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Legislative Bulletin……………………………….………August 1, 2011

Contents:

UPDATED: S. 365—Budget Control Act of 2011

Take Away Points

Debt Limit Increase: The bill provides for a total debt limit increase of between $2.1 trillion and $2.4 trillion. For the first tranche, $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. The bill would then lead to a second debt limit increase (subject to similar disapproval procedures) of between $1.2 trillion and $1.5 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, with the goal of doing so by at least $1.5 trillion. The bill does not prevent the joint committee from reporting legislation to increase taxes.

$1.2 Trillion Trigger: If the committee described above does not lead to enactment of a bill, the Budget Control Act would cut total spending by $1.2 trillion over ten years, with *half of this cut falling on defense-function spending.*

Balanced Budget Amendment: The legislation requires a vote on a Balanced Budget Amendment (without setting criteria on what it must consist of), and does not condition the debt limit increase on its approval. However, if Congress passes a Balanced Budget Amendment, that leads to a $1.5 trillion debt limit increase for the second tranche, as opposed to the potential for an increase of $1.2 trillion.

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 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 legislation further includes a trigger mechanism that, if the Joint Select Committee does not lead to enactment of legislation that at least exceeds this amount, would require an extra $1.2 trillion of spending cuts (divided evenly between defense cuts and some non-defense programs). This is a potential TOTAL cut of $2.117 trillion, which exceeds the amount of the debt ceiling increase in the bill. 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. The CCB required the amendment to be sent to the states prior to any 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.

Order of Business: The bill is being considered under a closed rule providing for one hour of general debate (half hour for Rules Committee, and 15 minutes each for Budget and Ways and Means).

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 separate limits on non-security and security spending (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 division between security and non-security spending in FY 2012 and FY 2013, but not from FY 2014-2021.

The bill defines security spending as any spending for the Department of Defense, the Department of Homeland Security, the Department of Veterans Affairs, the National Nuclear Security Administration, the international community budget account, and all funding for international affairs (such as the State Department and foreign aid). This is a broader definition than House Republicans have previously used since it includes foreign aid spending.

The total cut to security spending in FY 2012 (compared to FY 2011) would be $4 billion. However, it would be theoretically possible to pay for more than all of this reduction with just spending cuts to foreign aid, Homeland Security programs (such as Transportation Security Administration or grant programs), and other non-defense programs.

The numbers by year are as follows:

- **2012:** $1.043 trillion (within this amount $684 billion is for security, and $359 billion for non-security)
- **2013:** $1.047 trillion (within this amount $686 billion is for security, and $361 billion is for non-security)
- **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 this would lead to a $1.5 trillion debt ceiling increase. The bill defines a Balanced Budget Amendment as a resolution with the following title: "Joint resolution proposing a balanced budget amendment to the Constitution of the United 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.

Enactment of a Balanced Budget Amendment would increase the total maximum debt ceiling increase provided under the bill from $2.1 trillion to $2.4 trillion. However, enactment of the Joint Select Committee's proposed legislation could also have this impact.

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).

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 $1.2 trillion in additional debt, subject to the same disapproval procedures above.

The President could instead propose an increase of $1.5 trillion, instead of $1.2 trillion, if a Balanced Budget Amendment is sent to the states. The President could also instead propose an increase of any amount over $1.2 trillion (up to $1.5 trillion) equivalent to the amount of the Joint Committee's deficit reduction.

Trigger on Spending: In the event that the Joint Committee's legislative proposals do not produce a plan that is enacted into law, the bill would lead to automatic spending cuts of $1.2 trillion over ten years (measured against CBO's baseline). The cuts would be divided as follows: 50% on the defense budget function, and 50% on all other spending combined per an amended version of the Gramm-Rudman-Hollings sequestration procedures.

<u>Note</u>: Unless the Joint Committee on Deficit Reduction (described below) enacts into law savings of more than $1.2 trillion, a trigger providing for a reduction in spending over ten years of this amount becomes effective.

Title IV—Joint Select Committee on Deficit Reduction

The bill would create a twelve-member Joint Select Committee on Deficit Reduction. 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 at least $1.5 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. The committee would have to score tax policy against the current law baseline which assumes the AMT "patch" expires, as well as the 2001 and 2003 tax cuts, as well as other expiring tax cut provisions (for example the R and D tax credit). This means that a proposal to increase the top tax rate to 39.6% would not score as leading to much new revenue, because the top rate returns to 39.6% after 2012 under current law.

However, many other potential Democrat tax proposals would not be impacted by this: changes to the payroll tax, changes to excise taxes (such as new charges on driving or cigarette taxes), or changes to the corporate tax, etc. Eliminating (or lowering the value of) deductions or credits in the income tax would also be potential tax increases for the committee to consider.

It can be argued that the "trigger" mechanism described in Title III is designed not to actually go into effect, but instead to put pressure on the committee to arrive at a deal. Since the Democrats have been insistent on tax increases, it is unclear why any of their appointments (with at least one Democrat vote needed to report legislation) would agree to a bill consisting entirely of entitlement/discretionary spending reforms they have previously refused. This may be especially true since the trigger mechanism not only creates pain for liberal spending priorities, but was designed to inflict pain on conservatives through defense cuts as well.

Also of note, it would be possible for the committee to use the budget gimmick from the Harry Reid bill, which proposed to save more than $1 trillion by not spending money on wars in Iraq and Afghanistan that was not going to be spent anyway.

Finally, there does not appear to be anything to prevent the committee from attaching other provisions that do not impact budget policy at all.

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.

Additional Background: 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.

RSC Bonus Fact: 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).

Committee Action: The legislation has not been considered by any committee.

Administration Position: The legislation was the result of negotiations with the Administration.

Cost to Taxpayers: According to CBO, the legislation would reduce federal outlays by $2.117 trillion over ten years.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation allows for a debt ceiling increase of between $2.1 trillion and $2.4 trillion. In this respect, the legislation increases the size of the federal government. However, the legislation also reduces federal spending by potentially up to $2.117 trillion over ten years (depending on what the Joint Select Committee does). In this respect, the legislation reduces the size of the federal government. Finally, the Joint Select Committee could either increase or decrease the size of spending cut—and the committee could lead to the enactment of tax increases.

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.

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