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Legislative Bulletin…………………………………….………..April 15, 2010

Contents:

Senate Amendments to H.R. 4851 - Continuing Extension Act of 2010
(Levin, D-MI)

Summary: The legislation extends several provisions (at a total deficit impact of $18.1 billion over ten years), that have expired, through either the end of May or early June. Highlights of the legislation below:

Extension of Unemployment Insurance: Extends the temporary program of extended unemployment insurance benefits (beyond what is provided by the regular unemployment insurance program) from the current April 5, 2010 expiration date to June 2, 2010. This program provides up to *99* weeks of unemployment benefits. *This provision will increase mandatory spending by $12.95 billion over ten years and reduce tax revenue by $955 million over ten years (total deficit increase of $13.9 billion)*.

Extension of Cobra Benefits: The legislation extends eligibility for individuals who lost their jobs to receive post-employment Consolidated Omnibus Budget Reconciliation Act (COBRA) subsidies through May 31, 2010 (currently set to expire on March 31, 2010). In addition, the Baucus amendment would amend ARRA to extend eligibility for subsidies to individuals who experienced a qualifying event related to termination of employment in the time that the subsidies lapsed (April 1, 2010 though date of enactment).

A nine-month COBRA subsidy program was created by the "stimulus," and then was extended by an additional six months as part of the FY 2010 Defense Appropriations bill, and by an additional month as part of the Tax Extensions Act of 2010 (for a total of sixteen months). Many conservatives may be concerned that this provision extends eligibility for this program, which provides new government subsidies, leaving an ever-shrinking portion of the population with truly private health care coverage. Some conservatives may also be concerned that this program could cause employees to spend more of their incomes on health care instead of other goods and services, and force employers to spend more time and money to administer COBRA to former employees.

Individuals pay 35% of the COBRA premium while employers pick up the remaining 65%, which is reimbursed by the government through a payroll tax credit. The program caps eligibility for receiving premium assistance at $145,000 for an individual and $290,000 for a family.

This provision would increase mandatory spending by $227 million over ten years, and decrease tax revenue by $1.837 billion over ten years, for a total deficit increase of $2.064 billion.

Emergency Health Records (EHR) Clarification: The Baucus substitute amends the HITECH Act (included in the "stimulus" bill) by removing the term "outpatient" from the definition "hospital –based eligible professionals" and inserting "emergency room setting" to clarify that clinic–based physicians would still qualify for EHR incentive payments. CMS' definition of hospital–based physicians excluded physicians practicing in outpatient centers and clinics from being eligible for incentive payments as they were located in a facility owned by a hospital.

Extension of 2009 Poverty Guidelines: Extends the freeze on updating 2009 poverty guidelines to prevent any lowering of eligibility for government programs (due to negative Consumer Price Index growth) through May 31, 2010 (expired at end of March). *This provision will increase mandatory spending by $65 million over ten years.*

Compensation to Furloughed Transportation Employees: The legislation would give Department of Transportation employees compensation for the two days that the employees were furloughed as a result of Highway Trust Fund authority lapsing on March 1st and March 2nd. On these two days federal employees (impacted by the legislation) did not report to work, and were legally prohibited from reporting to work by the Anti-Deficiency Act. Funding for this purpose would be derived from the FY 2010 omnibus and funds previously authorized out of the Highway Trust Fund. H.R. 4691, which carried an extension of Highway Trust Fund authority through March 28, 2010, was signed into law on March 2, 2010. The program's authority lapsed on March 1st and March 2nd.

Medicare Physician Update ("Doc Fix"), Sustainable Growth Rate (SGR): The FY 2010 Defense Appropriations bill provided a temporary "patch" to the SGR formula, delaying the 21.2% cut to physician payments that otherwise would have occurred through February 28, 2010. The cut was again delayed by the Tax Extensions Act of 2010 through March 29, 2010. The Baucus amendment to H.R. 4851 delays the 21.2% reduction to physician payments from April 30, 2010 in the underlying bill to May 31, 2010. *This provision would increase mandatory spending by $2.12 billion over ten years*.

Other Extensions: Extends the National Flood Insurance Program, the Satellite Television Extension, and the Small Business Loan Guarantee Program through May 31, 2010.

Potential Conservative Concerns: Many conservatives may be concerned that no attempt is made to offset the cost of extending the provisions included in the bill (which will increase the deficit by $18.1 billion over ten years).

Below are some savings options, not included in this legislation, but that would offset this legislation's impact on the deficit many times over:

- The RSC (through an amendment sponsored by Rep. Jim Jordan) offered a plan to return FY 2010 domestic discretionary spending to the FY 2008 spending levels. This plan would reduce the deficit by $84 billion.
- Repealing "stimulus" spending currently set to begin in FY 2011 or later would save $289 billion over ten years. The RSC has proposed legislation that includes a similar provision (H.R. 3140, the REBOUND Act).
- Allowing consumers to purchase health insurance across state lines would, according to CBO, save $7.4 billion over ten years.
- Medical liability reform would, according to CBO, save $54 billion over ten years.

Further, some conservatives may be concerned with the extension of the "emergency" unemployment benefits program that makes individuals eligible for benefits for up to *99* weeks. Many economists argue that extending unemployment benefits creates incentives to delay returning to work, which has a negative effect on the economy.

Committee Action: H.R. 4851 passed the House by voice vote on March 17, 2010. The Senate passed an amended version today by a vote of 59-38.

Cost to Taxpayers: The bill increases entitlement spending by $15.4 billion, reduces tax revenue by $2.8 billion, and increases the deficit by $18.1 billion (all ten year figures).

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, according to CBO, the bill increases entitlement spending by $15.4 billion.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO score listing any potential mandates is available.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee report citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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