

insights

TYPES NOT MAPPED YET June 04, 2019 | TTR not mapped yet | Christopher T. Murray

Deem and Pass

A process in the House of Representatives that allows for the passage of legislation by voting on a rule - and not the actual bill.

Speed

The House requires the passage of a rule that governs debate for each piece of legislation to be voted on by the full House. To help facilitate the passage of legislation, the House may authorize a “deem and pass” rule, also known as a [self-executing rule](#). Deem and pass is a tactic that allows the chamber to pass a bill without having a roll call vote on the legislation itself. In practice, this often means that members can vote on amendments or changes to a bill, while “deeming” the underlying bill approved at the same time. Deem and pass is often used as a political tool to help members avoid taking a vote on unpopular or controversial legislation.

Top Gun

The complicated passage of [Obamacare](#) in 2010 is one of the most well-known examples of House use of deem and pass.

Initially, the House and Senate each passed their own health care reform bills. Then, Senator Ted Kennedy died, and a Republican filled his seat. Senate Democrats no longer had a filibuster-proof majority to overcome Republican opposition. To get the Affordable Care Act across the finish line, House Democrats took up a budget **reconciliation** bill and used deem and pass to make [changes](#) to the Senate version of the Affordable Care Act. This allowed the House to send reconciliation legislation back to the Senate that only required 50 - and not 60 - votes for final passage.

The constitutionality of deem and pass has been [called into question](#) by both parties, yet both sides have employed the rule frequently when in the majority. The Supreme Court has [ruled](#) that it will not consider the mechanics of how a bill was passed, leaving deem and pass to stand - for now.

Jaws

Deem and pass was used most recently in March, when House Democrats used it to announce their discretionary spending levels for federal fiscal year 2020 [without holding](#) an actual vote on a budget. This allowed House appropriators to start the FY2020 appropriations process while avoiding dissent within the Democratic caucus on funding priorities. But this topline number is not enforceable and appropriations cannot be finalized without a statutory increase in spending caps agreed to by the House, Senate, and President Trump.

With **sequestration** and the **debt limit** looming around October 1, keep an eye out for whether deem and pass will play a key role in the next round of budget discussions to avoid a fiscal crisis.

authorsTest

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