RSC Republican Study Committee

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Legislative Bulletin……………………………………….………May 26, 2010

Contents:

Key Conservative Concerns

Take-Away Points

--$134 Billion Deficit Increase: The legislation increases the deficit by $134 billion over ten years. This comes from a $174 billion net spending increase and a $40 billion net tax increase.

--**Permanent Tax Increases to Pay For Temporary Tax Relief:** The tax increases in the legislation are permanent. The "tax relief" is temporary, and for many provisions, does not actually create new tax cuts, but instead just keeps tax provisions from expiring. Consequently, the $40 billion figure understates the long-term increase in the tax burden that would result from enactment of the legislation.

--**Extension of New Welfare Fund:** Last week, the American people selected eliminating the new welfare fund created by the "stimulus" as the first YouCut option. The RSC has previously introduced legislation to eliminate this program (H.R. 1277). This program encourages states to expand their welfare caseloads, thus undercutting a key principle of the 1996 welfare reform law. This week, this bill would—instead of eliminating this program—extend it by another year at a cost to taxpayers of $2.65 billion.

-- **"Fixing" PPACA:** The health care provisions (that alone increase the deficit by $96.7 billion over five years and $91.7 billion over ten) in H.R. 4213, could reasonably be called a "fix-it" bill as it corrects mistakes and adds costly items left out the Patient Protection and Affordable Care Act (PPACA) due to the Democrats' rush to pass a government takeover of health care.

For more details on these concerns, see below.

H.R. 4213—American Workers, State, and Business Relief Act (*Rep. Rangel, D-NY*)

__Order of Business__: The bill may be considered today on a yet to be reported rule, pending the passage of a "martial law" rule allowing floor consideration of rules the same day they are reported from committee (simple majority vote).

<u>Cost to Taxpayers</u>: The legislation increases federal spending by ***$174 billion*** over ten years, increases net taxes by ***$40 billion*** over ten years, and increases the deficit by ***$134 billion*** over ten years.

<u>Summary</u>:

"Infrastructure Incentives" (Title I)

Extension of Build America Bonds: The "stimulus" created the Build America Bonds program. This provision would extend this provision through 2012 (otherwise set to expire at end of 2010). In 2009 and 2010, the direct payment is 35% of coupon interest, in 2011 32%, and in 2012 30%. *<u>This provision increases entitlement spending by $24.3 billion over ten years</u>*.

Exempt-Facility Bonds for Sewage and Water Supply Facilities: The legislation would exclude water and sewer facilities from state volume caps on private activity bonds.

Application of AMT to State and Local Governments: Under current law, interest on most tax-exempt private activity bonds is subject to the AMT after 2010. The "stimulus" shields all interest on private activity bonds from the AMT in 2009 and 2010. This provision extends this provision in the "stimulus" through 2012.

Recovery Zone Bonds: **Recovery Zone Bonds**: The "stimulus" created tax credit bonds, in 2009 and 2010, for investment in economic recovery zones, with a national limit of $10 billion for recovery zone economic development bonds and $15 billion for recovery zone economic development bonds. H.R. 4213 extends this provision through 2011.

Extension of New Markets Tax Credit: The legislation would extend through 2010 (otherwise expired at end of 2009) the New Markets Tax Credit, permitting a maximum allotment of $5 billion of qualified investments. H.R. 4213 would also allow the provision to be claimed against the AMT.

Extension of Tax-Exempt Eligibility for Loans Guaranteed by Federal Home Loan Banks: The Housing and Economic Recovery Act of 2008 allowed bonds that are guaranteed by federal loan home banks to be eligible for treatment as tax-exempt bonds regardless of whether the bonds are used to finance housing programs. This is intended to aid state and local governments in obtaining financing for infrastructure projects (though the wisdom of local government undertaking these projects may, in many cases, be questioned given severe fiscal problems in many jurisdictions). The legislation extends through 2011 (otherwise set to expire at end of 2010) this provision.

Extension of Temporary Small Issuer Rules for Allocation of Tax-Exempt Interest Expense: The "stimulus" increased the threshold from $10 million (in expected tax-exempt obligations) to $30 million for what qualifies for the small issuer exception. H.R. 4213 would extend this provision through 2011 (otherwise set to expire at end of 2010).

Temporary Tax Extenders (Title II)

Extends numerous tax credits and deductions generally for one year (through the end of 2010), with examples as follows:

Energy Tax Provisions:

- **Alternative Motor Vehicle Credit for Hybrids:** The legislation extends by one-year, through the end of 2010, the tax credit for fuel cell vehicles, hybrid vehicles, advanced lean burn technology vehicles, and alternative fuel vehicles.
- **Incentives for Biodiesel and Renewable Diesel:** The legislation extends by one-year (through December 31, 2010) the income tax, excise tax, and payment provisions for biodiesel and renewable diesel. The biodiesel fuels credit consists of the sum of three credits: the biodiesel mixture credit ($1.00 per gallon), the biodiesel credit ($1.00 per gallon), and the small agri-biodiesel producer credit (10-cents per gallon). The Biodiesel mixture excise tax credit provides a $1.00 excise tax credit for each gallon of biodiesel used by an individual in producing a biodiesel mixture for sale. Finally, the payment provision (also extended by H.R. 4213) requires the payment, equal to the biodiesel mixture credit, for a person who produces a biodiesel fuel mixture for sale.
- **New Energy Efficient Home Tax Credit:** Extended through 2010 (otherwise set to expire at end of 2009).
- **Alternative Fuel Credits for Natural Gas and Liquefied Petroleum Gas:** The legislation extends by one-year, through the end of 2010, the excise tax credits that apply to alternative fuel, the alternative fuel credit, and the alternative fuel mixture credit.
- **Special Rule to Implement FERC and State Electric Restructuring Policy:** The legislation extends by one-year, through the end of 2010, the ability of a taxpayer to elect to recognize a gain from qualifying electric transmission transactions over an eight-year period if the amount realized from such sale is used to purchase exempt utility property.
- **Suspension of Limitation on Percentage Depletion for Oil and Gas from Marginal Wells:** Extended through 2010 (otherwise set to expire at end of 2009).

Individual Tax Relief:

- Deduction for certain expenses of elementary and secondary school teachers.
- Standard deduction for local and real property taxes.
- State and local sales tax deduction.
- Above-the-line deduction for qualified tuition.
- Tax-Free IRA Distributions by Seniors for Charitable Purposes.

Low-Income Housing Credits:

- The legislation extends a provision from the “stimulus” through 2010 (otherwise set to expire at end of 2009) that allows the housing credit agency of each state to be allowed a credit that covers a portion of the state’s 2010 low-income housing refundable credit election amount.

Business Tax Relief:

- 50% tax credit for certain railroad track maintenance spending.

- **Employer Wage Credit for Active Duty Members of the Uniformed Services:** Extended through 2010 (otherwise set to expire at end of 2009).
- **5-Year Depreciation for Farming Business Machinery and Equipment:** Extended through 2010 (otherwise set to expire at end of 2009).
- 15-year depreciation for leasehold and restaurant improvements.
- 7-year depreciation for motorsports entertainment complex improvements.
- Research and Development Credit.
- Indian Employment Tax Credit.
- New Markets Tax Credit.

Other Provisions:

- Deduction for contributions of food inventory.
- Deduction for contributions of books to public schools.
- Accelerated depreciation for Indian reservation business property.
- **Charitable Deduction for Corporate Contributions of Computer Equipment:** Extended through 2010 (otherwise set to expire at end of 2009).
- **Election to Expense Mine Safety Equipment:** Extended through 2010 (otherwise set to expire at end of 2009).
- **Domestic Production Activities in Puerto Rico Deduction:** Extended through 2010 (otherwise set to expire at end of 2009).
- **Exclusion of Gain or Loss on Sale of Brownfield Sites:** Extended through 2010 (otherwise set to expire at end of 2009).
- **Temporary Increase in Limit on Cover over the Rum Excise Taxes to Puerto Rico and the Virgin Islands:** Extended through 2010 (otherwise set to expire at end of 2009).

Hollywood: Modifies and extends for one-year, through the end of 2010, the Section 199 domestic manufacturing tax deduction and the special expensing rule for certain U.S. films and TV productions.

Pension Provisions (Title III)

Extended Amortization of Single Employer Defined Benefit Plans: The legislation allows a single employer defined benefit plan sponsor to elect to extend from seven years to nine years (first two years interest free) the amortization period in the event of a funding shortfall. The sponsor could also elect a 15 year amortization period.

Suspension of Funding Limitations: Present law prevents certain pension payments from being made if a pension plan's funded percentage falls below 60 percent. This provision extends a provision from the Worker, Retiree, and Employer Recovery Act of 2008 that allows a plan below 60 percent to use its pre-financial crisis funded provision.

Temporary allowance of election to apply balances against minimum required contribution: The provision allows an employer to use its credit balances for 2009 to 2011 if the plan was at least 80% funded prior to the financial crisis.

Optional 30-year amortization periods: The Under current law, a pension plan has to amortize net experience losses over a 15-year period. This provision would permit plans (in certain cases) to elect a 30-year amortization period for certain losses incurred in either or both of the first 2 plan years ending on or after June 30, 2008.

Tax Increases (Title IV)

The legislation contains $75 billion worth of tax increases. This includes $14.5 billion of international tax provision tax increases, including:

- **Rule to prevent splitting foreign tax credits from income:** This provision adopts a tax increase from the President's FY 2011 budget that implements a matching rule that suspends the recognition of foreign tax credits from associated foreign income. ***Increases taxes by $6.3 billion over ten years.***
- **Denial of foreign tax credit with regard to foreign income not subject to U.S. taxation by reason of covered asset acquisitions:** According to Committee Democrats, this provision is intended to prevent taxpayers from claiming the foreign tax credit with respect to foreign income that is not subject to U.S. taxation. ***Increases taxes by $4.0 billion over ten years.***
- **Limitation on use of section 956 for foreign tax credit planning:** The bill limits the foreign tax credits that may be claimed with respect to a deemed dividend under Section 956 to the amount that would have been allowed with respect to an actual dividend. ***Increases taxes by $1.0 billion over ten years.***
- **Source rule on guarantees:** The bill subjects guarantees paid by U.S. taxpayers to a foreign person to withholding tax. ***Increases taxes by $2.0 billion over ten years.***

Carried Interest: The legislation requires investment fund managers to treat carried interest as 50% ordinary income (and thus be taxed at a higher rate) in 2010 through 2012, and as 75% ordinary income beginning in 2013. Currently, carried interest is taxed at the capital gains rate, since it is a capital gain. Carried interest is the name given to the compensation that fund managers earn based on the performance of the fund which they manage. This compensation is the main performance incentive driving fund managers to do better—but such compensation only comes from capital gains. It is by no means "ordinary" income. In fact, this capital gain revenue is already subject to the 35 percent corporate tax rate before it is distributed to investors as capital gains or dividends. This provision would increase the top tax rate for carried interest from 15% to 35% (although this will increase to 39.6% in 2011). ***Cost to taxpayers $18.7 billion over ten years.***

$11.2 Billion Small Business Tax Increase: The legislation would require shareholders in disqualified S Corporations (as well as limited partners who provide substantial services with respect to "professional service") to include the entire share of business income as self-employment income for payroll tax purposes.

Oil Spill Liability Trust Fund: Extends the trust fund by three years (from end of 2017 to end of 2020) and quadruples the Oil Spill Liability Trust Fund excise tax from 8 cents to 32 cents per barrel. ***$10.9 billion tax increase.***

Corporate Estimated Tax Timing Gimmick: This provision would increase the estimated tax payments that certain corporations must remit to the federal government. This legislation would increase the payment due for the third quarter of calendar-year 2015 by 30.5 percentage points. The payment due for the fourth quarter of calendar-year 2015 would be reduced accordingly. This provision is merely a revenue timing shift, a gimmick used to comply with the House's PAYGO rule, yet would have real-world implications, as it forces certain companies to pay more of their tax payments earlier. Given the time value of money, earlier payments harm the bottom line of employers.

Study on "Tax Expenditures": H.R. 4213 requires the Chief of Staff of the Joint Committee on Taxation to submit a report to the Congress analyzing "tax expenditures." Some conservatives may be concerned that this report is intended to provide support for additional tax increases.

Health and Unemployment Provisions (Title V)

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 expiration date of June 2, 2010 to the end of 2010. This program provides up to *99* weeks of unemployment benefits. *This provision will increase mandatory spending by $46.0 billion over ten years.*

TANF Emergency Contingency Fund: The legislation extends by one year, at a funding level of $2.5 billion, the TANF Emergency Contingency Fund. This fund, created by the "stimulus," attaches strings in order for a state to receive funding that are rigged in favor of *expanding* welfare caseloads. Specifically, a state has to increase its welfare caseloads in order to receive any funding, and states receive an 80% match to cover all expenses associated with *increasing* their welfare caseloads. This programs recreates one of the worst features of the previous Aid to Families with Dependent Children (AFDC) program—the incentives for states to increase their welfare caseloads. The RSC introduced legislation to eliminate the program that this amendment would expand—H.R. 1277, the Welfare Reform Restoration Act. The legislation was last week's Youcut Selection.

HEALTH CARE PROVISIONS: The health related provision for H.R. 4213 increase the deficit by $96.7 billion over five years and $91.7 billion over ten. In addition to billions of dollars in unpaid expansions, H.R. 4213 could reasonably be called a "fix-it" bill as it corrects mistakes and adds costly items left out the Patient Protection and Affordable Care Act (PPACA) due to the Democrats' rush to pass a government takeover of health care. Details below:

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 and then by the Baucus amendment to H.R. 4851 through May 31, 2010.

The underlying bill, H.R. 4213, would have extended the payment freeze with zero update through September 30, 2010. The House amendment to H.R. 4213, estimated to cost $64.6 billion over 5 years and $63.1 billion over ten, would do the following:

- **2010:** Provides 1.3% update beginning on June 1, 2010.
- **2011:** Provides an additional 1% update on January 1, 2011 (on top of 2010 rate, bringing the total update to 2.3% above current rates).
- **2012-2013:** Takes the methodology from H.R. 3961 and establishes two separate "Target Growth Rates" and conversion factor updates based on GDP - which is currently used for SGR. The two "baskets" are:
    - Evaluation, prevention and management services (primary care) with a target rate set at GDP growth plus 2%;
    - All other services with a target rate set at GDP growth plus 1%;
    - Unlike H.R. 3961, the Secretary is required develop a method that allows physicians in Accountable Care Organizations (ACOs) created under PPACA to establish ACO-specific spending targets in lieu of the national target growth rates.
- **2014 and beyond:** Physician reimbursements will revert back to the current SGR system but with an even higher funding cliff - CBO has estimated that the formula will call for a 35% cut in 2014 with additional cuts after that.
    - Of note, CBO has found that this "fix" would require IPAB to find an additional $4.9 billion in cuts due to the increase in Medicare costs for physician payments.

Like previous concerns with H.R. 3961, some conservatives may be concerned that this Congress is burying future generations in massive debt and refuses to make the tough choices to pay for its expensive priorities. Furthermore, this "fix" does not eliminate or repeal the SGR system as a whole, rather it makes temporary changes to the growth rate formula to alleviate the cuts while growing the cliff even higher (replaces the old formula with a new formula). Some conservatives may see the new target rates as simply establishing 2 mini-SGRs in the sense that the formula would still call for cuts as is the case under current law. For many doctors and conservatives the "right" fix is doing away with the current payment system all together or moving toward a more accurate assessment of costs.

Extension of Cobra Benefits: H.R. 4213 would further extend eligibility for Consolidated Omnibus Budget Reconciliation Act (COBRA) subsidies for seven months (through December 31, 2010) costing nearly $7.8 billion. Congress has already extended COBRA for a total of 18 months; this bill would put that number at 25 months.

- 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.
- A nine-month COBRA subsidy program was originally 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). In April Congress passed H.R. 4851 which extended eligibility for individuals who lost their jobs to receive post-employment COBRA

subsidies through May 31, 2010. In addition, H.R. 4851 amended 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).

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 forces employers to spend more time and money to administer COBRA to former employees.

Extends the Additional Federal Medicaid Aid to States (FMAP) Under The ARRA: The legislation would increase by 6 months (2 calendar quarters) through the end of June 30, 2011 (the end of states' fiscal year) the share of Medicaid costs the federal government reimburses all states by 6.2%, with additional relief tied to rates of unemployment. However, from January 1, 2011 – June 30, 2011, this additional funding will be not available to a state unless the chief executive officer of the State certifies that the State will request these additional funds. This provision was originally created in the "stimulus" bill and is set to expire on December 31, 2010. This provision was also included in Pelosi's government takeover of health care bill, H.R. 3962, but was left out of PPACA. CBO estimates that this provision, which the Democrats claim they don't have to pay for given emergency designation, would cost $24.1 billion over ten years. **Some conservatives may be concerned that the federal government is forcing states to expand eligibility when they are struggling to maintain current eligibility.**

Extension of Section 508 Reclassifications: Just two months ago PPACA extended Section 508 wage index reclassifications retroactively from October 1, 2009 to September 30, 2010. Section 508 reclassifications were originally created in Medicare Modernization Act and extended various times in subsequent legislation, as a way to boosts qualifying hospitals' inpatient and outpatient Medicare reimbursement through moving to a higher nearby wage index area.

This provision clarifies that the FY 2008 wage index values extended in previous legislation only applied for FY 2008 and FY 2009. Finally, this allows the Secretary to post on CMS' Internet website a list of the areas and hospitals whose reclassifications will be extended with the opportunity for affected hospitals to terminate or withdraw their application for reclassification status. The withdrawal must be received by the Medicare Geographic Classification Review Board no later than 5 business days after the posting or June 18, 2010, whichever is later. CBO has estimated that this provision would cost $300 million over 10 years.

Repeal of Delay of RUG-IV: Repeals a provision in PPACA that delayed the October 1, 2010 transition date for using Version 4 of the Resource Utilization Groups (RUG IV) from RUGs III until October 1, 2011. The need to revise this date is yet another example of a poorly written bill that the Democrats never expected to be the final product but were forced to bring it to the floor through reconciliation as they lacked the votes.

- Skilled nursing facilities (SNFs) are reimbursed by Medicare through a prospective payment system that is based on payment categories or Resource Utilization Groups (RUGs) and

adjusted by the Centers for Medicare & Medicaid Services (CMS) to allow for increases in the cost of goods and services each year.
- Repealing this provision allows for SNFs to align this transition with other CMS SNF payment regulations scheduled to be implemented on October 1, 2010. This provision would cost.

Limitation on Reasonable Costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas. This repeals a provision in PPACA that reinstated, for one year, cost-based payments for lab services at certain small hospitals beginning after July 1, 2010.

Funding for Claims Reprocessing: Certain provisions in PPACA required changes to Medicare payment policies retrospectively, causing CMS to re-process claims back to January 1, 2010. The bill would appropriate $200 million for CMS to reprocess these claims.

Medicaid and CHIP Technical Corrections: The bill would make technical corrections to Medicaid and CHIP provisions in PPACA relating to certain individuals and entities excluded from Medicaid, income eligibility levels for children, measurement and public reporting of payment error rates, exceptions to exclusion of coverage for children of state employees, and electronic health records payments.

Addition of Inpatient Drug Discount Program to 340B Drug Discount Program: Under current law, the 340B Drug Pricing Program limits the amounts drug manufacturers are allowed to charge certain hospitals and other entities that treat low-income and uninsured patients (including certain high-volume disproportionate share hospitals (DSHs), federally qualified health centers (FQHCs), family planning clinics, and Urban Indian clinics and Native Hawaiian health centers among others).

Just two months ago, PPACA expanded the 340B program to certain critical access hospitals, free standing cancer hospitals, rural referral centers, sole community hospitals and children's hospitals. Although originally included in H.R. 3590, the reconciliation bill removed the 340B expansion to inpatient drugs, excluded orphan drugs from the required discounts to new entities, and banned group purchasing organizations.

In yet another "fix" to PPACA, H.R. 4213 would once again expand these price controls by extending these mandated discounts to certain entities for inpatient drugs. Unlike H.R. 3590, this bill would only allow the discounts to be used by patients that are uninsured or whose plan doesn't include drug coverage. Requirements that must be met in order for a qualified hospital to receive discounts on inpatient drugs include:

- The hospital must be owned or operated by a state or local government, public or private non-profit hospital formally granted government powers by the state or local government, or is a private non-profit that has contracted with the state or local government to provide services to low income individuals not entitled to Medicare or Medicaid; and
- Has a disproportionate share adjustment percentage greater than 20.2% or is already eligible under current law for additional payment amounts (must be located in an urban area, have

100 or more beds and its net inpatient care revenues for indigent care from State and local government sources exceed 30% of its total of net inpatient care revenues).

- Critical access hospitals do not have to comply with disproportionate share adjustment percentage and rural referral centers as well as sole community hospitals only need to have a disproportionate share adjustment percentage equal or greater than 8%.

According to the Democrats' summary, this provision would actually cost the government $35 million over ten years. The GAO has found that in the past, when the government sets prices for programs such as Veterans' Affairs it has actually caused drugs prices for other products/programs to increase.

Continued Inclusion of Orphan Drugs in Definition of Covered Outpatient Drugs with Respect to Children's Hospitals Under the 340B Drug Discount Program: This provision carves out children's hospitals from changes made to PPACA through reconciliation which excluded orphan drugs from the required 340B discounts to new entities.

Conforming Amendment Related to Waiver of Coinsurance for Preventive Services: This provision corrects references in PPACA to the Social Security Act in order to clarify that waivers of cost sharing and deductibles for Medicare preventive services apply when those services are furnished at Federally Qualified Health Centers and Rural Health Clinics.

Establish a CMS-IRS Data Match to Identify Fraudulent Providers: Currently, CMS and IRS are not authorized to exchange information for the purposes for Medicare fraud or screening purposes. The CMS-IRS Data Match program would require the IRS to share data on Medicare providers that have serious delinquent debt and allows CMS to use the information to not renew their billing privileges and recoup unpaid taxes from their Medicare reimbursement. This provision was added to PPACA in the reconciliation bill but removed in the Manager's Amendment as it would have been subject to the "Byrd Rule." CBO and JCT estimate this will save $425 million over 10 years.

C**larification of Effective Date of Part B Special Enrollment Period for Disabled TRICARE Beneficiaries:** This provision clarifies the effective date for the 12-month special enrollment period (SEP) in Medicare Part B for disabled Medicare beneficiaries also eligible for TRICARE as established in PPACA. According the Democrat's summary, this provision will cost $3 million over 10 years.

Adjustment to Medicare Payment Localities: This provision would make changes to the methods used for determining the boundaries of payment localities used for Medicare's physician geographic adjustment factor in California. CBO estimates this provision would cost $400 million over ten years.

Clarification of 3-Day Payment Window: Currently, all services related to an inpatient admission are included in the bundled payment except under the "72-Hour Rule." This rule allowed hospitals to unbundle certain services if they were performed within 72 hours of an admission and were unrelated to that admission. This section would allow the Secretary to redefine “unrelated,” thus affectively removing the ability to unbundle services and claims to gain separate / additional payments. CBO estimates that overall this provision cuts $4.05 billion.

The provision moves $3.95 billion “saved” from this payment cut into the Medicare Improvement Fund which was established in 2008 under MIPPA (Public Law 110-275) to allow the Secretary to make enhancements to Medicare Parts A and B. Previously, the Republican Motion to Recommit H.R. 3961 used $22.3 billion from the “Medicare Improvement Fund” to offset their a paid for SGR alternative. PPACA, however removed $20.7 billion from the fund to help pay for health care reform without addressing the SGR.

Some conservatives may be believe that rather than use this additional savings to either pay down the deficit or off-set at least part of the SGR “fix” it is being moved into a slush fund for Medicare Payment reform down the road.

Other Provisions (Title VI)

- **Waiver of Certain Mortgage Revenue Bond Requirements:** The legislation extends through 2010 (otherwise expired at the end of 2009) year the provision that allows states to waive certain rules that limit their ability to use tax-exempt housing bonds to provide loans to taxpayers that wish to acquire residences in federally-declared disaster areas. The bill also extends through 2010 (otherwise set to expire at the end of 2009) a provision that allows states to use tax-exempt housing bonds to provide loans to repair or reconstruct homes and rental housing units that have been rendered unsafe for use as a residence by a federally-declared disaster. The loan is limited to the lower of the actual cost of the repair or reconstruction or $150,000.
- **Small Business Expensing for Federal Disaster Expenses:** The legislation extends through 2010 (otherwise expired at 2009) the higher levels ($100,000 increase) of expensing available for qualified expenditures in federal disaster areas, and the higher phase-out level (increased by $600,000).
- **Five-Year Carryback for Federal Disaster Losses:** The legislation extends through 2010 (otherwise expired at the end of 2009) a tax provision that allows businesses to carry back losses for five years for either casualty losses attributable to a federally-declared disaster or qualified disaster expenses.
- Extends the National Flood Insurance program through the end of 2010.
- Extends the Small Business Loan Guarantee Enhancement Program through 2010 and appropriates $505 million for fee reductions and loan guarantees under the program.
- Provides a total of $1.5 billion for agriculture disaster relief.
- Appropriates $1 billion for the Department of Labor—Employment and Training Administration for summer employment for youth activities.
- Appropriates $1.065 billion for the Housing Trust Fund.
- Appropriates $1.15 billion for the final settlement of the black farmers’ discrimination litigation.
- Provides two years of concurrent receipt (allowing an individual to receive DOD retirement pay and VA disability pay). This provision is estimated to cost $686 million over ten years.

<u>Does the Bill Expand the Size and Scope of the Federal Government?</u>: Yes. Among other things, the legislation increases taxes by $40 billion, and increases federal spending by $174 billion (both ten year figures).

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

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

<u>Constitutional Authority</u>: A committee report citing constitutional authority is unavailable.

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