RSC Republican Study Committee

REP. TOM PRICE, M.D. (R-GA), CHAIRMAN
PAUL TELLER, EXECUTIVE DIRECTOR
424 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

rsc.price.house.gov ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin……………………………………..………March 4, 2010

Contents:

H.R. 2847—The HIRE Act
(Mollohan, D-WV)

Key Conservative Concerns

- ***Tax Revenue Increases:*** The legislation is a net tax revenue increase of $14.3 billion. The two most important revenue increase provisions in the bill are delay of worldwide interest allocation provisions until 2021, and a tax of 30% on foreign entities that do not comply with certain disclosure and reporting requirements.

- ***$31.3 Billion Corporate Timing Tax Shift Gimmick:*** This provision would apply *three* different corporate tax timing shifts to corporations. 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 ($31.3 billion). Given the time value of money, earlier payments harm the bottom line of employers.

- ***$47 Billion Highway Transfer:*** The bill includes an immediate highway transfer of $19.5 billion from the general fund to the highway trust fund, as well as other provisions that would shift another $27 billion, for a total transfer shift of $47 billion. Though CBO does not score this as directly increasing the deficit (since highway spending is ultimately set by appropriation), it is very likely that this shift will increase the deficit by a corresponding amount.

Order of Business: The bill is being considered under a closed rule, denying the Minority the right to offer a motion to recommit, that waives all points of order except for the PAYGO rule. The rule self-enacts an amendment to the Senate amendment to H.R. 2847. The summary below describes what the House will be voting on today upon passage of the rule.

Summary: *Highlights* of the legislation below:

Payroll Tax Cut: The legislation suspends the employer's share of payroll taxes for any employee hired between February 3, 2010 and January 1, 2011 who had previously been unemployed for 60 days or more. In order for the employer to be eligible for this tax relief provision, the employee could not be a replacement for another employee (unless that employee leaves voluntarily or is fired for cause).

The legislation also offers business the lesser of a $1,000 tax credit or 6.2% of wages for "retained workers," defined by the bill as employed for at least 52 weeks and with wages during the last 26 weeks that are at least 80% of the wages for the first 26 weeks. *<u>This provision is a tax cut of $13.04 billion over eleven years</u>*.

The legislation also appropriates from the general fund, to the Social Security Trust Fund, the amount of revenue lost by this tax cut. This is an intergovernmental transfer that does not impact the federal budget.

Section 179 Small Business Expensing: In 2008 and 2009 small businesses were able to write-off up to $250,000 in capital expenditures at a phase-out threshold of $800,000. H.R. 2847 would extend this provision through 2010. *<u>Tax cut of $35 million over eleven years</u>*. *<u>Note</u>:* The RSC's Economic Recovery and Middle-Class Tax Relief Act (H.R. 470) would have provided immediate, full expensing for all businesses.

Modification to Build America Bonds: The "stimulus" created "Build America Bonds," which allow state and local governments the option of issuing bonds that allow states to elect to receive a direct payment from the federal government equal to the tax benefit that the state would otherwise receive from issuing these bonds. This provision would expand subsidies for certain "small issuers" equal to 65% of the interest on the bonds (70% for Clean Renewable Energy Bonds and Qualified Energy Conservation Bonds). The bill defines a "small insurer" as an entity that will not offer bonds with a face value in excess of $30 million during a calendar year.

<u>This provision increases mandatory spending by $13.3 billion over eleven years, and increases tax revenue by $8.7 billion over the same period</u>.

$47 Billion Highway Transfer: The legislation shifts $19.5 billion from the general fund to the highway trust fund, as well as other provisions that would shift another $27 billion, for a total transfer shift of $47 billion. Though CBO does not score this as directly increasing the deficit (since highway spending is ultimately set by appropriation), it is very likely that this shift will increase the deficit by a corresponding amount. See this Senate Budget Committee Republicans analysis for more information.

Highway Authorization Extension: The legislation extends the highway authorization, currently set to expire on March 28, 2010, through December 31, 2010. In doing so, the legislation, according to House Ways and Means Committee Republicans, increases the authorized funding levels by $20.8 billion in FY 2010 and by $12.2 billion in FY 2011. These higher authorization levels do not, in and of themselves, lead to higher spending (since spending is set by the appropriations process). However, in this case, the higher authorization levels are very likely to matched by the appropriations process.

10 Percent Set Aside for "Disadvantaged Business Enterprises": The legislation requires at least 10% of amounts made available for various transportation programs to be set aside for businesses owned by "socially and economically disadvantaged individuals."

"Foreign Account Tax Compliance": Taxes at a 30% rate payments to foreign entities that do not comply with certain disclosure and reporting requirements. A similar provision was included in the House-passed version of H.R. 4213. *Tax revenue increase of $8.7 billion over eleven years*.

Corporate Estimated Tax Timing Gimmick: This provision would apply *three* different corporate tax timing shifts to corporations. Specifically, the bill would increase by 57.8% the payments due in the third quarter of 2014, increase by 21.5 percentage points the payments due in the third quarter of 2015, and increase by 6.5 percentage points the third quarter of 2019. 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 ($31.3 billion). Given the time value of money, earlier payments harm the bottom line of employers.

Delay Implementation of Worldwide Allocation Until 2021: The worldwide interest allocation tax provision was included in the Jobs Creation Act of 2004. The purpose of this tax provision is to allow American companies to divide domestic and foreign income in a more accurate fashion, which allows American companies to protect against double taxation and receive proper credit from foreign tax credits. The provision was originally scheduled to take effect in 2009, but delay of the provision has been used as an offset in other legislation pushing the implementation date back to 2018. This provision would push it all the way back to January 1, 2021. *Tax increase of $9.9 billion over eleven years*.

Committee Action: The Senate passed its version of the legislation (in the form of Senate amendments to the House-passed FY 2010 CJS bill) last week by a vote of 70-28. The version of the bill that the House will vote on today has been considered by no committee.

Administration Position: A Statement of Administration Policy (SAP) of the Senate-passed bill is available here. This statement indicates administration support. However, there is no SAP of the bill we are voting on today (which was made available just hours ago).

Cost to Taxpayers: The legislation raises tax revenue by a net total of $14.3 billion over eleven years, and increases direct spending by $13.3 billion over the same period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill increases the budget authority for highway programs (as described above), and includes tax increases of $18.6 billion (as well as more than $31 billion of corporate tax timing shifts). The bill also includes some provisions that reduce the size of the federal government, such as the extension of higher levels of allowable Section 179 Small Business Expensing, and the payroll tax cut.

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?: No committee report listing any potential earmarks is available.

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

RSC Staff Contact: Brad Watson, brad.watson@mail.house.gov, (202) 226-9719