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Senate Parliamentarian Rules In Democrats' Favor

Senate Parliamentarian Elizabeth MacDonough has issued an opinion this evening that could allow Democrats to use the budget reconciliation process again in fiscal year 2021, per a spokesperson from the Senator Chuck Schumer's (D-NY) office.

The Parliamentarian's opinion provides Senate Democrats several options to advance legislative priorities without having to take drastic action on the filibuster.

The immediate consideration for Senate Democrats is the current plan to pass infrastructure legislation in two packages. With reconciliation, this could be done with simple majority votes in both chambers. The first portion, a \$2.25 trillion measure unveiled by the White House recently, includes more traditional infrastructure priorities, with a significant focus on climate change, environmental justice, and public health. The second part, planned for later in the year, will include more people-focused spending priorities favored by progressives, such as expanded child care, free community college, universal prekindergarten and more affordable housing.

Schumer's advisors argued that revising this year's budget could "trigger an additional set of reconciliation instructions," which would allow for further 50-50 votes that are decided by Vice President Harris. Revising the 2021 budget resolution will require 15 hours of Senate floor debate and another budget vote-a-rama, which will burn up valuable time on the calendar. After timely rounds of voting, Democrats could then pass a resolution for fiscal year 2022, setting up a third budget resolution to pass the second half of Biden's infrastructure agenda and raise the federal debt limit by year's end.

"While no decisions have been made on a legislative path forward using Section 304 and some parameters still need to be worked out, the Parliamentarian's opinion is an important step forward that this key pathway is available to Democrats if needed"

All legislation that could potentially utilize this option would be subject, similar to the American Rescue Plan, to the Byrd rule. The Bryd rule prohibits inclusion of any non-budget impacting provisions within a piece of legislation that utilizes the reconciliation process. In short, while this new option could prove valuable to President Biden's infrastructure goals, other non-budgetary priorities (such as the For The People Act or the \$15 minimum wage, per Democrats' last attempt) would not be eligible for this legislative vehicle.

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