LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN MIKE PENCE
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Conference Report—The American Recovery and Reinvestment Act (H.R. 1)

Friday, February 13, 2009; 9:43 AM

	Discretionary Spending	Mandatory Spending (including tax spending)	Tax Provisions	Total[1]	Estimated Cost With Interest[2]
House	$361 billion	$279 billion	$182 billion	**$822 billion**	$1.168 trillion
Senate	$290 billion	$259 billion	$292 billion	**$841 billion**	$1.188 trillion
Conference Report[3]	$311 billion	$269 billion	$212 billion	**$792 billion**	$1.139 trillion

EXECUTIVE SUMMARY

The conference report to H.R. 1 totals $792 billion in new spending and tax provisions. The final cost is $30 billion less than the House-passed bill and $49 billion less than the Senate substitute. In order to reach this level, the conference report reduces a number of tax provisions—including the Presidents "Making Work Pay Tax Credit" and an important tax benefit for companies with current losses—and includes an amount of discretionary spending between the Senate and House levels. The conference report also restores billions in spending from the House bill, which the Senate had initially removed or reduced. The *highlights* of the conference report are as follows:

SPENDING PROVISIONS

Questionable or Non-Stimulative Spending:

- $50 million for the National Endowment for the Arts
- $2 billion for the Neighborhood Stabilization Fund, providing funds to organizations such as ACORN, which has been accused of practicing unlawful voter registration in recent elections
- $10 million for the inspection of canals in urban areas
- $100 million for grants to small shipyards
- $198 million to authorize payments to certain Filipino veterans from WWII
- $300 million for the Energy Efficient Appliance Rebate Program
- $2 billion to support the manufacturing of advanced vehicle batteries
- $1 billion for Community Development Block Grants
- $1.3 billion for Amtrak, including $450 million for a new rail security grant program not included in either the House-passed or the Senate-passed bills
- $300 million for federal procurement of plug-in and fuel efficient vehicles

[1] Spending estimates reflects budget authority.
[2] Based on CBO estimate of $347 billion in debt services over ten years for the House-passed version of H.R. 1. This amount has not yet been calculated for the conference report.
[3] Based on data provided by CBO and the Committee on Appropriations

- $8 billion for a High Speed Passenger Rail Program, after the House did not include any funding for the program and the Senate included $2 billion, which will fund at least one project from Las Vegas to Los Angeles
- $15 million for historic preservation at historically black colleges and universities
- $170 million for the National Oceanic and Atmospheric Administration to research the cause, effects and ways to mitigate climate change
- $200 million for Americorps and other paid "volunteerism" programs
- $400 million for NASA to accelerate climate research missions
- $5.5 billion for federal buildings (GSA), including $4.5 billion to convert federal buildings into "high-performance green buildings" and $450 million for a new headquarters for the Department of Homeland Security.
- $210 million for a new grant program to modify and upgrade local fire stations
- $142 million for the Coast Guard to alter or remove 4 obstructive bridges
- $25 million for the Smithsonian Institution for maintenance backlogs
- $1 billion for expenses in conjunction with the 2010 decennial census
- $650 million for Digital-to-Analog Converter Box Coupons
- $1 billion for a Prevention and Wellness Fund, which can be used for sexually transmitted disease (STD) education and prevention programs at the CDC
- $500 million to replace a 30-year old computer system at the Social Security Administration
- $500 million for a health professions training program—funding which an earlier committee report said were allocated because, "a key component of attaining universal health care reform will be ensuring the supply of primary care providers."

<u>Unemployment Insurance Extension</u>: Extends the current extension of unemployment insurance (UI), which is scheduled to expire on March 31, 2009, through December 31, 2009. The extension is estimated to cost $27 billion.

<u>Roads and Bridges</u>: Despite calls by Democrats for increased infrastructure spending to create jobs, a relatively small share of the total $792 billion package is devoted to transportation infrastructure—$47 billion or 5.9% and only $27.5 billion ($2.5 billion less than the House-passed level) or 3.4% for highway construction. Some proponents of the conference report are claiming as much as $150 billion will flow to "infrastructure" but this assumes that building federal buildings, public housing, etc., qualify as infrastructure.

<u>State Stabilization Fund</u>: Provides $53.6 billion for "State Fiscal Stabilization Fund," which will be distributed to States based on total population and school-aged population. The majority of the funds will be used to support public elementary, secondary, and higher education. The House bill approved $79 billion for the fund, which the Senate reduced to $39 billion. Of this funding, $6 billion may be used for school modernization and repair.

TAX PROVISIONS

<u>Making Work Pay Tax Credit</u>: Reduces the amount of the refundable "Making Work Pay Tax Credit" from $500 to $400 for an individual and from $1,000 to $800 for joint filers. In addition, the conference report would restore the $75,000 individual earnings eligibility cap for the *refundable portion* of the tax credit that was in the House version of the bill. The Senate had lowered this eligibility cap to $70,000 for an individual filer (twice as much for a married couple filing jointly). These changes would reduce the cost of the "Making Work Pay Tax Credit" by $25-30 billion—from $145 billion in the House bill to $116billion. The tax credit itself would phase out at $95,000 for single filers ($190,000 for joint filers).

<u>Child Tax Credit</u>: Temporarily expands eligibility for the child tax credit by lowering the $8,500 earnings floor to $3,000**.** Under current law, the child tax credit is refundable up to 15% of a taxpayer's earnings above $8,500. The House bill eliminated the $8,500 earnings floor, which

cost $18.2 billion, while the Senate bill simply lowered the earnings threshold to $8,100, costing $7.2 billion. The conference report would set the floor at $3,000, costing $14.8 billion.

First-Time Homebuyer Tax Credit: Expands the current tax credit for first-time homebuyers, raising the maximum tax credit, extending it through November, 2009, and removing a provision that requires the credit to be repaid over time. The original provision, which was added to the Senate bill by amendment, would have given any homebuyer purchasing a primary residence in 2009 a $15,000 tax credit. The conference report reduction would decrease the deficit impact of the provision from $35 billion to $6.6 billion.

College Tax Credit: Creates the American Opportunity Tax Credit, which gives tax credits to students and parents for the cost of post-secondary tuition and expenses. The conference report provides $2,500 in tax credits per student and in 2009 and 2010. 40% of this tax credit would be refundable. This provision would cost $13.9 billion.

NOL Carryback: Reduces the amount of the net operating loss (NOL) carryback provisions by limiting eligible businesses and only providing credit for 2008 losses**.** The conference report limits the five year NOL carryback to losses that occurred in 2008 for businesses with less than $15 million in annual receipts. Both the House and Senate bills extended this carryback period from two years to five years for all businesses, providing a tax cut of $17 billion. The reduced provision in the conference report saves American businesses only $947 million.

Bonus Depreciation: Extends bonus depreciation that allows businesses to make a tax deduction of 50% of the cost of depreciable capital expenditures within the first year of the property's purchase. Normally, depreciable property deductions are taken over time based on a depreciation formula. The 50% first-year deduction would be extended by this legislation through 2009—retroactively effective for any property put into service after December 31, 2008. This provision would save taxpayer's $5 billion.

School Construction Bonds: Creates a new category of tax-credit bonds, known as qualified school construction bonds. Tax-credit bonds are bonds on which the federal government pays interest in the form of tax credits against the federal income tax liability of the bondholder. The qualified school construction bonds would be issued by State and local governments for the construction, repair, rehabilitation, acquisition, or debt reduction of public schools. This provision would cost $9.9 billion.

Vehicle Sales Tax: Allows taxpayers to deduct state sales tax on new car purchases in 2009. The Senate added an amendment to the legislation that would make all interest payments on car loans and state car sales tax deductible. The provision would have had a deficit impact of $11.5 billion, which the conference report reduces to less than $1.7 billion.

AMT: Provides a one year Alternative Minimum Tax "patch" which prevents middle-income taxpayers from being subject to a tax increase in 2009. This provision, included in the Senate bill, would save taxpayers approximately $70 billion.

Unemployment Benefits: Excludes up to $2,400 of 2009 unemployment from tax. Any unemployment insurance benefit above $2,400 would be subject to regular taxation. This provision would save taxpayers $4.7 billion.

HEALTH PROVISIONS

COBRA Subsidy: Provides a 65% federal subsidy to laid off individuals electing COBRA continuation coverage from their former employers. The subsidy will extend for up to nine months, as opposed to 12 months in the House bill. The report also limits eligibility to individuals with adjusted gross incomes of under $145,000 and families with incomes of under $290,000. These changes reduce the cost of the provision from $40.7 billion in the House bill to $25.1 billion. In addition, the conference report does not include language in the House bill that would permit former employees over age 55, or those with at least 10 years of service with the employer, to remain on COBRA until becoming eligible for Medicare.

<u>Qualifying Individual Program</u>: Extends for 12 months, through December 2010, the Qualifying Individual program, which provides assistance through Medicaid for low-income seniors to pay their Medicare premiums, at a cost of $562 million. The House bill included no such provision.

<u>Medicaid Assistance to States</u>: Includes a compromise between the House and Senate formulae for the $87 billion increase in the federal Medicaid match, whereby approximately 65% of the increase is provided on an across-the-board basis, with the remaining 35% allocated to states experiencing high unemployment. By contrast, the House bill spent the same overall amount, but targeted 50% of the additional Medicaid spending to high-unemployment states, with the remaining half providing an across-the-board increase.

<u>Medicaid for the Unemployed</u>: Removes language in the House bill that would have created a new entitlement for individuals receiving unemployment assistance to receive Medicare benefits fully funded by the federal government at a 100% match rate.

<u>Comparative Effectiveness Research</u>: Provides $1.1 billion to conduct "comparative effectiveness research" to evaluate the effectiveness of different healthcare interventions, and removes bipartisan Senate language stating such funding must be used only for ***clinical*** research, as opposed to research taking ***cost*** into account as well. Despite non-binding report language stating that the funding is not intended to be used to mandate coverage policies, some Members may be concerned that the money for comparative effectiveness research could eventually be used to sanction government rationing of health care goods and services, consistent with an earlier committee report that said that "more expensive [treatments] will no longer be prescribed" as a result of such research.

<u>Health IT—Financial Incentives</u>: Maintains House language providing maximum incentive payments to hospitals of up to $6.37 million in the first year and $15.9 million over four years, and includes provisions not in the House legislation expanding incentive payments to include critical access hospitals. Expands eligibility for Medicaid health IT incentive payments to include nurse practitioners, mid-wives, dentists, and physician assistants in rural health clinics. Accelerates the penalties for non-usage of electronic health record technology; physician incentive payments will stop in 2014, as opposed to 2015 in the House bill, and penalties will begin in 2015 for non-users, as opposed to 2016 in the House bill. Includes a 10% bonus payment for all physicians practicing in underserved areas—<u>a provision not included in either bill</u>. Increases implementation funding for the Centers for Medicare and Medicaid Services (CMS) by including $340 million in additional mandatory spending.

<u>Health IT—Privacy Provisions</u>: Removes most of the technical changes to the privacy provisions added to the bill in the Senate. The bill maintains the onerous notification requirements, increased penalties, and lawsuit authority for state attorneys general present in the House bill; some Members may be concerned that these provisions, by increasing business' costs and raising the possibility of additional class-action lawsuits, may impede rather than promote the adoption of health information technology.

<u>Other Provisions; Earmarks</u>: Imposes moratoria on hospice regulations from taking effect, and makes certain "technical corrections" regarding long-term care hospitals, specifically as it relates to implementation of a rule for referrals from non co-located facilities. According to CMS, at least

one of these “corrections” will affect only three hospitals—two located in North Dakota, and one located in Connecticut. Some Members may believe this provision constitutes an authorizing earmark, and therefore believe its inclusion is inconsistent with President Obama’s pledge that economic recovery legislation should not include any “pork-barrel” spending.

OTHER PROVISIONS

Essential Abstinence Education Funding Eliminated: Extends for 18 months—through December 31, 2010—the Transitional Medical Assistance (TMA) program that provides Medicaid benefits for low-income families transitioning from welfare to work. Traditionally, the TMA provisions have been coupled with an extension of Title V Abstinence Education funding during the passage of health care bills. However, the Title V funds were excluded from the bill language and will expire on July 1, 2009 absent further action. Given the Obama Administration’s desire for bipartisan agreement on economic stimulus provisions, some Members may be concerned by the removal of the Title V abstinence education funding and the potential end of this program. Some Members may be concerned that while abstinence education receives only $176 million annually (through both Title V and the Community Based Abstinence Education program), contraceptives and family planning already receive $1.6 billion of federal funding.

E-Verify: Removes language to require anyone receiving a contract paid for with funding from the bill to use the government's E-Verify program in order to ensure taxpayer money is not used to hire illegal workers.

Welfare Reform Rollback: Includes $5 billion to create a new Temporary Assistance for Needy Families (TANF) welfare program emergency fund. The emergency fund would be used to provide money to States that increase TANF caseloads or provide increased short-term cash benefits. The bill *waives* requirements that obligate states to consider rising caseloads when determining TANF work requirements. Thus, the legislation would encourage States to increase caseloads without increasing the number of individuals required to obtain work, which was a key component of the 1996 welfare reform that has dramatically decreased the number of Americans dependent on welfare.

Davis-Bacon: Applies Davis-Bacon requirements to all government contracts flowing from the bill, thus requiring that employees will be paid no less than the prevailing wage for similar jobs in the locality/vicinity.

Buy American: Encourages the purchase of American goods (steel, iron, etc.) for stimulus funded government contracts, but includes language adopted by the Senate intended to waive any requirement in the Stimulus Act which would preclude adherence to current World Trade Organization treaties. The Senate language was adopted after pressure from the European Union over earlier “Buy American” provisions that were seen by the EU as a violation of current WTO treaties.

Debt Limit Increase: Increase the statutory limit on public debt from $11.3 trillion to $12.1 trillion.

BACKGROUND

On January 28, 2009, the House passed the American Recovery and Reinvestment Act by a vote of 244-188, without a single Republican supporting the bill and 11 Democrats opposing. As passed by the House, the Democrat spending bill cost $821 billion. The bill contained $361 billion in new discretionary spending, $278 billion in increased mandatory spending, and $182 billion in tax provisions.

The Senate increased the size and scope of spending in the massive “stimulus” bill, driving the cost of the bill to more than $920 billion—or $100 billion more than the House bill. Approximately $70 billion of that increase provided for a one year AMT patch. In addition, Senate amendments added $47 billion to the cost of the bill.

The Senate then came to an agreement with three Republican senators, allowing the legislation to proceed for a vote on the floor and overcome the Senate's super-majority procedural hurdles. The agreement reduced the cost of the Senate bill from $920 billion to $841 billion—or $20 billion more than the House bill. To reach this funding level, the Senate cut the base bill through a combined reduction of spending and tax provisions, while retaining all of the floor amendments, resulting in a cost of $841 billion. However, the estimated cost of debt service for the $820 billion House-passed bill was an additional $347 billion over ten years. When the debt service cost is added on to the Senate package, the total ten year cost of the Senate bill approaches a staggering $1.2 trillion.

After the Senate passed the measure—considered as an amendment in the nature of a substitute offered by Sens. Nelson (D-NE) and Collins (R-ME)—by a vote of 61-37, the bill was sent to a conference committee between the House and the Senate to reconcile the differences with the two bills, resulting in the conference report the House will soon consider.

POSSIBLE MEMBER CONCERNS WITH CONFERENCE REPORT

Cost Per Family: According to the Census Bureau, there are 116.8 million households in the U.S. A total cost of $1.1 trillion for the bill ($792 billion for the legislation plus at least $300 billion in debt service to pay for it) amounts to **a per-family cost of at least $9,418 in new spending/debt.**

State Bailout: Provides $87 billion for Medicaid spending for states and $53.6 billion for the State Fiscal Stabilization Fund. According to the liberal Center on Budget and Policy Priorities, the total budget deficit for the States collectively for the remainder of Fiscal Year 2009 is $43 billion. Given that the federal government's Fiscal Year 2009 deficit is already projected at $1.2 trillion—or 27.5 times greater than the total State shortfall—it is hard to understand why the Democrats would choose to further exacerbate the federal deficit, especially since most States are subject to balanced budget requirements whereas the federal government is not.

Healthcare Rationing: Provides $1.1 billion to conduct "comparative effectiveness research" to evaluate the effectiveness of different preventative healthcare interventions. Some Members may be concerned that the money for comparative effectiveness research could eventually be used to sanction government rationing of health care goods and services, consistent with the draft House Appropriations Committee report that said that "more expensive [treatments] will no longer be prescribed" as a result of such research.

Record Deficit Spending: According to CBO, under current law, the federal deficit will rise to a record $1.2 trillion, or 8.3% of GDP, in 2009. Even without this massive spending bill, the deficit will be by far the highest on record in both nominal terms and as a percentage of GDP during peacetime, easily exceeding the previous record of 6% in 1983 and the highest New Deal level of 5.9% in 1934. The estimated cost of debt services for the $820 billion House passed bill was $347 billion. When that rough number is applied to the conference report, the total ten year cost of the bill increases to a staggering $1.13 trillion.

Massive Spending: According to the Federal Reserve, $789.5 billion is almost as much as all the money currently in circulation in the U.S. ($829 billion). If the "stimulus" legislation were a nation's GDP, it would be the 16th largest economy in the world.

Lowers GDP: The Congressional Budget Office, in analyzing the long-term economic impact of H.R. 1, noted that both the House and Senate versions of the bill are likely "to reduce GDP by between zero and 0.2 percent" in the years after 2014. The same CBO analysis indicates that the effect of this GDP reduction will be reflected in lower wages for workers. Some Members may therefore be concerned that at best the "stimulus" will yield no net long-term benefit for the American economy, and at worst—by displacing private capital for government-financed deficit spending—may result in reduced long-term growth and stagnant wages for American workers.

Long-Term Fiscal Impact: A Congressional Budget Office analysis of the spending provisions in the House-passed version of H.R. 1 found that extending the spending levels in several politically popular programs—such as Head Start, Medicaid, food stamps, and the Earned Income Tax Credit—would cost an additional $1.7 trillion over ten years. When added to the $820 billion cost (the original House-passed level) of the underlying "stimulus" legislation, and the estimated $744 billion cost of servicing the debt on the stimulus, CBO estimated the bill would cost $3.2 trillion if the major House spending provisions are extended. Some Members may therefore be concerned that the funding "cliffs" included in the legislation mask the true long-term costs of the new spending and expanded entitlements created in the bill.

Refundable Tax Credits: Contains billions in refundable tax credits to provide direct payments to individuals that that pay little or no income taxes. Unlike tax cuts, these refunds do little to spur growth, create more jobs, or stimulate the economy and are more similar to new spending through tax policy than actual tax cuts.

Largest Spending Bill Ever: According to the Congressional Research Service, the largest appropriations bill considered by Congress in nominal terms was the continuing resolution and Defense appropriations measure (P.L. 110-329) passed last fall, which appropriated $636 billion. Some Members may be concerned about the long-term implications of passing an even larger spending measure, particularly given the $700 billion (plus $108 billion in tax relief) obligated by Congress as part of the Troubled Asset Recovery Program (P.L. 110-343) last October.

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