THE REPUBLICAN STUDY COMMITTEE
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Legislative Bulletin……………………………………….………May 10, 2012

Contents:

H.R. 5652—Sequester Replacement Reconciliation Act of 2012 (Rep. Ryan, R-WI)

Order of Business: The legislation is being considered under a closed rule that provides 2 hours of general debate and makes no amendments in order.

Summary:

$19 Billion Reduction to Budget Control Act: The legislation would lower the Budget Control Act spending cap by $19 billion in FY 2013. The cap would be lowered from $1.047 trillion to $1.028 trillion, the level of the House-passed budget resolution.

Replace $78 Billion Scheduled Discretionary Sequestration: The legislation would turn off the remaining $78 billion sequestration for FY 2013 and replace it with mandatory spending reforms. The sequestration would only be turned off *if* reconciliation is enacted into law.

Eliminates Sequestration of Mandatory Defense Spending: The legislation exempts mandatory defense spending from sequestration.

Overview of Reconciliation Reductions: The legislation reduces mandatory spending by $20 billion through FY 2013, $137 billion over five years, and $316 billion over ten years. The committee notes this replaces 43% of the foregone savings from sequestration in FY 2013, 177% of the savings over five years, and 406% of the foregone savings over ten years. Notable provisions included in this savings figure:

Details of the Spending Cuts:

Agriculture Committee:

- **Earlier sunset for higher food stamp benefits from the "stimulus".** This provision changes from October 31, 2013, to June 30, 2012, the sunset of the higher food stamp benefits provided from the "stimulus." **This provision saves $5.9 billion over ten years.**

- **Limit eligibility of food stamps to those who are eligible.** Under current law an individual may qualify for food stamps based on receiving other government benefits: TANF, SSI, or state-run General Assistance programs. This proposal would restrict eligibility on that basis. It would prevent states, based on the Obama Administration's efforts, from using "broad-based categorical eligibility," which leads to states to extend coverage to those who are not eligible. **This provision saves $11.7 billion over ten years.**

- **Eliminate SUA Loophole.** Under current law individuals receiving *any* LIHEAP funding also receive more benefits through SNAP through the SNAP Standard Utility Allowance (SUA). This provision allows states to offer very small amounts of money in LIHEAP benefits and have their citizens receive the higher benefits. Currently 16 states and DC offer benefits of $1 or $5 to lead to the extra SUA benefits. This provision eliminates the link between LIHEAP eligibility and SUA eligibility. **This provision saves $14.3 billion over ten years.**

- **Eliminate extra 50/50 cost share for SNAP employment and training.** Current law already provides a grant to states for SNAP Employment and Training. Further, there are, according to GAO, *47* other federal training programs. **This provision saves $11.7 billion over ten years.**

- **End state bonus program for the supplemental nutrition assistance program.** These bonuses are given to states for doing their job in administering the program. This provision eliminates this spending. **This provision saves $480 million over ten years.**

- **Turn off indexing for nutrition education and obesity prevention.** Current law allows $375 million of SNAP nutrition education assistance to be sent to states. This money automatically increases with inflation. This proposal would eliminate this automatic increase. **This proposal saves $546 million over ten years.**

<u>Energy and Commerce Committee</u>:

- **Repeal of Obamacare provisions.** The legislation repeals mandatory funding to establish American Health Benefit Exchanges ($14.5 billion savings over ten years), repeals the Prevention and Public Health Fund ($12 billion savings over ten years), and rescinds unobligated balanced for the CO-OP program ($872 million savings over ten years). **The total savings from these three provisions is $27 billion over ten years.** Specifically:

  Repealing Unlimited Obamacare State Exchange Grants*:* Obamacare gives the Secretary of HHS unlimited appropriations to provide states grants to create exchanges for individuals to purchase federal-government approved health insurance. This proposal repeals the unlimited direct appropriation and rescinds any unobligated funds. It is similar to H.R. 1213, which passed the House last year by a vote of 238-183. CBO estimates that this proposal will save approximately **$14.5 billion** over ten years.

  Repealing Obamacare's Prevention and Public Health Slush Fund: This proposal is similar to H.R. 1217, which passed the House by a vote of 263-183 last year. It repeals this

Obamacare slush fund called the “Prevention and Public Health Fund” designed to supplement spending—and controlled by the HHS Secretary—on public health programs (all programs within the Public Health Service Act are eligible for funding). The law created an advanced appropriation of $16 billion for the first ten years of the program and a ***permanent*** $2 billion annual appropriation for the fund in perpetuity. CBO estimates that this proposal will save approximately **$11.9 billion** over ten years.

Defunding of Obamacare’s CO-OP Program: Obamacare created the “Consumer Operated and Oriented Plan” (CO-OP) program to provide government-subsidized loans to qualified non-profit health insurance plans. The Heritage Institute Center for Health Policy explains, these Co-Ops “could be a back door to a public plan flying under a different flag.” In the proposed rule for CO-OPs, the Office of Management and Budget (OMB) estimated that up to “50 percent of all loans” will not be repaid – jeopardizing hundreds of millions of taxpayer dollars. Obamacare appropriated $6 billion for such loans (H.R. 1473, the continuing resolution for FY 2011, cut $2.2 billion from this program) This proposal rescinds all unobligated funds made available to this program saving approximately **$872 million** over ten years according to CBO.

- **Medicaid Provisions:** The legislation includes five Medicaid reform provisions that **save $23 billion over ten years**, summarized below:

Medicaid Provider Tax Threshold Reduction: This proposal reduces the state Medicaid provider tax threshold from 6.0 percent to 5.5 percent beginning in FY2013. States use this threshold to receive higher federal Medicaid matching funds. Under current law, states are limited to a provider tax threshold of no higher than 6 percent of the net patient service revenues. The provider tax threshold was 5.5 percent up until October 1, 2011. **Note:** The President’s Budget Proposal for FY 2013 phases the provider tax threshold down to 3.5 percent. This proposal saves approximately **$11.25** billion over ten years according to CBO.

Rebasing the Disproportionate Share Hospital (DSH) Allotments in Fiscal Year 2022: This proposal rebases the FY 2022 DSH allotments to maintain the FY 2021 level of reductions included in the Middle Class Tax Relief and Job Creation Act of 2012. Obamacare reduces DSH payments from FY 2014 through FY 2020 to reflect a projected increase in insured Americans and a declining need for uncompensated care funding. However, in FY2021, DSH payments were scheduled to revert back to levels prior to Obamacare’s passage. The President’s Budget Proposal for FY 2013 included this policy. CBO estimates this proposal will save **$4.2 billion** over ten years.

Repealing the Medicaid Maintenance of Effort (MOE) Requirement Imposed on States: This proposal repeals the MOE for Medicaid and the Children’s Health Insurance Program (CHIP) as mandated by Obamacare. Obamacare (and previously the Stimulus law) put in place a Maintenance of Effort requirement (MOE) prohibiting states from having eligibility standards, methodologies, or procedures under its state Medicaid or Children’s Health Insurance Program (CHIP) plans that are more restrictive than those in effect on March 23, 2010, the date Obamacare’s enactment. The MOE repeal allows states the same operational flexibility they have exercised since the beginnings of the Medicaid and CHIP programs. CBO estimates that this proposal saves approximately **$600 million** over ten years.

Repealing the Territories Increased Federal Medicaid Funding Cap and Match Rate: This proposal reverses the increased Medicaid federal match and funding cap for the territories included in Obamacare. Obamacare increased the federal Medicaid match rate for the territories from 50 percent to 55 percent beginning in FY 2011. It also increased the cap on federal Medicaid spending directed to the territories by $6.3 billion over 10 years. CBO estimates this proposal saves **$6.3 billion** over ten years.

CHIP Bonus Payments Repeal: This proposal repeals the bonus payments the Children's Health nsurance Reauthorization Act of 2009 (CHIPRA) authorized to states that increase their Medicaid enrollment above a defined baseline from the prior year. While on one hand, states have been prohibited from implementing more aggressive eligibility review procedures due to the Maintenance of Effort (MOE), states are receiving hundreds of millions to implement much less restrictive eligibility review methods through the CHIP bonus payment program. CBO estimate this proposal saves approximately **$400 million** over ten years according to CBO.

Financial Services Committee:

- **Eliminate Dodd-Frank Bailout Fund:** The Dodd-Frank bill gave the FDIC orderly liquidation authority providing creditors the ability to bailout financial institutions. H.R. 5652 repeals this fund. **This provision would save $22 billion over ten years.**

- **Repeal HAMP program:** The House voted to eliminate this program on March 29, 2011 by a vote of 252-170. H.R. 5652 includes this provision. See the RSC Legislative Bulletin for more information on this program. **This provision saves $2.8 billion over ten years.**

- **Repeal mandatory spending for Consumer Financial Protection Bureau (CFPB).** H.R. 5652 would make agency's funding subject to the appropriations process, saving **$5.4 billion over ten years**.

- **National Flood Insurance Program Reauthorization:** H.R. 5652 reauthorizes the National Flood Insurance Program (NFIP) through Sept. 30, 2016. The legislation makes many reforms to the NFIP aimed such as:

  - Full-Risk Rates for Certain Subsidized Properties – The bill requires that full actuarial rates would be phased-in for roughly 350,000 properties currently receiving National Flood Insurance Program (NFIP) subsidies. The measure also provides for a five-year phase-in of flood insurance rates for newly mapped areas.
  - No Guaranteed Mechanism for Paying Back Debt – The legislation does not include any mechanism to guarantee that the NFIP will repay the $18 billion it currently owes the Treasury.

- Temporary Mandatory Purchase Suspensions –The bill suspends mandatory purchase requirements on a community-by-community basis for one year at the request of a local governing authority.
- Privatization Initiatives – The bill requires a variety of reports by Federal Emergency Management Agency (FEMA) and the Government Accountability Office (GAO) regarding various privatization initiatives.
- Technical Mapping Advisory Council – The bill establishes a new Technical Mapping Advisory Council.
- Optional Coverage for Additional Living Expenses/Business Interruption (ALE/BI) – The bill authorizes FEMA to offer optional coverage for additional living expenses ($5,000 maximum) and coverage for the interruption of business operations ($20,000 maximum).

The flood insurance reform included in this bill is identical to H.R. 1309, which passed the House 406-22 on July 12, 2011. For a more detailed analysis and cost of the reforms please refer to the July 8, 2011 Legislative Bulletin.

Judiciary Committee:

This portion contains medical malpractice liability reforms for health care lawsuits brought in state and federal court similar to those included in H.R. 5, which the House passed a few months ago by a vote of 223-181. The RSC Legislative Bulleting describing H.R. 5 can be found here. The only difference between the House-passed H.R. 5 and the reforms included in this title is the repeal of the Independent Payment Advisory Board is **not** included in this title. CBO estimates that this proposal saves approximately $40 billion over the next ten years.

Oversight and Government Reform:

- **Make federal pension benefits more similar to private-sector:** The legislation increases federal pension contributions by 5%, and increases pension contributions for Members of Congress by 8.5%. This provision is intended to make federal pensions 50% funded by taxpayers (instead of being more than 90% funded by taxpayers under current law). **This provision saves $80 billion over ten years.**

Ways and Means Committee:

- **Fully recapture subsidy repayments from Obamacare:** The legislation requires individuals that receive, per Obamacare, exchange subsidies that they were not entitled to, to pay back the entire amount of the overpayment. **This provision saves $43.9 billion over ten years.**

- **Social Security Number Required to Claim the Refundable Portion of the Child Tax Credit.** Under current law, eligibility for the Earned Income Tax Credit requires a Social Security number. The refundable portion of the child tax credit does not require a Social Security number for eligibility, which means individuals not eligible to work in the U.S.

receive the benefit. H.R. 5652 would require a Social Security number to receive the refundable child tax credit. **This provision saves $7.6 billion over ten years.**

- **Repeal Social Services Block Grant:** This program is a means-tested welfare program, that provides block grants to the states, which use the money for services that are duplicative of the 70 other federal welfare programs. The program is also used by states to refer individuals to other government programs. This provision repeals the program and **saves $17 billion over ten years.**

Additional Background: The Budget Act of 1974 created the current congressional budgeting process. Among other things, it established the Congressional Budget Office, set the timeline for consideration of the budget resolution, and setup the reconciliation process. Reconciliation was intended to give Congress greater authority to enforce the budget resolution. The main reason that a majority may find the use of the reconciliation process advantageous is that it places limits on debate of a reconciliation bill in the Senate.

However, in this Congress, the Senate has failed to pass any budget resolution. Therefore, the most important use for reconciliation—the ability to pass budget provisions without being subject to the filibuster—does not apply in this case.

In this instance, reconciliation is being used as a tool of the House to provide instructions to six committees to enact budget savings. Those savings, which passed the committees last month, have been engrossed into H.R. 5652.

For much more detail on how the reconciliation process works, see the RSC Policy Brief: How Reconciliation Works.

On August 2, 2011, the Budget Control Act of 2011 was signed into law. One component of this bill was to accommodate a debt ceiling increase of $2.1 trillion (it would have been up to $2.4 trillion had legislation from the Joint Select Committee on Deficit Reduction been enacted into law).

Because the "super-committee" created by the Budget Control Act did not lead to enactment of legislation, on January 2, 2013, under current law, OMB orders sequestrations for defense and non-defense categories of spending necessary to meet spending cuts required by the "trigger." For a one-pager with key dates concerning the Budget Control Act see here.

The RSC's Cut, Cap, and Balance legislation would have cut $111 billion in FY 2012, placed firm caps on future spending, and – contingent upon House and Senate passage of a Balanced Budget Amendment – granted President Obama's request for a debt limit increase. The House of Representatives passed the legislation, but it was not enacted.

Committee Action: The legislation was reported as an original measure by the Budget Committee on May 9, 2012.

Administration Position: The Administration opposes the bill. See here.

Cost to Taxpayers: The legislation would, on net, save taxpayers $238 billion over ten years. The legislation replaces $78 billion of foregone discretionary spending cuts in FY 2013 with $316 billion of mandatory spending cuts over ten years. The legislation would increase spending by $26 billion in FY 2013, save $60 billion over ten years, and save $238 billion over ten years.

Does the Bill Expand the Size and Scope of the Federal Government?: No. It would lead to less government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor: "Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the committee finds the constitutional authority for this legislation in Article I, section 9, clause 7."

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