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THE MAJORITY'S BUDGET DEEMER

AN ADMISSION OF FISCAL FAILURE

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SUMMARY

What House Democratic leaders call a "budget enforcement resolution" is in fact just another "deeming" scheme – one that concedes they cannot meet their most fundamental governing responsibility: writing a congressional budget. They have created a masquerade that only advances their spend-as-you-go philosophy, accelerating the march toward a fiscal and economic crisis. They are doing so because a majority of rank-and-file Democrats cannot vote for a budget with trillion-dollar deficits. As even House Budget Committee Chairman Spratt has acknowledged: "You can say that that's a lack of courage."[1] The analysis below makes the following points:

- *This is not a budget*. The measure fails to meet the most basic, commonly understood objectives of any budget. It does not set congressional priorities; it does not align overall spending, tax, deficit, and debt levels; and it does nothing to address the runaway spending of Federal entitlement programs.

- *It is not a 'congressional budget resolution.'* The measure does not satisfy even the most basic criteria of a budget resolution as set forth in the Congressional Budget Act.

- *It creates a deception of spending 'restraint.'* While claiming restraint in discretionary spending, the resolution increases non-emergency spending by $30 billion over 2010, and includes a number of gimmicks that give a green light to higher spending.

- *It continues relying on the flawed and over-sold pay-as-you-go [pay-go] procedure.* Pay-go – which Democrats have used mainly to raise taxes, and have ignored when it was inconvenient – does nothing to reduce deficits or restrain spending growth in existing law. The pay-go statute adopted in this resolution does not correct its fundamental flaws.

- *Outsourcing fiscal responsibilities*. The measure is another hand-off by the Democratic Majority of Congress's power of the purse – this time relying on the Fiscal Commission created by the President to do Congress's job.

The following discussion further explains these points.

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[1] House Budget Committee Chairman John M. Spratt on CSPAN, 27 June 2010.

Authorized by . . . . Paul D. Ryan, Ranking Republican

THIS IS NOT A BUDGET

While Democrats try to claim their "enforcement resolution" is the "full equivalent, the full complement of a budget,"[2] it is in fact a façade that attempts to hide their failure in the most basic function of government: passing a budget. This is *not* a budget, even in the most commonly understood terms.

- *It does not set priorities, or account for spending demands*. Like any budget, a congressional budget resolution is a blueprint for allocating resources among the government's major activities. It is the only legislative vehicle that views government spending, taxes, and borrowing comprehensively: everything else is piecemeal. This "enforcement resolution" offers no blueprint for budgeting. It does not show how the House intends to meet the government's major obligations – such as national defense, Medicare, Medicaid, veterans' benefits, and so on – as laid out in a budget resolution. It makes no choices among the broad categories of spending – which ones should get more funds, and which less. It leaves *all* the budgeting to someone else.

- *It does nothing to control entitlement spending.* The biggest problem in the budget outlook is uncontrolled entitlement spending – and this resolution does nothing to address it. The Democrats already have worsened the entitlement crisis, first by ignoring it, then by adding their $2.6-trillion health care program, among other things. The "enforcement resolution" simply endorses an already reckless spending binge.

- *It makes no attempt to align spending, tax, deficit, and debt levels*. The resolution fails to show how government spending in fiscal year 2011 will be financed – how much by taxes, how much by borrowing – and thereby ignores the alarming deficits and debt run up by this President and Congress. Under the President's budget, debt held by the public doubles in 5 years (compared with 2008) and triples in 10 years; and by doing nothing, the Democratic leadership is endorsing that path.

NOT A BUDGET *RESOLUTION* EITHER

The "enforcement resolution" also fails to satisfy the basic criteria for a *House budget resolution* as spelled out in the Congressional Budget Act:

- It is not a "concurrent resolution" – a formal type of legislation that has to be adopted in identical form in both the House and Senate – as required by the Budget Act.[3] The "enforcement resolution" is merely an *ad hoc* provision incorporated in a rule.

- It applies for only 1 year. The Budget Act requires 5-year budgets.[4]

- It does not contain all the numerical levels required for all 5 years of a budget resolution, which include: totals of new budget authority; total outlays; total Federal revenue; the

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[2] Ibid.

[3] The Congressional Budget and Impoundment Control Act of 1974, section 301(a).

[4] Ibid.

amount by which total revenue should be changed; the surplus or deficit; new budget authority and outlays for each major functional category; and the public debt.[5]

- Although it defines a maximum spending level for the Appropriations Committee, it does not provide an accompanying report containing allocations of new budget authority and outlays for each authorizing committee.[6] These allocations are important because they tell the committees what they can spend – and implicitly whether they can expand programs, or must reduce them or keep them the same – and the allocations *are enforceable by points of order*.[7]

A DECEPTION OF SPENDING 'RESTRAINT'

By assuming some sleight-of-hand spending gimmicks, and by tying this proposal together with the emergency supplemental, Democratic leaders can satisfy both sides of their divided caucus: they can give the Blue Dogs an illusion they have cut spending, while at the same time increasing spending as their "progressives" want.

The bottom line is this: the Democrats' resolution provides for $1.121 trillion in fiscal year 2011 non-emergency spending, an increase of $30 billion compared with this year (see Table 2 on page 8 of this document). But to put this "limit" in context:

- "Emergency" spending is exempt from the limit.
- It does not prevent raiding defense to increase domestic discretionary spending.
- It pre-funds Pell Grants by $4.95 billion, and 2011 program integrity initiatives by $538 million.
- It carries forward into 2011 a sum of $6 billion in one-time census funding from 2010 – thereby freeing up that amount for other spending.
- The resolution makes no mention of funding troops in Iraq and Afghanistan.

Table 1: Supplemental Emergency Spending

Major Spending Category	Dollars in Billions
Department of Defense	30.3
Department of Education	14.1
Department of Veterans Affairs	10.0
Department of State/International Affairs	5.9
Department of Homeland Security	5.4
Other	-4.9[a]
Total	60.8

[a] Includes the combined impact of other spending, rescissions, and changes to mandatory programs.

[5] Ibid.

[6] Congressional Budget and Impoundment Control Act of 1974, section 301(e)(2)(F).

[7] Congressional Budget and Impoundment Control Act, section 302(f).

- In any case, the Democrats' newfound fiscal "restraint" comes only *after* an extraordinary spending binge. Among the major increases:

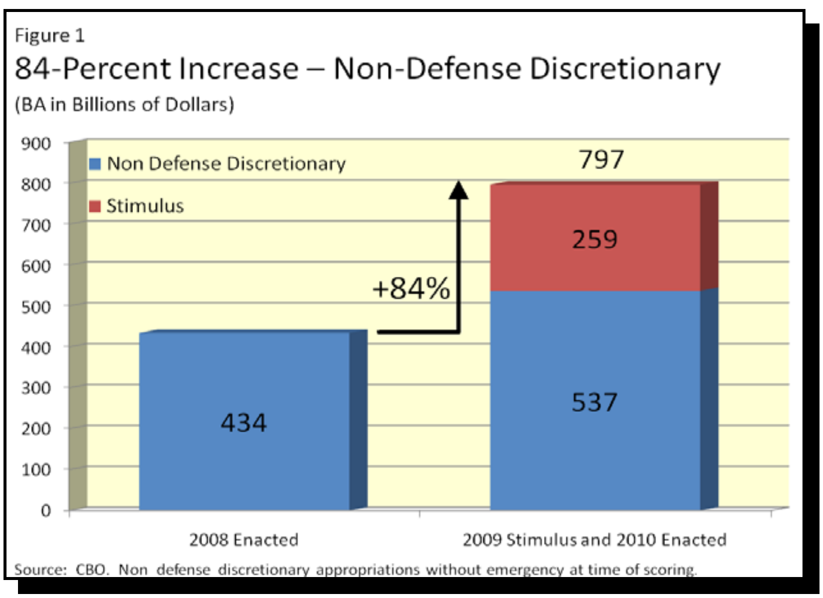
  - The $862-billion "stimulus" bill, which has yet to produce the economic growth and job-creation promised.

  - Fiscal year 2009 and 2010 omnibus appropriations bills that led to a 24-percent increase in non-defense discretionary spending (a 17-percent increase in total discretionary spending).

  - An expansion of the State Children's Health Insurance Program [SCHIP] that increases spending by an average of 23.7 percent for 5 years, then abruptly cuts funding by 65 percent in 2014 – a cut that clearly will not happen.

  - The government takeover of the health care sector, which will increase spending by $2.6 trillion when fully implemented.

  - Legislation signed by the President that resulted in an 84-percent increase in non-defense discretionary spending (see Figure 1).



- Yet the President continues to call for still more spending, contending the government should not stop now because the economic recovery is too fragile. Even European countries have abandoned the irrational policy of spending more now and promising to save later – despite the President's objections.

EXTENDING THE PAY-GO SHAM

The House Democrats' celebrated pay-as-you-go [pay-go] procedure is a sham they have used mainly to justify tax increases; and they have ignored it when it was inconvenient. It is a public relations slogan designed to distract attention from the surfeit of spending, deficits, and debt accumulated by the President and the Democratic Congress in their pursuit of more and bigger government. Under pay-go, Democrats have deepened the deficit to $1.5 trillion this year. Conforming with the pay-go statute does not overcome these principal flaws:

- Pay-go does not control spending. Congress can pass any amount of entitlement spending increase without violating pay-go – as long as the spending is "offset," and does not increase the deficit. This creates a great incentive for Congress to raise taxes to "pay for" popular spending proposals, and thereby appear fiscally "responsible." *Indeed, pay-go has become a principal means of justifying higher taxes to chase higher spending.*

- It does nothing to address the government's current unfunded obligations, which the Government Accountability Office [GAO] estimates to be $76 trillion.[8]

- It does not reduce deficits; it just maintains them at their current level, so they continue to soak up resources needed for economic growth and job creation.

- Pay-go does not apply to current law, so it does nothing to address the unsustainable rate of spending growth in *existing* entitlement programs.

- It is rife with loopholes and has been circumvented through various gimmicks. Pay-go does not apply to annually appropriated discretionary spending, which represents more than $1 trillion of the budget; nor does it affect mandatory spending provisions included in appropriations bills; and spending designated as an "emergency" is exempt from pay-go. Four examples illustrate the manipulations used to get around pay-go:

    - The $862-billion "stimulus" bill was designated as an "emergency," so pay-go did not apply to it.

    - Pay-go includes an exemption for so-called "doc fix" legislation – adjustments in the sustained growth formula [SGR] for Medicare physicians – which has cost more than $200 billion over 10 years. Congress got around pay-go in this case by allowing the Budget Committee Chairman to adjust Congressional Budget Office [CBO] estimates.

    - The expansion of the State Children's Health Insurance Program [SCHIP] (H.R. 2) provided an increase of $74 billion over 10 years. So Congress wrote into the bill a spending "cliff" – a provision that cut SCHIP spending by 65 percent in 2014, meeting pay-go's requirement with a reduction that will never occur.

    - In 2008, the war supplemental (H.R. 2542) included $66 billion in mandatory spending that otherwise would have been subject to pay-go.

[8] See the House Budget Committee Republican staff analysis: *Treasury and GAO Budget Outlook: Trillions in Unfunded Liabilities*, 5 March 2010: http://www.house.gov/budget_republicans/press/2007/pr20100305outlook.pdf.

- Pay-go also has become a proxy for the Congressional Budget Act: since adopting their pay-go rule in January 2009, Democrats have waived all Budget Act points of order more than 210 times for legislation they brought to the floor – even for bills that had no Budget Act violations.

OUTSOURCING CONGRESS'S RESPONSIBILITY

Through the mystical process of "deeming" in place a budget "enforcement" procedure, the Democratic Majority is delegating one of Congress's most significant responsibilities – the power of the purse – this time relying on the Fiscal Commission created by the President to do Congress's job. But even in that they are at best irresolute.

- The measure offers a non-binding Sense of the House that the House should vote on any recommendations by the Fiscal Commission – recommendations that themselves are non-binding and would have to be approved by 14 of the 18 commission members.

- The House is to take this vote only *after* the Senate does so – during a lame-duck session, in December, under the Senate's regular order, with unlimited debate and amendment.

WORSENING A FISCAL AND ECONOMIC CRISIS

The Democrats' failure to budget would be a disaster at any time – a staggering abdication of a fundamental act of governing. It is acutely problematic now, with the Nation facing an unprecedented fiscal and economic challenge. The collapse of the budget process and lack of spending restraint undermine economic growth and job creation, aggravate U.S. dependence on foreign creditors, and accelerate the fiscal day of reckoning. Some key facts:

- The President's budget – the only budget there is at the moment – widens the deficit to a new record of $1.5 trillion.

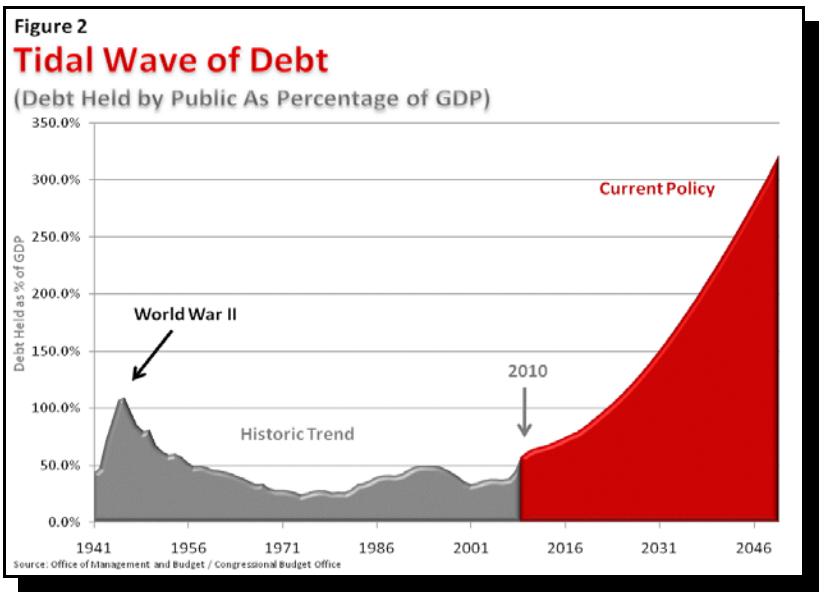
- As a share of the economy, the President's 2010 deficit is 10.3 percent of gross domestic product [GDP] – the largest rate of excess spending since the Second World War. Going forward, deficits in the President's budget never fall below $724 billion, and never below 4.1 percent of GDP[9] – levels his own outgoing Budget Director has termed "unsustainable."

- The debt held by the public rises to $9.2 trillion this year, 63.2 percent of GDP, the largest debt in history and the largest debt as a share of the U.S. economy in 59 years. By 2020, the President's budget also drives debt to an alarming 90 percent of the economy, according to CBO – and beyond 2020 it rises sharply (see Figure 2, next page).

- Compared with its $5.8-trillion level in 2008, the year before President Obama took office, debt held by the public under the President's budget more than doubles in 5 years, and more than triples over 10 years, CBO reports.

[9] Figures in this part of the discussion are fromthe Congressional Budget Office, *An Analysis of the President's Budgetary Proposals for Fiscal Year 2011*, March 2010: http://www.cbo.gov/ftpdocs/112xx/doc11280/03-24-apb.pdf.

- Meanwhile, the President and Democratic Congress have increased taxes by $670 billion over the next 10 years, according to an analysis by the Ways and Means Committee Republican staff.[10] Many of these came in the health care legislation, including: a Medicare tax increase totaling $210.2 billion; a new annual tax on health insurance totaling $60.1 billion; a $52-billion tax on employers who do not comply with the bill's mandates; a $27-billion tax on pharmaceuticals.
- According to the Ways and Means staff analysis: "The list includes at least 14 violations of the President's pledge not to raise taxes on Americans earning less than $200,000 for singles and $250,000 for married couples." This specific group of tax hikes totals $316 billion over 10 years.[11]



CONCLUSION

Since enactment of the Congressional Budget Act of 1974, the House has never failed to mark up and pass its own budget resolution. The "budget enforcement" measure conjured up by the Democratic Majority cannot hide their unprecedented collapse in congressional budgeting. It creates skepticism in global financial markets that the U.S. government is even capable of managing its fiscal affairs. The uncertainty it creates inhibits job creation and economic growth.

This is far more than a failure of procedure or politics. It is an abdication of a fundamental responsibility by a Majority that is losing both its will, and its ability, to govern – and it is threatening America's prosperity in the process.

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[10] The Ways and Means Committee staff analysis can be found at: http://republicans.waysandmeans.house.gov/UploadedFiles/DemTaxIncreases1.pdf.

[11] Ibid.

Table 2: Discretionary Appropriations

	FY 2008 Enacted	FY 2010 Enacted[b]	FY 2011 Pres. Budget[c]	2011 Senate Budget Comm.[d]	2011 House Deeming Res.[d]	2011 House vs. 2010 Enacted[d]	2011 House vs. 2008 Enacted[d]
Defense[a]	499	554	574	574	n/a	n/a	n/a
Non-Defense	434	537	575	551	n/a	n/a	n/a
Base Discretionary Funding	933	1,091	1,149	1,124	1,121	$30 (2.8%)	$188 (20%)
Iraq-Afghanistan War-Related	180	130	159	159	n/a	n/a	n/a
Non-War Emergencies	6	12	—	—	n/a	n/a	n/a
Totals	1,119	1,233	1,308	1.284	n/a	n/a	n/a

Memorandum: The fiscal year 2010 enacted level includes one-time spending of about $6 billion for the decennial census.

[a] Includes all discretionary spending in budget function 050.
[b] Does not include fiscal year 2010 supplemental appropriations estimated at $60.8 billion.
[c] Assumes the President's Pell Grant proposal ($36.7 billion) and Low Income Home Energy Assistance Program proposal ($1.8 billion) remain discretionary spending.
[d] Categorizes base Pell Grant funding ($17.7 billion) as discretionary.

Figures may not add due to rounding.

Appendix 1

SUMMARY OF THE 'BUDGET ENFORCEMENT RESOLUTION' IN H. RES. 1492/H. RES 1493

Due to an as yet unresolved dispute over jurisdiction, the Majority has introduced two versions of its "budget enforcement resolution." Both versions are essentially the same. The principal components are the following:

- It provides a 302(a) allocation for the Appropriations Committee, setting a limit on total discretionary spending for fiscal year 2011 of $1.121 trillion.
- It increases discretionary spending over the levels set in the budget currently in force (S. Con.Res.13) by $538 million for "program integrity initiatives."
- It updates the advance appropriations point of order, such that only certain programs may be given advance appropriations in fiscal year 2012 up to a maximum level of $28.852 billion.
- It includes non-binding "sense of the House" language:
  - The budget should be in balance by 2015, excluding spending on interest on the public debt.
  - The ratio of debt to gross domestic product should be stabilized.
  - By 15 September 2010, Committees of the House should publish findings that identify changes in law that will achieve deficit reduction.
  - Prior to the adjournment of the 111th Congress, any recommendations made by the Fiscal Commission should be voted on in the House, but only after having passed the Senate.
- It makes changes to the House pay-as-you-go [pay-go] rule to conform it with the pay-go law enacted on 12 February 2010 (Public Law 111-139). (See further description in Appendix 2.)
- It includes a provision that prevents any savings from the Fiscal Commission from being recorded on the pay-go scorecard. Consequently, any such savings would apply only to deficit reduction.
- It does not trigger the Gephardt Rule, which provides for an automatic increase in the public debt limit (Rule XXVIII of the Rules of the House of Representatives).

Appendix 2
PRINCIPAL ELEMENTS OF THE 'PAY-AS'YOU-GO' PROCEDURE AS REVISED BY H. RES. 1492/H. RES. 1493

The rule for consideration of the supplemental appropriations bill includes provisions that conform the House pay-as-you-go [pay-go] rule with the pay-go statute enacted on 12 February 2010 (Public Law 111-139). With these changes, the main provisions of pay-go will be the following:

Summary. The revised pay-go rule requires that legislation reducing taxes or increasing entitlement spending relative to the pay-go "baseline" (described below) must be offset by spending reductions, tax increases, or a combination of the two so as not to increase the baseline deficit.

- The procedure does not apply to discretionary spending, and though there are the same four exemptions, the amounts are conformed to the levels in section 4(c) of the Statutory Pay-As-You-Go Act.
- The resolution does not include "averaging" as in the pay-go statute (see below) since the revised House Rule retains the "bill-by-bill" enforcement structure: Each bill that is to be considered must be deficit-neutral, with certain exceptions.
- It conforms the enforcement periods in the Rule to those in the pay-go Statute, from fiscal year 2010 through fiscal year 2014, and fiscal year 2010 through fiscal year 2019, to fiscal year 2010 through fiscal year 2015, and fiscal year 2010 through fiscal year 2020.
- It no longer allows timing shifts to offset deficit decreases. Under the House Rule, it is permissible to change the timing of spending or taxes either into or out of the ten-year enforcement window. The resolution disallows that practice.
- It is no longer permissible to bring up appropriations bills that have direct spending increases in out years. Under the current House Rule, this was allowed.
- The deficit test is now an on-budget analysis, hence it is no longer allowable to use off-budget effects to offset on-budget deficit increases.

Scoring. Legislation is scored using Congressional Budget Office [CBO] estimates. To address the problem posed by the Chadha case (which prohibits legislative branch agencies from executing laws), the bill provides a procedure to insert CBO cost estimates into each bill that affects mandatory spending or revenue. If a CBO cost estimate is not included, the administration's Office of Management and Budget [OMB] estimates the cost of the legislation.

Deficit Averaging. The pay-go statute requires OMB to keep two "scorecards": one to reflect the average deficit impact of legislation over the first 5 years; the second to show the average deficit impact over the 10-year period. If at the end of a session of Congress either of the two scorecards shows a net deficit increase, OMB issues a sequester order (across-the-board reduction in non-exempt spending) to eliminate that deficit. If there is a net cost on both the 5- and 10-year scorecards, OMB sequesters the larger deficit amount. The deeming resolution does not include this procedure and retains the current point of order against consideration of individual bills as the enforcement mechanism.

Baseline Adjustments. The legislation modifies the baseline to assume extension of 2001 and 2003 tax relief except for tax brackets affecting those with higher incomes ($200,000 for single; $250,000 for joint), and the estate and gift tax is assumed to be extended at 2009 levels. The legislation also modifies the baseline to extend the alternative minimum tax [AMT] "patch" and the "doc fix" (with the latter freezing physician payment rates under Medicare instead of scheduled reductions under current law).

Current Policy Exemptions. Under both the current House Rule and the Statutory Pay-Go law, certain effects on the deficit by extending current policy are exempt, though at different levels and policy assumptions. The deeming resolution changes these levels and assumptions to conform with the Statute.

- *Medicare Improvements.* The Statutory Pay-As-You-Go Act includes provisions that would amend or supersede the system for payments to physicians under Medicare. Under the exemption provided by the budget resolution (as amended), Medicare payment increases are allowed for as much as $285 billion over 10 years. The deeming resolution changes that level to the Statute level, which is not set as a number but rather as a policy for payments made through 14 December 2014.

- *Middle-Class Tax Relief*. While the House Rule allowed up $1,848.523 billion over 10 years, the Statute allows an exemption for certain policy extensions. Specifically section 7(f) allows the provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act to be extended for individuals making less than $200,000 a year, and families making less than $250,000 per year.

- *Alternative Minimum Tax [AMT] Reform.* Under the House Rule and the budget resolution, the Chairman of the House Budget Committee may exempt $68.650 billion over ten years. The resolution changes that to, again, a policy set out in the Statute that allows an exempted amount equal to the difference between total revenues projected to be collected (as scheduled on 31 December 2009, to be in effect) – and what the revenue would have been if the AMT law had instead been amended by making "adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of taxpayers affected by the AMT in tax year 2008 in any year for which relief is provided, through 31 December 2011."

- *The Estate and Gift Tax.* Under the House Rule and the budget resolution, the Chairman of the House Budget Committee may exempt $256.244 billion over 10 years. The resolution changes that to, again, a policy set out in the Statute that allows an exempted amount equal to the difference between total revenues projected to be collected as scheduled on December 31, 2009 and what those revenue collections would have been if the estate and gift tax law had instead been amended so that the tax rates had been in effect for tax year 2009 had remained in effect through 31 December 2011.

- Under both the Rule and the Statute, Congress can also exempt legislation designated as an emergency.