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## HOUSE LEADERSHIP SEEKS TO INVOKE "MARTIAL LAW," FORCING MEMBERS TO VOTE ON KEY BUDGET BILLS WITHOUT FULL KNOWLEDGE OF WHAT THEY ARE VOTING ON

### Move Represents Erosion of the Democratic Process

Statement by Robert Greenstein

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The House Republican Leadership has announced its intention to have the House vote today on conference reports on a budget-cut "reconciliation" bill (S. 1932) and the defense appropriation bill (H.R. 2863) under a procedure known as "martial law." The Leadership's proposal to invoke martial law has already been debated on the House floor and will be voted on later today.

Under this procedure, longstanding House rules that require at least one day between the unveiling of significant legislation and the House floor vote on that legislation are swept away. Instead, under "martial law," the Leadership can file legislation with hundreds of pages of fine print and move immediately to debate and votes on it, before Members of Congress, the media, or the public have an opportunity to understand fully what provisions have been altered or inserted in the legislation behind closed doors. This is the procedure the Leadership hopes to use today to muscle through these bills.

The budget reconciliation conference agreement reportedly cuts a variety of programs by about \$41 billion over five years. It apparently contains provisions affecting millions of Americans, including changes in Medicaid, Medicare, student loans, child support enforcement, the Temporary Assistance for Needy Families program, the foster care

#### FEARS ARE CONFIRMED

As predicted in this statement, the House Republican leadership did use the "martial law" gambit to rush the House to a vote on the spending cut reconciliation bill before Members (much less the press or the public) had a reasonable chance to examine the legislation and understand what it would do.

- Just before midnight on Sunday, December 18, the House adopted the "martial law rule" that allowed the leadership to bring up the conference report on the reconciliation bill shortly after the conference report was finalized, without waiting until the next legislative day as required by House rules.
- At 1:12 a.m. on Monday, December 19, the 774 page conference report on the reconciliation spending cut bill was filed in the House.
- At 5:43 a.m. Monday morning, after less than 40 minutes of debate on the measure, the House began the final vote on the reconciliation spending cut bill.

program, and others. Republican leaders have been meeting behind closed doors on this far-reaching legislation. At this time, few details are available on what the legislation actually does.

One of the most controversial provisions in the Senate version of this legislation — the provision that would open part of the Arctic National Wildlife Refuge to oil drilling — evidently will be moved to the defense appropriation bill. The defense appropriation bill reportedly will also include a variety of other provisions unrelated to defense that were not in either the House- or Senate-passed versions of that bill.

Although the Leadership's schedule calls for Members of the House to have to vote on these conference reports today, the Leadership has not revealed exactly what changes have been made in the reconciliation bill or exactly what matters are being added to the defense appropriation bill. The plan appears to be to wait until the last moment this afternoon or evening and then have the House Rules Committee report rules that will allow the conference reports to go directly to the House floor — before the public, the media, or even Members of the House themselves have an opportunity to examine the revised legislation carefully.

This arouses suspicion that some of the changes that have been made to the reconciliation bill could be presented as a major easing of certain harsh and controversial provisions of the House bill even if the reality is different. It also creates concern that some special interest provisions may have been inserted into the bill, or some special interests may otherwise have been protected, in order to secure votes.

Indeed, preliminary Congressional Budget Office estimates of the budget conference agreement that are now circulating indicate that the conferees shielded the pharmaceutical companies and eliminated the principal Senate provision that was designed to curb overpayments to managed care companies (despite a call for that provision to be enacted by Congress' own expert advisory panel on Medicare payments), while adopting substantial increases in the co-payments and premiums that low-income Medicaid beneficiaries may be charged. The CBO cost estimates indicate that the cuts resulting from the increases in co-payments and premiums are *90 percent as large* over ten years (80 percent as large over five years) as the cuts in this area in the House bill. (The Senate bill contained no Medicaid cuts aimed at low-income beneficiaries.)

Use of the martial law procedure would enable the Leadership to seek to round up the votes needed to pass the budget reconciliation bill before a full picture is available of what the bill does. House Members also may be asked to vote on the defense appropriation bill before they have the opportunity to understand fully what has been inserted into it.

### What is "Martial Law"?

The House leadership is using a parliamentary gambit to evade a longstanding House rule that is supposed to ensure that this kind of obfuscation does not occur. That House rule (Rule XIII(6)(a)) provides that a resolution (called a rule) reported by the Rules Committee cannot be considered by the House on the same legislative day that the rule is reported (except by a two-thirds vote of the House). This is supposed to ensure that Members of the House and the public have at least one day to examine and analyze what is in the legislation to be considered before they have to debate and vote on it.

To maneuver around this House rule and rush the revised reconciliation bill and defense appropriation bill to a vote before they have been fully examined, the Rules Committee reported a rule (H.Res. 632) on the legislative day of Saturday, December 17, that would *waive* the application of Rule XIII(6)(a). Instead, it would allow the Rules Committee to wait until the last minute — and not to report the rules governing consideration of the reconciliation and defense appropriations conference reports, or to release the conference reports themselves, until immediately before debate and votes on the rules and the legislation commences. This despite the fact that the budget legislation is expected to be hundreds of pages long.

This extraordinary procedure is known as a “martial law” rule because it suspends the normal procedures and safeguards and allows the House Leadership to operate in a more authoritarian fashion. It enables the Leadership to seek to ram a bill or conference report through before the Members have the opportunity to fully understand what they are voting on.

Legislation that has far-reaching implications for millions of Americans deserves to be considered under a more democratic process. Waiting until the last minute to reveal what is in these two bills, and then “spinning” or potentially mischaracterizing changes to the reconciliation bill without Members of the House or the public having an opportunity to obtain a more objective review of what the legislation does, would be unfair to Members of the House. It also would be unfair to the millions of Americans whose lives could be altered by this legislation. It would represent a step toward reducing the degree of transparency and democracy in how this country is governed and how decisions are made.