RSC Republican Study Committee

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Legislative Bulletin……………………………….………July 31, 2009

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Take-Away Points

-- ***Cost:*** The bill authorizes an additional $2 billion of spending for the "cash for clunkers" program. This is in addition to the $86 billion already spent by American taxpayers to assist the auto industry.

-- ***Constitutionally Dubious:*** The Constitution, in Article I, Section 8, Clause 3, grants Congress the power to regulate interstate commerce, not participate in it.

-- ***Unintended Consequence:*** This expansion of the program could make Americans less likely to donate older automobiles to charities that provide low-income and disabled individuals with affordable automobiles.

-- ***Questionable "Stimulus":*** With the high fuel efficiency requirements to qualify for the full credit, the bill may actually help *foreign* auto manufactures, whose fleets typically have smaller, more fuel efficient cars than GM or Chrysler have produced.

For more details on these and other concerns, see below.

H.R. 3435—Making Supplemental Appropriations for The Consumer Assistance to Recycle and Save Act
(Obey, D-WI)

Order of Business: The bill is expected to be considered on Friday, July 31, 2009, under a unanimous consent agreement to allow the bill to be considered under suspension of the rules on a Friday. Under House rules, suspension bills may not be considered on Friday.

Summary: H.R. 3435 appropriates an additional $2 billion for the "cash for clunkers" program acquired from P.L. 111-5. Additionally, the bill extends the program through

September, 30, 2010. The funds are to be derived by transferring $2 billion from Title XVII (The Innovative Technology Loan Guarantee Program) of the so called "stimulus." The original law appropriated $1 billion for the program. According to the American Council for Energy-Efficiency Economy, approximately 11 million vehicles (or 5 percent of the vehicles on the road) could be eligible for the Cash for Clunkers program.

Background: Also referred to as "Cash for Clunkers," P.L. 111-32 established a new program at the National Highway Traffic Safety Administration under the Department of Transportation (DOT), that will give individuals with older, less fuel efficient cars a credit worth up to $4,500 towards the purchase of a new car that meets certain fuel efficiency goals. However, according to some reports the program is already backlogged less than a month after enactment because of red-tape and alleged funding issues.

In order to qualify, so-called clunkers must get 18 miles per gallon or less, be manufactured after 1984, be in drivable condition, and be continuously insured to the same owner for at least one year immediately prior to trade-in. The purchased vehicles must be 2008, 2009 or 2010 models and was previously appropriated $1 billion for this program.

In order to qualify for the voucher, the value of a new car cannot exceed $45,000. The legislation divides new cars and trucks into four categories:

- ***Cars:*** If a consumer purchases a new car that gets at least 4 miles per gallon more, they qualify for a $3,500 voucher to reduce the price of the new car. To receive a voucher for $4,500, the new car must have a mileage rating at least 10 mpg higher. No new car purchased can get less than 22 miles per gallon (mpg)
- ***Light-duty trucks and SUV's:*** For owners of light-duty trucks or Sports Utility Vehicles (SUV), to receive a voucher of $3,500 a consumer must purchase a new vehicle rated at least 2 mpg higher and to receive a voucher of $4,500, the new vehicle must get at least 5 mpg more. The minimum fuel economy for a light-duty truck or SUV must be at least 18 mpg.
- ***Large light-duty trucks:*** For owners of large light-duty trucks (pick-up trucks and vans weighing between 6,000 and 8,500 pounds), to receive a voucher of $3,500, a consumer must purchase a new truck that gets at least 1 mpg higher. To receive a voucher of $4,500, the new vehicle must get at least 2 mpg more. The minimum fuel economy for a large light-duty truck is at least 15 mpg.
- ***Work trucks:*** Owners of "work trucks" (8,500 and 10,000 pounds) can receive a $3,500 voucher for trade-ins of models built before 2002 in the same or lower weight class. Since the EPA does not issue mileage measures for these trucks, supporters of the bill reason that "newer models are cleaner than older models, the age requirement ensures that the trade will improve environmental quality."

Under the program, when the "clunkers" are traded in, they would have to be "crushed or shredded," taking the vehicles off the road forever. With the exception of a drive train or an intact engine block, the entity responsible for disposing of the car is eligible to sell off vehicle parts. In order to be the "custodian of the vehicles", dealers must pay the federal government up to $60 per car when a "clunker" is brought in for an exchange. There is a limit of one voucher per single or joint owner of a vehicle and the law prohibits from charging additional fees in association with the voucher program.

In order to administer the program, P.L. 111-32 required the DOT to promulgate many of the regulations of the new programs and provide information for consumers and dealers within 30 days of enactment. According to many dealers, the regulations have been burdensome and difficult to comply with. The bill also required the DOT to *maintain a database* of vehicle identification numbers (VIN) for both new vehicles purchased and "clunkers" that were brought in to be destroyed.

Unlike other forms of auto-tax credits, consumers would not see the voucher under "cash for clunkers." Instead dealers would deduct the price of the voucher and the government would reimburse dealers for the credit directly. The law allows the voucher to be used in concert with other tax credits or dealer special offers.

Conservative Concerns:

- ***Constitutionally Dubious:*** The Constitution, in Article I, Section 8, Clause 3, grant Congress the power to regulate interstate commerce, not participate in it.

- ***Another Costly Auto Bailout:*** The bill appropriates $2 billion of new spending, subject to appropriation. This is on top of the $86 billion American taxpayers have provided to help "restructure" the auto industry.

- ***Little Environmental Benefit:*** Cash for Clunkers will most likely not have the anticipated environmental benefits because additional fuel efficiency often leads to more driving and new cars will have little impact on a reduction of overall carbon dioxide emissions, according the Competitive Enterprise Institute.

- ***Weakens Charitable Giving:*** Some conservatives may be concerned that an unintended consequence of the law is that it will make Americans less likely to donate older automobiles to charities that provide low-income and disabled individuals with affordable automobiles.

- ***May Disproportionally Help Foreign Auto Companies:*** With the high fuel efficiency requirements to qualify for the full credit, the bill may actually help foreign auto manufactures, whose fleets typically have smaller, more fuel efficient cars than GM or Chrysler have produced.

- ***Higher Priced Used Cars:*** The legislation requires dealers to remove "clunkers" from the market through salvage, reducing the amount of pre-owned supply. Families that still cannot afford a new automobile, even with the voucher, will face rising prices in the used car market during the current recession when affordability is an even greater issue.

- ***Bureaucratic Problems:*** Under the law, the DOT was required to promulgate many of the regulations to implement the program within 30 days. Many congressional offices have heard from auto-dealers stating the administration "rolled the program out before it was ready to properly administer it."

Committee Action: None.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO cost estimate is for H.R. 3435 is unavailable, but the bill appropriates $2 billion for P.L. 111-32.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill expands upon a newly enacted program for car purchases by $2 billion.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. However, the cash for clunkers program has imposed a number of mandates on auto-dealers to comply with the program.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable for H.R. 3435. Many conservatives may question the constitutional authority of this bill.

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