

Prior to commencing their holiday recess, Congress approved two highly anticipated tax and spending bills – the omnibus appropriations package and the tax extenders package. The \$1.1 trillion omnibus bill incorporates legislation from 12 appropriations subcommittees and will keep the government running through September of 2016, whereas the \$629 billion tax extenders package will extend more than 50 tax provisions and make 22 provisions permanent. Combined, the \$1.8 trillion spending bill includes several provisions which will have a direct impact on the bioscience industry and companies in our state.

Below you will find an overview on a few of the provisions found in each package, you can find a full summary of the omnibus appropriations package [HERE](#) and the tax extenders package [HERE](#).

### **Summary of Relevant Sections in the Omnibus:**

**National Institutes of Health (NIH):** The bill includes a program level of \$32 billion for the NIH, \$2 billion above the 2015 enacted level (This matches BIO's ask for NIH). It includes specific increases for Alzheimer's disease research, brain research, antibiotic research, and the Precision Medicine Initiative. Plus, it provides a general increase to all NIH Institutes and Centers to continue basic bio-medical research and translational research through programs like the Clinical and Translational Science Awards and Institutional Development Award program to help scientists discover cures.

**Food and Drug Administration (FDA):** The FDA receives a total of \$2.72 billion in discretionary funding in the bill, an increase of \$132 million over the fiscal year 2015 enacted level and \$14 million below the President's budget request (BIO had requested \$2.8B). This is roughly \$90 - \$100 million above the House and Senate committee bills passed earlier this year. Total funding for the FDA, including revenue from user fees, is \$4.68 billion. Within this total, food safety activities are increased by \$104.5 million, and various medical product safety activities – including additional funds for the Combating Antibiotic Resistant Bacteria initiative, orphan product development grants, foreign high-risk inspections, and precision medicine – are increased by over \$24.3 million.

#### **Public Health Preparedness and Response:**

- Biomedical Advanced Research and Development Authority (BARDA) received \$511M and includes moneys for Combating Antibiotic-Resistant Bacteria (CARB)
- BioShield Special Reserve Fund (SRF) received \$510 million, an increase of \$255 million above FY2015
- Strategic National Stockpile (SNS) received \$575M
- Pandemic Influenza received \$72M
- Medical Countermeasures Inactive (MCMi) received \$25M

**Prescription Drug Report:** Directs the Secretaries of HHS and the VA to submit the report to the Committee using only data accessible under current law, and removes the reporting requirement for drug pricing information in countries boarding the US and other nations.



**340B Drug Program:** HRSA is requested to provide a briefing to update the Committees on Appropriations of the House of Representatives and the Senate on the status of 340B guidance, the secure website, and covered entities in the 340B drug program. The proposed user fee was dropped.

**Genomic Editing:** This provision prevents FDA from reviewing applications related to genome-editing tools to modify the DNA of human embryos – the human germline – until “serious and unquantifiable safety and ethical issues can be resolved”.

## **Summary of Relevant Sections in the Tax Extenders:**

**Medical Device Excise Tax:** A two-year moratorium on the Medical Device Excise Tax was established, which will apply to sales after December 31, 2015 through December 31, 2017.

**Research and Development (R&D) Tax Credit:** The R&D Credit was made permanent. In addition, it was expanded to pre-tax startup companies by allowing them to use the R&D Credit against their payroll tax liability.

**Second Generation Biofuels Production Credit:** The production tax credit for second generation biofuels was extended for two years (1/1/15 to 12/31/16).

**Special 50 Percent Bonus Depreciation Allowance for Second Generation Biofuel Plant Property:** The 50 percent bonus depreciation incentive for second generation biofuel plant property was extended for two years (1/1/15 to 12/31/16).

**Controlled Foreign Corporation (CFC) Look Through Treatment:** The CFC look through treatment was extended for five years (1/1/15 to 12/31/19).

**Bonus Depreciation:** The broad 50 percent bonus depreciation incentive was extended for five years under a phase-out schedule. Property placed in service in 2015, 2016 and 2017 can take 50 percent. Property placed in service in 2018 can take 40 percent. Property placed in service in 2019 can take 30 percent. Bonus depreciation will not be available in 2020 and later.

**Capital Gain Exclusion for Small Business Stock:** The 100 percent exclusion of the capital gain on certain qualified small business stock was extended for two years (1/1/15 to 12/31/16).

### **Contact:**

Leah Lindahl

Vice President, Colorado BioScience Association

[llindahl@cobioscience.com](mailto:llindahl@cobioscience.com)

303-592-4072

\*\* Thank you to the Biotechnology Industry Organization for their detailed summary of the tax extenders and omnibus provisions.