

Sectional Analysis
“Bipartisan Task Force for Responsible Fiscal Action Act of 2009”

Definitions

Subsection (a) – Provides definitions for the terms fiscal imbalance, Task Force, and Task Force Bill.

Establishment

Subsection (b)(1) – Establishes a Bipartisan Task Force for Responsible Fiscal Action within the legislative branch.

Purposes

Subsection (b)(2) – Provides that the Task Force shall review the fiscal imbalance of the federal government including its the current and long-term actuarial financial condition, projected Federal expenditures, and revenues. The Task Force shall identify factors that affect the federal government’s long-term fiscal imbalance, analyze potential courses of action, and provide recommendations in the form of legislative language to improve the long-term fiscal imbalance.

Duties

Subsection (b)(3) – Provides that the Task Force shall issue a report including recommendations and legislative language that will significantly improve the nation’s long-term fiscal imbalance. Not earlier than November 3, 2010 and not later than November 9, 2010 the Task Force shall vote on a report. The report shall contain a detailed statement of the Task Force’s findings, conclusions, and recommendations and include legislative language to carry out its recommendations. The report shall include assumptions, scenarios, and alternatives considered in reaching the findings and conclusions. The Task Force’s report must receive approval of 14 out of the 18 members. A procedure allows for the inclusion of additional views in the Task Force report. The transmission of the approved report shall occur no later than November 15, 2009 to the President and Congress. Upon the vote of the report, the Task Force shall make results and the report publicly available.

Membership and Appointment

Subsection (b)(4)(A) – Establishes the number of Task Force members (18).

Subsection (b)(4)(B) – Provides the appointment authority to establish the Task Force members as follows: the President appoints (2) two members, one being the Secretary of the Treasury, and another who is an officer of the executive branch; the Majority Leader of the Senate appoints four (4) from among Members of the Senate; the Minority Leader of the Senate appoints four (4) from among Members of the Senate; the Speaker of the House designates four (4) from among Members of the House; and the Minority Leader of the House appoints four (4) from among Members of the House.

Subsection (b)(4)(C) – Designates that the President, Majority Leader of the Senate, and the Speaker of the House shall designate one Co-chair and the Minority Leader of the Senate and the Minority Leader of the House shall designate a Co-chair from amongst the Task Force members, no later than 14 days after enactment. The Co-chairs shall jointly hire the staff director.

Subsection (b)(4)(D) – Provides the members of the Task Force shall be appointed not later than 14 days from enactment.

Subsection (b)(4)(E) – Designates Task Force members to serve for the life of the Task Force. Vacancies shall not affect the Task Force’s powers and shall be filled not later than 14 days after the date of the vacancy in the same manner as the original appointment.

Subsection (b)(4)(F) – Provides that the Task Force members shall serve without any additional compensation. Members, however, may be allowed travel expenses, including per diem in lieu of subsistence while away from their homes or regular places of business and performing task force services.

Task Force Administration

Subsection (b)(5)(A) – Authorizes the Task Force to establish rules of conduct for task force business. Rules cannot be inconsistent with this section of the Act or other applicable law.

Subsection (b)(5)(B) – Provides that fourteen members of the Task Force constitute a quorum for purposes of voting, meeting, and holding hearings.

Subsection (b)(5)(C) – Prohibits proxy voting. The Task Force may not vote on any version of the report before November 3, 2010 and no later than November 9, 2010. The Congressional Budget Office and Joint Committee on Taxation shall provide estimates of the Task Force report and recommendations at least 72 hours prior to the vote on the report.

Subsection (b)(5)(D) – Provides the initial meeting of the Task Force shall be no later than 45 days after enactment. The Task Force shall meet at the call of the Co-chairs or at least ten of its members. A meeting agenda shall be provided to task force members at least one week in advance of any meetings. Task Force members who want to place items on the agenda should notify the staff director at least 48 hours in advance of the meeting.

Hearings

Subsection (b)(5)(E) – Authorizes the Task Force to hold hearings, sit and act, take testimony, receive evidence, and administer oaths. The Co-chairs shall make a public announcement of all hearings with at least 1 week notice, unless they jointly determine there is good cause to begin earlier. Witnesses must file a written statement with the Task Force 2 days before appearing, unless waived by the Co-chairs.

Information Collection

Subsection (b)(5)(F) – Requires the head of a federal agency to provide “technical assistance” to all members of the Task Force to carry out its duties, upon the written request of the co-chairs.

Subsection (b)(5)(G)(i)(I) – Provides statutory authority for the Task Force, at the written request of the Co-Chairs, to secure information directly from Executive Branch departments, agencies, boards, and commissions, as well as from independent and legislative branch government entities. The section provides an exemption from 31 U.S.C. §1108, to permit the agencies to send certain information directly to the Task Force without first going to OMB for review.

Subsection (b)(5)(G)(i)(II) – Requires copies of any information to be provided to the staff director and all members of the Task Force upon request.

Subsection (b)(5)(G)(ii) – Provides all information required to be received, handled, stored, and distributed pursuant to any applicable statutes, regulations, and Executive Orders.

Subsection (b)(5)(G)(iii) – Limits access to tax data from the Internal Revenue Service (IRS) to only the information that may be released without violating the law.

Postal Service

Subsection (b)(5)(H) – Authorizes the Task Force to use the Postal Service under the same conditions as other federal agencies.

Administrative Support

Subsection (b)(5)(I)(i) – Requires at request of the Co-chairs, the Administrator of the General Services is required to provide certain administrative support to the Task Force on a reimbursable basis.

Subsection (b)(5)(I)(ii) – Authorizes other agencies to provide the Task Force with support services.

Contract Authority

Subsection (b)(5)(J) – Authorizes the Task Force to enter into contracts, but such contracts may not extend beyond the date of termination of the Task Force.

Task Force Staff

Subsection (c)(1) – Provides authority for the Co-chairs to appoint and fix the rate of pay for the staff director and other personnel without regard to Title 5 competitive service restrictions. However, no staff member may be paid at a rate higher than level III of the Executive Schedule (\$162,900 annually in 2009).

Subsection (c)(2) – Provides statutory authority for each Task Force member to hire 2 dedicated staff members without regard to Title 5 competitive service restrictions. Such

staff will report to the appointing member. However, no staff member may be paid at a rate higher than level III of the Executive Schedule (\$162,900 annually in 2009).

Subsection (c)(3)(A) – Provides the Task Force director and personnel to be considered federal employees for the purposes of leave, work injuries, retirement and retirement benefits, unemployment compensation, life insurance, health insurance, and long-term care insurance.

Subsection (c)(3)(B) – Provisions regarding the status of staff members as federal employees do not apply to members of the Task Force.

Subsection (c)(4) – Prohibits the hiring of consultants or other personnel without the approval of the Co-chairs.

Detailees

Subsection (c)(5) – Provides upon the approval of the Co-chairs, for any federal employee detailed to the Task Force, to retain all rights of employment upon return to his or her regular employment. Reimbursement amounts may include the fair value of equipment and supplies used by the detailee in support of the Task Force's activities.

Experts and Consultants

Subsection (c)(6) – Authorizes the Task Force to procure the services of experts and consultants in accordance with section 3109 of Title 5. However, no such hire may be paid at a rate higher than level III of the Executive Schedule (\$162,900 annually in 2009).

Temporary and Intermittent Services

Subsection (c)(7) – Authorizes the Task Force to procure temporary and intermittent services under section 3109(b) of Title 5. However, no such hire may be paid at a rate higher than level III of the Executive Schedule (\$162,900 annually in 2009).

Volunteer Services

Subsection (c)(8)(A) – Authorizes the Task Force to accept and utilize volunteer services. Such volunteers may be reimbursed for local travel and office supplies, and for other travel expenses, including per diem.

Subsection (c)(8)(B) – Provides that volunteers shall be considered federal employees for the purposes of work-related injuries, tort claims, and conflicts of interest.

Staff Ethics

Subsection (c)(8)(C) – Provides that the staff shall follow the ethical rules of the Senate. Staff hired from the private sector may petition the Co-chairs for a waiver.

Advisory Panel

Subsection (c)(9) – Authorizes the Task Force to establish an advisory panel consisting of volunteers with knowledge and expertise relevant to the Task Force's purpose.

Membership of the Advisory Panel and the scope of the activities shall be decided by the Co-chairs in consultation with the other members of the Task Force.

Termination

Subsection (e)(1) – Provides that the Task Force will terminate 90 days after submission of the final report.

Subsection (e)(2) – Authorizes the Task Force to operate during the 90-day period after submission of the report, for the purpose of concluding its activities, including providing testimony to committees of Congress and disseminating its report.

Expedited Consideration

Convening of House and Senate

Subsection f(1)(A) provides that, in the event either chamber is or would be out of session when the Task Force report is submitted, the House and Senate shall convene no later than November 23, 2010. When the report is submitted, if the House is or would be adjourned, the Speaker would be required to notify Members that the House would convene; and, if the Senate is adjourned or recessed for more than two days, the majority leader, after consultation with the minority leader, would be required to notify Senators that the Senate would convene.

The subsection also prohibits the Senate from considering a concurrent resolution adjourning the Senate for more than three days until the Senate votes on passage of the Task Force bill. Under subsection f(2)(B)(v), the Senate can consider such an adjournment resolution if either House has failed to adopt a motion to proceed to the Task Force bill by December 23, 2010.

Introduction of Task Force Bill

Subsection f(1)(B) requires that by November 23, 2010, the majority leader (or designee) or the minority leader (or designee) in each chamber introduce a bill consisting of the proposed legislative language submitted by the Task Force. If leadership does not introduce a bill by this date, any other member may do so.

Committee Consideration

Subsection f(1)(C) provides that the Task Force bill will be referred to committee(s) of jurisdiction in each House and to the Committee on the Budget of that House. The subsection requires that committees report no later than 7 calendar days after the bill is introduced, and it prohibits the committees from proposing any changes to the legislation. Any committee that does not report within 7 days will be automatically discharged from consideration of the measure.

Fast Track Consideration in the House of Representatives

Subsection f(2)(A) establishes a process for consideration of the Task Force bill in the House of Representatives. The subsection creates a non-debatable motion to proceed to the bill that the majority leader (or designee) can make within two days of session after

the bill is reported or discharged from all committees, and that any member can make after the two-day period. The Speaker will immediately put the question on proceeding to the bill. If the motion to proceed is not agreed to, no other motion to proceed to the Task Force bill is in order. If a majority of the Representatives voting, a quorum being present, agree to the motion to proceed, the House shall consider the bill for up to 100 hours, with the time for debate divided and controlled by the proponent and an opponent. No motions are allowed during consideration of the bill except motions to further limit debate. No amendments can be offered to the Task Force bill and motion to recommit is not in order. All points of order are waived. The vote on final passage in the House shall require an affirmative vote of three-fifths of the House, or 261 Members assuming no more than one vacancy. This vote shall occur no later than December 23, 2010.

Under subsection f(2)(A)(iv), it is not in order for the House to consider the Task Force bill under the terms of a special rule reported from the Committee on Rules, nor shall it be in order to move to suspend the rules and pass the Task Force bill. Furthermore, subsection f(2)(A)(vii) prohibits the Rules Committee from reporting a resolution that would have the effect of causing the Task Force bill to be approved by a vote of less than three-fifths of the House. This last prohibition is expected to operate in a similar fashion to clause 6 of House Rule XIII, which prohibits the Rules Committee from reporting a resolution that would prevent the motion to recommit a bill or joint resolution.

Subsection f(2)(A)(vi) provides that if the Task Force bill is passed, the bill will be transmitted to the Senate by the end of the day of session following the day it passes the House.

Fast Track Consideration in the Senate

Subsection g(2)(B) establishes an expedited process for considering the Task Force bill in the Senate. The majority leader (or designee) can make a non-debatable motion to proceed to the bill within two days of session after the bill is reported or discharged from all committees. After that two-day period, any Senator can make a non-debatable motion to proceed to the bill. The Senate shall immediately vote on the question of taking up the bill, and if the motion is agreed to by a majority of Senators voting, the Senate shall immediately begin consideration of the bill. Once on the bill, the Senate could not move onto other business except by unanimous consent. If the motion to proceed is not agreed to, then subsequent privileged motions to proceed to the Task Force bill could be offered.

Consideration of the Task Force bill is limited to 100 hours in the Senate, equally divided between the majority and minority leaders. The 100 hours includes all time spent in consideration of the bill, including time spent in quorum calls and for voting. Debate on any debatable motion or appeal is limited to one hour, equally divided between proponents and opponents. Appeals from decisions of the Chair relating to the application of the rules of the Senate to the procedures for the consideration of the Task Force bill are not debatable. The subsection establishes a non-debatable motion to further limit debate that requires a three-fifths vote of the Senate (60 Senators assuming no more than one vacancy).

The subsection prohibits any amendments to the Task Force bill. In addition, the subsection prohibits motions to recommit the bill, motions to postpone the bill, and motions to proceed to the consideration of other business. All points of order against the Task Force bill and against its consideration are waived.

The vote on final passage in the Senate shall require an affirmative vote of three-fifths of the Senate, or 60 Senators assuming no more than one vacancy. This vote shall occur no later than December 23, 2010.

Subsection f(1)(A)(ii)(II) prohibits the Senate from considering a concurrent resolution adjourning the Senate for more than three days until the Senate votes on passage of the Task Force bill. Under subsection f(2)(B)(v), the Senate can consider such an adjournment resolution if either House has failed to adopt a motion to proceed to the Task Force bill by December 23, 2010.

Coordinate Action With the Other House

Subsection f(2)(C) provides means for the Senate to approve the House-passed Task Force bill. The Task Force bill sent to the President is expected to be the House-originated bill (H.R.) because the House presumably will insist on its prerogative under Article 1, Section 7, of the Constitution to originate revenue measures. Because the bills introduced in each chamber are required to consist of the legislative text of the Task Force recommendation, and because no amendments are in order in either chamber, the House and Senate bills will be identical. This subsection provides that at the conclusion of consideration of the Senate bill, the Senate will vote on passage of the House bill, provided that it has received the bill from the House. The measure would then be sent to the President. If the Senate concludes consideration of its bill before receiving the House bill, then it will vote to pass the Senate Task Force bill. When the Senate receives the identical House bill, the vote on passage of the Senate bill shall be deemed to be a vote on passage of the House bill. The measure would then be sent to the President. Under the provisions of subsection f(2)(C)(iii), if either House fails to introduce or consider the Task Force bill, the expedited procedures shall apply to the bill of the other chamber if received.

Veto

If the President vetoes the Task Force bill, then subsection f(2)(C)(v) limits debate in the Senate on the veto message to one hour, equally divided between the majority and minority leaders or their designees. Under the Constitution, a bill or joint resolution that has been vetoed by the President can become law if two-thirds of the Members voting in the House and the Senate each agree to pass it over the President's objection.

Funding

Subsection 3 – Provides that the amount appropriated or made available and remaining unobligated under Division A of the American Recovery and Reinvestment Act of 2009 is rescinded pro rata an aggregate amount equal to \$9 million and shall be made available without need for further appropriation to the Task Force to carry out its purpose. Title X of the law is excluded from the rescission (“Military Construction and Veterans Affairs”).

The funds shall remain available through FY2011. The Director of the Office of Management and Budget shall administer the rescission and make available such amount to the Task Force no later than 14 days after the date of enactment.