



Legislative Bulletin.....April 13, 2011

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H.R. 1217—A bill to Repeal the Prevention and Public Health Fund.

Key Conservative Take-Away Points

- Repeals an Obamacare federal slush fund at the disposal of the Secretary of Health and Human Services and appropriated with federal taxpayer funds in perpetuity.
- Reasserts Congressional authority to weigh the value of different public health service programs and gives Congress the ability to prioritize federal spending through the regular appropriations process.

For more details on these points, see below.

**H.R. 1217— a bill to Repeal the Prevention and Public Health Fund
(Pitts, R-PA)**

Order of Business: The bill is scheduled to be considered on Wednesday, April 13th, under a yet to be determined rule the House Committee on Rules is scheduled to report out later this afternoon.

Summary: H.R. 1217 repeals the Prevention and Public Health Fund (Fund), a new fund created in Section 4002 of the Patient Protection and Affordable Care Act (Obamacare, Public Law 111-148). The Fund is a \$17.75 billion account (FY2012-2021) administered at the discretion of the Secretary of Health and Human Services (HHS) to provide “expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public sector health costs.” Section 4002 appropriates \$1 billion for FY2012, \$1.25 billion for FY2013, \$1.5 billion for FY2014, and \$2 billion in each subsequent fiscal year *in perpetuity*. The HHS Secretary has *full authority* to spend funds in this account on any program or activity authorized under the Public Health Service Act (PHSA) that the Secretary chooses without further Congressional action. The Fund provides supplemental funding for PHSA programs above and beyond their FY2008 level. H.R. 1217 does not repeal any specific program.

Additional Background: A February 2011 Congressional Research Service (“CRS”) [report](#) summarizes Obamacare’s advance appropriations amounting to a minimum of \$105 billion (out

of an original total [spending estimate](#) of \$938 billion for Fiscal Years 2010-2019) to support new or existing grant programs and other activities outside of the annual appropriations process.¹ H.R. 1217 is the first of at least five bills reported out of the House Committee on Energy and Commerce scheduled for a floor vote to eliminate some of these mandatory appropriations.

According to HHS, last year the Fund [awarded](#) \$253 million in grants to six health professions programs administered by the Health Resources and Services Administration and another [\\$250 million](#) for Community and Clinical Prevention, Public Health Infrastructure, Research and Tracking, and Public Health Training. Also, HHS recently [announced](#) \$750 million in new “investments” this year of federal taxpayer funds from this Fund—all without Congressional input on the value of these health programs.

Democratic Committee Members of the House Committee on Energy and Commerce asserted in their [Dissenting Views](#) accompanying the Committee Report that Congress has appropriate oversight over how the Fund’s appropriated monies are to be used. However, at a March 9th Health Subcommittee hearing, HHS Secretary Kathleen Sebelius [stated](#) that she does not need further Congressional approval in deciding how to spend Section 4002 monies, and she can fund activities above and beyond the levels Congress appropriated.

RSC Bonus Fact: A similar public health trust fund authorized—but would have been subject to future Congressional appropriations—with \$34 billion of federal funding over 10 years was included in the House Democrats’ health care reform legislation ([H.R. 3962](#), the Affordable Health Care for America Act) that passed the House on November 7, 2009. However, the funding for this fund in H.R. 3962 would have required Congress to provide subsequent appropriations.

Additionally, Speaker Boehner recently released a [video](#) which describes House Republican efforts to repeal Obamacare slush funds.

Committee Action: H.R. 1217 was introduced on March 29, 2011 and referred to the House Committee on Energy and Commerce. Prior to its introduction, the Subcommittee on Health held a hearing on a discussion draft identical to H.R. 1217 on March 9, 2011. The Subcommittee marked up the bill and reported it out favorably on March 31, 2011. The full committee marked up and reported it out favorably on April 5, 2011.

Administration Position: No Statement of Administrative Policy was available at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No. According to the accompanying Congressional Budget Office [report](#), the bill *reduces* direct spending by \$16 billion dollars over 10 years (FY2012-FY2021).

¹ An updated CBO [cost estimate](#) for the new entitlement spending in the law released on February 18, 2011 shows the total costs for FY2012-2021 to be \$1.390 trillion representing a 48% increase from the original March 20, 2010 CBO estimate of \$938 billion for FY2010-2019.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No. H.R. 1217 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? The House Committee on Energy and Commerce, in House Report [112-057](#), asserts that, "...H.R. 1217 contains no earmarks, limited tax benefits, or limited tariff benefits."

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill 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."

Outside Organizations Support: Citizens Against Government Waste, Concerned Women of America, Freedom Works, and the National Taxpayers' Union support H.R. 1217 and will be key voting the vote. Americans for Tax Reform and Americans for Prosperity support the bill but will not be key voting.

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