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Americans for Tax Reform is scoring against this bill.

See the list of tax increases on page 2 and the possible conservative concerns on page 6.

H.R. 7060—Renewable Energy and Job Creation Tax Act (*Rangel, D-NY*)

Order of Business: On May 21, 2008, the House passed H.R. 6049, which included significant tax increases, by a vote of 263-160. On September 23rd, the Senate passed an amended version of H.R. 6049, with longer extensions, tax increases, an AMT "patch," and disaster tax relief, by a vote of 93-2. Yesterday, the House passed H.R. 7005 (393-30) and H.R. 7006 (419-4), which were the same as the Senate's AMT "patch" and disaster relief language, respectively. Yesterday, Ways & Means Chairman Charles Rangel (D-NY) floated a draft of an amended version of H.R. 6049 with shorter extensions and large tax increases.

Today, Chairman Rangel introduced H.R. 7060, which is nearly identical to yesterday's draft of H.R. 6049, except with more tax increases, two-year (instead of one-year) extensions of most of the non-energy tax provisions, the addition of a one-year extension of the additional standard deduction for real property tax, and the omission of the controversial New York Liberty Zone tax credit restructuring (which some regarded as a Charlie Rangel earmark for New York City).

H.R. 7060 would be considered first subject to a rule (H.Res. 1490) waiving the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House. When that rule passes, the consideration of H.R. 7060 would then be subject to the passage of a rule (which presumably will be closed, yet will allow one motion to recommit with or without instructions).

Summary: H.R. 7060 would impose **more than $60 billion in long-term tax increases** as offsets to primarily short-term tax extenders and other extensions of current law. Key highlights of the bill are below.

Note: This bill does NOT contain any repeal or inflation adjustment of the Alternative Minimum Tax (AMT).

TAX INCREASES

- Tax Increase on Energy. Denies the scheduled increase in the corporate tax deduction for income attributable to the production, refining, processing, transportation, and distribution of oil, natural gas, or any primary product thereof, beginning in 2010, for all oil and gas companies (not just the largest ones). The deduction rate would be permanently frozen at 6%, instead of rising to 9% in 2010, as scheduled under current law. According to the Joint Committee on Taxation, this provision would amount to a **$4.91 billion tax increase on energy** over ten years.

- Another Tax Increase on Energy. Modifies the method by which oil and gas companies calculate their foreign tax credits, beginning in 2008. Specifically, the provision would require foreign-based income to be reclassified as foreign oil and gas extraction income (FOGEI) for purposes of calculating the foreign tax credit and require "arm's-length" pricing for FOGEI. The Republican staff of the Ways & Means Committee notes that the rules governing FOGEI are more stringent than the general rules governing calculation of foreign tax credits, resulting in a smaller overall foreign tax credit for companies with non-U.S. oil and gas production income. According to the Joint Committee on Taxation, this section would amount to a **$2.23 billion tax increase on energy** over ten years.

- Yet Another Tax Increase on Energy. Increases the Oil Spill Liability Trust Fund tax from 5 cents per barrel to 8 cents per barrel (2009-2016) and to 9 cents per barrel in 2017, while repealing the requirement that the tax be suspended when the unobligated balance in the Fund exceeds $2.7 billion. According to the Joint Committee on Taxation, this section would amount to a **$1.72 billion tax increase on energy** over ten years.

- Cost Basis Reporting. Requires mandatory cost basis reporting by brokers for transactions involving stocks acquired after January 1, 2011 (January 1, 2012, in the case of mutual funds; January 1, 2013, for all other publicly traded securities). The Democrat staff of the Ways & Means Committee notes that, "Requiring brokers to maintain records of the adjusted basis of securities sold by their customers and report this information to the IRS would increase compliance with capital gains reporting." ***Costs taxpayers $6.67 billion over ten years.***

- Unemployment Surtax Extension. Extends the current-law 0.2-percentage-point surtax on the unemployment insurance tax (0.2-percentage-points of the 6.2% gross tax rate on the first $7,000 paid annually by employers to each employee), which the Joint Committee on Taxation estimates to be a **$1.47 billion tax increase** over ten years.

- Deferred Compensation. Requires hedge fund managers to pay federal income tax on deferred compensation as it accrues, rather than when it's actually paid. In other words, this provision would impose tax on income before it is received. ***Costs taxpayers $24.77 billion over ten years.***

- Worldwide Allocation of Interest. Delays by six years the implementation of a current-law provision allowing U.S. corporations to elect liberalized interest allocation rules for

- Corporate Estimated Tax Timing Gimmick. This provision would increase the estimated tax payments that certain corporations must remit to the federal government. Under current law, corporations with assets of at least $1 billion must make equally divided estimated tax payments for each quarter. This legislation would increase the payment due for the third quarter of calendar-year 2013 by 54 percentage points. (If each regular quarterly payment is 100% of what is owed, this additional payment would be 154% of what would otherwise be owed.) The payment due for the fourth quarter of calendar-year 2013 (i.e. the 1st quarter of fiscal-year 2014) would be reduced accordingly so that the corporations pay no net increase in estimated payments in calendar-year 2013. This provision is merely a revenue timing shift, a gimmick used to comply with the House's PAYGO rules, yet would have real-world implications, as it forces certain companies to pay more of their tax payments earlier ($30.79 billion, to be precise). Given the time value of money, there's little doubt that requiring bigger, earlier payments would harm the bottom lines of qualified corporations. ***No net revenue effect beyond fiscal year 2014, but would force corporations to pay almost $31 billion in additional tax payments in FY2013 instead of FY2014 .***

ALTERNATIVE ENERGY TAX INCENTIVES

- Extends the renewable energy tax credit (2.0 cents per kilowatt/hour for electricity generated from biomass, geothermal, solar, landfill gas, trash combustion, etc., indexed for inflation) for an additional 2.75 years, from the end of 2008 through the start of October 2011. (Just a one-year extension for wind.) ***Saves taxpayers $6.43 billion over ten years.***

- Adds marine and hydrokinetic renewables as a qualifying energy source under the renewable energy tax credit above. Marine renewables include electricity produced from waves, tides, currents, rivers, lakes, streams, irrigation systems, canals, and ocean thermal energy conversion.

- Extends the 30% investment tax credit for solar and fuel cell property for commercial use from the end of 2008 to the end of 2016. Increases the solar/fuel cell credit limitation for fuel cells from $500 to $1,500 for each .5 kilowatt of capacity and repeals the prohibition against public utilities claiming the credit. Permits the credit to be claimed against the corporate Alternative Minimum Tax (AMT). ***Saves taxpayers $1.77 billion over ten years.***

- Extends through the end of 2016 the residential solar and fuel cell credit and increases the $2,000-per-taxpayer cap to $4,000. This credit could also be claimed for residential small wind equipment and geothermal heat pumps. Permits the credit to be claimed against the individual Alternative Minimum Tax (AMT). ***Saves taxpayers $1.32 billion over ten years.***

- Creates $1.1 billion in new tax credits for advanced coal electricity projects and certain coal gasification projects that demonstrate the greatest potential for carbon capture and sequestration technology. The tax credit would be conditioned on demonstrating (on an ongoing basis) that either their advanced coal electricity project would capture and sequester at least 65% of the facility's carbon dioxide emissions or that their coal gasification project would capture and sequester at least 75% of the facility's carbon dioxide emissions. ***Saves taxpayers $1.04 billion over ten years.***

- Extends for one year (through the end of 2009) the $1.00-per-gallon production tax credit for biodiesel and the small agri-biodiesel producer credit of 10 cents per gallon. The bill would also extend for one year (through the end of 2009) the $1.00-per-gallon production tax credit for diesel fuel created from biomass. ***Saves taxpayers $462.0 million over ten years.***

- Creates a new personal or business tax credit up to $6,000 for plug-in electric drive automobiles (based on battery capacity). Phases out the credit applicable to vehicles that have more than 60,000 of them sold in the U.S. (total). ***Saves taxpayers $1.06 billion over ten years.***

- Makes permanent the income exclusion (up to $20 per month) for bicycle commuting fringe benefits paid by an employer. ***Saves taxpayers $10.0 million over ten years.***

- Extends the alternative fuel vehicle refueling property credit (e.g. ethanol and biodiesel gas station pumps) for one year, from the end of 2009 to the end of 2010 (through the end of 2014 for natural gas refueling property). Increases the credit from 30% to 50% of the property value and increases the total taxpayer annual credit cap from $30,000 to $50,000. This section would also increase the 30% alternative refueling property credit for individuals (capped at $1,000) to 50% (capped at $2,000) and would extend the availability of this credit for natural gas home refueling pumps through 2017. ***Saves taxpayers $237.0 million over ten years.***

- Extends the $300 credit for non-business energy property (i.e. residential energy-efficiency improvements to existing homes) to the end of 2009—and adds residential biomass-fuel stoves heaters to claimable property. ***Saves taxpayers $725.0 million over ten years.***

- Extends the efficient commercial building tax deduction from the end of 2008 through the end of 2013. (The current deduction is $1.80 per square foot of the property for which expenditures are made to reduce the energy consumption of a commercial building by 50%.) ***Saves taxpayers $891.0 million over ten years.***

- Extends and modifies (as detailed in the bill) the manufacturer's tax credit for the production of energy efficient dishwashers, clothes washers, and refrigerators. Limits a manufacturer's total claim of credits under this section to $75 million per year. ***Saves taxpayers $323.0 million over ten years.***

- Shortens the depreciable life of qualifying "smart meters" installed by a utility from 20 years to 10 years, and requires that a qualifying meter measure and record electricity usage on a time-differentiated basis at least 24 times per day, while providing real-time price and usage data to customers and to the electricity supplier. ***Saves taxpayers $921.0 million over ten years.***

- Extends the termination of the authority to issue qualified green building and sustainable design project bonds from September 30, 2009 to September 30, 2012. ***Saves taxpayers $45.0 million over ten years.***

NON-ENERGY TAX PROVISIONS

- Two-Year Extenders. Extends numerous tax credits and deductions for two years, with *examples* as follows:
  - --State and Local Sales Tax Deduction. ***Saves taxpayers $3.30 billion over ten years.***
  - --Tuition Expenses Deduction. ***Saves taxpayers $2.40 billion over ten years.***
  - --Tax-Free IRA Distributions by Seniors for Charitable Purposes. ***Saves taxpayers $795.0 million over ten years.***
  - --Deduction for School Teacher Expenses. ***Saves taxpayers $410.0 million over ten years.***
  - --Research and Development Credit. ***Saves taxpayers $17.90 billion over ten years.***
  - --Indian Employment Credit. ***Saves taxpayers $119.0 million over ten years.***
  - --New Markets Credit (for investments in low-income or developing communities). ***Saves taxpayers $1.32 billion over ten years.***
  - --50% Tax Credit for Certain Railroad Track Maintenance Spending. ***Saves taxpayers $331.0 million over ten years.***
  - --15-Year Depreciation for Leasehold and Restaurant Improvements. ***Saves taxpayers $6.79 billion over ten years.***
  - --7-Year Depreciation for Motorsports Entertainment Complex Improvements. ***Saves taxpayers $100.0 million over ten years.***
  - --Accelerated Depreciation for Indian Reservation Business Property. ***Saves taxpayers $295.0 million over ten years.***
  - --Environmental Remediation Costs Expensing. ***Saves taxpayers $357.0 million over ten years.***
  - --DC Investment Tax Incentives (such as the first-time homebuyer credit). ***Saves taxpayers $179.0 million over ten years.***
  - --Deduction for Contributions of Food Inventory. ***Saves taxpayers $123.0 million over ten years.***
  - --Deduction for Contributions of Books to Public Schools. ***Saves taxpayers $49.0 million over ten years.***

--Deduction for Corporate Contributions of Computer Equipment. ***Saves taxpayers $356.0 million over ten years.***
--Special Allowance for S Corporations Donating Property. ***Saves taxpayers $132.0 million over ten years.***
--Applying the Work Opportunity Tax Credit to the Hiring of People Displaced by Hurricane Katrina. ***Saves taxpayers $29.0 million over ten years.***

- Hollywood. Modifies and extends for one year the Section 199 domestic manufacturing tax deduction and the special expensing rules for certain U.S. film and TV productions. ***Saves taxpayers $479.0 million over ten years.***

- Refundable Child Tax Credit. Reduces the amount above which the portion of a taxpayer's income is refundable under the child tax credit from about $12,000 to $8,500. ***Gives individuals $3.42 billion in one year (scores as mandatory spending).***

- Additional Standard Deduction. Extends for one year the additional standard deduction for state and local real property taxes paid or accrued in tax-year 2009 for people who claim the regular standard deduction. The maximum additional amount claimed would be $700 for married couples filing jointly and $350 for singles (and married filing separately). ***Saves taxpayers $1.50 billion over ten years.***

Committee Action: H.R. 7060 was introduced on September 25, 2008, and referred to the Ways & Means Committee, which took no subsequent formal action.

Possible Conservative Concerns: Some conservatives may have the following concerns:

Tax Increases. The bill contains about **$60.3 billion in tax increases over ten years** (primarily on energy and capital formation) plus a harmful corporate estimated tax payment shift gimmick. The tax increases are long-term, while many of the tax cuts in this bill are just short-term extensions of current law.

Too Much Energy Speculation. The energy incentives are aimed primarily at energy sources and technologies that may *or may not* provide the bulk of America's energy needs over the next few decades, while virtually ignoring—or actively harming—energy sources and technologies that *are* providing the bulk of America's energy needs today.

Short-Term Extensions. Many of the tax cuts in the bill are just *two-year* extensions of current law, despite the obvious reality that most of these popular provisions will have to be extended again at the end of next year. Furthermore, as in the case of the research and development tax credit, the lack of long-term extensions prevents American companies from being able to make proper business plans, even for the near future.

Targeted Tax Cut for Movie Producers. The bill contains a targeted tax cut for movie producers, including a carve-in to the Section 199 tax deduction from which Democrats have tried to carve petroleum companies out.

Expanded Refundability of Child Tax Credit. The bill expands the refundability of the child tax credit, which increases the use of the tax code to provide entitlement expenditures.

Administration Position: Although a Statement of Administration Policy (SAP) for H.R. 7060 was not available at press time, the SAP for H.R. 6049 as it was before the Senate this week, includes specific opposition to the tax increases on energy, as well as overall opposition to the notion that tax relief must be offset with tax increases.

The SAP supported the tax-relief provisions.

Cost to Taxpayers: The Joint Committee on Taxation estimates that this legislation would save taxpayers $16.97 billion in FY2009, but would cost taxpayers $5.28 billion over five years and $3.47 billion over ten years. Joint Tax also estimates that the bill would increase mandatory spending by $3.42 billion in FY2009 (the increased refundability of the child tax credit), by $3.42 billion over five years, and by $3.40 billion over ten years.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: An analysis of this legislation for mandates was unavailable at press time.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: An earmarks/revenue benefits statement required under House Rule XXI, Clause 9(a) was not available at press time.

Constitutional Authority: A committee report citing constitutional authority was not available at press time.

Outside Organizations: Americans for Tax Reform is opposed to this bill, and will score against the bill in its annual ratings of Congress. Regarding yesterday's draft of the tax extenders bill, ATR wrote, "The House amendment to the Senate extenders package is a tax increase, a spending increase, bad energy policy, and violates the principle of 'no permanent tax hikes for temporary tax relief.'" ATR informally assured RSC staff that these same concerns apply to H.R. 7060.

The National Taxpayers Union is also against any bill that uses long-term tax increases to offset short-term tax relief.

The National Association of Manufacturers is urging the passage of this legislation, citing the importance of the tax extenders, though it expressed serious concerns about the tax increases on energy and urged their removal before final passage.

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