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U.S. SENATE REPUBLICAN POLICY COMMITTEE

Legislative Notice

No. 32 February 22, 2010

Reid Amendment #3310 to H.R. 2847: Hiring Incentives to Restore Employment Act

Noteworthy

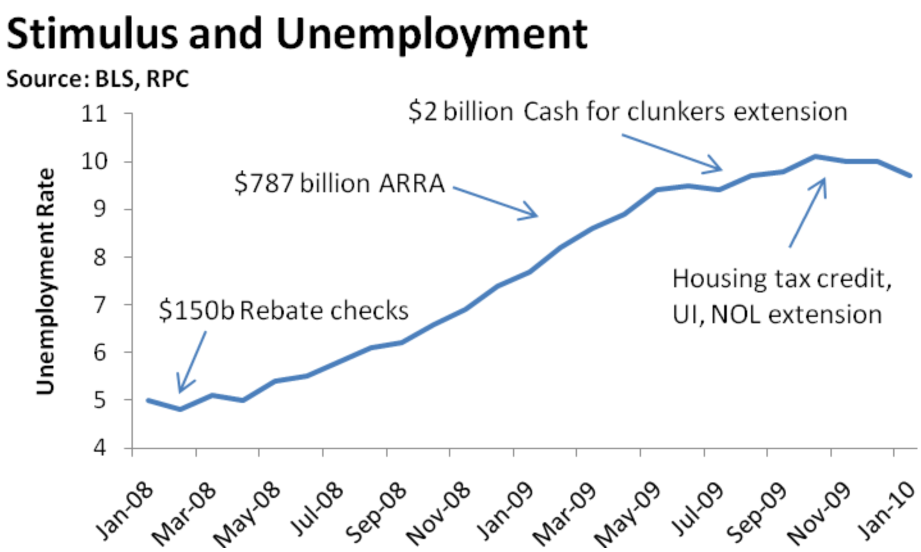
- At 5:30 p.m. Monday, February 22, the Senate will vote on cloture on the motion to concur with the House amendment to the Senate amendment to H.R. 2847 with Reid amendment #3310.
- Amendment #3310 is the version of the Hiring Incentives to Restore Employment Act introduced by Majority Leader Reid; it is a smaller version of a draft bill put forward by Senators Grassley and Baucus.
- The bill includes four elements: a payroll tax holiday for certain new hires, an extension of the Build America Bonds program to existing tax credit bonds, an extension of highway authorizations, and a one-year extension of higher Section 179 expensing thresholds.
- These measures are entirely offset by revenues raised from the Foreign Account Tax Compliance Act and a one-year delay in application of Worldwide Interest Allocation rules.
- The Congressional Budget Office shows this bill will lower revenues or increase outlays by a total of $20.6 billion, fully offset by $21.7 billion in increased revenues for a net improvement of the deficit of $1.1 billion.
- This score does not include the debt that will be incurred by various transfers to the Highway Trust Fund. The Republican staff of the Senate Budget Committee has pointed out that these transfers will equal $47 billion in new debt over the next ten years. CBO does not score these in this bill because they are transfers between government accounts that are then subject to later appropriations.
- Senator Reid has filled the amendment tree so that no votes on amendments to improve this bill will be allowed should cloture be invoked.

Background

According to the Bureau of Labor Statistics, 8.7 million jobs have been lost since the economy entered a recession in December of 2007. Since that time, Congress has passed several pieces of legislation aimed at providing incentives for hiring or stimulating the economy:

- The Economic Stimulus Act of 2008 (P.L. 110-185);
- The American Recovery and Reinvestment Act of 2009 (P.L. 111-5); and
- Extension of existing stimulus provision including the Cash-for-Clunkers program, the housing tax credit, unemployment insurance, and an extension of net operating losses (P.L. 111-45 and P.L. 111-92)

The effect of these acts on the unemployment rate is impossible to measure since there is no counter-factual world to measure them against. What is known is that the unemployment rate has continued to rise over the last two years, and Congress again is examining legislation to improve employment.



In his State of the Union address, President Obama called for new legislation aimed at creating jobs, saying "I want a jobs bill on my desk without delay."[1] Members of the Democratic leadership in the Senate have stated it is their intention to pass such legislation as soon as possible.[2]

In addition to new measures aimed at creating jobs, as economic weakness has continued into 2010, members of Congress have announced their desire to extend several pieces of the

[1] Remarks of the President in State of the Union Address, available at: http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address
[2] Plans for job creation were outlined on February 4, 2010 at a press conference where Senators Reid, Durbin, Baucus, Dorgan, and Schumer discussed their "jobs agenda," the transcript of which is available here: http://democrats.senate.gov/newsroom/record.cfm?id=322107&

American Recovery and Reinvestment Act (ARRA) that were set to expire at the end of 2009 or 2010, as well as several other regularly expiring provisions of current law that are scheduled to expire in 2010 or have already expired. Some of these are part of the legislative package that has come to be known as "tax extenders." These members wish to temporarily extend provisions until they are no longer believed to be needed.

On February 11, Majority Leader Reid introduced his version of the Hiring Incentives to Restore Employment Act. It is a smaller version of a draft bill put forward by Senators Grassley and Baucus earlier in February. The bill includes four elements: a payroll tax holiday for certain new hires, an extension of the Build America Bonds program to existing tax credit bonds, an extension of highway authorizations, and a one-year extension of higher Section 179 expensing thresholds. These measures are entirely offset by revenues raised from the Foreign Account Tax Compliance Act and a one-year delay in application of Worldwide Interest Allocation rules.

The draft bill floated by Senators Grassley and Baucus contained several provisions of this Reid amendment but also included roughly $30 billion in tax extenders, as well as extensions of multiple pieces of current law, including unemployment insurance, COBRA, the PATRIOT Act, several small business provisions from the ARRA, and a package of Medicare extenders, among other things.

House Action

The House of Representatives acted in 2009 to extend expiring provisions of tax law and pass a new "Jobs Bill," H.R. 2847, which was an amendment to the Senate amendment to the fiscal year (FY) 2010 Commerce, Justice, and Science Appropriations Act. This bill, called the Jobs for Main Street Bill, was a much larger piece of legislation that included the extension of surface transportation authority included in the Reid amendment as well as extensions of expanded unemployment insurance and COBRA and tens of billions of dollars in additional appropriations designed to create jobs through government spending. The total scored cost of this bill was $150 billion, part of which was offset by repealing some of the authority granted under the Emergency Economic Stabilization Act of 2008 by lowering funds available under the Troubled Asset Relief Program (TARP).

On February 11, Majority Leader Reid called up the House message to accompany H.R. 2847, offered his HIRE Act amendment, and filed cloture on the motion to concur. The vote on the motion to concur with the House amendment to the Senate amendment to H.R. 2847 with the Reid amendment will occur at 5:30 p.m. Monday, February 22.

Bill Provisions

Jobs Provisions

Payroll tax forgiveness and credit: Title I is the payroll tax holiday sponsored by Senators Hatch and Schumer. Employers would not be required to pay the employer's share of payroll taxes for any new employee hired between February 4, 2010 and January 1, 2011. Newly hired employees are required to sign an affidavit attesting that they had not previously worked for more than 40 hours in the last 60 days. Any resulting decrease in the Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund is offset by a transfer from the General Fund.

A $1,000 credit is also provided for any employee who qualifies for the payroll tax forgiveness and who remains continually employed for 52 weeks by an employer. *Cost – $12.958 billion over ten years.*

Section 179 Expensing: Title II is an increase and extension of section 179(b) of the Internal Revenue Code, commonly known as small business expensing. Section 179(b) allows for the full immediate expensing against tax liability of a certain amount of new business equipment in lieu of depreciating those costs over time. Expensing equipment means the cost or a portion of the cost of new equipment can be written off from that year's tax liability immediately. Current law allows expensing of up to $125,000 in equipment with that deduction phasing out starting at $500,000 in equipment through December 31, 2010. Immediate expensing provides an incentive for capital investment that boosts productivity and long-run economic growth, and as a short run incentive it can move equipment purchases forward in time that might have otherwise occurred in later years, if it is allowed to expire. The American Recovery and Reinvestment Act (ARRA) expanded these thresholds to $250,000 phasing out at $800,000 through December 31, 2009. This section extends these higher ARRA thresholds through December 31, 2010. Although this provision provides an immediate up-front cash boost to businesses, lowering government revenue in the immediate future, it raises revenue in the out-years since it is shifting deductions forward in time, lowering its ten year cost significantly. *Cost – $35 million over ten years.*

Modification to Build America Bonds: The American Recovery and Reinvestment Act created a new type of state and municipal bond that provides qualifying issuers checks from the Treasury in lieu of the normally tax-preferenced financing these entities receive. The HIRE Act allows certain non-taxpaying entities including government works and certain private activity projects to elect a richer direct subsidy available to Build America Bonds when issuing certain types of existing tax credit bonds. Existing bonds that may now qualify for the subsidy include Clean Renewable Energy Bonds (CREBs), qualified energy conservation bonds (QECBs), qualified zone academy bonds (QZABs), and qualified school construction bonds (QSCBs). The subsidy for these bonds is equal to 45 percent of the borrowing cost and 65 percent for qualifying small issuers. *Cost – raises $4.986 billion over ten years from displacement of tax credit bonds but costs $7.277 billion over ten years from new increased subsidy for a net cost of $2.291 billion over ten years.*

Highway extension: Extends current highway authorizations through December 31, 2010, since a long-term reauthorization bill has yet to be acted upon in either the House or the Senate. In addition, this piece authorizes a one-time transfer of $19.5 billion from the general fund to the highway trust fund, an amount that is far in excess of what is expected to be needed to pay obligations for highway spending through 2010; modifies past rescissions of highway authority resulting in a permanent increase in highway authorization levels; ends the practice of the Highway Trust Fund reimbursing the General Fund for certain excise tax exemptions;

permanently authorizes interest payments from the general fund to the highway trust fund; and increases the authorization levels for certain highway programs. *Cost – $334 million over ten years; although general fund transfers don't show up in the CBO score because they are transfers between governmental accounts, the Senate Budget Committee Republican staff estimates they will ultimately add $47 billion to the debt.*

Offsets

Foreign Account Tax Compliance Act: The text of S. 1934, sponsored by Senator Baucus in the Senate and Ways and Means Committee Chairman Rangel in the House, is incorporated into this bill. The bill is designed to prevent offshore tax evasion by, among other things, imposing a 30 percent withholding tax on foreign financial institutions that do not report to the IRS comprehensive information on income earned by U.S. account holders. In addition, the bill requires taxpayers to disclose their foreign accounts on their U.S. tax returns; increases the statute of limitations to six years for failure to report certain offshore transactions and income; clarifies when a foreign trust is considered to have a U.S. beneficiary; and treats certain dividend payments to foreign persons as dividends for purposes of U.S. withholding. *Raises $9 billion over ten years*.

Delay of Worldwide Interest Allocation: Worldwide interest allocation was originally passed as part of the American Jobs Creation Act of 2004 to allow certain U.S. based multinational firms with interest expenses to change the way such expenses were apportioned between domestic and foreign source income for purposes of computing their foreign tax credit. The change would more accurately reflect for purposes of the tax code how firms account for interest expenses for accounting purposes and was originally scheduled to take place after December 31, 2008. This implementation date was delayed two years to December 31, 2010 in the Housing and Economic Recovery Act of 2008 and was delayed another seven years until December 31, 2017 in the Worker, Homeownership, and Business Assistance Act of 2009 (last year's unemployment insurance extension). Delaying implementation raises revenue relative to the baseline which assumes these rules were enacted into law. The Reid HIRE amendment proposes an additional two-year delay until December 31, 2019. *Raises – roughly $7.7 billion over ten years.*

Amendments

Majority Leader Reid has filled the amendment tree so that if cloture is invoked on his amendment, no amendments will be in order for consideration.