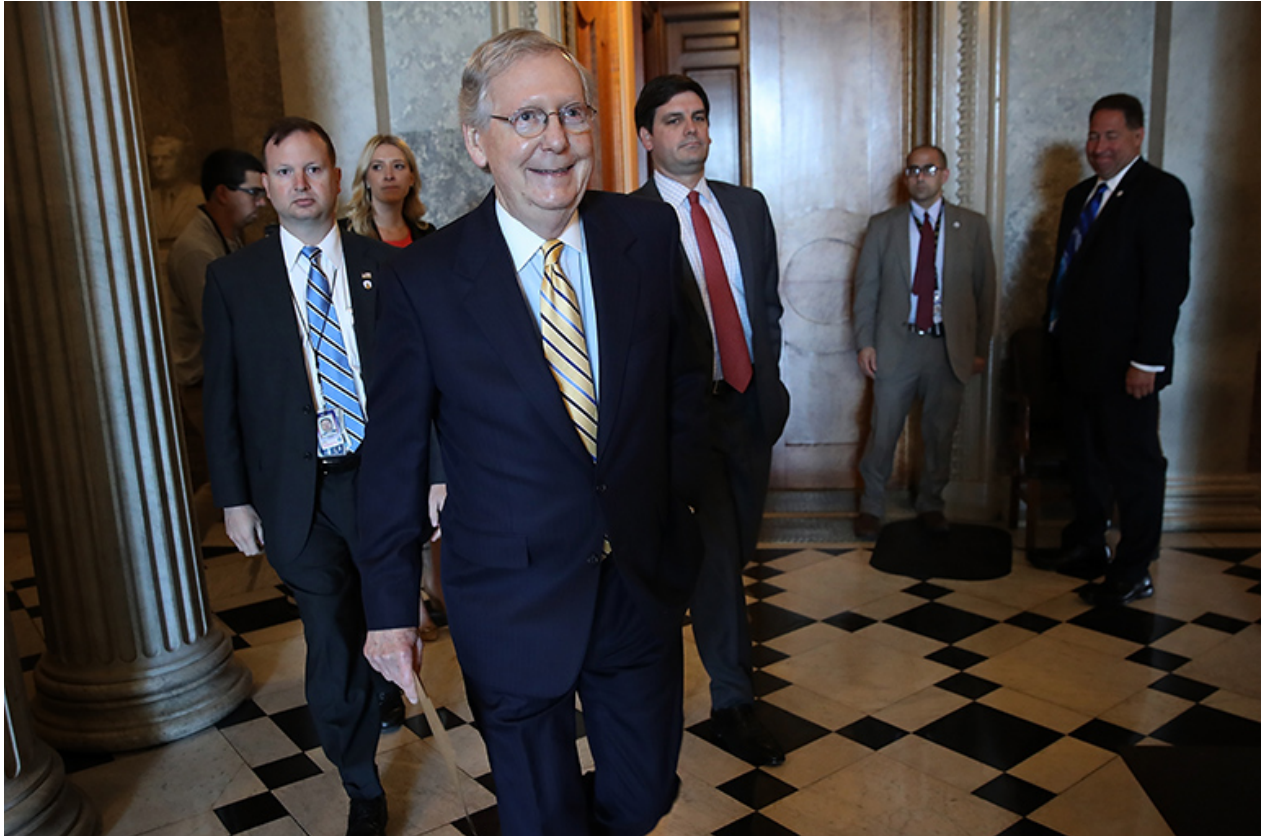


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## Who Knew Senate Health Bill Debate Could Be So Complicated?

By **Julie Rovner** | July 25, 2017



Senate Majority Leader Mitch McConnell walks to a meeting in the Capitol on Tuesday, before the Senate held a key procedural vote on the effort to repeal and replace the Affordable Care Act. (Win McNamee/Getty Images)

So the Senate has voted to start debate on a bill to replace the Affordable Care Act. Now what?

Well, it gets wonky.

The rules for budget reconciliation, the process the Senate is using that limits debate and allows a bill to pass with only a simple majority, comes with a set of very specific rules. Here are some of the big ones that could shape whatever final bill emerges:

### **Matters Of Timing**

Unlike most other Senate bills, where deliberation can last for days or weeks, budget reconciliation rules limit debate to 20 hours. While that 20-hour clock starts running as soon as the Senate votes to proceed to the bill, the debate can be paused. In other words, the Senate can recess for the night, then come back the next day and the clock would resume where it left off the day before. The 20 hours does not include time spent voting on amendments.

Near the end of the debate, Senate leaders could offer a substitute bill. It may incorporate some of the earlier amendments or not, and it is likely geared to attracting as many votes as possible.

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At the end of the 20 hours, there is potentially unlimited time for senators to vote on (but not debate) amendments. By tradition, the minority and majority party each gets one or two minutes to announce what the amendment is, and why it is good or bad. Unlike the initial debate, the clock does not pause for what is referred to as the “vote-a-rama.” That means voting goes only until members get too tired to continue. Vote-a-ramas in the past have often stretched for more than 12 hours, but rarely longer than 24.

### **Amendments**

Senate leaders have for the past several weeks talked about starting debate and having an “open amendment process.” But under reconciliation, amendments are more constrained than under almost any other Senate rules.

According a report by the Congressional Research Service (a nonpartisan research group that provides background briefs to Congress), the Budget Act, which sets the reconciliation rules, “requires that all amendments be germane to the provisions in the bill.” What does that mean? Says CRS, “amendments cannot be used to introduce new subjects or expand the scope of the bill.”

Amendments also cannot add to the budget deficit or cause the bill to miss its overall budget targets.

### **Budget Targets**

Reconciliation is designed to be a process to address the federal budget and is governed by the details set in a budget resolution passed by Congress. Even though congressional leaders have often used it to move legislation that has broader intent, the process has strict rules about spending or saving federal dollars. This year’s targets are modest by most budget resolution standards — each of the two health committees in the Senate were instructed to save \$1 billion over 10 years.

But the Senate committees did not take up the bill to make changes or meet those targets on their own. As a result, the Senate is working from the bill passed by the House in May. It saved \$133 billion, according to the Congressional Budget Office. Although the Senate is certain to make major revisions to the House legislation, any bill it passes must produce at least that much in savings.

And, of course, if the Senate passes a bill, it would have to be approved by the House or the House and Senate would have to work out differences and then pass that bill.

### **Byrd Rule**

Both the underlying ACA replacement bill and its amendments must comply with the “Byrd Rule,” named for former Sen. Robert Byrd (D-W.Va.), which prohibits language that is “extraneous” to the federal budget from being included in the bill. In practice that means language must add to or subtract from federal spending and that the spending must not be “merely incidental” to a broader policy purpose.

Those determinations are made by the Senate parliamentarian. Last Friday, Senate Democrats released a list of initial decisions made by the parliamentarian’s office that found about 10 parts of the Senate- and House-passed health bills run afoul of the Byrd Rule. That list included a temporary defunding of Planned Parenthood and requirements that people with breaks in coverage wait six months before buying individual health insurance.

Republican leaders say they are working to rewrite the problematic provisions. Whether that will pass the Byrd Rule is one of many things no one knows yet in this very tumultuous debate.

*Update: This story has been updated to clarify the amount of House budget savings the Senate bill would need to match.*

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