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CONGRESS USING THE "RECONCILIATION" PROCESS AGAIN TO MAKE IT EASIER TO PASS DEFICIT-INCREASING TAX CUTS

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The House and Senate have approved budget resolutions that assume significant tax cuts. The budget resolution approved by the House of Representatives assumes tax cuts totaling $106 billion between 2006 and 2010, while the resolution approved by the Senate would reduce revenues by $129 billion over this five-year period. Moreover, these budget resolutions include special "reconciliation" instructions to the tax writing committees — the House Ways and Means Committee and Senate Finance Committee. In the Senate, these instructions cover essentially all of the tax cuts assumed in the resolution, while in the House they cover only $45 billion of the total[1]

The "reconciliation" process is a fast-track process that originally was used to facilitate the passage of deficit-*reduction* legislation. The process was intended to protect hard-to-pass legislation that would reduce entitlement expenditures or raise taxes from a filibuster in the Senate, and thereby to ensure that such legislation would need 51, rather than 60, votes to pass. In recent years, Congressional leaders have contorted the reconciliation process by using its procedural protections to make it easier to cut taxes and thereby to *increase* the deficit — the opposite of the way reconciliation was originally used. Now, at a time when there is heightened concern about deficits and the Administration is proposing substantial cuts in a large array of domestic programs, the House and Senate again intend to use reconciliation to make it easier to pass further tax-cut measures.

- The House and Senate budget resolutions do not specify exactly which tax cuts will be enacted through the reconciliation process. Supporters of the resolutions highlighted a number of different tax cuts that they supported. In particular, the Chairmen of both Budget Committees indicated that the reconciliation totals — $45 billion in the House, and $129 billion in the Senate — could accommodate the extension of a number of expiring tax provisions, including the $23 billion cost of extending through 2010 the capital gains and dividend tax cuts slated to expire at the end of 2008.

- The capital gains and dividend tax cuts ax cuts would disproportionately benefit the well-off. The Urban Institute-Brookings Institution Tax Policy Center estimates that in 2005, more than half — 53 percent — of the dividend and capital gains tax cuts will go to the 0.2 percent of households that have incomes in excess of $1 million. These households will receive an average tax cut of $37,962 in

[1] Without reconciliation instructions, the remaining $61 billion of tax cuts assumed in the House budget resolution could still be considered. They would not receive the procedural protections provided by reconciliation.

2005 from these two provisions. Some 78 percent of the dividend and capital gains tax cuts this year will go to the 3.3 percent of households with incomes exceeding $200,000 a year. By contrast, the 86 percent of households with incomes of less than $100,000 will receive only 10 percent of these tax cuts.

- The Senate-passed resolution also assumes repeal of a provision of current law under which a portion of Social Security benefits are taxable for beneficiaries whose income exceeds a certain level. This tax cut, which was proposed by Senator Jim Bunning and was adopted on the Senate floor, would weaken the financing of Medicare. Revenues generated under the current-law provision are deposited in the Medicare Hospital Insurance Trust Fund, so the amendment would deprive the trust fund of these revenues and make it become insolvent in 2015, four years sooner than under current law. The Social Security beneficiaries that would tend to benefit from this tax cut are a fairly affluent group.[2]

- In addition to these assumptions about tax cuts, the House and Senate budget plans include large cuts in domestic programs, adhering closely to the levels that the President's budget proposes for annually appropriated (i.e., "discretionary") programs. Funding for discretionary programs outside of the budget categories of national defense and international affairs — i.e., for domestic discretionary programs — would be reduced by between $216 billion and $202 billion over five years under the House and Senate budget plans, compared with the current funding levels for these programs, adjusted only for inflation.

  Reductions in entitlement programs such as food stamps, farm price supports, student loans, and Pension Benefit Guarantee costs also are part of the House and Senate budget plans. The House also assumes significant cuts in Medicaid; a similar Senate assumption was removed by amendment when the Senate debated its plan. Both budget plans include reconciliation instructions to "enforce" those cuts. Thus, while high-income households would benefit handsomely from an extension of the dividend and capital gains tax cuts protected by the reconciliation process, significant numbers of low-income children, parents, seniors, and people with disabilities would be adversely affected by Medicaid and food stamp cuts.

- The reconciliation instructions for tax cuts included in the Congressional budget plans call for a "tax cut" reconciliation bill that is *separate from the reconciliation bill that would contain the reductions in assistance programs.* Congressional leaders reportedly want to keep the two reconciliation bills separate to avoid the appearance that programs that benefit low- and moderate-income families, farmers, and others are being cut to finance tax cuts that primarily benefit those with high incomes.

The reconciliation process was first used in the early 1980s with the explicit goal of facilitating the passage of legislation intended to reduce the deficit. The debate on a

[2] See Robert Greenstein, "With Bunning Amendment, Senate Budget Would Move Up Medicare Insolvency by Four Years and Increase Deficits by More than $200 Billion," Center on Budget and Policy Priorities, March 18, 2005.

reconciliation bill is limited to a certain number of hours and cannot be subject to a filibuster in the Senate, which requires 60 votes to stop. The practical result of this "filibuster protection" is that a reconciliation bill needs only a majority vote to pass in the Senate. In the current Congress, where the majority party in the Senate holds 55 seats, the difference between needing 51 votes rather than 60 to secure passage of a bill can be substantial.

Using the reconciliation process to facilitate the passage of measures that cost money and swell deficits stands the purpose of reconciliation on its head. Reconciliation was used to push through and enact the tax-cut packages in 2001 and 2003; as noted, Congressional leaders are now considering using it to extend those tax cuts and possibly to add new tax-reduction measures. This is a dangerous precedent to continue to build. If this practice continues, it may be used in the future not only to cut taxes further but also to expand popular entitlement programs. Pressure to expand the Medicare prescription drug benefit, for example, is likely to grow once the new drug benefit takes effect and beneficiaries discover the large gaps it contains. Reconciliation could become an obvious vehicle to facilitate such an expansion.

Using reconciliation to make it easier to pass legislation that increases the deficit is unsound fiscal policy. When deficits were high in the past, Congress used the reconciliation rules as its most effective tool to counteract irresponsible budgeting. The reconciliation process was originally used to help Congress "do the right thing" — to take steps that are in the nation's best interest but are hard politically. Now, reconciliation is being used to enhance the chances of fiscally irresponsible legislation. At a time when Congress has decided to cut domestic programs that serve millions of Americans in the name of deficit reduction, it should resist the temptation of using reconciliation's fast-track protections to ease the passage of tax cuts that will increase the deficit and heavily benefit those on the top rungs of the income scale. Such misguided practices and priorities will make it increasingly difficult for the nation to get its fiscal house in order.