Congressional Legislative Tax Developments in 2025—A Current Update Following Approval of House Bill

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Introduction

Developments in Washington D.C. about tax legislation in 2025 are changing daily. Congress is very focused on dealing with tax legislation as early in the year as possible, though lots of negotiations lie ahead. The Congressional reconciliation process is a complex platform with many moving parts (and, obviously, many negotiators, all with varying priorities and constituencies).

People are constantly asking what is going on and where the process stands. The House has passed its version of the reconciliation package, after considerable negotiation, in what House Speaker Mike Johnson (R-LA) describes as a "very delicate balance." The bill is now under consideration by the Senate, with some senators calling for substantial changes. This is a summary of the important issues and concepts that have been driving the legislation in 2025, a summary of actions to date, and a summary of the process going forward. For a more detailed discussion of the issues in this summary, see Item 2 of Item 2 of LOOKING AHEAD – Estate Planning in 2025 & Current Developments (May 2025) found **here** and available at **www.bessemertrust.com/for-professional-partners/advisor-insights**.

1. Summary of Current Status of Reconciliation Package

Major legislative priorities under consideration are extending the Tax Cuts and Jobs Act (TCJA) enacted in 2017, enacting other tax cuts that the Trump administration is proposing, making significant spending cuts, and adding expenditures for certain priorities (particularly defense and border security).

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a. **Reconciliation Act.** The legislation will proceed as a "reconciliation act." Once each fiscal year, Congress may adopt a reconciliation act that requires only majority vote approval in the Senate (rather than the traditional 60-vote requirement). Republicans have a majority of both the House and Senate in 2025; if they come to agreement, the House and Senate could pass a reconciliation act without bipartisan involvement.

b. **"Byrd Rule."** The "Byrd rule" applies in the Senate for reconciliation acts. Any Senator can call point of order as to (among other things) (1) any item that does not have fiscal impact, (2) any item affecting Social Security, or (3) if the act would increase deficits outside the "budget window" (typically ten years). (That third item is the reason most reconciliation acts "sunset" and revert to the prior law at or before the end of the budget window.) The Senate Parliamentarian decides whether Senate rules have been broken, but the Senate could override the Parliamentarian's decision (with a 60-vote majority) or the Senate Majority Leader could remove and replace the Parliamentarian (but either could have crucial precedential effects).

c. **Costs; Dynamic Revenue Effect.** Extensions of the TCJA and other tax measures come with a big fiscal price tag. An extension of the TCJA (not including business provisions that have already expired) would cost about $4.6 trillion over ten years (decreased revenues and additional interest expense). Extending the TCJA including the three business provisions that have already expired would cost $4.63 trillion plus added interest of $871 billion, for a total ten-year cost of **$5.5 trillion**. Extending the estate, gift and GST exemption amounts would cost **$235 billion** over ten years (not including added interest costs). Other tax proposals have large revenue impacts as well. For example, extending the $10,000 limitation on the deduction for state and local taxes (SALT) to $15,000 for individuals and $30,000 for joint filers would cost over $600 billion over ten years, and some members of Congress have been adamant that further relief for SALT taxes must be included in the tax package.

The Congressional Budget Office estimated that the House bill as reported out of the House Budget Committee (but before the amendment made by the House Rules Committee) would increase deficits by $3.055 trillion over the 2025-2034 budget window (including $550 billion of added interest). The Committee for a Responsible Federal Budget has summarized the CBO Report and concluded that the issues addressed in the amendment by the House Rules Committee would likely increase the debt effect even further. *CBO's First Score of House Reconciliation Bill*, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET (May 21, 2025). The Committee for a Responsible Federal Budget estimates that if the various provisions in the bill were made permanent $5 trillion would be added to the national debt after 10 years (including added interest).

The House Budget resolution assumes $2.6 trillion in revenue from macro-economic effects of the TCJA extension, representing about 58% of the tax cuts, which is far more than estimated by most economists. Some experts predict that "the dynamic effects are pretty small," and only 5% or 10% of the entire bill will be offset by a more robust economy. Doug Sword, *Crapo Says Tax Package Will Be Bigger and Broader Than Expected*, 186 TAX NOTES FEDERAL 2076 (Mar. 17, 2025) (citing Kent Smetters who runs the Penn Wharton Budget Model). The Congressional Budget Office predicts that extension of the individual income tax provisions of the TCJA would have little budgetary impact from increased revenues from economic growth and higher interest rates. *How the Expiring Individual Income Tax Provisions in the 2017 Tax Act Affect the CBO's Economic Forecast*, CONGRESSIONAL BUDGET OFFICE (Dec. 2024). The Joint Committee on Taxation on May 22, 2025, estimates that the macroeconomic effects of the tax package as reported by the House Ways and Means Committee on May 12, 2025, would be only $102.8 billion over 10 years (far less than the $2.6 trillion additional revenue from growth assumptions in the House budget resolution).

The Penn Wharton University of Pennsylvania Budget Model estimates that the economic dynamic impact of the reconciliation package passed by the House will actually *increase* deficits during the budget window of 2025-2034 (from $2.787 trillion to $3.198 trillion), because savings from economic growth do not appear until 2033 and 2034.

d. **National Debt.** The national debt has grown from $4.6 trillion in 2005, to $13.1 trillion in 2015, to $36 trillion in 2025.

The national debt is currently 100% of GDP, and the Congressional Budget Office estimates it will grow (even if the TCJA is not extended) to 107% of GDP in 2029 (the highest percentage of GDP it has ever been}, to 118% of GDP in 2035, to 156% of GDP in 2055. It would grow to 214% of GDP in 2055 if the TCJA is extended.

The current $36 trillion national debt is anticipated to grow to $58 trillion even without the extension of the TCJA cuts. *See generally* Tran, *CBO Projects Rising Debt, Deficit as GOP Considers Economic Plan*, BLOOMBERG DAILY TAX REPORT (Jan. 17, 2025). The deficit for the first half of the current fiscal year, through March 2025, is $173 billion (17 percent) higher than the prior fiscal year for the same period (after adjustments for timing differences), in large part due to spending increases in Medicare, Social Security, and interest on the public debt.

Interest on the national debt has grown from $345 billion in 2020, to $704 billion in 2023, to $950 billion in 2024. Interest on the public debt is now the second largest federal expenditure, second only to Social Security. It exceeds the federal expenditures on defense.

Ferguson's Law, named after English historian Sir James Ferguson, suggests that a civilization begins to decline when its interest expense (debt repayments) exceeds its defense expenditure. It argues that when a society's financial obligations to debt holders become so overwhelming that they surpass the funds needed to defend the society, the civilization is likely to face significant decline or collapse. Historical examples are ancient Egypt, the Roman Empire, the Spanish empire of the 17th century, the British Empire in the 19th and 20th centuries, and the Soviet Union.

Some members of Congress are very concerned about deficits and the growing national debt.

e. **Razor-Thin Margins.** The Republicans have razor-thin margins in the Senate and especially in the House. Republicans hold a 53-47 majority in the Senate and a 220-212 majority in the House (following the recent death of Rep. Gerald Connolly (D-VA)). The House margin will be 220-213 after a special election is held in Arizona on September 23, 2025, to replace another Democratic

Representative who has died (assuming the successor is a Democrat, as anticipated). (The Texas governor has delayed calling a special election to replace yet another deceased Democratic Representative from Texas; it is a solidly Democratic district and a Democratic successor is likely. Rep. Elise Stefanik (R-NY) will remain in the House rather than being appointed as ambassador to the United Nations to assure that her seat remains Republican.) If the margin is 220-214 or 220-215 after other deceased Democratic Representatives are replaced (if they are replaced before the 2026 mid-terms), any three Republican Representatives could prevent a bill from passing because there is no method for breaking a tie vote in the House. Currently, Republicans can lose only three votes in each of the Senate and House and still pass legislation with a majority vote. Further narrowing the margins is that Thomas Massie (R-KY) in the House and Rand Paul (R-KY) in the Senate have consistently voted against the measure (Rep. Massie because it would add to deficits and Sen. Paul because it would extend the national debt limit). This means that the Republicans can only lose two more votes in the House or Senate and still pass the legislation. Furthermore, in the Senate, Ron Johnson is adamantly opposed to increasing deficits.

f. **Starting Point.** The reconciliation process begins with the adoption of a budget resolution, agreed to by both the House and Senate. The budget resolution sets a "budget window" (traditionally ten years), gives instructions to committees, and sets an overall deficit limitation. In the budget resolution that has been adopted, the House and Senate have each adopted their own instructions to committees, with big differences to be negotiated in the final reconciliation act.

g. **Initial Senate and House Budget Resolutions.** The initial Senate budget resolution (adopted March 21, 2025) only addressed border security and defense, while the House version also addressed taxes. The initial House budget resolution (adopted March 25, 2025) left $4.5 trillion for tax cuts and called for $2 trillion of spending cuts over ten years. (The amount allocated to tax cuts would move down or up, dollar for dollar, to the extent spending cuts are less than or more than $2 trillion.) The House budget resolution would have added $2.8 trillion to the national debt over ten years (but the resolution said it anticipated that $2.6 trillion of additional revenues would come from economic effects of the tax cuts, far more than most economists predict). One might anticipate that "budget hawks" in the House would have been reluctant to agree to legislation that adds $2.8 trillion to the national debt over ten years, but Rep. Thomas Massie (R-KY) was the sole Republican in the House to vote against the initial House budget resolution (Victoria Spatz (R-IN) also voted against the final budget resolution). Rep. Massie voted against the resolution because the act would produce additional budget deficits, saying "Why would I vote for that?" On the other hand, one of the other conservative members of the House Freedom Caucus responded, "It's a new day."

h. **Current Policy Baseline.** A major difference between the initial House and Senate resolutions is that the Senate uses a "current policy" baseline (which assumes that the current tax rates or provisions continue indefinitely) to gauge the economic impact of the act, whereas the House uses a current law approach (which assumes that the tax system will revert to its pre-TCJA state as is called for under current law (on January 1, 2026, for the individual and estate tax provisions)). The key reason for using the current policy baseline is that it ostensibly would allow the TCJA to be extended permanently despite the Byrd rule (because the system currently in effect is the baseline for judging the fiscal impact of the act). The Senate Parliamentarian eventually will rule as to whether the current policy baseline can be used in applying the Byrd rule.

Some members of the House and Senate view using a current policy baseline as "intellectually dishonest" and "magic math." Republican leaders counter that spending levels are assumed to continue in scoring legislation so making the same assumption for revenue levels would be consistent, but commentators point out that spending appropriations that are specifically limited in time are not assumed to continue indefinitely under the scoring rules.

Even if the current policy baseline assumes no revenue impact, extension of the TCJA would still increase deficits by $4.6 trillion (less whatever spending cuts are included and less any additional revenue from economic growth) over ten years. Senate Finance Committee Chair Mike Crapo (R-ID) promised in an April 4, 2025 floor speech that the traditional scoring method (showing larger deficit increases) would be published as well, because it reflects how big of a tax increase Americans could expect if the TCJA is not extended.

If the current policy baseline can be used in applying the Byrd rule, each of the approximately 40 provisions in the TCJA presumably would have to be tweaked in some way that is more than "merely incidental" so that each of those provisions would have a fiscal impact (compared to the current policy).

The Congressional Budget Office and the Joint Committee on Taxation are required to "score" fiscal bills using a current law baseline approach. The current policy baseline approach has never been used for a reconciliation act, and the Congressional Budget Act (which sets out the reconciliation process) in section 257 defines the baseline using a current law approach. However, the budget resolution conceivably could, in setting the limit on the amount by which deficits may be increased under the act, direct that the deficits be calculated for purposes of that limit using current policy as a baseline; whether that is effective for applying the Byrd rule is to be determined.

i. **Amended Senate Budget Resolution.** The amended Senate budget resolution (adopted on April 5, 2025) empowers the Chair of the Senate Budget Committee (Lindsey Graham (R-SC)) to determine the baseline for scoring the legislation, and he has determined to use a current policy baseline, which would allow a permanent extension of the TCJA without any budgetary impact (if that approach is allowed in applying the Byrd rule). The authority purportedly comes from section 312 of the Congressional Budget Act of 2074, which says budgetary levels "shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as appropriate."

The instructions to Senate Committees allocate $1.5 trillion for tax cuts and allocate $150 billion for military spending and $175 billion to Homeland Security and the Judiciary for border and immigration enforcement. They revise the spending cut allocations and instruct Senate key committees that oversee entitlement programs to make a minimum of $4 billion in cuts (less than 1% of the overall House target). (The minimal commitment to spending cuts is because the Senate must abide by its instructions to pass the bill by a majority vote, while the House can waive any objection of its instructions with a simple majority vote.) They also include reserves from savings and a $2 trillion reserve for spending cuts. In the aggregate, instructions to Senate Committees would allow up to **$2.0 trillion** of new borrowing (and by not including $3.8 trillion for extension of TCJA, the plan would allow increased borrowing of **$5.8 trillion**). The Committee for a Responsible Federal Budget said the Senate budget resolution would add $5.8 trillion in new deficits over 10 years. *CRFB Reacts to Senate Proposed Budget*, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET (April 2, 2025).

The amended resolution leaves instructions to House Committees to cut spending by $1.5 trillion, $880 billion of which would be from Energy and Commerce (Medicare and Medicaid). (The House instructions also provide that if spending cuts are less than 2.0 trillion, the difference below $2.0 trillion will reduce, dollar-for-dollar, the $4.5 trillion amount allocated to the Ways and Means Committee for tax cuts.) As mentioned above, the instructions to House Committees would allow added deficits of **$2.8 trillion** (less any additional revenue coming from added economic growth).

The amended Senate budget resolution increases the statutory debt limit by $5 trillion (but leaves instructions to House committees to extend the statutory debt limit by $4 trillion).

Republican leaders say the Parliamentarian does not need to agree to the current policy baseline because the resolution gives that authority to the Chair of the Senate Budget Committee (purportedly under section 312 of the Congressional Budget Act). Democrats are expected to contest that. Even if the Chair of the Budget Committee can determine to use a current policy baseline in determining general budgetary levels, the Parliamentarian may still rule whether that applies to the Byrd rule when details in the Act emerge and some senator calls point of order and asks for a Parliamentarian ruling on the Byrd rule. The Senate could overrule the Parliamentarian by a vote of three-fifths (or 60 votes) of the Senate. Congressional Budget Act of 1974 §904(c)(1) (as amended). Alternatively, the Senate Majority Leader can remove and replace the Parliamentarian. Either of those would set a terrible precedent going forward; some commentators say that would essentially emasculate the Byrd rule.

j. **House Adoption of the Amended Budget Resolution.** The House adopted the amended budget resolution on April 10, 2025. A vote scheduled for April 9 was cancelled, because about a dozen Republicans were not willing to vote for the package, primarily because of the Senate's lack of commitment to spending cuts. However, the amended resolution was adopted the following day by a vote of 216-214. The "budget hawks" had written into the House instructions that spending cuts of less than $2 trillion would result in reducing, dollar-for-dollar, the amount available for tax cuts. However, in a meeting with House objectors the day before the resolution was adopted, President Trump set a $1 trillion target for spending cuts, which may reflect the amount of spending cuts the Senate might realistically want.

k. **House Reconciliation Bill Assembled by House Budget Committee from Committee Actions.** The initial House Ways and Means Committee mark of the legislation was released May 9, 2025, ahead of the Committee hearing on the mark the following week. The May 9 mark primarily dealt with extension of the TCJA (with some modifications for further tax cuts). The Joint Committee on Taxation released its report on May 9 describing the tax provisions in the mark. Joint Committee on Taxation, *Description of the Budget Reconciliation Legislative Recommendations Related to Tax* (May 9, 2025) (available on Joint Committee on Taxation website). The May 9 mark was scored as having a 10-year cost of $4.9 trillion by the Joint Committee on Taxation (but that is really a 9-year cost, because the legislation provides that its fiscal impact is to be measured through 2034 and there is almost no fiscal impact in 2025.)

A second mark was released on May 12, 2025, which added provisions dealing with issues other than extension of the TCJA (including a revised SALT deduction cap, the elimination of taxes on tips and overtime pay through 2028, and a $4,000 bonus deduction for seniors (in lieu of ending taxes on Social Security benefits, which cannot be done in a reconciliation bill).

On May 13, 2025, the House Ways and Means Committee approved the bill, representing the tax portion of the reconciliation package, in a 26-19 party-line vote, following a 17-hour markup session. The next steps were for the House Budget Committee to compile the work of 11 House committees into a single bill, for the House Rules Committee to bring the bill to the House floor, and for approval by the full House before the bill is sent to the Senate for its action.

The House Budget Committee rejected the bill on May 16, 2025, by a vote of 21-16 when four budget hawks (Representatives Chip Roy (R-TX), Josh Brecheen (R-OK), Andrew Clyde (R-GA), and Ralph Norman (R-SC)) voted against the bill because it did not make enough spending cuts or slash tax benefits to low-income households (one Republican who supported the bill voted no so the bill could be reconsidered).

The scoring of the cost of the legislation is interesting. The budget resolution sets 2025-2034 as the budget window. However, the 2025 fiscal year ends Sept. 30, 2025, so there are almost no fiscal impacts for 2025 (except for some provisions that are made effective beginning Jan. 1, 2025). Therefore, the fiscal estimates are really 9-year costs. There have been indications that the Joint Committee on Taxation will also score the legislation on a traditional 10-year term.

(1) **Transfer Tax Exemption Amount Changed.** The only change for transfer tax provisions in the May 9 mark of the House Ways and Means Committee is to change the basic exclusion amount in §2010(c)(3) from $10 million, indexed for inflation from 2010 ($13.99 million in 2025) to $15 million in 2026, to be indexed for inflation from 2025 beginning in 2027. This $15 million amount for 2026 is about $720,000 more than the exclusion amount would be if current law was extended. (The Joint Committee on Taxation Report estimates that the exemption would be $14.28 million in 2026 if current law was extended.) The inflation adjustment from 2025 to 2026 would need to be 7.23% for the exclusion amount to reach $15 million in 2026. The change of the basic exclusion amount in §2010(c)(3) also automatically adjusts the gift tax exemption amount (§2505(a)(1)) and the GST exemption amount (§2631(c)). The Joint Committee on

Taxation estimates the 9-year revenue cost of this provision at $211.7 billion. Significantly, the mark does not change the estate and gift tax rates or call for repeal of the estate tax.

(2) **Overview of Selected Other Provisions in the House Ways and Means May 9 Mark.** Other provisions in the May 9 mark are briefly summarized.

- Increase the income thresholds for most of the tax brackets, with an added inflation adjustment ($2.177 trillion 9-year cost), and permanently extend the 2017 rate reductions (top rate of 37%).
- Extend the increased standard deduction permanently, with an additional temporary increase of $2,000 for joint filers, $1,500 for head of household, and $1,000 for other individuals for 2025-2028 ($1.3 trillion 9-year cost).
- Temporarily increase the child tax credit to $2,500 per child for 2025-2028, and permanently extend the child tax credit so it is $2,000 after 2028 ($797 billion 9-year cost).
- Terminate the personal exemption deduction (setting the deduction at $0).
- Permanently extend the §199A deduction for qualified business income, generally increasing the deduction from 20% to 22% (the May 12 mark increases it to 23%), with various other modifications ($809 billion 9-year cost).
- Repeal the expiration of the TCJA's increase in the alternative minimum tax exemption amounts and phase-out thresholds ($1.4 trillion 9-year cost).
- Permanently extend the $750,000 limitation on acquisition indebtedness for home mortgage interest deductibility (no deduction is allowed for home equity loan interest).
- Permanently extend the limitation on casualty loss deductions.
- Make permanent the repeal of miscellaneous itemized deductions, and permanently repeal the Pease limitation (which reduces the value of itemized deductions for high-income taxpayers), but replace the Pease limitation with a much relaxed limitation (2/37ths of the lesser of the amount of itemized deductions or so much of the taxable income of the taxpayer that exceeds the dollar amount at which the 37% bracket begins). (This is further modified by the House Rules Committee amendment.)
- Permanently repeal the deduction for moving expenses, except for members of the armed forces.
- Permanently extend the ability of disabled individuals to make contributions to an ABLE account (with a very slight tweaking of the inflation adjustment for the maximum annual contribution limit) and permanently extend other provisions for ABLE accounts.
- Permanently lower the preferential rates on foreign-derived intangible income and global intangible low-taxed income by increasing the FDII deduction and the GILTI deduction.

See Doug Sword, House Tax Bill Would Extend Brackets, Boost Child Tax Credit, TAX NOTES TODAY FEDERAL (May 12, 2025).

(3) **Overview of Selected Other Provisions in the House Ways and Means May 12 Mark.** The May 12 mark includes those items in the May 9 mark generally related to extension of the TCJA and many other items as well. Highlights of some of the additional provisions are very briefly summarized.

- The very beginning of the Ways and Means May 12 mark refers to itself as "The One, Big, Beautiful Bill." (This name is included as the "short title" in Section 1 of the bill approved by the House.)
- Increase the §199A deduction for qualified business income from 20% to 23% (the May 9 mark would have increased it to 22%); the phase-out is revised in a manner that will allow doctors, lawyers, accountants, actors, and athletes who have $200,000 to $400,000 of

taxable income to benefit more from the deduction ($809 billion 9-year cost). (The effective rate on QBI is lowered to 28.49%.)

- Reinstitute the three business tax breaks in the TCJA that have already expired, from the beginning of 2025 through at least 2029 ([1] extending 100% bonus depreciation (for property acquired from January 20, 2025 to December 31, 2029), [2] expensing of research and experimental expenditures (for 2025-2029), and [3] extension of allowance for depreciation, amortization, or depletion in determining the limitation on business interest (permanent beginning in 2025)); 10-year net cost of these items is $99 billion, but these provisions are frontloaded with $425 billion of costs in the first 5 years offset by significant revenue gains in the last 5 years. As evidenced by the $425 billion of costs in the first 5 years, this provision will produce substantial additional deficits if it is extended after five years. Full 10-year cost estimates of each of these three extensions are, respectively, $385 billion, $139 billion, and $69.6 billion, or a total of about $600 billion. *See Extending TCJA Provisions Could Cost $5.5 Trillion, JCT Says*, TAX NOTES TODAY FEDERAL (April 3, 2025) (letter from Joint Committee on Taxation to Members of Congress requesting revenue estimates, April 3, 2025).
- Provide an above-the-line deduction for qualified tips (generally **cash tips** received by an individual in an occupation which traditionally and customarily receives tips) for 2025-2028 ($39.1 billion 5-year cost). Individuals who already have no taxable income because of the standard deduction will see no benefit from this measure; "it is more of a middle-income benefit, not a low-income benefit."
- Provide an above-the-line deduction for qualified **overtime** compensation for 2025-2028 ($124 billion 5-year cost).
- Provide an additional $4,000 deduction to the standard deduction for seniors for 2025-2028, with a 4% phase-out for income in excess of $75,000 ($150,000 for joint returns) ($71.6 billion 5-year cost). (This is added in lieu of excluding Social Security from gross income, because that cannot be included in reconciliation legislation.)
- Increase the cap on deductions of state and local taxes (SALT) from $10,000 for all taxpayers to $15,000 for individuals filing a separate return and to $30,000 for other individuals, with a 20% phaseout to the extent the individual's income exceeds $200,000 for individuals filing separate returns and $400,000 for other individuals, but with a minimum $10,000 cap. (No agreement had been reached with Representatives wanting a much higher SALT deduction cap when the May 12 mark was released, and the parties continued to negotiate after May 12. This provision was later changed in the House Rules Committee amendment.)
- Remove the passthrough entity tax ("PTET") wraparound approach used to avoid the SALT deduction limitation with respect to income from partnerships or S corporations for businesses characterized as a "specified trade or business" (professional services providers including accounting, legal, consulting, medical, and financial services) (abrogating Notice 2020-75). (This proposal generates additional revenue of $7 billion annually, compared to roughly $20 billion annually that would be generated by full elimination of the passthrough wraparound. *See* Michael Bologna, *SALT Workaround Used by Doctors, Lawyers Axed in GOP Tax Bill*, BLOMBERG DAILY TAX REPORT STATE (May 15, 2025).)
- Provide for the creation of "MAGA Accounts" (standing for "Money Account for Growth and Advancement") for persons under age 8, and allow contributions to the accounts until age 18. The account is subject to the unrelated business income tax but is otherwise exempt from tax. No distributions could be made before age 18, up to one-half could be distributed before age 25, and the account would be distributed entirely at age 31. Distributions for qualified purposes are taxed as long-term capital gains. The government will contribute $1,000 to accounts for persons born in 2025-2029. The accounts would be managed by banks or institutions and would have to be invested in stock index funds or other diversified investments. (The House bill renames these "Trump accounts.")

- Increase the existing 1.4% excise tax on the net investment income of private colleges and universities if they have large endowments. The excise tax rates for particular endowments per students would be: 1.4% ($500,000-$750,000), 7% ($750,000-$1,250,000), 14% ($1,250,000-$2,000,000), and 21% (over $2,000,000). (The 21% rate would apply to MIT, Harvard, Princeton, Yale, and Stanford.) International students would not be counted in making the endowment per student calculation. (More than 50 schools paid the 1.4% tax in 2023, and the proposal to exclude foreign students in the calculation would extend the levy to roughly a dozen other institutions (likely including Columbia and Cornell).) Universities have responded that this is essentially a tax on national research and student aid. The increased excise tax does not apply to religious institutions.
- Increase the existing 1.39% excise tax on the net investment income of a private foundation **i**f it has more than $50 million of assets (with rates ranging from 2.78% for assets below $250 million, to 5% for assets between $250 million and $5 billion, to 10% for assets above $5 billion). Assets of "related organizations" are treated as assets of the private foundation for this purpose. (About 3,400 foundations with more than three-quarters of the industry's assets would face a tax hike. The 10% rate would fall on about two dozen foundations, including those tied to Bill Gates, Elon Musk, George Soros, and Mark Zuckerberg. *See* Ben Steverman & Sophie Alexander, *GOP's Tax on Foundations Takes Aim at Billionaire Philanthropy*, BLOOMBERG DAILY TAX REPORT (May 20, 2025).)
- Allow an above-the-line deduction for interest on loans for purchasing American-made automobiles, capped at $10,000 per year for 2025-2028, with a phaseout for income above $100,000 ($200,000 for a joint return) ($57.7 billion 5-year cost)).
- Owners of professional sports teams would be limited in amortizing the intangible assets of the franchise to "50% of the adjusted basis."
- Phase out clean energy production and investment credits (also called 45Y and 48E), and repeal electric vehicle and clean energy home improvement credits.
- Apply new limits on the ability to deduct compensation in excess of $1 million.
- Charitable deductions for corporations would be restricted. Corporations may deduct up to 10% of their taxable income. That ceiling on the deduction does not change, but a new 1% floor would be imposed. A corporation would have to make charitable contributions of at least 1% of its income to receive any charitable deduction. (The median corporate grantmaker donates 0.92% of its pre-tax profit and thus would not be entitled to any charitable deduction.)
- Non-itemizing individuals would be entitled to an above-the-line charitable deduction of up to $150 ($300 for joint filers).

The May 12, 2025 mark, which adds tax measures other than those related to extending the TCJA, does not include a provision for adding a new higher income tax bracket for high-income taxpayers, which has been suggested by President Trump, does not tax "carried interests," does not increase the corporate tax rate, and does not remove the tax advantage enjoyed by tax-exempt municipal bonds.

(4) **Medicaid Cuts From Energy and Commerce Committee.** The House Energy and Commerce Committee is instructed in the budget resolution to find $880 billion in savings over a decade. The Congressional Budget Office has scored the committee's proposal as resulting in cuts over ten years of at least $912 billion, and $715 billion of that is attributable to changes to Medicaid and the Affordable Care Act. The balance comes from energy policy changes, including the repeal of two Biden-era regulations that affect car pollution and auto efficiency. (That would increase federal revenues because drivers of less efficient cars pay more in gasoline taxes.)

The Medicaid changes would require beneficiaries to pay more fees and complete more paperwork to use their coverage. The CBO estimates that the paperwork change would cause 2.3 million people to lose Medicaid coverage. The bill updates the rules regarding "provider taxes," which are assessments levied on entities like hospitals and nursing homes that help states qualify for greater federal matching payments (this would save more than $30 billion over five years). Also, Medicare beneficiaries who earn more than the federal poverty limit (about $15,650 for a single person) would have to pay a $35 co-payment for doctor visits. Also, the proposed legislation would add a work requirement for poor, childless adults (requiring that they work 80 hours every month to stay enrolled in Medicaid). Changes to the Affordable Care Act would make numerous changes to enrollment processes for people who purchase their own insurance coverage in Obamacare marketplaces. *See* Margot Sanger-Katz and Catie Edmondson, *Republicans Propose Paring Medicaid Coverage but Steer Clear of Deeper Cuts,* NEW YORK TIMES (May 12, 2025). The cuts in Medicaid funding may cause substantial funding concerns for some hospitals and health care and nursing home facilities. Some members of Congress may have objections to these very large cuts (and some members may want even deeper cuts).

More than 1 in 5 Americans rely on the Medicaid program to cover their health care needs. The cuts to Medicaid and the Children's Health Insurance Program (CHIP), predominantly from Medicaid, would be the largest cuts to Medicaid in history by hundreds of billions of dollars. The Congressional Budget Office estimates that the changes would reduce the number of people with health insurance by at least 8.6 million in 2034, and together with other changes independent of the House bill, the number of people without health insurance will increase by at least 13.7 million in 2034. Memo from Congressional Budget Office (May 11, 2025).

(5) **Nutrition Program Cuts From House Agricultural Committee.** The House Agricultural Committee made substantial cuts to the Supplemental Nutrition and Assistance Program (SNAP), commonly referred to as food stamps, and other nutrition assistance programs, scored by the Congressional Budget Office as cutting SNAP spending by more than $290 billion over ten years (close to a 30 percent reduction). This is the largest reduction in SNAP's history, far exceeding previous proposals. SNAP currently supports more than 42 million Americans (about 1 in 8 Americans) in purchasing food, and the cuts will likely result in millions losing access to food assistance as states may be unable or unwilling to absorb new cost-sharing requirements and administrative burdens. By shifting some of the costs to states, the legislation will leave it to governors and state legislators to do the "dirty work" of kicking people off the program. Beginning in 2028, it will shift major costs to states, costs that most states cannot absorb easily.

The changes may have significant impact on many "red" states like Alaska, Florida, Missouri, and South Carolina. House members and senators from those (and other) states may have objections to the massive cuts to nutrition programs.

(6) **Education and Workforce Committee.** The Education and Workforce Committee's proposal would reduce spending by $350 billion over the budget window by eliminating subsidized income driven loan repayment plans, imposing overall limitations on student borrowing, and tightening Pell Grant eligibility. Because of accounting rules measuring lifetime subsidy costs of student loans on an accrual basis, almost $200 billion of the savings are recorded in the budget immediately in Fiscal Year 2025.

I. **House Budget Committee Action.** The House Budget Committee rejected the bill on May 16, 2025, by a vote of 21-16 when four budget hawks (Representatives Chip Roy (R-TX), Josh Brecheen (R-OK), Andrew Clyde (R-GA), and Ralph Norman (R-SC)) voted against the bill because it did not make enough spending cuts or slash tax benefits to low-income households (one Republican who supported the bill voted no so the bill could be reconsidered). Rep. Chip Roy complained that the bill "has back-loaded savings and front-loaded spending." On May 18, 2025, the House Budget Committee approved the reconciliation package (officially titled the "One Big Beautiful Bill Act") in a 17-16 party-line vote, with four conservatives voting "present" (the same four that voted against the bill on May 16). The House Budget Committee could not make changes to the bill (that could be done subsequently in the House Rules Committee), but Republican leadership expressed willingness to make changes to assuage concerns of the budget hawks. One change being considered is to enforce the new Medicaid work requirements in 2027 or earlier (the White House has been reluctant to enforce those mandates before 2029, when President Trump's term ends) and to end the energy credits sooner. *See* Jennifer Scholtes & Meredith Hill, *House Budget Panel Rejects GOP Megabill Amid Conservative Opposition*, POLITICO (May 16, 2025).

m. **House Rules Committee; Managers Amendment.** The House Rules Committee began its markup of the reconciliation tax bill at an unusual hour—1 a.m. on May 21, 2025. The committee session stretched over 21 hours as leaders worked to reconcile differences between moderate and conservative factions, resulting in a 42-page Managers Amendment making changes that would secure enough votes for passage, especially from holdouts concerned about issues like the state and local tax (SALT) deduction cap and work requirements for social programs. The markup ended after 10:30 pm EDT, with members voting along party lines 8-4 to advance the proposal.

The Managers Amendment made various changes primarily to the SALT cap provision and various spending measures. Some of the changes are highlighted below.

- The SALT deduction cap was raised to $40,000 (or $20,000 for married taxpayers filing separately) for individuals with incomes under $500,000, starting in 2025. This is an increase from the original proposal of $30,000 and is phased out for higher-income taxpayers. The $40,000/$20,000 cap and the $500,000 income threshold will be indexed upward by 1% per year through 2033. A new limitation is imposed on the SALT cap such that taxpayers in the top 37% bracket would only get the deduction at a 32% rate (so a $10,000 state tax bill would reduce federal taxes by $3,200 instead of $3,700). The increased deduction cap is fully phased out at income levels of $600,000 ($300,000 for married taxpayers filing separately). For incomes above those amounts, the $10,000 cap ($5,000 for married taxpayers filing separately) will still apply. (The provision in the May 12 mark preventing specified trades or businesses from using the PTET wraparound continues to apply.)
- The repeal of clean energy credits is accelerated. The section 45Y production tax credit and section 48E investment tax credit are now repealed for projects placed in service after 2028, with no credits allowed for projects beginning construction more than 60 days after enactment (with an exception for advanced nuclear facilities and a sunset after 2031 of the section 45U nuclear tax credit). No clean-electricity production and investment credits are allowed for expenditures on wind and solar leasing arrangements.
- Medicare work requirements will begin December 31, 2026 (rather than 2029 in the prior proposal).
- The Pease limitation is permanently repealed but a new two-pronged reduction applies for high-income taxpayers (income above the amount at which the 37% bracket begins). One of those two prongs is based on the SALT deduction and partly erodes the value of the new enhanced SALT cap. Those reductions are much less punitive than the Pease limitation. The benefit of itemized deductions is limited to 35%, compared to the current 37% level.
- "MAGA Accounts" are renamed as "Trump accounts."
- The proposed tax on overseas remittances is reduced from 5% to 3.5%.
- Gun silencers are removed from the definition of a "firearm" under §5845, and the §5811 transfer rate for silencers is reduced to zero.

n. **House Approval.** The House began acting immediately after the bill was advanced from the House Rules Committee. After an all-night session, the bill narrowly passed at 6:45 a.m. EDT by a vote of 215-214, with two Republicans casting no votes (Rep. Thomas Massie (R-KY), who has consistently voted against the measure because it produces additional deficits, and Rep. Warren Davidson (R-OH) and one Republican, Rep. Andy Harris (R-MD) voting present (because he wanted to move the legislation along but had concerns about deficits and Medicaid). Two other Republicans failed to vote (Rep. Andrew Garbarino (R-NY) fell asleep and missed the vote), but they support the bill.

For a summary of the tax provisions in the House reconciliation bill, see Brandon Ketron, Alan Gassman, Alison Gilleland & Vince Duong, *A Look at the Tax Law Changes Under the House's One Big Beautiful Bill*, LEIMBERG ESTATE PLANNING NEWSLETTER #3208 (May 24, 2025).

Overall Deficit Impact of House Bill. The Congressional Budget Office estimated that the House bill as reported out of the House Budget Committee (but before the amendment made by the House Rules Committee) would increase deficits by **$3.055 trillion** over the 2025-2034 budget window (including $550 billion of added interest). The Committee for a Responsible Federal Budget has summarized the CBO Report and concluded that the issues addressed in the amendment by the House Rules Committee (additional tax cuts relaxing the SALT deduction cap and spending cuts) would likely increase the debt effect even further. *CBO's First Score of House Reconciliation Bill*, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET (May 21, 2025). The Committee for a Responsible Federal Budget estimates that if the various provisions in the bill were made permanent, $5 trillion would be added to the national debt after 10 years (including added interest). *CRFB Reaction to House Reconciliation Passage*, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET (May 22, 2025). A terminal value was determined, reflecting the present value represented by the indefinite income stream beyond the projected future cashflows; the court resolved a difference of opinion between the appraisers regarding the residual growth rate (choosing to go with a growth rate based on the long-term GDP growth rate).

The Joint Committee on Taxation's estimate of the revenue effects of the tax provisions of the House bill concludes that the tax provisions will have a conventional cost of **$3.94 trillion** for the 2025-2034 budget window. Changes made in the amendment by the House Rules Committee added about $120 billion; increasing the cap on the deduction for state and local taxes to $40,000 cost an additional $129 billion, but additional measures including restrictions on clean energy credits provided some offsets. Joint Committee on Taxation, *Estimated Revenue Effects of Tax Provisions to Provide for Reconciliation of the Fiscal Year Budget as Passed by the House of Representatives on May 22, 2025* (JCX-26-25) (May 28, 2025).

The Penn Wharton University of Pennsylvania Budget Model has analyzed the fiscal impact of the House approved bill. It concludes that the House approved bill will increase deficits by $2.787 trillion from 2025-2034, just under the $2.8 trillion target maximum in the reconciliation instructions to House committees (those numbers do not include added interest costs). The tax provisions increase primary deficits by **$4.348** trillion over the 2025-2034 budget window. That includes $3.671 trillion attributable to extending the individual and estate provisions of the TCJA (the 2025-2034 budget window is effectively a 9-year window for the TCJA extension because there are relatively nominal effects in 2025), $1.573 trillion for other tax cuts, less $0.896 trillion offsets from increased taxes (mainly revisions of clean energy credits). Three other committees increase primary deficits by another **$230 billion**. Those changes would be partly offset by spending cuts of **$1.791 trillion**, for a net total conventional cost of **$2.787 trillion** over 10 years. The Penn Wharton Model concludes that the economic dynamic effects would *not* decrease the deficit amount but would actually *increase* deficits to **$3.198 trillion** over 10 years (because savings from economic growth do not appear until 2033 and 2034 and are not enough to overcome higher costs from economic dynamic effects in earlier years in the 10-year budget window). *House Reconciliation Bill: Budget, Economic, and Distributional Effects*, PENN WHARTON UNIVERSITY OF PENNSYLVANIA BUDGET MODEL (May 22, 2025). (Primary reasons for this result are an analysis that (1) some households that would have lost access to Medicaid will re-acquire access by reducing their hours worked, and (2) lower-wage workers will increase hours worked but higher-income households will reduce hours worked and lower-income households pay taxes at lower marginal rates than higher-income households.)

The Penn Wharton Budget Model also subsequently analyzed the effects of making all the tax provisions in the reconciliation bill permanent. It concluded that the tax provisions (if made permanent) would increase primary deficits by **$5.583 trillion** over 10 years, spending increases from three other committees (if made permanent) would increase primary deficits by $0.633 trillion, offset by spending cuts of $1.791 trillion, for a total conventional cost of $4.425 trillion. The dynamic economic effects would *increase* the deficits from $4.425 trillion to $4.553 trillion over 10 years. *The House-Passed Reconciliation Bill: Illustrative Budget, Economic, and Distributional Effects with Permanence,* PENN WHARTON UNIVERSITY OF PENNSYLVANIA BUDGET MODEL (May 28, 2025).

The Tax Foundation analysis of the House bill is that the tax provisions and spending changes would increase the budget deficit by **$2.6 trillion** between 2025 and 2034, measured on a conventional basis, and **$1.7 trillion** on a dynamic basis. Erica York, Garrett Watson, William McBride, & Alex Muresianu, *Budget Reconciliation: Tracking the 2025 Trump Tax Cuts*, TAX FOUNDATION (May 23, 2025).

o. **Shorter Extension for Some Provisions to Reduce Deficit Impact.** Tax cuts under reconciliation acts sometimes last less than the full ten years of the budget window to reduce the fiscal impact. That happened in the 2017 Act, when the individual tax provisions ended after 8 years in order to meet the overall $1.5 trillion deficit impact number set in the budget resolution for the TCJA. Prior predictions had been that the extension of the TCJA may have been for as little as two to four years, but the House reconciliation bill extends the TCJA provisions permanently, and the Senate's use of the current policy approach will likely mean the Senate will extend the TCJA permanently (unless the Byrd rule is determined to prevent a permanent extension). The 2025-2034 budget window used in the reconciliation package effectively measures the fiscal impact over 9 years, rather than the traditional 10 years, because there are relatively nominal costs for 2025. Tax cuts in addition to extending the TCJA may in particular be for a shortened period of time to reduce the deficit impact. Many of the additional tax cuts in the House bill are for four or five years (but the Senate would like to make some of those provisions permanent, although the Byrd rule may prevent extensions beyond the budget window).

p. **Trigger Mandatory Medicare Cuts Under Pay-As-You-Go Statutory Requirements.** If the reconciliation bill is enacted into law in its current form, and Congress takes no further action, the increase in the deficit would trigger mandatory cuts, also known as sequestration, under the Statutory Pay-As-You-Go Act of 2010. These cuts would total approximately $500 billion to Medicare over 2026–2034, according to CBO. This would mean an automatic 4% reduction to most Medicare spending, affecting payments to hospitals, physicians, Medicare Advantage plans, and prescription drug plans. Some spending for low-income beneficiaries is exempt, but most Medicare spending is not. While Statutory PAYGO has never actually resulted in these cuts being implemented—because Congress has always acted to prevent them—the law itself does not provide for automatic waivers. Excluding a bill's effects from the PAYGO scorecard or waiving the cuts requires separate legislation, which in the Senate needs 60 votes. *See* Jeannie Biniek, *House Reconciliation Bill Could Trigger $500 Billion in Mandatory Medicare Cuts*, KFF.Org Website (May 21, 2025).

2. Process and Issues Moving Forward

a. **Procedural Issues in the Senate; Reconsideration in the House; Conference Committee.** The Senate is bound by its instructions in the budget resolution which cannot be waived by majority vote. The Senate undoubtedly will take issue with the House's use of the current law baseline for forecasting the bill's impact on the deficit. Whether the Senate bill will be a "full substitute" or an amended version of the House bill is to be determined. Also, it is still undetermined whether there will be a markup of the tax provisions in the Senate Finance Committee. That would provide broad opportunity for input from senators (over one-fourth of the Republican senators are on the Senate Finance Committee). However, the Republicans only have a one-seat majority on the Senate Finance Committee (14-13, compared to the 26-19 Republican majority on the House Ways and Means Committee), "so every member of that committee has significant leverage – hostage-taking powers." Cady Stanton, *Senate Must Make Tricky Process Decision for Tax Bill Changes*, 187 TAX NOTES FEDERAL 1736 (June 2, 2025) (quoting Rohit Kumar, with PwC). If Senate leadership bypasses Senate committees and takes an amended bill directly to the Senate floor, Republicans hold a three-seat majority, preventing a single member from wielding the same influence.

Even though the House acted very rapidly in adopting its version of the legislation, whether that will happen in the Senate is unknown. The goal is to have the legislation completed by July 4, 2025. It may happen quickly and sooner than that, like the House bill, or it may get bogged down in difficulties. Some Senators have expressed concern that the spending cuts made in the House bill are too intense (especially for Medicaid cuts and for some cuts to clean-energy provisions), and some believe they are not deep enough, resulting in too much added deficits. Negotiations over those issues as well as the Byrd rule matters may take considerable time.

If the Senate makes changes to the bill, the revised bill goes back to the House for an up-or-down approval. If the House does not approve, the House and Senate versions go to a "Conference Committee" to iron out differences. This could all be resolved by July 4, 2025, or it may linger. Both chambers must approve the compromise reached by the Conference Committee, known as the "conference report," before the bill can proceed to the President for signature. The conference report cannot be amended by either chamber; it must be accepted or rejected in its entirety.

If either the House or Senate refuses to approve the conference report, the bill does not advance and effectively dies unless further action is taken. At that point, several things can happen:

- A new conference committee may be appointed to try again to reach a compromise.
- Either chamber may propose a new position and resume negotiations through an exchange of amendments between the houses.
- If no further agreement is reached, the legislation fails and does not become law.

b. **Difficult Negotiations Remain; Timeframe.**

(1) **Committees Are Addressing Instructions in Budget Resolution; Differences Between House and Senate.** The 11 House Committees reported to the House Budget Committee, which assembled the work of the 11 committees in a single bill. The 10 Senate committees may work on their instructions or the Senate Republican leadership may craft a compromise approach without formal input from committees to the Senate Finance Committee. The instructions to the Senate and House Committees are dramatically different, and negotiations will continue to resolve differences between the Senate and House approaches.

(2) **Razor-Thin Margins.** The act will probably be enacted with just Republican votes, and the razor-thin margins in the Senate and House mean four House members or four Senators can thwart passage of an act. Significant differences remain among various members of Congress over important issues. The initial strong objections of a dozen or more Republican House members (the "budget hawks") to adopting the amended budget resolution (primarily because of the Senate's lack of enforceable commitments to spending cuts) are an indication of the difficulties that will be encountered in negotiating the final provisions of the act. Further narrowing the margins is that Thomas Massie (R-KY) in the House and Rand Paul (R-KY) in the Senate have consistently voted against the measure (Rep. Massie because it would add to deficits and Sen. Paul because it would extend the national debt limit). This means that the Republicans can only lose two more votes in the House or Senate and still pass the legislation.

(3) **Budget Hawks Are Opposed to Increasing Deficits and the National Debt.**

(a) **House Budget Hawks.** In addressing why so many Republican House members quickly changed their mind regarding adoption of the House budget resolution, House Budget Committee Chair Jodey C. Arrington (R-TX) said that what was most important to him was "a commitment from the leadership of the House that we will not put a bill on the floor of our chamber that adds to the national debt." Rep. Arrington has stated that "increasing the deficit … would be a nonstarter for a good number of members of the House" and that members who would object are "well beyond our vote margin … probably in the double digits for sure." Doug Sword & Cady Stanton, *Those Troublesome Budget Instructions: They Might Not Matter*, 187 TAX NOTES FEDERAL 767 (April 28, 2025).

House Freedom Caucus Chair Andy Harris (R-MD) also reiterated the importance of reassurances that the bill will not increase the deficit and "getting assurances, both from the Senate and the House leadership, that that's not going to happen."

A letter from 32 Republican House members to House Speaker Mike Johnson and House Majority Leader Steve Scalise dated May 7, 2025, emphasized concerns of a broad base of members of the House about these issues:

- "The national debt has exceeded $36 trillion and is growing by nearly $2 trillion each year. Annual interest costs are on track to surpass $1 trillion, overtaking what we spend on

Medicare of national defense…. We must move decisively to restore market confidence and put the budget on a sustainable path."

- "Critically, the deficit reduction target must be met with real, enforceable spending cuts – not budget gimmicks. The final bill must deliver structural reforms that strengthen long-term growth and produce long-term savings."

For a copy of that letter, see *Lawmakers Say Reconciliation Bill Must Offset Tax Cuts*, TAX NOTES TODAY FEDERAL (May 7, 2025).

The response by one Democratic House member, Lloyd Doggett (D-TX), to concerns expressed in that letter and to testimony in a May 7 House Budget Committee hearing by Jodey Arrington that "[t]he fiscal state of the nation, by any measure, is in a dire state and condition and is rapidly in decline," and that House Republicans have a "generational opportunity to avoid a future debt crisis to address an unsustainable projected growth in deficit spending" is rather pointed: "What is the Republican answer to this situation? The question is not whether to contain the debt, but by how many trillions of dollars to make it worse." Democrats point to an April 3, 2025 "preliminary estimate" by the Joint Committee on Taxation that deficits would grow by $7 trillion over 10 years if the TCJA is extended and the Senate adds $1.5 trillion in further net tax cuts as allowed in budget resolution instructions. *See* Doug Sword, *W&M Republicans Commit to Steep Cuts Despite Party Pushback*, 187 TAX NOTES FEDERAL 1092 (May 12, 2025).

The House Budget Committee rejected the bill on May 16, 2025, when four budget hawks voted against the bill because it did not make enough spending cuts or slash tax benefits to low-income households. The bill was eventually voted out of the Budget Committee because of assurances that further spending cuts would be added.

Despite those strident statements by House budget hawks about deficits and the national debt, the House passed the bill with votes by all those budget hawks (except two who voted against the bill (Reps. Massie and Davidson) and one who voted present (Rep. Harris)). They voted for the bill even though on a conventional basis it adds just under $2.8 trillion to the national debt over 10 years. They might take the position that the bill "pays for itself," but one estimate is that the dynamic economic effects actually *increase* the 10-year cost of the House bill to $3.198 trillion. *House Reconciliation Bill: Budget, Economic, and Distributional Effects*, PENN WHARTON UNIVERSITY OF PENNSYLVANIA BUDGET MODEL (May 22, 2025). The Penn Wharton Budget Model also determined that if the tax cuts are made permanent, the conventional cost over 10-years would be $4.425 trillion, increased on a dynamic economic basis to $4.553 trillion over 10 years. *The House-Passed Reconciliation Bill: Illustrative Budget, Economic, and Distributional Effects with Permanence,* PENN WHARTON UNIVERSITY OF PENNSYLVANIA BUDGET MODEL (May 28, 2025).

If the Senate removes some of the spending cuts in the House bill, the House budget hawks may reappear when the House is asked to approve the Senate changes.

(b) **Senate Budget Hawks.** The two most vocal budget hawks in the Senate have been Senators Ron Johnson (R-WI) and Rand Paul (R-KY). Following passage of the House bill, Senator Johnson on May 22, 2025, warned: "I couldn't care less if [President Trump]'s upset. … We are stealing from our children and grandchildren. Thirty-seven trillion dollars of debt and we are going to add to it as Republicans? That is unacceptable. That's why there's no way I'm going to vote for this bill in its current form." On May 25, 2025, on "CNN Face the Nation," Sen. Johnson said "This is our only chance to set [spending levels] back to that pre-pandemic level of spending…. I think we have enough [objecting senators] to stop the process until the president gets serious about spending reduction and reducing the deficit." *See* Catie Edmondson & Minho Kim, *Fiscal Hawks in Senate Balk at House's Bill to Deliver Trump's Agenda*, New York Times (May 25, 2025).

Senator Rand Paul has consistently said he would not vote for increasing the national debt ceiling. He said on May 25 on "Fox News Sunday" that the House bill lacked concrete measures to reduce the ballooning national debt, that the House package was "not a serious proposal," that Republicans should cut deeper into major drivers of the debt, including Medicaid, Social Security and food assistance programs, and that the cuts in the House bill are "wimpy and anemic." "The problem is the math doesn't add up. Somebody has to stand up and yell: 'The emperor has no clothes.' Everybody's falling in lockstep on this. Pass the Big Beautiful Bill. Don't question anything. Well, conservatives do need to stand up and have their voice heard. This is a problem we've been facing for decades now, and if we don't stand up on it now, I really fear the direction the country is going."

(c) **Political Realities.** Informally, some budget hawks have expressed concern that the Republicans may lose the majority control of the House in the 2026 mid-terms, and they must slash spending when they can in this one big bill offering "sweeteners" of tax cuts and increases of spending for border security and defense. In 2026, 20 Republicans but only 13 Democratic senators are up for reelection (but the Republican senators up for reelection generally are in solidly "red states" likely to elect a Republican senator).

(4) **Moderates Are Concerned With Social Safety Net Programs and Clean Energy Credit Benefits Used by Many of Their Constituents (Particularly Medicaid and SNAP).** While some House "budget hawk" members are primarily focused on spending cuts, other moderate House members are concerned about social safety net cuts. *See* Doug Sword & Cady Stanton, *Intraparty Clash on Energy, Medicaid is Next Tax Plan Hurdle*, 187 TAX NOTES FEDERAL 376 (April 14, 2024). The instructions to the House Energy and Commerce Committee to cut $880 billion resulted in substantial spending cuts for Medicaid and some Senators are very concerned about those cuts. For an excellent summary of Medicaid, provider taxes, and the changes to Medicaid in the House bill, see Lee Sheppard, *Soft Socialism and Medicaid Provider Taxes*, 187 TAX NOTES FEDERAL 1331 (May 26, 2025). Senator Josh Hawley (R-MO) is strongly opposed to large Medicaid cuts. He points out that "21 percent of Missourians benefit from Medicaid or CHIP, the companion insurance program for lower-income children…. They're not on Medicaid because they want to be. They're on Medicaid because they cannot afford health insurance in the private market." He points out that many Missouri hospitals and health providers depend on the funding from those programs. *See* Catie Edmondson & Minho Kim, *Fiscal Hawks in Senate Balk at House's Bill to Deliver Trump's Agenda*, NEW YORK TIMES (May 25, 2025). Senators who oppose the large cuts to Medicaid in addition to Senator Hawley include Senators Ted Budd (R-NC), Rick Scott (R-FL), Jon Husted (R-OH), Jerry Moran (R-KS), Susan Collins (R-ME), and Lisa Murkowski (R-AK). *See id*.

In addition, the House Agriculture Committee was directed to make spending cuts of $230 billion, which required substantial cuts to the Supplemental Nutrition Assistance Program (SNAP), colloquially known as food stamps. Republicans have been divided over reducing nutrition benefits, with some moderates warning that the cuts would harm their constituents. See Erik Wasson & Billy House, *US House Committees to Begin Debate on Trump Tax Cuts on Tuesday*, BLOOMBERG DAILY TAX REPORT (May 8, 2025). The House bill eliminates or phases out many of the clean energy credits under the Inflation Reduction Act of the Biden administration. Some senators will want even deeper cuts, and some (who have clean energy projects in their states) will want "more realistic phase-out" of clean energy credits.

The divide between hardliners and moderates may ultimately create difficult votes for passage of the act.

> Republicans are divided between hardliners who view the package as their best chance to cut spending and more moderate Republicans from competitive districts, who have warned that deeper spending cuts to social safety net programs could jeopardize the 220-213 seat House Republican majority in the 2026 midterm elections.

David Morgan & Bo Erickson, *Republicans Spike Trump Tax Bill Over Spending Worries, Moody's Cut US Rating*, REUTERS (May 17, 2025).

One Washington insider expressed that "a lot of the heavy lifting will fall on the Senate to find politically viable pay-fors" (spending cuts or revenue raisers).

> The House may very well advance stuff that it knows that may not be politically viable with the expectation the Senate will come in and sort of fix the situation.… And it's that fixing of the situation that creates a very difficult environment for the Senate.

Doug Sword & Cady Stanton, *Those Troublesome Budget Instructions: They Might Not Matter*, 187 TAX NOTES FEDERAL 767 (April 28, 2025) (quoting Joseph Boddicker, former tax counsel for Senate Finance Committee Chair Mike Crapo (R-ID), now with Alston & Bird LLP).

(5) **SALT Deduction Cap.** Another important tax cut under consideration is an increase of the cap on the state and local tax deduction from $10,000. Some lawmakers from high-tax states are fighting to increase the cap to $40,000 for individuals and $80,000 for joint filers (and indeed, some wanted to increase the cap to $62,000 for individuals and $124,000 for couples), but House Ways and Means Committee Chair Jason Smith says they will have to settle for an "unhappy compromise." *See* Erik Wasson, *SALT Republicans Have to Accept 'Unhappy' Deal, GOP Chair Warns*, BLOOMBERG DAILY TAX REPORT (May 6, 2025). On the other hand, budget hawks from low-tax states are concerned with the revenue cost of increasing the $10,000 cap.

Issues that were negotiated in the House included the amount of the deduction cap, whether to address the cap's "marriage penalty," whether to include an income cap or income phaseout of the deduction, and whether to allow second homes to be deducted. *See* Cady Stanton, *House Taxwriters Aim to Settle on SALT Cap Number May 8*, TAX NOTES TODAY FEDERAL (May 8, 2025). Those issues will continue to be negotiated in the Senate.

Repealing SALT deductions for corporate income tax would raise about $223 billion over ten years and would raise $432 billion if extended to property tax, but there is substantial opposition to repealing those corporate deductions. *See id.* Reducing the corporate deduction for state and local taxes could have a big economic impact on corporations (that often have large expenses for property taxes) and could be economically damaging to states and municipalities. *See* David Hood, *Corporate SALT Cap Proposal Puts States, Businesses on Notice*, BLOOMBERG DAILY TAX REPORT (April 1, 2025).

Five House Republicans said they would vote against a bill with only a $30,000 cap. (Mike Lawler (R-NY) was a "hard no," and Nick LaLota (R-NY) was a "hell no.") *See* Erik Wasson, & Nacha Cattan, *New Yorkers Vow to Block House GOP Tax Bill Over SALT Limit*, BLOOMBERG DAILY TAX REPORT (May 12, 2025). On the other hand, budget hawks were concerned with the revenue cost of increasing the $10,000 cap. Others have responded that if the TCJA is not extended, the SALT deduction cap would be eliminated but the increased individual income tax rates would hurt more of their voters than help; "they have less leverage than they think because if they kill the bill and let it all expire, they would be voting for a tax increase for the vast majority of their constituents." Cady Stanton & Kaite Lobosco, *House Taxwriters Wrap Meeting Without Clear Path Forward on SALT*, 187 TAX NOTES FEDERAL 1089 (May 12, 2025).

The House bill sets the cap at $40,000, with a phase-out for incomes over $500,000. The change made by the House Rules Committee, to increase the cap from $30,000 to $40,000, costs an additional $129 billion, according to the Joint Committee on Taxation. *See* Cady Stanton, *Republicans Pan Federal Scorekeepers' Tax Bill Analysis*, TAX NOTES TODAY FEDERAL (June 2, 2025). If that is changed by the Senate, significant objections will arise in the House. Senator Ron Johnson (R-WI), a budget hawk who is extremely concerned with deficits that would result from the House bill, vows to strip out the SALT cap changes. Senator Johnson doubts the Senate leaders have the votes to pass the bill without him. "If they got them, God bless them." Chris Cioffi, Erik Wasson, & Alexandra Harris, *US Debt Limit Nail-Biter Looms as Senate Ponders Trump Tax Bill*, BLOOMBERG DAILY TAX REPORT (May 23, 2025).

(6) **Clean Energy Credits**. Another area of disagreement is that budget hawks have called for full repeal of clean energy credits under the Biden Inflation Reduction Act, but Republicans whose districts have benefitted from the investments disagree. Four Republican senators wrote Senate Majority Leader John Thune (R-SD) cautioning against a full-scale rollback of the provisions. Repealing all the clean energy credits would raise $851 over ten years, and repealing credits targeted for electric vehicles, refueling property, and clean fuel production, as well as those

aimed at the residential sector, would raise $295 billion over the budget window, but a full-scale repeal of the credits is unpopular with some members whose districts have benefitted from investments that have resulted from the credits. *See* Doug Sword & Cady Stanton, *Intraparty Clash on Energy, Medicaid is Next Tax Plan Hurdle,* 187 TAX NOTES FEDERAL 376 (April 14, 2024).

(7) **Negotiating Priorities Over Which Tax Cuts to Include Beyond Extending TCJA.** Tax cuts are being considered beyond extending the TCJA. Priorities among those possible additional cuts will have to be negotiated. For example, Senate Finance Committee member Thom Tillis (R-NC) identifies tweaks to the clean energy credits and permanency of the business provisions extensions (the House bill extends them for only five years) as top priorities. Senator Jim Justice (R-WV) wants to see some of President Trump's campaign promises (like the provisions for tipped income and overtime pay) to be made permanent. Other Senators prioritize making changes to the SALT cap provisions in the House bill. *See* Katie Lobosco & Cady Stanton, *Senators Eye Changes to SALT Cap, Permanency in Tax Bill*, 187 TAX NOTES FEDERAL 1529 (May 26, 2025). Earlier in the year, Senate Finance Committee Chair Mike Crapo (R-ID) said that nearly 200 tax proposals had been suggested, and some of those could be considered in the Senate. *See* Doug Sword, *Crapo Says Tax Package Will Be Bigger and Broader Than Expected*, 186 TAX NOTES FEDERAL 2076 (Mar. 17, 2025).

(8) **Tax Increase Offsets.** Offsets being considered include: tax hikes on wealthy taxpayers (establishing a new bracket; President Trump has proposed creating a new 39.6% bracket, up from 37%, for individuals earning at least $2.5 million or couples earning at least $5 million, which would raise $67.3 billion over ten years), corporations, and university endowments; capping municipal bonds' tax treatment; rolling back clean energy credits from the 2022 climate law (that has been controversial because some Republicans are in districts that have benefitted by new businesses that have arisen because of the credits); removing the carried interest tax break for venture capitalists (which would raise $6.7 billion over a decade); and ending some favorable tax provisions for sports owners. *See* Eric Wasson, *Trump Seeks Tax Hike on Wealthy Earning $2.5 Million of More*, BLOOMBERG DAILY TAX REPORT (May 8, 2025); Zach Cohen & Chris Cioffi, *Tax Writers Are Forced Into Tough Choices as Budget Plan Forms*, BLOOMBERG DAILY TAX REPORT (April 4, 2025). (The only ones of those included in the House bill are the university endowments, clean-energy credits, and sports owners provisions.)

(9) **Scoring Regarding "Dynamic Effects.**" This will be a hotly debated issue going forward in the Senate and in the subsequent House consideration of changes in the bill. This will become a (if not *the*) central argument of the Republicans for supporting the bill even though it is scored to add trillions of dollars to the national debt over ten years.

Like the House budget resolution, the Senate looked at a similar argument that $2.6 trillion of additional revenue would be produced from economic growth spurred by the package. *See* Doug Sword, *Crapo Says Tax Package Will Be Bigger and Broader Than Expected*, 186 TAX NOTES FEDERAL 2076 (Mar. 17, 2025). But the Senate instructions do not assume a dynamic effect. The House instructions' assumption of a $2.6 trillion dynamic effect for $4.5 trillion of tax cuts reflects a 58% revenue impact. However, most studies indicate much less revenue from economic growth spurred by the extension of the TCJA (particularly because most of those provisions are individual tax cuts, which do not have nearly as much revenue impact as business provisions).

A report from the Joint Committee on Taxation on May 22, 2025, estimates that the macroeconomic effects of the tax package as reported by the House Ways and Means Committee on May 12, 2025, would be to increase the annual GDP growth rate from 1.83% to 1.86% and to increase federal revenues by only $102.8 billion over 10 years (far less than the $2.6 trillion economic assumptions by the House Budget Committee and in the instructions to House committees in the budget resolution). Staff of Joint Committee on Taxation, *Macroeconomic Analysis of the Tax Provisions of the Budget Reconciliation Legislative Recommendations Related to Tax as Ordered Reported by the Committee on Ways and Means on May 14, 2025* (May 22, 2025).

The Tax Foundation analysis of the dynamic economic effect of the House bill is that it will reduce the impact on the budget deficits over the 2025-2034 budget window from **$2.6 trillion** to **$1.7 trillion**. Erica York, Garrett Watson, William McBride, & Alex Muresianu, *Budget Reconciliation: Tracking the 2025 Trump Tax Cuts,* TAX FOUNDATION (May 23, 2025).

The Congressional Budget Office predicted that extension of the individual income tax provisions of the TCJA would have little budgetary impact from increased revenues from economic growth and higher interest rates. *How the Expiring Individual Income Tax Provisions in the 2017 Tax Act Affect the CBO's Economic Forecast*, CONGRESSIONAL BUDGET OFFICE (Dec. 2024).

The negotiations going forward will include strong criticism of the deficit estimates by the CBO and the Joint Committee on Taxation and estimates of dynamic effects. President Trump lambasted the May 22 JCT dynamic estimate in a May 30, 2025 post on Truth Social (he mistakenly referred to the CBO instead of the JCT in criticizing their report).

> The Democrat inspired and "controlled" Congressional Budget Office (CBO) purposefully gave us an EXTREMELY LOW level of Growth, 1.8% over 10 years. How ridiculous and unpatriotic is that! They did the same thing to us in 2017, and we DOUBLED their numbers. The information they recently released is even more absurd and indefensible. I predict we will do 3, 4, or even 5 times the amount they purposefully "allotted" to us (1.8%) and, with just our minimum expected 3% Growth, we will more than offset our Tax Cuts (which will, in actuality, cost us no money!).

House Speaker Mike Johnson similarly criticizes the CBO, saying on Fox News on May 26, 2025, that the COB is "historically, totally unreliable" and that it is controlled by Democrats (even though it is a federally funded, nonpartisan government agency that says it "does not consider political affiliation when hiring" according to the objectivity page on its website). Speaker Johnson said on "Meet the Press" on June 1, 2025, that the House bill would *reduce* deficits, taking into account the growth in the economy that it would produce.

The CBO historically has not included a dynamic analysis in its cost estimates of proposed legislation "by long-standing convention," but it does include dynamic effects in its baseline budget and economic projections taking into account legislation that has been passed. For example, it did not provide a dynamic effects estimate for the TCJA when it was being considered in 2017, but it did consider the dynamic effect of the tax cut in its annual economic outlook in April 2018, predicting economic growth would average 1.9% over a decade, reaching 3.3% in 2018 and 2.4% in 2019 (very close to the actual economic growth of 3% in 2018 and 2.6% in 2019) and predicting that revenue collection would total $27 trillion from 2018 to 2024 (actual revenue was $1.5 trillion higher).

Republican leaders will argue that the CBO underestimated by $1.5 trillion how much revenues would grow under the 2017 TCJA from 2018 through 2024. However, federal revenue collections were actually *lower* in the two years following the TCJA implementation and an unexpected revenue surge occurred in 2022. *See* Katie Lobosco, *Congress Races to Extend TCJA Without Knowing Its True Impact*, 187 TAX NOTES FEDERAL 920 (May 5, 2025).The CBO acknowledged the $1.5 trillion underestimation but blames $900 billion of the underestimate on higher than expected inflation and much of the rest on unexpectedly high tariff revenues not included in the original projection. *See id.*; Doug Sword, *Top House Taxwriter Calls Current-Policy Approach 'a Fraud,'* 186 TAX NOTES FEDERAL 1129 (Feb. 10, 2025). The Committee for a Responsible Federal Budget says the data show that all the additional $1.5 trillion revenue can be explained either by higher inflation or by a temporary one-time post-pandemic revenue surge in 2022 – "the fifth year after passage of the TCJA and immediately on the heels of a pandemic and inflation crisis." *Has TCJA Paid For Itself?*, Committee for a Responsible Federal Budget (Jan. 22, 2025), available at **https://www.crfb.org/blogs/has-tcja-paid-itself**.

Some experts predict that "the dynamic effects are pretty small," and that only 5% or 10% of the entire bill will be offset by a more robust economy. *See* Zach Cohen & Chris Cioffi, *Tax Writers Are Forced Into Tough Choices as Budget Plan Forms*, BLOOMBERG DAILY TAX REPORT (April 4, 2025) (citing Kent Smetters, who runs the Penn Wharton Budget Model). The Committee for a Responsible Federal Budget observed that the Council of Economic Advisors estimates the "dynamic feedback" of extending the TCJA would be $1.2 trillion, but in comparing it to seven other independent studies, concludes the CEA estimate "is three times as high as the rosiest independent estimate (Tax Foundation) and eight times the average credible estimate." *CEA's Flawed Analysis Does Not Show TCJA Extension Would Produce 3% Growth*, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET (April 4, 2025).

The Penn Wharton Budget Model concludes that the dynamic economic effects of the House approved bill would be to *increase* the deficits during the 10-year budget window. *House Reconciliation Bill: Budget, Economic, and Distributional Effects*, PENN WHARTON UNIVERSITY OF PENNSYLVANIA BUDGET MODEL (May 22, 2025). (Primary reasons for this result are an analysis that (1) some households that would have lost access to Medicaid will re-acquire access by reducing their hours worked and (2) lower-wage workers will increase hours worked but higher-income households will reduce hours worked and lower-income households pay taxes at lower marginal rates than higher-income households.)

The dynamic effect scoring by the Joint Committee on Taxation (the CBO generally does not score the dynamic effects of proposed legislation) could be very important to budget hawks in the House who have vowed not to vote for a bill that increases deficits and the national debt.

(10) **Byrd Rule Impact.** The House bill will raise a variety of Byrd rule concerns in the Senate. Democrats will seek to strike non-fiscal provisions from the bill, including provisions like the reregulation of gun silencers, the block on state regulation of artificial intelligence, and even the name of the act. "We're pulling out all the stops. That bill is stuffed full of policy which is not allowed under the [Byrd] rules." Chris Cioffi, Erik Wasson, & Alexandra Harris, *US Debt Limit Nail-Biter Looms as Senate Ponders Trump Tax Bill*, BLOOMBERG DAILY TAX REPORT (May 23, 2025) (quoting Senator Ron Wyden (D-OR)).

Uncertainties remain as to whether the authority of the Senate Budget Committee chair under §312 of the Congressional Budget Act to "estimate" the fiscal impact of the act (and Senator Lindsay Graham's announcement of using a current policy approach) applies for purposes of the Byrd rule. The Senate Parliamentarian has not ruled on that issue. If the current policy approach can apply even for purposes of the Byrd rule, will the 40 items of the TCJA have to be tweaked in so that each of the changes has fiscal effect under the Byrd rule? If so, have the provisions been modified sufficiently so they are not "merely incidental" changes? Furthermore, a number of the provisions in the House bill have little or no fiscal impact and may ultimately become "Byrd droppings" that get cut in a "Byrd bath." *See* Lisa Kashinsky, Mia McCarthy, & Ben Leonard, *Inside Congress*, POLITICO (May 30, 2025) (such provisions include "tax-cut accounting, AI regulations, judicial powers, gun regulations, farm bill provisions, Planned Parenthood funds and energy permitting").

Overruling a decision of the Senate Parliamentarian regarding whether a current policy baseline is appropriate for applying the Byrd rule would require a 60-vote majority in the Senate. However, the Parliamentarian can be removed and replaced by the Senate Majority leader. Doing so, over whether the current policy baseline applies to the Byrd rule, would set a dangerous precedent; some say that would effectively emasculate the Byrd rule.

If the Parliamentarian is replaced because of that issue, could the issue be litigated later, leaving the validity of the tax cuts in limbo for a number of years? For example, what if the Parliamentarian rules that the TCJA provisions do not have to be changed to have a fiscal impact under a current policy approach despite the clear statutory language of the Byrd rule that any provision that does not have fiscal impact can be questioned? Could a court rule that the statutory provisions were not followed and invalidate the Senate passage of the Act? If so, would the Republican leadership of the Senate use the "nuclear option" and declare that the 60-vote rule in the Senate does not apply for tax legislation? Uncertainty would reign.

(11) **Reconsideration in the House With Its "Very Delicate Balance."** House Speaker Mike Johnson (R-LA) warns that changes in the Senate could put getting House approval in jeopardy. On May 25, 2025, on CNN, he said ""We've got to pass it one more time to ratify their changes

in the House. And I have a very delicate balance here, a very delicate equilibrium that we've reached over a long period of time. It's best not to meddle with it too much."

(12) **How Fixed Are "Red Lines"?; Intense Political Pressure to Pass the Act.** Despite all the difficulties that remain in reaching a final bill that can pass the House and Senate with their razor-thin margins, one Democratic Representative has expressed his belief that whatever the Republican leadership comes up with will be passed. Joseph Boddicker, former tax counsel for Senate Finance Committee Chair Mike Crapo (R-ID), now with Alston & Bird LLP, has noted the various hard line positions, but says "[i]t really remains to be seen the extent to which some of these priorities are truly red lines." Doug Sword & Cady Stanton, *The Semi-Calm Before the Storm of Assembling a Giant Tax Bill*, 187 TAX NOTES FEDERAL 766 (April 28, 2025). Another lobbyist expressed that "lines in the sand" positions should not be considered bright lines but "hurdles that can be cleared." *Id*.

Extending the TCJA and avoiding tax increases is an extremely high priority for Republicans, especially those who may be facing an election in 2026.

> We know how fast voter sentiment can change…. [President George H.W. Bush] had said, "read my lips, no new taxes," and then there were new taxes. That's in the back of the minds of everybody who's running for re-election in 2026, me included.

Chris Cioffi & Zach Cohen, *GOP Seeks Appeal to Voters in Midterms by Averting Tax Hike*, BLOOMBERG DAILY TAX REPORT (May 1, 2025) (quoting Sen. Cynthia Lummis (R-WY) as she recalled the 1992 re-election campaign of George H.W. Bush, who saw his approval plummet in the months before losing to Bill Clinton).

Eventually, the White House will make efforts to muscle the final bill over the line for passage in the House and Senate. Sen. John Kennedy (R-LA) is doubtful the House and Senate can come to agreement without the White House weighing in. Sen. Kennedy explains:

> It'll be a lively 60 days. It will be a job for alcohol, not coffee. But at the end of 60 days, there will not be a consensus. We're going to have to go to the White House, and the president's going to have to be the arbiter, and then he's going to have to put his muscle behind it. That's the way that it will ultimately pass.

Katie Lobosco & Doug Sword, *Ways and Means Markup of Tax Bill Likely Week of May 5*, BLOOMBERG DAILY TAX REPORT (April 30, 2025).

Indeed, that did seem to happen to allow very quick passage of the House bill. President Trump visited Congress when final negotiations were underway in the House Budget Committee and House Rules Committee and had various persuasive conversations with Representatives who were concerned with insufficient spending cuts or with the SALT cap.

> [The House approval of the bill] followed a furious offensive by Trump, who visited the Capitol to rally Republicans, worked lawmakers by phone late into the night and summoned holdouts to the Oval Office. His budget office released a statement branding any GOP lawmaker who failed to support the package guilty of the "ultimate betrayal."

Steven Dennis, Erik Wasson, & Maeve Sheehy, *Trump Tax Bill Narrowly Passes House, Overcoming Infighting*, BLOOMBERG DAILY TAX REPORT (May 22, 2025). That could be expected to happen as well in the Senate.

Following passage of the House package, President Trump started putting pressure on senators. He attended a closed-door luncheon of Republican senators and urged them not to make drastic changes to the legislation that could imperil its passage through the House. *See* Catie Edmondson & Minho Kim, *Fiscal Hawks in Senate Balk at House's Bill to Deliver Trump's Agenda*, NEW YORK TIMES (May 25, 2025).

(13) **Timeline for Remaining Difficult Negotiations**. How long the process will take is very uncertain. House Speaker Johnson initially wanted the bill finished by Memorial Day but Treasury Secretary Bessent has suggested July 4, 2025 as the target day for completion. Historically, "for reconciliation bills enacted since 1980, the time between adoption of a budget resolution and enactment of the reconciliation bill ranges from 28 to 385 days, with a 152-day average." Lillianna

Byington, *Trump Tax Bill Faces Likely Changes, Delays in Senate*, BLOOMBERG DAILY TAX REPORT (May 22, 2025). Senator Mike Rounds (R-SD) says action by the Senate on the House bill "will take longer than expected just because it is arduous and it's designed to be that way." *Id*. A hard deadline is when the debt limit will be exceeded, expected to be sometime in August or September, because the Republicans want to extend the debt limit beyond the 2026 midterm elections in this reconciliation bill without having to negotiate for Democratic votes. An important practical deadline is the summer recess, slated to start July 24 for the House and August 1 for the Senate. "Threats to delay the monthlong summer break have made the July work period among Congress's most fruitful." *Id*.

(14) **Impact of Investors' Influence.** Before the reconciliation bill is finalized, investor activity may have an impact. On May 16, 2025, Moody's lowered its credit score on the U.S. government, citing the country's long streak of large budget deficits and "current fiscal proposals under consideration." The downgrade by Moody's means that all three major rating agencies no longer consider the U.S. qualified for their top credit ratings. Rep. Andy Harris (R-MD), who later voted "present" in the House vote on the bill, responded to the credit downgrade: "Moody's downgrade of America's debt is a signal that we can wait no longer to address the debt crisis," adding that he was not supporting the tax package without substantial changes. *See* Tony Duehren & Joe Rennison, *U.S. Downgraded by Moody's as Trump Pushes Costly Tax Cuts*, NEW YORK TIMES (May 16, 2025).

On May 21, 2055, the 30-year Treasury yield rose to 5.14%, its highest level since October 2023, and the 10-year Treasury rose to 4.61%, a large move reflecting investors' worries over the deficit. *See* Colby Smith & Joe Rennison, *Why Washington's Huge Tax Bill Is Worrying Bond Investors*, NEW YORK TIMES (May 21, 2025). Also troubling is that while higher rates tend to push up the value of the U.S. dollar, the currency has slid in value against the euro, yen, and others, raising questions about the "safe haven" status of U.S. assets by foreign investors.

> The most troubling part of the market reaction is that the dollar is weakening at the same time. To us this is a clear signal of a foreign buyer's strike on US assets and the associated US fiscal risks we have been warning for some time. At the core of the problem is that foreign investors are simply no longer willing to finance US twin deficits at current level of prices.

David Goldman, *Why the Bond Market Is So Worried About the 'Big, Beautiful Bill,'* at CNN.com (May 22, 2025) (quoting George Saravelos, head of FX research at Deutsche Bank). A crisis in which the U.S. government can no longer finance its debt is "likely to happen" in coming years "if the budget deficit is not cut a lot." Ye Xie, *The Bond Investors Threatening Trump's Tax Bill: Quick Take*, BLOOMBERG DAILY TAX REPORT (May 20, 2025) (quoting Ray Dalio, billionaire founder of Bridgewater Associates hedge fund).

Investor actions can influence policy decisions. When the bond market reacted badly to President Trump's extreme tariffs proposal, the administration backed off the proposal on April 9, 2025, but financial markets remained worried about a "bond-market death spiral" possibility in which high debts drive up borrowing costs, which slows the economy, which in turn makes it more difficult for the government to pay back debt, leading to an economic crisis. "Bond vigilantes" have forced policy changes in the past.

- President Bill Clinton was forced to scale back his ambitious domestic agenda (including a middle class tax cut) in the 1990s (Pres. Clinton raged to aides "You mean to tell me that the success of the economic program and my re-election hinges on the Federal Reserve and a bunch of [expletive deleted] bond traders?")
- Sweden in the 1990s was forced to slash spending when an important investor in a Stockholm-based insurer pledged not to buy "a single Swedish" bond unless the government cut the deficit.
- Massive stimulus payments by governments around the world following the Covid-19 pandemic caused central banks to raise interest rates aggressively, leading to a record 17% loss in returns on government bonds globally in 2022.

- In 2022, the UK abandoned its plan for the biggest tax cuts since 1972 when investors dumped the country's bonds, and the market rout forced Prime Minister Liz Truss to resign, 44 days into her term.

See id.

(15) **Summary of Remaining Difficult Negotiations.** In summary, many items remain for difficult negotiations. Some members feel very strongly about wanting big increases to the SALT deduction cap and others feel as strongly that no changes should be made to the cap. Some Republicans are budget hawks that are very concerned about adding to deficits. The House bill includes substantial spending cuts for Medicaid and nutrition programs, and some members are very concerned about those possible cuts (and other members want substantially deeper cuts). Priorities among the additional tax cuts beyond the extension of the TCJA and possible tax increases to help pay for the cuts will vary. Scoring of the costs of provisions may impact which tax cuts are included and how long certain of the cuts may last. Scoring of the dynamic effects of additional revenue that may come from economic growth as a result of the provisions may have a significant impact on the willingness of budget hawks to vote for a bill that is scored to result in substantial additional deficits. Rulings by the Parliamentarian regarding the impact of the Byrd rule will be important and may not come until the last hour when the final provisions of the Senate bill have been negotiated.

Despite these many difficulties, it certainly appears that a reconciliation act with substantial tax cuts will be passed eventually, likely before the deadline to avoid exceeding the national debt limit. *See* David Drucker, *The GOP's Budget Bill Will Pass in Spite of Itself*, Bloomberg.com (May 28, 2025) (the bill will eventually be enacted even though it adds trillions to the national debt; "To avoid having to horse-trade with the Democrats to enact that which cannot be accomplished via executive order, Trump and congressional Republicans have poured all their priorities — everything the president campaigned on last year — into this one massive package…. Accordingly, derailing reconciliation would jeopardize the *entirety* of Trump's domestic agenda, and that of congressional Republicans.").

3. Estate Tax Repeal?

Not only is it likely that the $10 million (indexed) exclusion amount will be extended, but the Republican sweep also raises the specter of possible *repeal* of the estate tax. Indeed, Senator John Thune (R-SD), the Senate majority leader, has repeatedly introduced estate tax repeal bills and initially won his Senate seat in part by running against the "death tax." He again introduced the Death Tax Repeal Act of 2025 bill (S. 587) on February 13, 2025. (A companion bill was also introduced as H.R. 1301 in the House.) For a summary of these bills, see Gassman, Crotty, Ketron & Farrell, *Breaking Up with the Death Tax, A Valentine's Day Update on Estate and GST Tax Repeal*, LEIMBERG ESTATE PLANNING NEWSLETTER #3182 (February 14, 2025). These bills would repeal the estate and generation-skipping transfer tax; the gift tax would be retained but with a reduced 35% rate (and a $10 million indexed exclusion amount). Section 1014 (basis adjustment at death) would be kept in place, but §1014(b)(9) would not be applicable if there is no estate tax. A difference between the Senate and House versions is the inclusion of a new §2511(c) in the Senate bill, which provides: "Notwithstanding any other provision of this section and except as provided in regulations, a transfer in trust shall be treated as a taxable gift under section 2503, unless the trust is treated as wholly owned by the donor or the donor's spouse under subpart E of part I of subchapter J of chapter 1." This rather curious provision was enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 and repealed in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. It has been included in various other estate tax repeal bills filed beginning in 2011. For a discussion of this enigmatic provision and its inclusion in various estate tax repeal bills, see Item 16.a(1)(c) of Aucutt, Washington Update: Estate Tax Changes Past, Present, and Future (Mar. 12, 2024) (search for the words "Section 2511(c)" for other discussions of this provision in various repeal bills) found **here** and available at **www.bessemertrust.com/for-professional-partners/advisor-insights.**

Permanent repeal of the estate tax would require 60 votes in the Senate. Estate tax repeal could be considered in the reconciliation package, but lost estate tax revenues during the budget window would count against the overall aggregate deficit limit in the budget resolution. Repeal would cost about $300 billion of lost revenues over a decade as compared to extending existing law. Senator Chuck Grassley (R-IA) predicts that Congress ultimately will extend the current estate tax provisions. *See* Steven Dennis & Ben Steverman, *Estate Tax Repeal Has Unlikely Foe: Wealth Advisers of the Rich*, BLOOMBERG DAILY TAX REPORT (May 3, 2025) (the article points out that some planners express the view that repealing the estate tax would lull the wealthy into a false sense of complacency in their estate planning because repeal would not survive long-term). Project 2025 does not call for the repeal of the estate tax but to reduce the estate tax rate to 20%. Repealing the estate tax would feed into Democrats' arguments that massive Medicaid and nutrition program cuts are being made to provide tax breaks for wealthy Americans. The House-approved reconciliation bill does not repeal the estate tax.

4. Impact of Potential 2025 Legislative Estate and Gift Tax Measures on Planning

Because of the Byrd Rule, the extension of the $10 million (indexed) exclusion amount may last for only 10 years (or less), depending on how the Senate's current policy approach applies under the Byrd rule. If so, it would automatically revert to a lower exclusion amount at the end of that time—whether it will be further extended may depend on how the political winds are blowing at that time.

The quick movement of the reconciliation legislation through the House suggests that a reconciliation act will be enacted that will extend the estate and gift tax exclusion amount (or increase it, as in the House bill). But that cannot be certain. Whether it will be "permanent" is unclear (bearing in mind that any tax law can be changed by the next Congress). The administration's goal is to complete the legislation by July 4, 2025, but hard negotiations remain that may extend the process to later in 2025. However, the deadline for extending the national debt limit (likely in August or September) remains as a hard time-deadline.

The greatly increased likelihood that the $10 million (indexed) exclusion amount will be extended has reduced the perceived pressure on clients to take advantage of the large exclusion amount before it may be slashed in half. Clients who were not totally comfortable making large gifts will likely wait before making gifts to see when Congress will ultimately decide whether the larger exclusion amount will be extended (but they should consider engaging in planning, structuring trusts, etc. currently so the planning will be in place when they decide to make large gifts). Clients who were not totally comfortable making large gifts are probably the clients most interested in implementing transfer planning with SLATs, so we may see less emphasis on SLATs going forward. Clients who have enough wealth that they are comfortable making gifts are best advised to make the gifts currently, so that future appreciation can be removed from the estate.