to work with me in enacting statutory Pay-As-You-Go, or “PAYGO,” legislation.

PAYGO would hold us to a simple but important principle: new tax or entitlement policies should be paid for. Creating a new non-emergency tax cut or entitlement expansion would require offsetting revenue increases or spending reductions.

In the 1990s, statutory PAYGO encouraged the tough choices that helped transform large deficits into surpluses, and I believe that it can do the same today. Both houses of Congress have already taken an important step toward righting our fiscal course by using congressional rules to enforce the PAYGO principle. But we can strengthen enforcement and redouble our commitment by enacting PAYGO into law.

I look forward to working with you and other members of Congress to develop a PAYGO law that would help return the nation to a path of fiscal responsibility.

Sincerely,

A handwritten signature in black ink, appearing to be Barack Obama's signature, written in a cursive style.



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Democrat Conferees Agree on a Budget – Clear Path for National Sales Tax on Energy

President Obama promised not to raise taxes by a “single dime” on individuals earning income under \$200,000 and families earning income under \$250,000. However, the Democrats are threatening to impose a massive national sales tax on energy on all American families through various cap-and-trade proposals:

- Rep. John Dingell (D-Michigan), a leading Democrat and ousted Chairman of the committee of jurisdiction over climate change policy recently admitted, “Nobody in this country realizes that cap-and-trade is a tax -- and it's a great big one.”
- President Obama has proudly boasted that under cap-and-trade, “...electricity rates would necessarily skyrocket.”
- The President’s Budget Director Peter Orszag testified that the costs for firms to comply with cap-and-tax legislation “would be passed along to others in the economy, such as consumers, in the form of higher prices, and employees, in the form of lower wages.”

In the final FY2010 Budget Resolution Conference agreement, Democratic Budget Conferees and the Obama administration collaborated behind closed doors to eliminate Senate-passed amendments that protected taxpayers from increased energy costs and led to greater domestic energy production.

The Democrats removed:

- A Senate-passed amendment to ensure transparency, bipartisanship, and proper debate on climate change legislation through regular Senate debate and amendment procedures. Instead, Democrats inserted the following non-binding sentence into the Managers’ Statement: “*It is assumed that reconciliation will not be used for changes in legislation related to global climate change.*” This maneuver ensures that Democrats could still impose a national sales tax on energy by limiting debate and amendments through the budget reconciliation process.
- Senate-added points of order to protect hard-working Americans against:

- Higher taxes (as a result of climate change or any other legislation) on individuals earning under \$200,000 and families earning under \$250,000;
 - A national sales tax on energy on individuals earning under \$200,000 and families earning under \$250,000;
 - Higher taxes during any period in which unemployment exceeds 5.8 percent; or
 - Significant job loss in manufacturing and coal dependant regions of the U.S. as a result of climate change legislation.
- Senate-added amendments to ensure energy, environment and climate change legislation would not:
 - Increase electricity and gasoline prices on hard-working families; or
 - Increase business costs for farmers, fishermen, and domestic industries.
 - Senate-added amendments to increase domestic production of our nation's oil and gas resources, enhance construction of commercial nuclear energy power plants, and provide for advanced research of nuclear technologies.