

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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WASHINGTON, DC 20515-6115

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October 13, 2011

The Honorable Patty Murray
Chairwoman
Joint Select Committee for Deficit Reduction
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeb Hensarling
Chairman
Joint Select Committee for Deficit Reduction
129 Cannon House Office Building
Washington, DC 20515

Dear Madame Chairwoman and Mr. Chairman:

As the ranking Democrat on the Energy and Commerce Committee, I am writing to offer views on the policies the Joint Select Committee for Deficit Reduction should pursue in its efforts to meet its deficit reduction goals. These views have been shared with the Democratic members of the Committee and reflect valuable input from the members.

There are important initiatives within the jurisdiction of the Committee that in combination would drive significant short-term economic growth and job creation, while being fiscally responsible over the long term. These include policies for spurring economic growth by providing more spectrum for continued technological innovation, for ensuring our nation can compete in the clean energy economy of the future, and for reducing health care costs while preserving the viability of Medicare and Medicaid.

These initiatives are described below. They would involve additional spending of \$16 billion in the near term to grow the economy and create over 560,000 jobs. Over ten years, they would save over \$150 billion for deficit reduction and addressing Medicare's perennial doctor payment problem.

At the outset, however, I want to emphasize that any product of the Joint Select Committee must be balanced across spending and revenue accounts. Significant cuts in spending

The Honorable Patty Murray
The Honorable Jen Hensarling
October 13, 2011
Page 2

have already been enacted this year through the appropriations process and the Budget Control Act. The 2011 appropriations reduced projected deficits over the next ten years by \$357 billion and the Budget Control Act saves an additional \$992 billion over the same period. Almost all of these savings come from spending cuts. As a result, the majority of the \$1.2 trillion to \$1.5 trillion in additional deficit reduction the Joint Select Committee is considering should be composed of revenues to balance the spending cuts already enacted.

Economic Growth and Job Creation Initiatives

Spectrum Policy

The Joint Select Committee should consider new spectrum auctions as a mechanism to create jobs and raise significant revenue for deficit reduction. Either as part of your recommendations or through separate legislation, Congress should provide the Federal Communications Commission with authority to conduct voluntary incentive auctions to efficiently and responsibly repurpose broadcast and other spectrum for wireless broadband uses. In addition to authorizing incentive auctions, such legislation should direct the Administration to identify any federal spectrum that can be utilized more efficiently and reallocated for auction or shared use.

A portion of the proceeds from auctions associated with these policies should be used to fund the creation of a nationwide, interoperable public safety broadband network.

If structured appropriately, these policies and auctions will deliver considerable economic and public safety benefits for our country. These benefits have been well documented by economists, industry stakeholders, state and local governments, and public interest organizations. Funding the deployment of a nationwide wireless broadband communications network for public safety agencies would lead to the creation of an estimated 100,000 new jobs in the information and communications technology industry and, over time, produce other economic benefits of \$4 billion to \$8 billion per year. Even greater benefits can result from auctioning new spectrum. Expert economists believe that the build-out of 300 MHz of new spectrum made available for commercial mobile broadband uses will create more than 300,000 new jobs and an additional \$230 billion in GDP over five years. Because the proceeds of the spectrum auctions would significantly exceed the amount needed to build out the public safety network, the net savings should be in the range of \$15 billion.

First responders, governors, state and local officials, and every major public safety organization in America urge that the critical “D block” of spectrum be reallocated for public safety use. This additional spectrum will ensure that public safety has sufficient bandwidth to meet current and future wireless broadband needs. The Joint Select Committee should include this reallocation in any spectrum proposal.

The Honorable Patty Murray
The Honorable Jen Hensarling
October 13, 2011
Page 3

Clean Energy Policy and Environmental Initiatives

Our nation is in danger of falling behind China and other nations in the development and deployment of clean energy sources. This is a market we cannot afford to surrender to Chinese and other economies. The Joint Select Committee should approve several measures adopted by the House in the 111th Congress to support investment in clean energy technology and infrastructure.

The Home Star Energy Retrofit Act (H.R. 5019 in the 111th Congress) would create jobs, save energy, and lower families' energy bills by providing rebates to homeowners to make their homes more energy-efficient. This legislation, authorized at a \$6 billion cost, would help three million families to renovate their homes to be more energy efficient, resulting in \$9.2 billion in estimated consumer savings on energy bills over the next 10 years. Home Star would also create 168,000 new jobs in the United States. The program is supported by a broad coalition of business, labor, environmental, and consumer groups, including the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Association of Home Builders, and the Home Star Coalition.

Additionally, the Clean Energy Technology Manufacturing and Export Assistance Act (H.R. 5156 in the 111th Congress) would help bolster the competitiveness of the U.S. clean technology industry here at home and in the international marketplace by supporting the development and implementation of a national clean energy technology export strategy, and by assisting U.S. firms with export assistance in finding and navigating foreign markets to export their goods and services abroad.

Further, the Assistance, Quality, and Affordability Act (H.R. 5320 in the 111th Congress) reauthorized and increased funding for the drinking water state revolving fund (SRF) under the Safe Drinking Water Act. The drinking water SRF provides an important source of funding for public water systems, which are projected to face a significant increase in investment needs as existing infrastructure ages. This investment will create jobs and boost demand for sectors like the cement industry that are struggling with reduced government and private-sector construction.

Just last month, some of America's leading businessmen, including Bill Gates, the CEOs of Xerox and General Electric, and the former CEO of Lockheed Martin, issued a warning that America cannot afford to give up on leading the clean energy future. These industry leaders said:

We know the federal government has a vital role to play in energy innovation. We know the federal energy innovation system can be structured effectively to achieve real results. And we know there are several ways to pay for public investments in this domain. If the

The Honorable Patty Murray
The Honorable Jen Hensarling
October 13, 2011
Page 4

U.S. fails to invent new technologies and create new markets and new jobs that will drive the transformation and revitalization of the \$5 trillion global energy industry, we will have lost an opportunity to lead in what is arguably the largest and most pervasive technology sector in the world.

It is imperative that we not surrender the clean energy market to China and other countries. The United States must have policies and incentives that are adequate to ensure that our manufacturers can compete effectively in the global clean energy market.

Health Savings and Costs

Health care spending has bedeviled budgeting by families and the federal government alike for generations. To address these issues, the last Congress engaged in a lengthy discussion and debate about the best way to address the future course of health care spending growth that culminated in the passage of the Affordable Care Act. It is premature for the Joint Select Committee to go further without seeing the ACA provisions implemented, and it is irresponsible to cut further only from public programs when there are deep concerns regarding healthcare cost increases in the private sector.

Recognizing the Value of the ACA

The delivery system reforms in the Affordable Care Act sharply reduced the growth trend in Medicare spending. Over the 25 years from 1985 to 2009, Medicare per capita spending growth averaged 6.7%; over the next 10 years, the Medicare Trustees project that Medicare per capita spending will grow by just 3% on average. Under the ACA, the long-run deficit in the Medicare Hospital Insurance Trust Fund was reduced by 80%, contributing to a significant extension in the solvency of that Fund.

In addition to dramatically reducing the growth rate in Medicare, the ACA recognized what has been acknowledged by leaders on both sides of the aisle: that Medicare and Medicaid costs cannot be considered in a vacuum. Addressing healthcare cost growth must also involve reducing private health care costs. That is why the ACA pursued cost savings across the entire health care system by encouraging the prevention of chronic disease; the furtherance of comparative research to identify which health care services work best; the establishment of competitive health insurance marketplaces where insurers will compete to offer the best deals to individuals and small businesses; and many other insurance market regulations that require insurers to compete on the basis of value instead of gaming.

The Joint Select Committee should recognize the value of the ACA provisions aimed at lowering healthcare costs and maintain its efforts to reduce costs across the health care system.

Protecting Coverage

It is equally important that the Joint Select Committee not pursue policies that would undermine coverage for Medicare, Medicaid, or people who will enroll in health insurance through exchanges. Many proposals put forth to reduce spending would undermine programs essential to the health and financial security of lower-income and middle class families. To take an extreme example, the Republican budget adopted in the House of Representatives would cause tens of millions of people to lose their health insurance through Medicaid and insurance exchanges.

Avoiding Cost Shifts

The Joint Select Committee must resist the temptation to reduce federal health care costs by passing these costs to other payers who are even less able to afford them. Proposals that shift costs to states or to beneficiaries do not control health care costs; they merely shift around the burden to less privileged groups that are less able to defend their interests.

State budgets have been hard hit by the recession, so states are not equipped to manage a reduction in federal support for the Medicaid program. The Joint Select Committee should reject restrictions on state financing sources such as further limitations on provider taxes. Important integrity protections to assure those taxes are broad based and uniformly imposed have been in place since the 1990s. Further limiting their use takes away a critical source of support for the Medicaid program. Similarly, the Joint Select Committee should reject reductions to federal payments through establishing a blended matching rate or cutting matching payment rates that reduce federal dollars supporting state coverage efforts. This would lead directly to benefit cuts and payment cuts for Medicaid providers – cuts that will jeopardize access to care for the lowest income Americans and undermine implementation of the Affordable Care Act.

Beneficiaries in Medicare are similarly unable to cover extra costs that would arise from cuts to Medicare benefits. It is not widely known that Medicare coverage is actually less generous than most large employer plans. Less than half of the medical costs of Medicare beneficiaries are actually covered by Medicare. Medicare beneficiaries do not need more “skin in the game.” The Joint Select Committee should discard proposals that would increase beneficiaries’ premiums or cost-sharing, and that would reduce their benefits.

Rooting Out Inefficiencies and Overpayments

It is possible to identify areas where Medicare and Medicaid overspend, such as on prescription drugs and uncoordinated care. Your Committee should focus on those areas, where savings can be had without increasing burdens on beneficiaries and states. Waste, fraud, and abuse should also be a high priority for continued attention by the Congress, building on the

major anti-fraud policies enacted as part of the ACA that are currently being implemented by the Administration.

On the top of your list for health care savings should be righting the wrong done to taxpayers in the creation of the Medicare prescription drug program. Historically, Medicaid provided drug coverage for the low-income beneficiaries eligible for both Medicaid and Medicare. When these dual-eligibles received their drug coverage through Medicaid, drug manufacturers were required to pay a rebate to the government in return for the extra volume they received as a result of Medicaid coverage, a practice commonly employed by large private purchasers. This rebate is no longer being collected, however, because the 2003 Medicare Part D prescription drug law (known as the Medicare Modernization Act) transferred drug coverage for these dual-eligibles from Medicaid to Medicare. The cost to the taxpayers and beneficiaries is hundreds of billions of dollars. Addressing this issue would save the government an estimated \$135 billion over 10 years.

The Committee on Energy and Commerce addressed this wrong in the version of health reform legislation it approved in the last Congress, as did the full House. The Joint Select Committee should take this opportunity to take back the taxpayer's money in a way that benefits Medicare and that does not hurt beneficiaries.

Fixing the SGR and Addressing other "Extenders"

Any health savings should be first allocated to immediate problems in Medicare. The sustainable growth rate system, which controls the level of physician payments ever year, must be replaced with a sustainable, fair policy that encourages coordinated care. And a series of modest but essential "health extenders" need to be enacted with any health savings. Those include transitional medical assistance (to provide health insurance for Medicaid beneficiaries returning to work), the qualifying individual program (that provides cost sharing assistance to Medicare enrollees with less than \$15,000 in income), and modifications to restrictions on therapy caps in Medicare (to ensure that Medicare beneficiaries can continue to access physical, occupational, and speech therapy), and some small payment provisions.

Promoting Prevention

As we consider various options to make our health financing programs more efficient and cost effective, we must not lose sight of the critical role of both health workforce programs and health promotion and disease prevention activities in helping to achieve this goal. Keeping people healthy and productive as long as practical is the best possible medicine for treating many of the ills of our nation's health care system, including rising medical costs. We will not make significant progress in reigning in our national health care bill until we move from a medical-based to a wellness-based model of health care. The primary health workforce programs and the

The Honorable Patty Murray
The Honorable Jen Hensarling
October 13, 2011
Page 7

Prevention and Public Health Public Fund authorized under the Public Health Service Act are designed to do just that. Because of their enormous potential in moving the country in this direction, even in these most difficult economic times, our financial commitment to these programs should remain steadfast.

Lowering Generic Drug Costs

The Joint Select Committee would be remiss if it did not recommend language similar to S. 27, the Preserve Access to Affordable Generics Act, a bill that limits the ability of brand drug companies to pay generic drug companies to delay the entry of a generic drug into the market. Limiting these "pay for delay" arrangements is essential if consumers are to get access to low-cost generic drugs at the earliest possible opportunity. Inclusion of provisions like S. 27 would save federal government close to \$3 billion over ten years. Consumers would save even more.

Conclusion

The initiatives described in this letter would stimulate growth, create jobs, and promote long-term reductions in our deficit. They also reflect sound policies that promote the well-being of consumers across the country. I urge the Joint Select Committee to give these measures due consideration.

Sincerely,



Henry A. Waxman
Ranking Member

cc: The Honorable Max Baucus
Member
Joint Select Committee for Deficit Reduction

The Honorable John Kerry
Member
Joint Select Committee for Deficit Reduction

The Honorable Dave Camp
Member
Joint Select Committee for Deficit Reduction

The Honorable Patty Murray
The Honorable Jen Hensarling
October 13, 2011
Page 8

The Honorable Fred Upton
Member
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The Honorable Jon Kyl
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The Honorable Pat Toomey
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The Honorable Rob Portman
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The Honorable James E. Clyburn
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The Honorable Xavier Becerra
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