



# Legislative/Regulatory Preview for 2025

Written By Chris Condeluci

**N**ow that the 2024 elections are in the rear-view mirror, it's time to look ahead to potential federal legislative/regulatory developments in the coming months.

## HERE'S WHAT WE KNOW

We now know that Republicans will control all of Washington, DC, throughout 2025, with (1) Republicans holding on to the majority in the House of Representatives, (2) Republicans re-taking the majority in the Senate, and (3) Former President Trump being elected the 47th President.

We also know that the top 3 policy priorities for Republicans are Taxes, Energy, and Immigration/Border Security.

To get these 3 policy priorities into the law, we know Congressional Republicans are going to use an obscure legislative process called the "Reconciliation Process."

## HERE'S WHAT WE DON'T KNOW

Will Republicans be able to enact their top policy priorities of Taxes, Energy, and Immigration/Border Security into law by the end of 2025?

Will Republicans be able to find an agreement on how to fund the government through the rest of 2025 by March 14, 2025 (when the new deadline for funding the government will expire) without slowing down their efforts to enact their top policy priorities into law?

And will Republicans be able to raise the debt ceiling while also achieving spending reductions through things like entitlement reform (e.g., reforming Medicaid) and streamlining government bureaucracies (through the newly launched "Department of Government Efficiency" or "DOGE," spear-headed by Elon Musk and Vivek Ramaswamy)?

## THE UPCOMING SPENDING FIGHT

As 2024 was drawing to a close, Congress passed, and President Biden signed a short-term spending bill to fund the government through March 14, 2025. Getting the spending bill across the finish line – and avoiding a government shutdown – was not without its drama.

For example, President-elect Trump inserted himself into the debate by telling Congress that in addition to funding the government through 2025, Congress should also raise the debt ceiling so the incoming Trump Administration and Congress would not have to deal with the issue in 2025.

That suggestion was rejected by conservative House Republicans, so President-elect Trump and Republican Leadership had to settle for a "clean" spending bill that was devoid of other spending and non-spending priorities.

This sets up another battle over funding the government during the 1st Quarter of 2025, which will likely have an adverse impact on the speed with which Congressional Republicans will be able to enact legislation on Taxes, Energy, and Immigration/Border Security.

## RAISING THE DEBT CEILING AND REDUCING GOVERNMENT SPENDING

Because Congress and the Trump Administration will have to agree on raising the debt ceiling at some point during 2025, the ensuing fight over this issue will also suck the oxygen out of Washington, DC, for a period of time. Conservative House Republicans are already on record

saying that they will refuse to raise the debt ceiling if significant spending reductions are not part of the deal.

This is where DOGE may have its greatest impact on policymaking, although questions remain about whether any recommendations on how to streamline the government and eliminate fraud, waste, and abuse can be memorialized in legislation that Congress can pass.

## PASSING REPUBLICAN PRIORITIES THROUGH THE RECONCILIATION PROCESS

As stated, Republicans will have the opportunity to add their top policy priorities to the law through an obscure legislative process called the Reconciliation Process. The Reconciliation Process is an exception to the general rule of legislating in the Senate. Under the general rule, at least 60 votes are needed to pass legislation in the Senate. But legislation that is run through the Reconciliation Process (called a "reconciliation bill") only requires 51 votes for passage.

However, to take advantage of this 51-vote exception, specific rules dictate what policy changes can be included in an underlying reconciliation bill and what cannot. The most important requirement is that a policy change must have a "direct" impact on (1) government spending or (2) tax revenue. If

a policy change has too “indirect” of an impact on spending or taxes, this policy must be removed from the reconciliation bill.

There is no question that Republicans will use the Reconciliation Process to pass an extension of the 2017 Tax Cuts and other tax policy changes promised on the campaign trail. These policies have a “direct” impact on taxes, so they can rightly be included in a reconciliation bill.

Republicans will also use the Reconciliation Process to pass Energy policy changes. Most Energy policies have been found to have a “direct” impact on spending. In addition, a lot of energy policy is run through the Tax Code (e.g., tax credits and even excise taxes), thereby having a “direct” impact on taxes, so these changes can also rightly be included in a reconciliation bill.

Immigration/Border Security, however, is something that will be difficult for Republicans to change through a reconciliation bill. This is because Immigration/Border Security has been found to have

too “indirect” of an impact on spending and taxes, and therefore, these changes cannot be included in a reconciliation bill. But that won’t stop Republicans from still trying.

#### **WHAT ABOUT A HEALTH CARE RECONCILIATION BILL?**

No one expects that Republicans will try to “repeal and replace” the Affordable Care Act (ACA) through the Reconciliation Process, but don’t be surprised if you hear certain Republican members of Congress calling for repeal and replace.





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What most analysts expect is that Republicans will try to reform Medicaid by, for example, adding “work requirements” to Medicaid eligibility and also re-structuring how Medicaid is funded by the government (e.g., Federal “block grants” to States or a per-capita spending cap on Medicaid enrollees).

Most also expect that House and Senate Republican Leadership will explore whether they should limit the tax preference for employer-sponsored health coverage (known as the “exclusion”).

Why? Because Republicans will need “offsets” to pay for

things like extending the 2017 Tax Cuts or reforming Medicaid, and limiting the exclusion raises billions of dollars in tax revenue for the government.

Note, efforts to limit the exclusion are not new: Democrats limited the exclusion – through the Cadillac Tax – which was included in the ACA, but ultimately repealed before ever taking effect.

### TRUMP ADMINISTRATION REGULATIONS

The first Trump Administration developed regulations (the Hospital Transparency and Transparency in Coverage (TiC) Rules) requiring hospitals and healthcare payers to publicly disclose medical prices on a website through machine-readable files (MRFs).

While the current state of price transparency is still a bit murky – due to non-compliance with the Hospital Transparency Rule and insurance carriers unwilling or unable to disclose “usable” data on the required MRFs – expect a second Trump Administration to double-down on price transparency.



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Here, expect regulations calling for increased penalties for non-compliance and routine audits of insurance carriers to make sure their pricing data can be easily consumed by employers, plan service providers, and researchers. Also expect improvements to the MRFs and required, specified methodologies for determining – and then disclosing – a particular price for a particular medical item or service.

Also, although Congress tried to require owners of the provider networks (i.e., insurance carriers) to share health claims data with sponsors of self-insured health plans (through the enactment of the Gag Clause Prohibition at the end of 2020), insurance carriers are still refusing to share the data. Expect the

Trump Administration to clarify how the Gag Clause Prohibition was originally intended to work and even force insurance carriers to share the claims data or face penalties or co-fiduciary liability. ■

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