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Legislative Bulletin……February 4, 2013

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H.R.297 — Children's Hospital GME Support Reauthorization Act of 2013 (Pitts, R-PA)

Order of Business: The bill is scheduled to be considered on Monday, February 4, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 297 reauthorizes federal funding for pediatric graduate medical residency education programs for five years (FY2013-FY2017) at FY2011 levels of $330 million each year.

Additional Background: As part of the Healthcare Research and Quality Act in 1999, Congress created the Children's Hospital Graduate Medical Education Program (CHGME) to provide federal support to children's hospitals for direct and indirect expenses associated with operating medical residency training programs. Direct expenses are associated with providing salaries of medical residency students. Indirect expenses are defined as costs intended to compensate hospitals for patient care costs that are expected to be higher in teaching hospitals than in non-teaching hospitals.

According to the House Energy and Commerce Committee report,[1] the CHGME program provides funding to 56 hospitals in 30 states to support pediatric residency training. Its authorization expired on September 30, 2011, yet it has continued to receive funding ($265 million in FY2012). H.R. 297 reauthorizes the CHGME for five years and requires a report by the Secretary of Health and Human Services to Congress by the end of fiscal year 2016 that includes:

[1] This committee report is the House Report for last Congress' H.R. 1852, the Children's Hospital GME Support Reauthorization Act of 2011. This bill passed the House by voice vote on September 20, 2011 and was also included as a provision of the House-passed S. 1440 on December 19, 2011. It is essentially the same text as H.R. 297 with only changes in reauthorization years.

- a summary of the annual reports prepared by the grantees as a condition for receipt of their funding;
- the types of residency programs; the number of training positions;
- types of training positions;
- any changes in residency training curriculum;
- a review of patient and safety care;
- the number of residents who complete training; and
- recommendations on how to improve the program.

Congress last reauthorized the CHGME program in 2006 for five years by passing H.R. 5574 by voice vote in the House and unanimous consent in the Senate. The House passed by voice vote similar CHGME five-year reauthorizations at the same spending levels last Congress on September 20, 2011 (H.R. 1852) and December 19, 2011 (S. 1440). Note: Past budgets from the Obama Administration have proposed to eliminate or reduce this program.

Potential Conservative Concerns: Some conservatives may prefer that the bill include an offset for the CBO-estimated $1.2 billion authorization of appropriations. This bill provides no offset. In the past, conservatives have expressed concerns that a bill authorizing substantial amounts of taxpayer dollars not be considered under suspension of the rules.

Committee Action: Energy and Commerce Subcommittee on Health Chairman Joe Pitts (R-PA) introduced H.R. 297 on January 15, 2013. On January 22, 2013, the full committee marked up and approved the bill without amendment by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for the bill on February 1, 2013. It estimates that implementing the bill would cost approximately $1.2 billion throughout the five year period, subject to appropriations.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1: The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States."

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H.R.235 — Veteran Emergency Medical Technician Support Act of 2013 (Kinzinger, R-IL)

Order of Business: The bill is scheduled to be considered on Monday, February 4, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 235 requires the Secretary of Health and Human Services (HHS) to create a new federal grant program to assist states in streamlining certification requirements of U.S. Armed forces veteran emergency medical technicians. Eligible grantee states must demonstrate that they are experiencing a shortage of emergency medical technicians. The HHS Secretary is required to submit an annual report to Congress on the program.

The grants can be used by states to prepare and implement "a plan to streamline State requirements and procedures…including:

- determining the extent to which the requirements for the education, training, and skill level of emergency medical technicians in the State are equivalent to requirements for the education, training, and skill level of military emergency medical technicians; and
- identifying methods, such as waivers, for military emergency medical technicians to forego or meet any such equivalent State requirements."

The bill authorizes a total of $1 million dollars for FY2014 through FY2018. This $1 million authorization for these new state grants is taken from the $125 million previously authorized FY2014 amount in ***Obamacare*** for infrastructure development and maintenance and enhancement grants for Area Health Education Centers.

The House passed the same bill (H.R. 4124) with different authorization years last Congress by voice vote on September 19, 2012.

Additional Background: According to this 2010 Institute for Homeland Security Solutions report, "Anecdotal information suggests that there may be substantial shortages among these [EMTs] professionals." Other articles express similar views that EMT shortages exist and are threatening the health of states' citizens. Some states have already begun to take EMT military training into account in determining state EMT eligibility standards.

Potential Conservative Concerns: Some conservatives may have the following concerns with the bill:

- The appropriateness and constitutionality of the federal government dealing at all with a local matter as state EMT certification and licensing;

- The lack of an explicit statutory definition of what a state "shortage of emergency medical technician" means could lead states to liberally test the boundaries of such a definition in order to procure federal grant funding (as opposed to funding such efforts with its own revenue sources); and
- The creation of a new federal grant program during a time of record federal debt and deficits.

Committee Action: Representative Adam Kinzinger (R-IL) introduced H.R. 235 on January 14, 2013. On January 22, 2013, the full committee marked up and approved the bill without amendment by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for the bill on January 31, 2012, stating that implementing the bill would cost $1 million through the FY2014-2018 subject to appropriation of the authorized amount. This authorized amount is offset from funds appropriated in FY2014 for Obamacare Area Health Education Center grants.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: The bill does not *require* any state to establish a streamline process for veteran EMT compliance with state EMT licensure. It voluntarily permits states with demonstrated EMT shortages to apply to receive federal grants to implement a process to assist veteran EMTs obtain state EMT certification.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill requires the HHS Secretary to create a new federal grant program to assist states in establishing a process for U.S. Armed forces EMTs to meet certification, licensure, and other applicable state EMT requirements to address EMT shortages in their respective state.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The CBO report states that H.R. 235 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act. Funds authorized in the bill would benefit states that restructure state procedures to certify or license eligible veterans as emergency medical technicians."

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: According to clause 7 of Section 9 of Article I of the Constitution, Congress has the authority to control the expenditures of the federal government."

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H.R.225 — National Pediatric Research Network Act of 2013
(Capps, D-CA)

Order of Business: The bill is scheduled to be considered on Monday, February 4, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: H.R. 225 authorizes the Director of the National Institutes for Health (NIH) to create a new National Pediatric Research Network consisting of consortia of pediatric researchers eligible to receive up to twenty research grants that can last for up to five years. The funding must be used to supplement any current public or private research funding. In other words, this funding cannot "supplant" other public or private support for authorized activities. Grants can be provided to public research institutions or private nonprofit entities:

- "for planning, establishing, or strengthening pediatric research consortia; and
- for providing basic operating support for such consortia, including with respect to:
    - basic, clinical, behavioral, or translational research to meet unmet needs for pediatric research; and
    - training researchers in pediatric research techniques."

The NIH Director must ensure that an "appropriate" number of these grant awards are granted to consortia that agree to:

- "focus primarily on pediatric rare diseases or conditions (including any such diseases or conditions that are genetic disorders (such as spinal muscular atrophy and Duchenne muscular dystrophy) or are related to birth defects (such as Down syndrome and fragile X));
- conduct or coordinate one or more multisite clinical trials of therapies for, or approaches to, the prevention, diagnosis, or treatment of one or more pediatric rare diseases or conditions; and
- rapidly and efficiently disseminate scientific findings resulting from such trials."

The bill also requires the NIH Director to establish a "data coordinating center" to manage interactions and distribute scientific findings for research activities for all participating consortia as well as report to the NIH Director and Commissioner of the Food and Drug Administration on consortia research.

According to the bill's sponsor, "Children make up approximately 20 percent of the U.S. population while the NIH budgets approximately 5 percent of its extramural funds to pediatric research… A research consortia that is developed specifically with children in mind, will lead to better treatments for diseases that start in childhood and may lead to healthier, able-bodied adults."

Additional Background: The same version of this bill (H.R. 6163) passed the House by voice vote on September 19, 2012. A similar version of this bill was included as a provision of the House-passed S. 1440 on December 19, 2012, which also passed by voice vote.[2]

Committee Action: Representative Lois Capps *(D-CA)* introduced H.R. 225 on January 14, 2013. On January 22, 2013, the full committee marked up and approved the bill without amendment by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: No Congressional Budget Office (CBO) estimate has been released at press time of this Legislative Bulletin. The NIH is already engaging in the types of pediatric research envisioned under the bill, so the bill would mainly direct NIH to award grants within its existing funding authorized by appropriation.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill provides authority for (but does not require) the NIH Director to establish a new network of up to twenty pediatric research consortia in an effort to coordinate pediatric research of rare diseases as well as a data coordinating center. Since any federal grant funding cannot replace current public or private research funding, the grant funding appears to be in excess to whatever amount of research funding in pediatric research currently exists.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, Congress has the power to enact this legislation pursuant to the following: The Constitutional authority in which this bill rests is the power of the Congress to regulate Commerce, as enumerated by Article I, Section 8, Clause 3 of the United States Constitution."

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[2] That version differs from this bill by a) eliminating the new data coordinating center and b) authorizing eight consortia as opposed to twenty like this bill authorizes.