Committee On
Ways & Means Republicans
Ranking Member, Dave Camp

DEFICIT EXTENDER BILL (H.R. 4213): KEY THEMES

As scheduled for Floor consideration on May 28, 2010

- **$144 billion in total costs, but no new jobs**
  - The Democrats' "deficit extender" bill features $144 billion in total costs ($110 billion in spending plus $34 billion in tax relief), but it will not create the jobs America needs.
  - Democrats predicted their trillion-dollar 2009 stimulus bill would create 3.7 million jobs. Instead, the debt has grown by $2 trillion and 2.7 million more jobs have been eliminated since then.
  - This bill would extend and expand many of those same 2009 "stimulus" spending policies, including more welfare benefits and more unemployment checks, which would do little, if anything, to actually create real, sustainable jobs.
  - The bill also contains $82 billion in revenue increases – including $30 billion in job-killing tax hikes on investments and small businesses – that threaten to send the 9.9% unemployment rate even higher.
  - This is not a "jobs" bill; it's just another massive stimulus spending bill that would increase the deficit by $54 billion – or by more than $450 for every American household – without creating jobs.

- **Increases spending by $110 billion and raises the deficit by $54 billion, piling on even more unsustainable debt**
  - The national debt is already at historic levels and is headed even higher, up to 120% of GDP by 2020 under President Obama's FY '11 budget proposal. Democrats' failed $862 billion stimulus and their $1 trillion government takeover of the nation's health system have made our country's long-term debt outlook even worse.
  - By increasing net Federal spending by $102 billion over the next decade – including $54.2 billion in new deficit spending – this bill would bury our children and grandchildren under an even bigger mountain of unsustainable debt.
  - While the Democrats boasted that PAYGO was going to prevent just this kind of irresponsible, out-of-control spending, the fact that a bill that would add $54.2 billion to the deficit can be deemed PAYGO-compliant shows just how little the Majority understands the critical need for spending control.
  - All but $1 billion of the $22.9 billion net cost of the "doc fix" is exempt from the Majority's newly enacted statutory PAYGO requirements under the terms of that law itself. While exempt from PAYGO, this policy would still increase the deficit by $22.9 billion.
  - The bill designates increased Federal UI benefits ($39.5 billion) as emergency spending that is similarly exempt from PAYGO.

- **Imposes permanent tax increases to pay for temporary extensions of "tax relief," resulting in no net tax relief overall**
  - While the Majority exempts $61 billion of additional spending from PAYGO requirements, it hypocritically insists on "paying for" routine, temporary extensions of expired tax relief – such as the deduction for state and local sales taxes, the R&D credit, various energy-related tax provisions, and various disaster-related tax relief – with permanent tax increases. As this bill

makes clear, however, Washington doesn't have a revenue problem; it has a spending problem. Yet the Democrats are once again selectively applying PAYGO only on the tax side of the ledger, seemingly oblivious to their expensive double standard on spending.

- As a result of the bill's $82 billion in revenue offsets, it provides no net tax relief. Even if the "tax extenders" package were to pass without revenue-raising offsets, however, those provisions should not be viewed as true tax *relief* since taxpayers who benefit would be no better off than they were in 2009.

- **Raises taxes on investment income during an economic downturn**
  - With unemployment at 9.9% and the economy continuing to struggle, now is a particularly bad time for tax increases, especially on capital investments by American job creators.
  - The proposed $17.7 billion tax increase on "carried interest" (the potential profit interest of certain partners of investment partnerships) would re-characterize income that has always been treated entirely as capital gains as 50% ordinary income beginning in 2011 and as 75% ordinary income beginning in 2013. While capital gains are currently taxed at a top rate of 15% (rising to 20% beginning in 2011 and to 23.8% beginning in 2013), carried interest would now be taxed at a considerably higher, blended income tax rate that, depending on the taxpayer's financial facts and circumstances, could be as high as 29.8% in 2011 and 35.65% beginning in 2013.
  - In addition, because the portion of carried interest that would be re-characterized as ordinary income under this provision would also be subject to the Medicare/HI tax, the total, combined tax rate on carried interest for a taxpayer in the top tax bracket could reach as high as 38.5% beginning in 2013.
  - This tax hike on investment partnerships – including real estate partnerships and venture capital firms – would discourage the entrepreneurial risk-taking that is crucial to economic growth and job creation and could have far-reaching consequences on the returns of pension funds, university endowments, and philanthropic foundations that invest in affected partnerships.

- **Raises taxes on small businesses, the engines of economic growth and job creation**
  - President Obama has noted that 70% of new jobs come from small businesses, yet the bill would increase taxes on certain S corporations and partnerships by subjecting profits of those small businesses to employment taxes. Specifically, this $11.2 billion tax increase would require S corporation shareholders and limited partners who provide services with respect to certain "professional service businesses" to include their (and their family members') entire share of the business's income – whether or not actually distributed – as self-employment income for employment tax purposes.
  - This tax increase would come at a time when many small businesses – the engines of economic growth and job creation – are already struggling to meet payroll, avoid layoffs, and obtain adequate financing for their operations.
  - On April 28, 2010, when rumors of a potential tax increase along these lines began emerging, a coalition of 15 prominent trade associations – representing hundreds of thousands of small employers – expressed its strong opposition to this idea, calling it "an unfair tax increase on small and family-owned businesses."
  - After the specific language of this tax increase was unveiled, many of those associations renewed their opposition. NFIB, for example, opposes H.R. 4213 and notes that this provision "sets a bad precedent, which could ultimately undermine the growth of S Corps and small

businesses – exactly what we don't need as our economy tries to bounce back from a recession."

- **<u>Double-counts oil spill excise tax revenues</u>**
  - The bill would more than quadruple the excise tax that funds the Oil Spill Liability Trust Fund from 8 cents per barrel to 34 cents per barrel.
  - While this provision is ostensibly designed to build up reserves in the Oil Spill Liability Trust Fund in order to ensure that adequate resources are available to pay for clean up and damages associated with oil spills, the Majority is effectively counting these additional revenues twice – once to increase deposits in the Trust Fund, and a second time to help offset the budgetary effect of the tax extenders package for PAYGO purposes.
  - If this new revenue is truly intended to be reserved in the Trust Fund and made available solely for the purpose of mitigating oil spills, it should not also be disingenuously counted as contributing to general deficit reduction.

- **<u>Irresponsible health spending increases the deficit</u>**
  - Despite already having spent $1 trillion on their health care overhaul, Congressional Democrats are back at it. This bill would spend more than $26 billion on health care programs to fix errors and oversights in the Democrats' new health law. By including the cost of these "fixes" in this bill, the Democrats are artificially hiding the true cost of their government takeover of health care. All told, the health provisions in this bill would increase the deficit by $20 billion over the next 11 years.
  - The bill would spend $25.2 billion to increase Medicare physician payments but would do nothing to fix the problems associated with the Sustainable Growth Rate (SGR) formula. In fact, because of this bill, Medicare physician payment rates will be slashed by 33% in 2012. It's no wonder numerous medical societies oppose this so-called "doc fix." Note: This policy will increase seniors' premiums by more than $6.3 billion.
  - Because of the Democrats' inability to properly manage the Medicare program, taxpayers will be forced to pay $200 million so that the Centers for Medicare and Medicaid Services (CMS) can "reprocess" claims that have already been paid. Since Congressional Democrats have repeatedly missed statutory deadlines to extend certain payment policies, CMS now has to reprocess claims to reflect the payment changes Democrats made after the deadlines had passed.

- **<u>The cost of extending unemployment insurance is growing because Democrats' stimulus law has been followed by more unemployment, not more jobs as they promised</u>**
  - This latest $40 billion in UI spending will bring the grand total of Federal unemployment benefit spending, over a little more than 2 years, to a whopping $130 billion. That's already *over five times* the amount spent in the wake of the 2001 recession and terrorist attacks.

- **<u>Democrats' claims of UI being the "most effective stimulus" are off base</u>**
  - Here's what Rep. McDermott said during the 2009 stimulus law debate: *"Unemployment insurance is one of the most effective forms of economic stimulus…. Every unemployment insurance dollar spent returns an economic impact of $1.64. That's the kind of significant return on investment that will help America restart its economic engine."* (January 27, 2009 on the House Floor)
  - But the reality is that since Democrats' 2009 stimulus law <u>2.7 million more jobs have been eliminated</u>**,** <u>unemployment rose to 9.9 percent</u> instead of falling to 7.4 percent as Democrats

predicted, and 15 million Americans – an all-time record for the month of April – are currently unemployed.

- **Flawed process leads to flawed legislation**
  - While Chairman Levin initially pledged that differences between the House and Senate bills would be resolved under regular order through a traditional conference committee that would permit an open exchange of views in a public setting, this legislation is instead the product of secret backroom deals and includes numerous, last-minute substantive and procedural changes made on the House Floor itself on the very morning of the vote.
  - With the exception of carried interest, most of the bill's major revenue offsets have never been formally marked up by Ways and Means and have simply been "air dropped" into the bill. Among these air-dropped revenue raisers is a series of international tax changes that could have far-reaching consequences on the competitiveness of worldwide American businesses and that should be considered, if at all, only within the broader context of a comprehensive tax reform effort that seeks to lower the very high U.S. corporate tax rate. In at least one case involving a proposed restriction on the foreign tax credit, the Majority has air dropped a potentially *retroactive* revenue-raiser into the bill, depriving affected taxpayers of fair notice.
  - This air dropping of tax increases and other controversial provisions into the bill without the benefit of any public input or any opportunity for amendment is just the latest disturbing example of the Majority's behind-closed-doors approach to legislating. The American people deserve better.