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**H. RES. 5, THE RULES PACKAGE FOR THE 114<sup>TH</sup> CONGRESS**

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**TO:** DEMOCRATIC MEMBERS  
**FROM:** RULES COMMITTEE RANKING MEMBER LOUISE SLAUGHTER  
**DATE:** 1/6/2015

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One of the most significant pieces of business on Opening Day of the 114<sup>th</sup> Congress is adoption of the House’s rules. Following election of the Speaker and swearing in of all the Members, the House will consider H. Res. 5, which carries over the rules in place at the end of the last Congress, but makes certain specific changes. What follows are some of the changes Republicans are proposing to the Rules of the House in H. Res. 5:

- **Dynamic Scoring:** The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) are instructed to use “dynamic scoring” when estimating the budgetary effects of “major legislation.” Dynamic scoring is the incorporation of macroeconomic effects into the models for predicting the impact of legislation on tax revenues, spending levels, and deficit levels. H. Res. 5 also requires a 20-year macroeconomic analysis (as opposed to the 5- and 10-year windows analyzed normally) because dynamic scoring’s exaggeration of fiscal effects is most significant in the out-years.

“Major legislation” is defined by the proposed rule as legislation having a budgetary effect of a certain magnitude relative to gross domestic product (GDP), or whenever the Chair of the Budget Committee unilaterally designates a measure as “major.”

CBO and JCT do not presently utilize dynamic scoring in their official estimates, largely because most economists are skeptical of our ability to accurately predict the indirect fiscal effects of a given change in the tax code or a given change in government spending. Republicans favor dynamic scoring because they believe proposals to reduce tax rates will be scored as causing smaller increases (or no increases at all) in the deficit after macroeconomic effects are taken into consideration. In other words, they are hoping that CBO and JCT will tell them that tax cuts pay for themselves.

It is important to note that CBO and JCT produce cost estimates pursuant to the Congressional Budget Act, not pursuant to the Rules of the House. Although the language in H. Res. 5 purports to “require” CBO and JCT to use dynamic scoring for major legislation, the Congressional Budget Act cannot be amended through a change in the Rules of the House. Only a new statute can truly require CBO and JCT to use dynamic scoring in their

official scores. However, this rules change can apply political pressure on CBO and JCT to provide dynamic scores, and give House Republicans some political cover when they want to point to “dynamic scores” instead of the regular CBO and JCT cost estimates that do not incorporate macroeconomic effects.

- **Social Security:** Late last night, the Republican Rules package was revised to include a major new provision that will likely force Social Security benefit cuts. The new rule would prevent the House from considering legislation to prevent a scheduled 20 percent cut to Social Security benefits for 11 million disabled workers and their families (by creating a point of order against legislation that reallocates FICA taxes between the Social Security Trust Funds, which have a current overall balance of \$2.8 trillion) unless the legislation also includes Social Security benefit cuts or tax increases. Without any substantive debate and out of public view, the rule would prevent the House from even considering a mechanism endorsed by more than 50 advocacy groups and which Congress has used 11 times in the past to address shortfalls in one of the trust funds.
- **Mandatory Ethics Training for New Members:** H. Res. 5 requires that new Members of the House, in addition to employees, complete ethics training.
- **Staff Deposition Authority:** H. Res. 5 extends staff deposition authority from the Oversight Committee to an additional four committees: Energy and Commerce, Financial Services, Science, and Ways and Means. Given the jurisdiction of these committees, this change will enhance Republicans’ ability to attack and block the ACA, EPA actions, Dodd-Frank, and IRS regulations.
- **Motions to Instruct Conferees:** Under current rules, motions to instruct conferees can be offered 25 legislative days and 10 calendar days after conference committees have been appointed. H. Res. 5 lengthens these periods, so that motions to instruct would be privileged 45 calendar days and 25 legislative days after the conference is appointed. (This is undoubtedly a response to our successful motions to instruct on the VA conference.)
- **Bipartisan Legal Advisory Group:** BLAG is formalized and established as an entity within House rules. BLAG consists of the Speaker, the two leaders, and the two whips. This provision is designed to ensure that in the future judges do not doubt the authority of BLAG to speak for the House, as a judge did during the DOMA litigation. The existing language in the Rules of the House refers to BLAG only as an advisory group, not as a group vested with authority to make litigation decisions on behalf of the House.

- **Investigations of the Administration:** The following Republican investigative attacks against the Administration are carried over into the 114th Congress:
  - the Fast and Furious investigation
  - the civil lawsuit against the implementation of the ACA
  - the Benghazi Select Committee
  
- **Truth-in-Testimony:** Disclosure requirements for committee witnesses are expanded, requiring disclosure of certain payments by foreign governments to witnesses, instead of only U.S. Federal government contracts and grants.

H. Res. 5 also contains a number of various changes to the Rules of the House, including changes to the size of the Intelligence Committee, allowing extra subcommittees on the Agriculture, Armed Services, Foreign Affairs, and Transportation and Infrastructure Committees, and allowing the Speaker to reconvene the House at a time other than previously appointed after consultation with the Minority Leader, among others.