



March 1, 2021

A black flag is held up against a light blue background. The flag features a hand-drawn globe in shades of blue and green. The word "ONE" is written in large white letters on the left side of the flag, and "WORLD" is written in large white letters on the right side. The flag is attached to a wooden pole.

**BUDGET
RECONCILIATION:
THE POTENTIAL
KEY TO
DEVELOPING A
NATIONAL CLIMATE
ACTION PLAN**

BY: SHELBY LAMAR

Climate change is a crisis that has major effects and negative implications for the global community in the coming years.[i] We are beginning to see the effects of global warming in the United States.[ii] Some of the effects seen in the United States include wildfires, stronger hurricanes, and more frequent flooding.[iii] Without aggressive climate action, the entire United States can expect to see an increase in extreme heat, with droughts being the second most common effect of global warming.[iv] Although scientists almost unanimously agree that humans are to blame to global warming, climate action remains a contested political issue in the United States.[v]

As of 2020, 60% of Americans believe that climate change is a major threat to the well-being of the United States.[vi] Additionally, 65% of Americans believe the federal government should take more action to mitigate the effects of climate change.[vii] Even with these statistics, the United States has yet to pass a meaningful, comprehensive climate plan through Congress due to a lack of bipartisan support.[viii] States such as California, Virginia, and Maine have begun to implement policies and programs to combat climate change on a state level.[ix] However, 2021 may be the year the United States begins to develop a national strategy to combat climate change through executive action of the Biden Administration and budget reconciliation.[x]





Photo Credit: <https://www.ladwpnews.com/los-angeles-is-1-nationwide-in-solar-for-third-consecutive-year/>

President Joe Biden took office on Wednesday, January 20 and immediately issued two executive orders related to national climate action.[xi] The first was an order canceling the Keystone XL pipeline and the second was an order for the United States to rejoin the Paris Climate Agreement.[xii] Along with additional executive action, the Administration also has the potential to pass major climate legislation through a process called budget reconciliation.[xiii]

Budget reconciliation “is a tool – a special process – that makes legislation easier to pass in the Senate.”[xiv] The major benefit to using reconciliation is that a reconciliation bill only needs a simple majority in the Senate to pass, where regular bills must obtain a supermajority of sixty votes to overcome the filibuster in the Senate.[xv] Due to its inability of being filibustered, another key benefit of budget reconciliation is the speed at which policy can be passed.[xvi] During his campaign, President Biden pledged \$2 trillion in climate spending, and this is exactly the kind of policy that can be passed using reconciliation.[xvii] Within this \$2 trillion of proposed spending, \$400 billion would go to federal purchases of various clean energy technologies, infrastructure upgrades, expanded public transportation, and research and development on both clean energy and carbon removal.[xviii]

However, there are certain limitations on the types of bills that can be passed using budget reconciliation.[xix] Policies that can be passed using budget reconciliation can only change spending or revenues.[xx] Additionally, the Byrd Rule gives Senators an avenue to raise an objection against any “extraneous” provisions in reconciliation bills.[xxi] Another major limit to budget reconciliation is that it can only be used once per budget resolution, or once per year.[xxii] As such, with the current Democratic simple majority in the Senate, Democrats could only use reconciliation twice, once in 2021 and again in 2022, to pass climate policy with a simple majority.[xxiii]

Typically, executive action and budget reconciliation are used when a type of legislation is popular with one political party and not the other.[xxiv] For example, Republicans used reconciliation in order to pass the Tax Cuts and Jobs Act of 2017.[xxv] However, there is typically opposition to the use of this kind of action by the minority party in Congress.[xxvi] With the use of executive orders, Congress is not allowed the opportunity to pass legislation with both political parties and all

representatives working towards a common goal, it is the President is taking unilateral action to govern.[xxvii] Reconciliation has the same issues, as it is generally only successful when a part of Congress is attempting to pass legislation favored by their political party.[xxviii]

With the worsening of climate change around the world, Biden's executive orders and budget reconciliation in the Senate are perhaps the best options for the United States to begin to develop a national strategy to fight climate change by using clean energies and investing in infrastructure and research and development.[xxix] As there is a lack of Republican support for climate action in Congress, budget reconciliation is likely the only way for a national climate plan to be implemented in the coming years.[xxx] Without these tools, it could be too late to mitigate the negative effects of global warming, and the United States could be left behind in the fight for environmental justice. [xxxi]

[i] *Best & Worst States for Climate Change*, SafeHome, (Dec. 11, 2019), <https://www.safehome.org/climate-change-statistics/> [https://perma.cc/J9HM-WAS8].

[ii] *Id.*

[iii] *Id.*

[iv] *Id.*

[v] *Id.*

[vi] *More Americans Say Climate Change is a Major Threat Than Did so in 2009, But the Increased Concern is Concentrated Among Democrats*, Pew Research Center, (Apr. 15, 2020) https://www.pewresearch.org/fact-tank/2020/04/16/u-s-concern-about-climate-change-is-rising-but-mainly-among-democrats/ft_2020-04-16_climatechangeupdate_01/ [https://perma.cc/9NFY-H6ND].

[vii] Alec Tyson & Brian Kennedy, *Two-Thirds of Americans Think Government Should Do More on Climate*, Pew Research Center, (June 23, 2020) <https://www.pewresearch.org/science/2020/06/23/two-thirds-of-americans-think-government-should-do-more-on-climate/> [https://perma.cc/Z62R-ZL9R].

[viii] Sam Ricketts et al., *States Are Laying a Road Map for Climate Leadership*, Center for American Progress, (Apr. 30, 2020)

<https://www.americanprogress.org/issues/green/reports/2020/04/30/484163/states-laying-road-map-climate-leadership/> [<https://perma.cc/PCU6-TEDA>].

[ix] *Id.*

[x] Dylan Matthews, *Biden Can Fight Climate Change, Guarantee Housing, and Halve Poverty – Without the GOP*, Vox, (Jan. 13, 2021) <https://www.vox.com/policy-and-politics/22217054/joe-biden-senate-majority-budget-reconciliation>, [<https://perma.cc/HS67-F8VT>].

[xi] Timothy Gardner, *Biden administration to unveil more climate policies, urges China to toughen emissions target*, Reuters, (Jan. 23, 2021) <https://www.reuters.com/article/us-usa-climate/biden-administration-to-unveil-climate-change-policies-adviser-says-idUSKBN29S0PA?il=0> [<https://perma.cc/GB46-MEXY>].

[xii] *Id.*

[xiii] Matthews, *supra* note x.

[xiv] *Budget Reconciliation: The Basics*, House Committee on the Budget Chairman John Yarmuth, (Oct. 28, 2020) <https://budget.house.gov/publications/fact-sheet/budget-reconciliation-basics> [<https://perma.cc/7WPB-CQ44>].

[xv] *Id.*

[xvi] *Id.*

[xvii] Matthews, *supra* note x.

[xviii] *Id.*

[xix] *Id.*

[xx] *Supra* note xiv.

[xxi] Matthews, *supra* note x.

[xxii] *Id.*

[xxiii] *Id.*

[xxiv] *Supra* note xiv.

[xxv] *Id.*

[xxvi] *Heritage Explains Executive Orders*, The Heritage Foundation, <https://www.heritage.org/political-process/heritage-explains/executive-orders> (Last viewed, Jan. 25, 2021) [<https://perma.cc/E5ZM-LCTS>].

[xxvii] *Id.*

[xxviii] *Supra* note xiv.

[xxix] Matthews, *supra* note x.

[xxx] *Id.*

[xxxi] Safehome.org Team, *supra* note i.

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