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HOUSE REPUBLICAN RULE CHANGES PAVE THE WAY FOR MAJOR DEFICIT-INCREASING TAX CUTS, DESPITE ANTI-DEFICIT RHETORIC

by James Horney and Robert Greenstein

House Republican leaders yesterday unveiled major changes to House procedural rules that are clearly designed to pave the way for more deficit-increasing tax cuts in the next two years. These rules stand in sharp contrast to the strong anti-deficit rhetoric that many Republicans used on the campaign trail this fall. While changes in congressional rules rarely get much public attention, these new rules — which are expected to be adopted by party-line vote when the 112th Congress convenes on January 5 — could have a substantial impact and risk making the nation's fiscal problems significantly worse.

Current House rules include a *pay-as-you-go* requirement that any tax cut or spending increase for a mandatory (i.e., entitlement) program must be offset by cuts in other mandatory spending or increases in other taxes, in order to avoid increasing the deficit.[1] Current rules also bar the House from using budget "reconciliation" procedures — special rules that facilitate speedy action on specified budget legislation — to pass bills that would *increase* the deficit. The new rules would alter and greatly weaken these commonsense measures:

- The new rules announced December 22 would *replace pay-as-you-go with a much weaker, one-sided "cut-as-you-go" rule*, under which increases in mandatory spending would still have to be paid for but *tax cuts would not.*

  In addition, increases in mandatory spending could be offset *only* by reductions in other mandatory spending, not by any measure to raise revenues such as by closing unproductive special-interest tax loopholes. For example, the House would be barred from paying for continuation of a provision enacted in 2009 (and extended in the just-enacted tax compromise) that enables many minimum-wage families to receive a full, rather than a partial, Child Tax Credit by closing wasteful tax breaks for multinational corporations that shelter profits overseas. Use of such an offset would violate the new House rules because the provision expanding the Child Tax Credit for working-poor families counts as spending and hence could not be paid for by closing a tax loophole. Yet the same new rules would enable the House to *expand* tax loopholes for multinational corporations and wealthy investors *without paying for those*

[1] Exceptions can be made for legislation to meet emergency needs. Discretionary spending — that is, spending subject to annual appropriations — is controlled separately, by annual spending limits that are set in the congressional budget resolution.

tax breaks at all, because *any* tax cut, no matter how costly or ill-advised, could now be deficit financed.

Of course, the change in House rules does not affect the Senate pay-as-you-go rule or the pay-as-you-go statute, which will continue to bar both tax cuts and increases in mandatory spending that are not paid for.[2] But the evisceration of the House pay-as-you-go rule will make it easier for House Republicans to send deficit-increasing tax cuts to the Senate, requiring members of the Senate and the President to explain to the American public why fiscal concerns should stand in the way of a politically appealing tax reduction. It will also make it nearly impossible for Democrats in the House to offer amendments to legislation that would provide improvements in program benefits, or reductions in proposed benefit cuts, that are paid for by closing wasteful special-interest tax loopholes.

- *The new rules would stand the reconciliation process on its head*, by allowing the House to use reconciliation to push through bills that greatly increase deficits as long as the deficit increases result from tax cuts, while barring the use of reconciliation in the House for legislation that *reduces* the deficit if that legislation contains a net increase in spending (no matter how small) that is more than offset by revenue-raising provisions.

  By itself, this change in the House rules governing reconciliation would have a limited effect. Reconciliation rules are most important in the Senate because they prohibit use of a filibuster to block a vote on reconciliation legislation, enabling such legislation to pass the Senate with a majority vote instead of the 60 votes needed to end a filibuster (filibusters cannot be used in the House on any legislation). This change in House rules would not affect the current Senate rule barring the use of reconciliation to pass deficit-increasing legislation. But, revising the House rules to allow use of reconciliation to push through deficit-financed tax cuts could well be the first step toward elimination of all rules restricting the use of reconciliation for that purpose. After all, the current bar on using the reconciliation process to pass budget-busting tax cuts (and budget-busting spending increases) was made part of House and Senate rules only in 2007, over GOP opposition.

Sadly, we've been here before. In the 1990s, when pay-as-you-go rules applied to *both* spending increases *and* tax cuts and Congress used reconciliation solely to enact deficit-*reduction* packages, the country went from large deficits to a balanced budget. (A strong economy obviously helped as well.) But in the early 2000s, with Republicans controlling Congress and President Bush in the White House, Congress set aside pay-as-you-go and turned reconciliation on its head, using it not to reduce deficits but instead to push through costly, unpaid-for tax cuts in both 2001 and 2003. Previously, reconciliation had only been used for deficit reduction.

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[2] The Senate and current House pay-as-you-go *rules* are intended to prevent Congress from passing legislation with tax cuts or mandatory spending increases that are not paid for. The pay-as-you-go *statue*, enacted in early 2010, provides that if Congress ignores or overrides those pay-as-you-go rules and such legislation is enacted, an across-the-board reduction of non-exempt mandatory spending (called a sequester) will be instituted automatically to offset the increase in the deficit. Of course, if Congress decides to ignore the pay-as-you-go rules and pass such legislation, it likely would also include a provision in that or other legislation that *overrides* the statutory pay-as-you-go requirement. That is what Congress did, for example, when it passed the 2001 tax cuts at a time when a previous pay-as-you-go statute was still on the books.

The results are plain to see. The Bush-era tax cuts were a significant factor in the return to large deficits after 2001, contributing $2.6 trillion (including added interest costs on the national debt) to the budgetary deterioration between 2001 and 2010. House Republicans now plan to restore the very type of permissive budget rules that contributed markedly to that fiscal deterioration.

Moreover, measures to scuttle the current, even-handed pay-as-you-go rule and to allow use of the reconciliation process to increase the deficit are even more indefensible today than such steps were in 2001 — because now we already have deficits that exceed $1 trillion a year.

It should be recognized that the House rules unveiled December 22 go to great lengths to make clear the intent of the new Republican majority to pass an array of tax-cut measures that will significantly enlarge deficits. Not only do the new rules eliminate the pay-as-you-go restriction on tax cuts that are not paid for, but the rules also specifically authorize the Chairman of the House Budget Committee to *ignore* for purposes of budget enforcement rules all of the costs of:

- Extending or making permanent the 2001 and 2003 Bush tax cuts (including the tax cuts for the highest-income taxpayers) and relief from the Alternative Minimum Tax;

New Rules Allow Imposition of Spending and Revenue Limits that Members Have Not Been Allowed to See, Debate, or Vote On

Another aspect of the proposed rules also seems at odds with promises made in the campaign about what a new Republican majority would do. There was much talk about increasing the transparency of the legislative process, and some proposals in the new rules package would do that. But the new rules also include a stunning and unprecedented provision authorizing the Chairman of the Budget Committee elected in the 112th Congress, expected to be Representative Paul Ryan of Wisconsin, to submit for publication in the Congressional Record total spending and revenue limits and allocations of spending to committees — and the rules provide that this submission "shall be considered as the completion of congressional action on a concurrent resolution on the budget for fiscal year 2011." In other words, in the absence of a budget resolution agreement between the House and the Senate, it appears that Rep. Ryan (presumably with the concurrence of the Republican leadership) will be allowed to set enforceable spending and revenue limits, with any departure from those limits subject to being ruled "out of order."

This rule change has immediate, far-reaching implications. It means that by voting to adopt the proposed new rules on January 5, a vote on which party discipline will be strictly enforced, the House could effectively be adopting a budget resolution and limits for appropriations bills that *it has never even seen, much less debated and had an opportunity to amend.* (There is no requirement for Representative Ryan to make his proposed spending and revenue limits available to Members or the public before the vote on the new rules.)

This would, among other things, facilitate the implementation of incoming Speaker John Boehner's radical proposal to cut non-security discretionary funding for fiscal year 2011 by $101 billion (or 21.7 percent) below the level appropriated for 2010, as adjusted for inflation *without* any consideration or vote on that proposal. Once Rep. Ryan places in the Congressional Record discretionary funding limits set at the Boehner level, they will become binding on the House, and any attempt to provide funding levels that allow for less severe cuts will be out of order. This imposition of budget limits without debate or votes hardly seems consistent with the promised increase in transparency in the legislative process, much less with sound — or fair — budget practices.

- Extending or making permanent the hollowing out of the estate tax included in the just-enacted tax-cut compromise legislation; and

- Legislation to provide a major, costly new tax cut — a deduction equal to 20 percent of gross income for "small businesses," which Republican lawmakers typically have defined very expansively so the term covers a vast swath of firms and wealthy individuals that do not resemble what most Americans think of as a "small business."

The new rules also specifically empower the Budget Committee Chairman to exempt from budget enforcement rules the fiscal effects of repealing the health reform law. The Congressional Budget Office has estimated that the health reform law will reduce deficits by more than $100 billion over the first ten years and by roughly $1 trillion or more over the second ten years. Its repeal would increase deficits by those amounts.

Finally, the new rules would pave the way for a further widening of the already very large gap between rich and poor. While the new rules would allow the House to make permanent the Bush tax cuts for high-income families, continue the new estate-tax provisions that benefit only the top one-quarter of one percent of estates (those with a value in excess of $10 million for a couple, and create a big new tax break for "small businesses" — all without paying for the costs — they would *prohibit* the continuation of improvements for low-income working families in the child tax credit and earned income tax credit that were enacted in 2009 and extended in the recent tax-cut compromise legislation unless the cost of those extensions was fully offset. And, as noted above, the House would be *barred* from offsetting the cost of maintaining these low-income tax-credit provisions by curbing unwarranted tax loopholes, which will make the demise of these low-income tax-credit benefits more likely. To simultaneously pave the way for *both* deficit-financed extensions of massive tax cuts for the wealthiest Americans *and* termination of critical tax-credit measures that keep several million low-income working parents and their children out of poverty represents a set of priorities that can aptly be described as worthy of Ebenezer Scrooge.

At bottom, the new House GOP rules proposals make one other point abundantly clear — tax cuts for high-income taxpayers, not deficit reduction, is the top priority of the incoming House leadership.