



Deficit Reduction/Debt-Limit Deal: Crisis Avoided?

It was announced late Sunday that **President Obama** and bi-partisan congressional leaders reached an agreement Sunday on a legislative package that would extend the federal debt ceiling while cutting spending and guaranteeing further deficit-reduction steps. **Speaker Boehner** is scheduled to hold a conference call at 8:30 am on Monday with his caucus to discuss the details of the agreement. A key part of the agreement is the creation of a congressional committee that will recommend \$1.2 trillion in spending cuts by the Thanksgiving recess. Today **Speaker Boehner** shared a power point presentation (See appendix A) with members of the Republican caucus outlining across the board spending cuts, including the Medicare program. Social Security, Medicaid, and military and veterans pay would not be subject to spending reductions. Consistent with Republican demands throughout the negotiations, new tax revenues are not included in the agreement. The President made a brief statement from the White House on Sunday evening, "Is this the deal I would have preferred? No" But he said it will begin "to lift the cloud of debt and uncertainty" over the economy." **House Speaker John Boehner** told House Republicans Sunday night that there is nothing in the framework of the newly announced debt agreement that "violates our principles." He continued on to say, "It's all spending cuts. The White House bid to raise taxes has been shut down. And as I vowed back in May -- when everyone thought I

was crazy for saying it -- every dollar of debt limit increase will be matched by more than a dollar of spending cuts. And in doing this, we've stopping a job-killing national default that none of us wanted," The agreement calls for more than \$2.4 trillion in deficit reduction. Both chambers of Congress must still pass the negotiated agreement.

Senate Finance Committee Hearing on Federal Debt Problems

At a Senate Finance Committee hearing, former **NEC director Larry Lindsey** testified that when Standard & Poor's warned that it might downgrade U.S. debt, the key justification was not the debt

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ceiling, but that according to S&P “if we conclude that Congress and the Administration have not achieved a credible solution to the rising U.S. government debt burden and are not likely to achieve one in the foreseeable future.” It’s all spending cuts. The White House bid to raise taxes has been shut down. And as I vowed back in May -- when everyone thought I was crazy for saying it -- every dollar of debt limit increase will be matched by more than a dollar of spending cuts. And in doing this, we’re stopping a job-killing national default that none of us wanted.” eable future.” **Center on Budget and Policy Priorities President Robert Greenstein** said the goal for Congress should be to slash the budget deficit to 3% of GDP using a 50-50 split of new revenue and spending cuts (including to entitlement programs like Social Security and Medicare). **Senator Orrin Hatch** said that while certain tax breaks could be eliminated, the move must be accompanied by overall tax reform. **Chairman Max Baucus** said that by cutting the deficit by \$2.5 trillion, the substance of the “Reid” deficit cutting proposal, the nation’s debt would be stabilized at 75% of GDP and not rise to 87% as currently projected. In related news, the Administration announced a new “Government Accountability and Transparency Board” which will monitor all government spending for waste, fraud and abuse. HHS is represented on the board by the department’s Inspector General and the Assistant Secretary for Financial Resources and CFO.

House and Senate Both Reject Each Other’s Deficit Cutting Legislation

When the Senate considered the House-passed Cut, Cap and Balance Act, H.R. 2560, Democrats tabled the legislation. The Senate used the same procedure last week to again table, on a 59-41 vote, a second Boehner bill which passed the House on a 218-210 vote at the eleventh hour and before the August 2nd deadline to increase the federal debt limit. **House Speaker John Boehner’s** Short Term Default Act (amending S. 627, the Faster FOIA Act of 2011) would increase the federal debt ceiling by \$900 billion which would require another extension by early 2012; would cut spending by \$917 billion over ten years; and would provide a second increase to the debt ceiling contingent on enactment of recommendations from a 12 member joint committee of Congress which would be charged with producing at least \$1.6 trillion in additional deficit reduction. Congress would have to pass the committee’s reported legislation by December, 23, 2011. The bill would also cap FY 2012 discretionary budget authority at \$1.043 trillion and FY 2013 budget authority at \$1.047 trillion. Federal budget authority would rise steadily over the subsequent eight years to \$1.234 trillion in FY 2021. In addition, the bill would trigger automatic across-the-board cuts if the caps are exceeded. Also, both houses would have to vote on a balanced budget amendment to the constitution by year-end. **Speaker Boehner** garnered 218 Republican votes for passage only after much arm-twisting

of several reluctant Tea Party Republicans. **President Obama** said he would veto the House bill and that he would now have to rely on negotiations between **Senate Majority Leader Harry Reid and Minority Leader Mitch McConnell** to craft and then pass a satisfactory bipartisan compromise in order to avoid a default or deferral of federal obligations. However, **House Speaker John Boehner** put an earlier version of Majority Leader Reid’s plan to the test in the House on Saturday. The House rejected, on a vote of 246-173 H.R. 2693, the Bipartisan Budget Control Act, which would raise the debt limit by about \$2.2-2.4 trillion over ten years and put a another vote beyond next year’s elections. The bill would also provide a comparable amount in spending reductions, but including a supposed \$1 trillion in savings from winding down Iraq and Afghanistan war spending. The bill would also include statutory caps on security and non-security discretionary spending and provide for a joint committee on deficit reduction with a fast track vote on the committee’s recommendations. Of note, the bill would not increase revenues as demanded by Republicans throughout the standoff. The refusal on Saturday of Senate Republicans to allow **Senator Reid** to proceed to debate and a vote on the Reid plan creates a dynamic whereby **Senator Reid and Senator McConnell** and their caucuses will have to craft a compromise that can pass both the Senate and the House and be signed into law by **President Obama**.

Petition to Supreme Court on Constitutionality of Individual Mandate

The Thomas More Law Center, filed a writ of certiorari with the U.S. Supreme Court for a review of the 2-1 decision of the U.S. Court of Appeals for the Sixth Circuit that found the individual mandate provision of the PPACA as a valid exercise of congressional authority under the commerce clause. The Center said that a review is necessary to “establish a framework of meaningful limitations on congressional power under the Commerce Clause”, in particular given the statement by **Judge Jeffrey**

Sutton, who joined **Judge Boyce Martin Jr.** in holding the individual mandate constitutional, that the court should “either stop saying that a meaningful limit on Congress’s commerce powers exists or prove that it is so.” In related news, the state of Ohio certified a ballot initiative promoted by the Tea Party and other Republicans which would allow for state residents to vote on whether or not the state should opt out of the PPACA individual mandate.

House Hearing on PPACA’s Effect on Small Businesses

At a House Small Business Committee Healthcare and Technology Subcommittee hearing, the director of the CMS Center for Consumer Information and Insurance Oversight testified that small employers will continue to offer health insurance coverage to their employees rather than pay penalties to opt out when the PPACA mandates and health insurance exchanges are put into place. He said the exchanges will help reduce insurance costs

by pooling small businesses and prevent insurers from charging more for unhealthy employees. He said he does not expect the PPACA medical loss ration requirement to drive insurers out of the market. He also said guidance on eligibility and enrollment will answer questions such as “When an employer makes an offer of coverage, is that binding on the dependents, the family members of the employee?” Another witness testifying on behalf of the U.S.

Chamber of Commerce said, to avoid employer mandated costs for full-time employees or penalties for non-compliance, his restaurant chain and others like his are likely to reduce employee hours below full-time. **Former CBO Director Douglas Holtz-Eakin** testified that the budgetary costs of the insurance subsidies through the exchanges are going to explode and may cost more than \$1.4 trillion in the first 10 years.

Loan Applications for CO-Ops

The Center for Consumer Information and Insurance Oversight said that the agency is taking 51 applications, due October 17, for \$600 million

in start-up and solvency loans to create private, non-profit CO-OP insurance plans in each state and the District of Columbia. The PPACA provides \$3.8 billion to

promote integrated models of care which should enhance competition under state health insurance exchanges.

House E&C Health Subcommittee Passes GME and Biodefense Bills

By voice vote the Health Subcommittee of the House Energy and Commerce Committee passed H.R. 1852, legislation to reauthorize through 2016 the children's hospital graduate medical education (GME) program, and H.R. 2405,

legislation reauthorizing parts of the Project BioShield Act of 2004 and the Pandemic and All-Hazards Preparedness Act of 2006 which provides for responses, including public health preparedness, to potential chemical, biological, radioactive and nuclear attacks.

Also, the subcommittee approved H.R. 1254, which would add certain synthetic drugs that imitate the hallucinogenic or stimulant properties of drugs like marijuana, cocaine or methamphetamines as Schedule I controlled substances.

Final Rules Increase Hospice and Inpatient Rehab Payments

CMS issued a final rule increasing Medicare payments to hospices by 2.5% for FY 2012. The rule also modifies a current policy whereby any hospice physician would be

allowed to perform a required face-to-face encounter with the hospice patient, "regardless of whether that same physician recertifies the patient's terminal illness and composes the recertification

narrative...." CMS also issued a final rule under which inpatient rehabilitation facility (IRF) payment rates will be increased by 2.2% in FY 2012, or by about \$150 million over the prior year.

Members Object to Proposed CMS IPPS Payment Offsets

Letters from 219 House members and 45 senators to CMS call for a reconsideration of the documentation and coding offsets included as part of the proposed FY 2012 inpatient prospective payment system (IPPS) rule. They asked that CMS ensure that the correct methodology is used before any changes go into effect and that the proposed rule take into consideration any changes in the severity of patient conditions that may have occurred.

Final Rule Reduces SNF Payments

CMS issued a final rule reducing Medicare skilled nursing facility prospective payments in FY 2012 by \$3.87 billion, or about 11.1%.

Nursing Grant Awards

HHS announced the awarding of several hundred grants, totaling \$71.3 million, to expand nursing education, training and diversity.

Senate Judiciary Committee Passes Bill to Ban Designer Drugs

The Senate Judiciary Committee has approved by voice vote three bipartisan bills (S. 409, S. 605 and S. 839) which would block the use of

certain chemicals in such synthetic drugs, making their possession and sale illegal as Schedule I controlled drugs. Among the banned substances are those contained in

drugs such as synthetic “K2” and “Spice” marijuana products and those in the 2C family which were invented for scientific research but never intended for use by humans.

Senate HELP Committee Hearing on FDA User Fees

At a Senate HELP Committee hearing, the **FDA Commissioner Margaret Hamburg** testified that user fees paid by the drug and medical device industries provide a stable source of funding to support the FDA’s activities to ensure the continued safety of drugs and devices. The current legislative authority for the medical device user fee program, the Medical Device User Fee Amendments of 2007 (MDUFA), expires in September 2012 and for the Prescription Drug User Fee Act (PDUFA), reauthorized in 2007 by the FDA Amendments Act, also will expire in September 2012.

She said the FDA intends to submit its final recommendations on user fees to Congress in January 2012. However, **Senator Richard Burr** said he would delay the passage of any reauthorization legislation unless the agency speeds up its approval of medical devices and incorporate a “least burdensome” approach. In related news, the Institute of Medicine recommended that Congress create a new, more extensive regulatory process for moderate-risk medical devices such as powered wheelchairs, infusion pumps and blood pressure cuffs. The FDA said it will review the recommendations, but that they will not necessarily be adopted.

Also of note, in the House Oversight and Government Reform Subcommittee on Government Organization, Efficiency, and Financial Management hearing on DME, CMS testified that the agency will be implementing in the next six to eight months a new methodology, with help from the private sector, for determining the extent of fraud within the durable medical equipment and home health areas. HHS has reported that improper Medicare payments totaled \$48 billion in FY 2010.

S. 1395 (REFORM), to ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act; BARRASSO; to the Committee on Finance, July 21.

S. 1404 (TAXATION), to amend the Internal Revenue Code of 1986 to increase participation in medical flexible spending arrangements; CARDIN; to the Committee on Finance, July 21.

S. 1407 (MEDICARE), to amend Title XVIII of the Social Security Act to establish accreditation requirements for suppliers and providers of air ambulance services, and for other purposes; SNOWE; to the Committee on Finance, July 22.

S. 1409 (FRAUD AND ABUSE), to intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within federal spending; CARPER; to the Committee on Homeland Security and Governmental Affairs, July 22.

H.R. 2625 (HUMAN RESEARCH SUBJECTS), to amend the Public Health Service Act with respect to human subject research to improve protections for human subjects and, where appropriate because of the type research involved, to reduce regulatory burdens; DeGETTE; to the Committee on Energy and Commerce, July 22.

H. Res. 362 (HIV/AIDS), supporting the goals and ideals of National Clinicians HIV/AIDS Testing and Awareness Day, and for other purposes; WATERS; to

the Committee on Energy and Commerce, July 21.

S. 1420 (TAXATION), to amend the Internal Revenue Code of 1986 to provide incentives for life sciences research; CASEY; to the Committee on Finance, July 25.

H.R. 2631 (TAXATION), to amend the Internal Revenue Code of 1986 to provide incentives for life sciences research; NUNES; to the Committee on Ways and Means, July 25.

H.R. 2634 (VETERANS' HEALTH), to direct the secretary of state to provide assistance for certain individuals affected by exposure to Agent Orange and the secretary of veterans affairs to enhance the availability of medical care for descendants of veterans of the Vietnam era, and for other purposes; FILNER; jointly, to the committees on Veterans Affairs, Foreign Affairs, and Energy and Commerce, July 25.

S. 1415 (PHARMACIES), to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes; LAUTENBERG, to the Committee on Health, Education, Labor, and Pensions, July 26.

S. 1416 (MEDICARE), to amend Title XVIII of the Social Security Act to increase the minimum loss ratio required of Medigap policies; KERRY; to the Committee on Finance, July 26.

H.R. 2643 (MEDICAL NEUTRALITY), to provide for medical neutrality and to establish accountability for violations of the principle of medical neutrality, and for other purposes; MCDERMOTT; jointly, to the committees on Foreign Affairs and the Judiciary, July 26.

H.R. 2645 (MEDICARE), to amend Title XVIII of the Social Security Act to increase the minimum loss ratio required of Medigap policies; STARK; jointly, to the committees on Ways and Means and Energy and Commerce, July 26.

H.R. 2656 (RETIREE BENEFITS), to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to make technical modifications relating to the Worker, Retiree, and Employer Recovery Act of 2008 and the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010; KIND; jointly, to the committees on Education and the Workforce and Ways and Means, July 26.

H.R. 2659 (PHARMACIES), to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes; MALONEY; to the Committee on Energy and Commerce, July 26.

H.R. 2662 (TAXATION), to amend the Internal Revenue Code of 1986 to provide for equity relating to medical costs; RIBBLE; to the

Committee on Ways and Means, July 26.

S. 1423 (DRUG FEES), to clarify the orphan drug exception to the annual fee on branded prescription pharmaceutical manufacturers and importers; TOOMEY; to the Committee on Finance, July 27.

H.R. 2671 (UNDIAGNOSED DISEASES NETWORK), to amend the Public Health Service Act to provide for the establishment and maintenance of an undiagnosed diseases network, and for other purposes; CARTER; to the Committee on Energy and Commerce, July 27.

H.R. 2672 (DRUG FEES), to clarify the orphan drug exception to the annual fee on branded prescription pharmaceutical manufacturers and importers; GERLACH; jointly, to the committees on Energy and Commerce and Ways and Means, July 27.

H.R. 2674 (DISCOUNT DRUG PROGRAMS), to amend Section 340B of the Public Health Service Act to improve the provision of discounts on drug purchases for certain safety net providers; MCMORRIS RODGERS; jointly, to the committees on Energy and Commerce and Ways and Means, July 27.

H.R. 2676 (HEALTH INSURANCE PREMIUMS), to lower health premiums and increase choice for small businesses; SCHWEIKERT; jointly, to the committees on Energy and Commerce and Ways

and Means, July 27.

S. 1437 (REPRODUCTIVE HEALTH), to authorize the secretary of health and human services to carry out programs to provide youth in racial or ethnic minority or immigrant communities the information and skills needed to reduce teenage pregnancies; BOXER; to the Committee on Health, Education, Labor, and Pensions, July 28.

S. 1440 (REPRODUCTIVE HEALTH), reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity; ALEXANDER; to the Committee on Health, Education, Labor, and Pensions, July 28.

H.R. 2678 (REPRODUCTIVE HEALTH), to amend the Public Health Service Act to authorize the secretary of health and human services to carry out programs to provide youth in racial or ethnic minority or immigrant communities the information and skills needed to reduce teenage pregnancies; ROYBAL-ALLARD; to the Committee on Energy and Commerce, July 28.

H.R. 2679 (REPRODUCTIVE HEALTH), to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity; ESHOO; to the Committee on Energy and Commerce, July 28.

H.R. 2680 (REGULATORY REVIEW), to establish a commission to conduct a comprehensive review of federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; FLEMING; jointly, to the committees on Oversight and Government Reform, and Rules, July 28.

TWO-STEP APPROACH TO HOLD PRESIDENT OBAMA ACCOUNTABLE

Emerging framework has three main features:

- (1) cuts government spending more than it increases the debt limit;**
- (2) implements spending caps to restrain future spending;**
- (3) advances the cause of a Balanced Budget Amendment**

Framework accomplishes this without tax hikes, which would destroy jobs, while preventing a job-killing national default.



SPEAKER JOHN BOEHNER



NO TAX HIKES

- ▶ **Same as House-passed bill, the framework includes no tax hikes.**
- ▶ **Requires baseline to be current law, effectively making it impossible for Joint Committee to increase taxes.**



SPEAKER JOHN BOEHNER



CUTS THAT EXCEED THE DEBT HIKE

- ▶ **Same as House-passed bill, framework includes spending cuts that exceed the amount of the increased debt authority granted to POTUS.**
- ▶ **Would cut & cap discretionary spending immediately, saving \$917B over 10 years (certified by CBO) & raise the debt ceiling by less – \$900B – to approximately February.**
- ▶ **Before debt ceiling can be raised, Congress and the president must enact spending cuts of a larger amount first.**



SPEAKER JOHN BOEHNER



CAPS TO CONTROL FUTURE SPENDING

- ▶ **As in House-passed bill, framework imposes spending caps that would set clear limits on future spending & serve as barrier against gov't expansion while economy grows.**
- ▶ **Failure to remain below these caps triggers automatic across-the-board cuts (“sequestration”). Same mechanism used in 1997 Balanced Budget Agreement.**



SPEAKER JOHN BOEHNER



BALANCED BUDGET AMENDMENT

- ▶ Same as House-passed bill, framework requires both House & Senate to vote on a BBA after Oct. 1, 2011 but before the end of year.
- ▶ Similar to House-passed bill, framework authorizes POTUS to request second tranche of debt limit increase of \$1.5T if:
 - ▶ Joint Committee cuts spending by greater amount than the requested debt limit hike,
OR
 - ▶ A Balanced Budget Amendment is sent to the states.
- ▶ Creates incentive for previous opponents of a BBA to now support it.

ENTITLEMENT REFORMS & SAVINGS

- ▶ **Same as House-passed bill, framework creates a 12-member Joint Committee required to report legislation by November 23, 2011 that would produce a proposal to reduce the deficit by at least \$1.5T over 10 years.**
- ▶ **Each chamber would consider Joint Committee proposal on an up-or-down basis without any amendments by December 23, 2011.**
- ▶ **If Joint Committee's proposal is enacted OR if a Balanced Budget Amendment is sent to the states, POTUS would be authorized to request a debt limit increase of \$1.5T.**



SPEAKER JOHN BOEHNER



ENTITLEMENT REFORMS & SAVINGS

- ▶ **Sets up a new sequestration process to cut spending across-the-board – and ensure that any debt limit increase is met with greater spending cuts – IF Joint Committee fails to achieve at least \$1.2T in deficit reduction.**
- ▶ **If this happens, POTUS may request up to \$1.2T for a debt limit increase, and if granted, then across-the-board spending cuts would result that would equal the difference between \$1.2T and the deficit reduction enacted as a result of Joint Committee.**
- ▶ **Across-the-board spending cuts would apply to FYs 2013-2021, and apply to both mandatory & discretionary programs.**
- ▶ **Total reductions would be equally split between defense and non-defense programs. Across-the-board cuts would also apply to Medicare. Other programs, including Social Security, Medicaid, veterans, and civil & military pay, would be exempt.**
- ▶ **Sequestration process is designed to guarantee that Congress acts on the Joint Committee's legislation to cut spending.**



SPEAKER JOHN BOEHNER

