RSC Republican Study Committee

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Legislative Bulletin……………………………….………..March 24, 2010

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--***Undermines Foundation of Welfare Reform.*** H.R. 4849 (through an amendment adopted by the rule) would extend by one year the TANF "emergency fund" created by the "stimulus." This program weakens the foundation of the 1996 welfare reform law, which provided incentives for states to reduce welfare caseloads. By contrast, in order to receive money from this program, a state has to *increase* its welfare caseloads (with an 80% match from the federal government for expenses associated with adding more people to the TANF program). Rather than extend this program, the RSC introduced legislation to repeal it.

--***Tax Increases.*** The legislation increases tax revenues by $42.7 billion over eleven years, which is economically destructive in this or any economy.

For more details, see below.

H.R. 4849—Small Business and Infrastructure Jobs Tax Act
(Levin, D-MI)

Order of Business: The House will consider H.R. 4849 on Wednesday, March 24, 2010, under a closed rule that waives all points of order against the resolution except for clauses 9 (the earmark rule) and 10 of Rule XXI (PAYGO), and provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means.

Additionally, the rule automatically adopts an amendment offered by Representative Levin (D-MI). This amendment is analyzed within the summary below. But of note, it extends for one year the TANF Emergency Contingency Fund.

Summary:

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.

Revenue Reduction Provisions:

Exclusion of Capital Gains on Small Business Stock: The legislation eliminates the capital gains tax for qualifying small business stock (defined as a corporation with gross assets of $50 million or less) through the end of 2011. Under current law the exclusion for these companies is 75% through the end of 2010, and 50% thereafter. *This provision would save taxpayers $1.9 billion over eleven years.*

Small Business Penalty Relief: The legislation reduces the penalties on small businesses for failing to disclose investments in "listed" tax shelter transactions. Many small businesses inadvertently violate this disclosure requirement and face penalties of $100,000 for individuals and $200,000 for businesses (per violation). This provision would change that penalty structure to the lesser of the penalty under current law or 75% of the tax savings achieved from the transaction. *This provision would save taxpayers $176 million over eleven years.*

Nonrecourse Debt: The legislation would allow small business investment company nonrecourse debt to be deductible in the case of property used or held by the company. *This provision would save taxpayers $942 million over eleven years.*

Higher Deduction of Small Business Start-Up Expenses: The legislation increases the amount that small businesses may expense (immediately deduct) for start-up expenses from $5,000 to $20,000, and increases the phase-out threshold from $50,000 to $75,000. *This provision would save taxpayers $508 million over eleven years.*

Sewage and Water Supply Facility Bonds: The legislation eliminates water and sewer project bonds from the private activity bond volume cap.

Exemption of Private Activity Bonds from AMT: The legislation exempts private activity bonds from the AMT.

Recovery Zone Bond Authority: The legislation would extend the period state and local governments may issue these bonds through 2011. The legislation further increases by $10 billion the authority to issue recovery zone economic development bonds, and increases by $15 billion the authority to issue recovery zone facility bonds.

Allowance of New Markets Tax Credit Against Alternative Minimum Tax (AMT): This provision would allow the New Markets Tax Credit to be taken against the AMT. *This provision would save taxpayers $349 million over eleven years.*

<u>Revenue Increase Provisions</u>:

Limitation on Treaty Benefits: The legislation would place a limitation on treaty benefits for foreign corporations doing business in the U.S. *This provision would increase taxes by $7.7 billion over eleven years.*

"Reverse Morris Trust" Provision: Under current law, shareholders and corporations may defer taxes on gains from some corporate re-organizations. This provision would immediately tax the "parent" corporation in such spin-offs. Many conservatives may be concerned that this provision will discourage corporate reorganizations, which are a source of economic vitality. *This provision would increase taxes by $260 million over eleven years.*

Repeal of "80/20 Rule": This provision would repeal the "80/20 rule," which provides that if a U.S. corporation satisfies an 80 percent active foreign business income replacement, all (or a portion) of interest and dividends paid by may be exempt from withholding taxes. *This provision would increase taxes by $950 million over eleven years.*

Rental Property Expense Payments: This provision provides that a person receiving rental income from real estate shall be considered to be engaged in a trade or business renting property. This would subject recipients of rental income to various reporting requirements, including individuals with very little rental income. *This provision would increase tax revenues by $2.5 billion over eleven years.*

Application of Levy to Payments to Federal Vendors: This provision would allow the IRS to levy 100% of any payments due for real estate and other property. *This provision would increase tax revenues by $147 million over eleven years.*

Post-Levy Due Process: The legislation allows the IRS to issue a levy for unpaid federal taxes, in the case of a federal contractors' employment tax liability, prior to a collection due process hearing. *This provision would increase tax revenues by $395 million over eleven years.*

Required Minimum 10-Year Term for Grantor Retained Annuity Trusts: The legislation requires that a grantor retained annuity trust have a minimum ten-year term in order to qualify for a reduced gift tax valuation. *This provision would increase taxes by $4.5 billion over eleven years.*

Higher Information Return Penalties: The legislation doubles penalties in effect under current law on individuals for failing to file information returns. *This provision would increase tax revenues by $419 million over eleven years.*

<u>Spending Increase Provisions</u>:

Low-Income Housing Credit: The legislation allows some individuals to choose to receive direct payments from the government, as opposed to tax credits, for low-income housing. The payment would equal 85% of the value of the foregone tax credit. *This provision would increase entitlement spending by $2.3 billion over ten years.*

Build America Bonds: This provision would expand the Build America Bonds program with a subsidy rate of 33% for bonds issued in 2011, a 31% subsidy rate for bonds issued in 2012, and a 30% rate for bonds issued in 2013. *This provision increases tax revenue by $31.5 billion over ten years and increases entitlement spending by $39.0 billion over eleven years.*

Conservative Concerns:

Undermines 1996 Welfare Reform Law: H.R. 4849 would extend the Temporary Assistance for Needy Families (TANF) "emergency fund" by one year. This program weakens the foundation of the 1996 welfare reform law, which provided incentives for states to reduce welfare caseloads. By contrast, in order to receive money from this program, a state has to *increase* its welfare caseloads (with an 80% match from the federal government for expenses associated with adding more people to the TANF program). Rather than extend this program, the RSC introduced legislation to repeal it.

Tax Increases: The legislation increases taxes by $42.7 billion over eleven years, which is economically destructive in this or any economy.

Democrat Inconsistency Alert!

Democrats bring this bill to the floor, to supposedly create jobs, just 3 days after passing a massive job-killer of a health care bill.

Committee Action: The legislation was introduced on March 16, 2010 and referred to the House Ways and Means Committee, which held a mark-up and ordered the bill to be reported by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The legislation increases taxes by $42.7 billion over ten years and increases entitlement spending by $42.6 billion over ten years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill increases entitlement spending and raises taxes.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, the bill contains three private-sector mandates that exceed the annual threshold established by the Unfunded Mandates Reform Act (UMRA), which sets a threshold of $141 million in 2010.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The House Ways and Means Committee, in House Report 111-447, states: "Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule."

Constitutional Authority: The House Ways and Means Committee, in House Report 111-447, states: "With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 (`The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises . . .'), and from the 16th Amendment to the Constitution."

Outside Groups Opposed to Legislation: Associated Builders and Contractors.

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