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Legislative Bulletin……………………………….………July 29, 2011

Contents:

UPDATED: S. 627 (as amended) — Budget Control Act of 2011

Take Away Points

Debt Limit Increase: The bill provides a $900 billion increase in the debt limit (subject to a presidential request, which is essentially certain). Of this amount, $400 billion would be instant, while $500 billion would be subject to congressional disapproval. The Congress could disapprove of the President's request under similar procedures to the McConnell plan, but the President could veto the resolution of disapproval, so a two-thirds veto override would almost certainly be necessary to prevent the debt ceiling increase. Subject to enactment of deficit reduction legislation totaling at least $1.6 trillion (per the Joint Select Committee on Deficit Reduction)—**as well as a Balanced Budget Amendment (defined as a joint resolution entitled: "Joint resolution proposing a balanced budget amendment to the Constitution of the United States")**—the bill would allow a debt ceiling increase of an additional $1.6 trillion.

Discretionary Spending Caps: The legislation sets discretionary spending limits that run from $1.043 trillion in FY 2012 to $1.234 trillion in FY 2021. According to CBO, the discretionary caps reduce spending by $840 billion over ten years compared to the most recent CBO baseline. For FY 2012, the legislation sets a cap that is $7 billion less than FY 2011 non-emergency discretionary spending, but is $24 billion higher than the House 302(a) allocation.

Joint Select Committee on Deficit Reduction: The bill would create a twelve-member Joint Select Committee on Deficit Reduction, which would be required to provide recommendations (including legislative language) to reduce the deficit by at least $1.6 trillion. The bill does <u>not</u> prevent the joint committee from reporting legislation to increase taxes.

Pell Grants/Mandatory Spending: The legislation fills a shortfall of $17 billion (over two years) for the federal Pell Grant program pursuant to current eligibility requirements. The bill offsets this spending by terminating Direct Loan Repayment Incentives, as well as subsidized loans for graduate students. On net, these provisions, according to the sponsor, reduce the deficit by $5 billion.

Comparison to Cut, Cap, and Balance (CCB) Act (H.R. 2560):

- **Cut:** The legislation imposes discretionary spending caps that for next year are $7 billion below last year. The CCB provided a discretionary cap that would save $31 billion in FY 2012 and a mandatory spending cut of $51 billion in FY 2012.

- **Cap:** The legislation imposes discretionary spending caps, and makes changes to mandatory spending that save $917 billion over ten years. The CCB imposed a total spending limit that would have led to savings of $5.8 trillion over ten years (for both discretionary and mandatory spending).

- **Balance:** The legislation requires consideration of a Balanced Budget Amendment by both houses of Congress in the last three months of this year. This legislation further requires that a Balanced Budget Amendment be sent to the states prior to the <u>second</u> tranche of the debt ceiling increase (the $1.6 trillion increase). The CCB required the amendment to be sent to the states prior to <u>any</u> debt limit increase becoming effective. The bill also, in contrast to the House-passed Cut, Cap, and Balance Act, does not require the amendment to include a tax limitation provision or a limit on spending as a percentage of GDP.

<u>Order of Business</u>: The bill is being considered under a closed rule. The rule provides two hours of debate with one hour equally divided and controlled by the chair and ranking minority member of the Committee on Rules, 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means, and 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on the Budget.

The rules reported out of the Rules Committee providing for consideration of the bill self-execute the changes noted below to the bill.

<u>Further Changes to Legislation Regarding Balanced Budget Amendment</u>: The amended version of the Budget Control Act (S. 627) would add another requirement before the second tranche of the debt ceiling increase could occur. The added requirement is that the Congress has passed a Balanced Budget Amendment (through both House and Senate) and sent it to the states for ratification. The bill defines a Balanced Budget Amendment as a joint resolution entitled: "Joint resolution proposing a balanced budget amendment to the Constitution of the United States."

<u>Changes Made in Amended Version</u>: In addition to the caps on discretionary budget authority described below in the summary, the original version of the bill included caps on outlays in 2012 and 2013 as follows:

- 2012: $1.262 trillion
- 2013: $1.196 trillion

Normally, CBO will derive an outlay projection from the budget authority amount (these caps are described in summary below). But in this case, CBO assumed that outlays would be at the same level as the outlay *cap*.

The new version of the bill removes the 2012 and 2013 outlay caps. Without these caps (the budget authority caps are still entirely the same as the original version), CBO derived outlays from budget authority using its normal formula. So, according to CBO, removing these caps in 2012 and 2013 reduced discretionary outlays by a total of $45 billion in 2012 and 2013 (plus $20 billion in interest savings).

CBO explains its treatment of outlays for the first version of the bill, as well as this one, as follows:

> "Compared with the version of the Budget Control Act of 2011 proposed on July 25, CBO estimates that eliminating the outlay caps for 2012 and 2013 (that were contained in that proposal) would lead to outlays that are about $45 billion lower over the 2012-2021 period. (The resulting reduction in debt service costs would increase the total reduction in outlays to about $65 billion over the 10-year period.) CBO had assumed that the outlay caps would effectively set a target for discretionary spending; that target was greater than the outlays that CBO would normally estimate by applying average aggregate rates of spending to the reduction in discretionary budget authority specified for each year. Therefore, without such caps, the effect of the proposed reductions in budget authority would be more pronounced."

The current bill does not set a lower cap for outlays at the new, lower level estimated by CBO.

The revised CBO score shows the bill reducing outlays by $917 billion over ten years (including interest savings), which is higher than the $900 billion debt ceiling increase provided by the bill.

Also of note, the amended version of the bill creates a point of order in the House and Senate (requiring a three-fifths vote to waive in Senate) against legislation that causes the discretionary spending limits in this bill from being violated.

Summary:

Title I—Discretionary Spending Caps

In general, Title I of the bill provides discretionary spending limits, enforced via sequestration, for fiscal years 2012-2021. In FYs 2012 and 2013, the bill provides a funding range for defense spending within this cap (noted below). From FY 2014-2021, the bill provides a *total* non-emergency discretionary cap. For all years, the limit falls on non-"emergency"-designated spending only.

Sequestration: The bill, as noted above, enforces the discretionary caps via sequestration. This means that if Congress exceeds the discretionary spending limit for a year, OMB would be directed to make automatic spending reductions of an amount needed to meet the cap. The President would have the option of exempting military personnel pay from the sequestration.

Emergency-Designated Spending: With both a presidential designation, and with Congress so designating by statute, an appropriation may be classified as an "emergency," and not be subject to the discretionary spending caps. This would be the case with spending for the Global War on

Terrorism, but also potentially for domestic spending that a future President and Congress want to exempt from the cap that meet the definition of "emergency" in the bill.

The bill provides a definition of "emergency" as follows. It would have to be spending for "the prevention or mitigation of, or response to, loss of life or property, or a threat to national security" and also be "unanticipated."

The bill further defines "unanticipated" as:

- "sudden, which means quickly coming into being or not building up over time;
- "urgent, which means a pressing compelling need requiring immediate action;
- "unforeseen, which means not predicted or anticipated as an emerging need; and
- "temporary, which means not of a permanent duration."

The bill also provides for, in the House, a motion for a Member to strike the "emergency" designation for a spending item, thus making it subject to the spending cap.

First-Year Cut: The non-emergency discretionary cap for FY 2012 would be $1.043 trillion, which is a **$7 billion** reduction compared to FY 2011. The House's appropriations process has been on course to reduce such spending by $31 billion, a number which many RSC Members felt was insufficient (The RSC budget would have reduced this spending by $71 billion). Per the bill, the discretionary cap for FY 2012 is **$24 billion** above the current FY 2012 House appropriations plan.

Ten-Year Discretionary Caps: The bill sets discretionary spending caps that increase gradually over the FY 2012-2021 period. According to CBO, the total spending cut compared to the baseline is $840 billion over ten years. However, the spending cap rises from $1.043 trillion in FY 2012 to $1.234 trillion in FY 2021. This is measured as a cut because CBO's baseline assumes growth with inflation, instead of using zero baseline budgeting. Within the cap, there is a firewall protecting defense in FY 2012 and FY 2013, but not from FY 2014-2021.

The numbers by year are as follows:

- **2012:** $1.043 trillion (within this amount, between $535.4 billion and $568.6 billion would be for defense)
- **2013:** $1.047 trillion (within this amount, between $537.4 billion and $570.6 billion would be for defense)
- **2014:** $1.066 trillion
- **2015:** $1.086 trillion
- **2016:** $1.107 trillion
- **2017:** $1.131 trillion
- **2018:** $1.156 trillion
- **2019:** $1.182 trillion
- **2020:** $1.208 trillion
- **2021:** $1.234 trillion

Title II—Vote on Balanced Budget Amendment

The bill requires a vote on a Balanced Budget Amendment (BBA) in each house of Congress during last three months of 2011. If one house did pass a BBA, the other house would have to take up that BBA as-passed within 15 days.

If the Balanced Budget Amendment is sent to the states (as well as enactment of legislation from the Joint Select Committee on Deficit Reduction) this would lead to a $1.6 trillion debt ceiling increase. The bill defines a Balanced Budget Amendment as a: "Joint resolution proposing a balanced budget amendment to the Constitution of the United States."

The first $900 billion of the debt limit increase is not conditioned on a Balanced Budget Amendment being sent to the states. The bill also, by contrast to the House-passed Cut, Cap, and Balance Act, does not require the constitutional amendment to include a tax limitation provision or a limit on spending as a percentage of GDP.

Title III—Debt Ceiling Increase/Disapproval Process

The bill would grant the President an automatic $400 billion debt-ceiling increase if he certified before the end of calendar year 2011 that the federal debt is within $100 billion of the debt limit. Presumably such certification would come immediately upon enactment of this bill.

The President would get an additional $500 billion debt-ceiling increase if the Congress failed to pass a resolution of disapproval, subject to expedited procedures in the House and Senate (similar procedure to McConnell plan). The bill requires the resolution of disapproval to be reported out of a committee within 5 calendar days.

If the resolution of disapproval passed, the President would presumably veto it, and the Congress could only override it with a two-thirds vote in both houses, pursuant to Article I, Section 7 of the Constitution.

If the resolution of disapproval were enacted, the $500 billion debt ceiling request would not become effective, and federal spending (excepting Medicare, defense, veterans, Social Security) would be cut by $400 billion.

If, after the debt ceiling is increased by $900 billion, the President later certifies that the federal debt is again within $100 billion of the debt limit, the President could request up to $1.6 trillion in additional debt, subject to the same disapproval procedures above. This debt limit increase would be contingent on the joint committee described below leading to enactment of a deficit reduction package in excess of $1.6 trillion—as well as Congress sending to the states a Balanced Budget Amendment (defined as a joint resolution entitled: "Joint resolution proposing a balanced budget amendment to the Constitution of the United States").

Title IV—Joint Select Committee on Deficit Reduction

The bill would create a twelve-member Joint Select Committee on Deficit Reduction, which would be required to provide original recommendations (including legislative language) to "significantly" improve both the short- and long-term fiscal imbalance of the federal government, as well as to consider the recommendations from existing standing committees of Congress. The committee would consist of six Republicans (3 appointed by Speaker of House, 3 appointed by Minority Leader of Senate) and six Democrats (3 appointed by Minority Leader of House, 3 appointed by Majority Leader of Senate).

The goal of the committee would be to reduce the deficit by $1.8 trillion, but it would have to do so by at least $1.6 trillion.

A majority of the committee (seven members) would be able to report its legislative recommendations for reducing the deficit before Thanksgiving, and such legislation would be subject to expedited consideration in both houses.

The bill does <u>not</u> prevent the joint committee from reporting legislation to increase taxes.

Title V—Pell Grant/Student Loan Reforms

The legislation fills a shortfall of $17 billion (over two years) for the federal Pell Grant program, pursuant to current eligibility requirements. The bill offsets this spending by terminating Direct Loan Repayment Incentives, as well as subsidized loans for graduate students. On net, these provisions reduce the deficit by $5 billion.

<u>Additional Background</u>: This past spring, the RSC proposed a "cut, cap, and balance" solution to the debt ceiling impasse. The RSC proposal (expressed in a letter signed by 103 Members) proposes that in order to enact any debt ceiling increase, we must first:

1. Enact discretionary and mandatory spending cuts that would reduce the deficit in half next year;

2. Implement statutory, enforceable total-spending caps to reduce federal spending to 18% of GDP; and

3. Send to the states a Balanced Budget Amendment with strong protections against federal tax increases and including a Spending Limit Amendment. For more information on the RSC plan, see www.cutcapbalance.com

The House passed H.R. 2560, the Cut, Cap, and Balance Act on July 19, 2011 by 234 to 190, which was based heavily on the principles in the RSC's cut, cap, and balance letter.

<u>RSC Bonus Fact</u>: Prior to this legislation, under a Democrat Congress, the debt limit has been increased six times since September 2007. The increase during this period amounts to $5.329 trillion or *59.4%* (from $8.965 trillion to $14.294 trillion).

<u>Committee Action</u>: The legislation has not been considered by any committee.

Administration Position: The Statement of Administration Policy (SAP) says that the President's senior advisors would recommend a veto.

Cost to Taxpayers: According to CBO, the legislation would reduce federal outlays by $917 billion over ten years ($156 billion of this comes from interest savings).

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation allows for a debt ceiling increase of $900 billion, with a potential additional increase of $1.6 trillion (contingent upon enactment of legislation per the joint committee). In this respect, the legislation increases the size of the federal government. However, the legislation also reduces federal spending by $917 billion over ten years. In this respect, the legislation reduces the size of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO score with that information is available, however the legislation does not appear to contain anything that would so qualify.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The bill contains no earmarks.

Constitutional Authority: A committee report with this information is not available at press time.

Outside Organizations (as of press time):

Supporting:
Let Freedom Ring
National Taxpayers Union
Contract from America
60 Plus
Taxpayers Protection Alliance
American Conservative Union
National Restaurant Association

Opposed:
Americans for Limited Government
Americans for Prosperity
Council for National Policy Action
Citizens for the Republic
ForAmerica
Renewing American Leadership Action
Less Government
Tea Party Express
Tea Party Patriots
Family Research Council Action

Opposed and scoring a NO vote:
Heritage Action
FreedomWorks
Liberty Counsel Action

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