



Debt Ceiling/Deficit-Reduction Law Does Not Avoid Downgrade of US Debt

Debt Ceiling Law Postpones Significant Cuts to Major Health Entitlements

Minutes before the August 2nd deadline for increasing the federal debt ceiling, **President Obama** signed into law S. 365, the Budget Control Act of 2011 (P.L. 112-25), (BCA) which increases the debt ceiling, subject to congressional disapproval, by \$400 billion immediately, by another \$500 billion this fall and by between \$1.2-1.5 trillion next year at the President's request (the larger figure being operative if Congress sends a balanced budget constitutional amendment to the states; the law mandates a vote in each house of Congress). The House passed the bill on a vote of 269-161 and the Senate followed suit on a vote of 74-26. Passage helped avoid an immediate debt ceiling crisis, but the law provides for spending cuts of only about \$2.4 trillion in total over 10 years, less than the \$4 trillion in cuts demanded by S&P to curtail the rating agency's downgrade of US debt from AAA to AA+.

Leaving Medicare and Medicaid untouched, the law establishes 10-year discretionary spending caps for FY 2012-2021 that would reduce the deficit by \$917 billion with a sequestration process serving as an enforcement mechanism which (see Appendix for a section-by-section explanation of the new law). The law also sets up a 12-member congressional panel to develop, by November 23rd, another deficit-reduction package with \$1.5 trillion in cuts which Congress would have to approve by December 23rd or a "trigger"

would enforce \$1.2 trillion in cuts evenly distributed between defense and non-defense accounts (with a cap on Medicare cuts for providers limited to 2% and no cuts to Medicaid, Social Security and low-income programs). Of note, the committee recommendations would be exempt from the so-called "Byrd Rule" in the Senate which prohibits "extraneous" matters. Due by August 16th are the three equal appointments to the joint committee by **House Speaker John Boehner, Minority Leader Nancy Pelosi, Senate Majority Leader Harry Reid and Senate Minority Leader Mitch McConnell**. House and Senate committees of jurisdiction must develop any of their recommendations to the joint committee by October 14th. It is possible that the joint committee could attempt to resurrect the 10-year \$4 trillion "big deal" originally discussed by **Speaker Boehner** and **President Obama** which would likely target Medicare and Medicaid, as well

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as Social Security. Such a long-term proposal could include increasing Medicare beneficiary cost sharing or the Medicare eligibility age and lifting the Medicaid maintenance-of-effort requirements. With the current Medicare physician reimbursement formulation set to expire at the end of the year, it is a possibility that the joint committee could address the sustainable growth rate (SGR) problem in order to avoid the scheduled 29.5% cut in physician pay in January. While the law does not provide for an increase in revenues the committee recommendations are likely to do so, particularly if they include an overhaul of the federal tax structure.

The Joint Committee may recommend more targeted reductions in federal spending and, as part of that process, changes to entitlement programs, such as Medicare and Medicaid. These targeted cuts would be in lieu of the across the board cuts.

Like the recent discussions over the debt ceiling, politics will play an important role in the deliberations of the Joint Committee. Given the upcoming presidential and congressional elections, it is very unlikely that the Joint Committee will recommend any changes to Medicare beneficiary benefits or eligibility (such as raising the age of eligibility for Medicare to 67 or increasing the Part B premium). Most, if not all, of the cuts will come from providers, suppliers and plans.

The Joint Committee recommendations for Medicare may include:

- ◆ Consolidating payments direct and indirect medical education cost and reducing federal payments for graduate medical education (GME),
- ◆ Reducing or eliminating Medicare “disproportionate share” adjustments,
- ◆ “Rebasing” and “merging” the Medicare hospital wage index with the wage indices applicable to various providers,
- ◆ Imposing cost sharing for the first 20 days of a stay in a Skilled Nursing Facility (SNF),
- ◆ Reducing or eliminating payment incentives to providers adopting new health information technologies,
- ◆ Requiring a larger co-payment for home health episodes covered by Medicare,
- ◆ Reforming cost-sharing structures for Medicare and Medigap insurance,
- ◆ Reducing Medicare’s payment rates across the board in high-cost areas,
- ◆ Eliminating the Medicare Critical Access Hospital, Medicare-Dependent Hospital, and Sole Community Hospital programs,
- ◆ Requiring manufacturers to pay a minimum rebate on drugs

covered under Medicare Part D for low-income beneficiaries,

- ◆ Eliminating “quality” bonus for Medicare Advantage plans,
- ◆ Developing a new payment system (such as bundling payments) for medical devices and supplies,
- ◆ Reducing payments and or benefits for dialysis service, and
- ◆ Reducing or eliminating Medicare payments for drugs outside of Part D

It is important to note that in order to meet their target of \$1.2 trillion in budget savings, the Joint Select Committee on Deficit Reduction may not need to propose more than \$175 billion in cuts to Medicare over the ten year period - or \$12 to \$15 billion during the first year. (This represents slightly more than 2 percent of program expenditures during the first year). It is also very possible that in order to avoid a protracted and heated debate over cuts to Medicare (e.g., hospitals versus Medicare Advantage plans), the Joint Committee may propose a simple 2 percent across the board reduction.

Medicaid and the BCA

The BCA did not require any reduction in federal Medicaid payments to states. Like the federal government, many states are facing budget shortfalls, and simply cutting federal Medicaid payments to states without allowing states to “reform” their programs would have accomplished

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little more than shift federal obligations to the states. (The BCA only addressed gross budget targets and did not address entitlement (Medicare or Medicaid) reform).

Medicaid – Possible Cuts

In the past, Congress reduced the federal cost of Medicaid by reducing the federal matching payments for state Medicaid expenditures (FMAP). However, given the fiscal crises facing a number of states, it is unlikely that the Joint Committee will recommend this approach. The Joint Committee will probably recommend giving states greater flexibility in designing their Medicaid programs. In most instances, the Joint Committee will recommend reductions in recipient benefits and new limits on eligibility – and not provider payments.

The Joint Committee recommendations for Medicaid may include:

- ◆ Allowing states to fully enroll a greater proportion of Medicaid recipients in managed care programs (e.g., certain disabled populations),
- ◆ Limiting benefits to some Medicaid eligible groups (e.g., women with dependent children),
- ◆ Increasing co-payments applicable to some benefits or for some recipients – particularly for Medicaid recipients not enrolled in managed care programs,

- ◆ Establishing more limited benefits (e.g., severely limit the number of covered hospital days), or

- ◆ Limiting benefits to Medicaid recipients using emergency room or other high cost services unnecessarily.

There is one area that the joint Committee may recommend cuts in Medicaid provider payments. The Joint Committee may recommend changes to the Medicaid disproportionate share adjustment and the rules governing the imposition and use of provider taxes.

FY 2012 Appropriations Next Test for Congress

Completing the debt ceiling increase and deficit reduction legislation last Tuesday, the Senate recessed until Tuesday, September 6th and the House recessed until Wednesday, September 7th. When Congress returns in September, members will again have to wrestle with their FY 2012 federal spending differences and will likely pass another CR when the current CR expires on September 30th. Senate Appropriations Labor-HHS Subcommittee Chairman Tom Harkin said he does not expect his subcommittee to report the Labor-HHS-Education spending bill until December. With the Senate having considered only one FY 2012 appropriations bill, the Military Construction/VA bill, a further delay of appropriations committee action could again force Congress to pass an omnibus spending bill before year-end. It might be noted that the new debt ceiling law calls for scaling back discretionary

spending from the current \$1.050 trillion to \$1.043 trillion in FY 2012 and for increasing the cap to \$1.047 trillion in FY 2013. These limits will supplant the inaction by the Senate to date on any FY 2012 budget resolution.

Fall Preview—Congress Has a Full Plate

Below are a few notable deadlines facing the Congress:

- ◆ Supercommittee members are appointed by Aug. 16.
- ◆ The continuing resolution expires Sept. 30.
- ◆ Labor-HHS appropriations bills in both House and Senate by Oct. 1
- ◆ Regular committees can recommend cuts to the supercommittee by Oct. 14.
- ◆ Supercommittee report by Nov. 23.
- ◆ Congressional votes on supercommittee report by Dec. 23.
- ◆ Don Berwick's appointment expires when Congress leaves at the end of the year.
- ◆ SGR patch expires Dec. 31.

Lack of “Standing” Shoots Down PPACA Constitutional Challenge

The U.S. Court of Appeals for the Third Circuit has ruled that a challenge to the constitutionality of the PPACA’s individual mandate by a physician, his patient and another physicians group fails due to the inability of the plaintiffs to prove they have adequate standing to

bring suit (*New Jersey Physicians Inc. v. Obama*, 3rd Cir., No. 10-4600, 8/3/11). In dismissing the suit, the court said the plaintiffs did not show a realistic chance of “actual or imminent” injury from the mandate. The court did not rule on the constitutional issue involving the mandate.

CCIIO Defends PPACA Rate Reviews

At a Senate HELP Committee hearing, the oversight director of the Center for Consumer Information and Insurance Oversight testified that, while the PPACA gives his agency the power to review health insurance rates, it is the agency’s objective to rely mainly on state review of health insurance rates for “unreasonableness.” However, **Senator Dianne Feinstein** said that she favors the

passage of her legislation giving HHS the authority to block premium increases in states which do not have rate approval authority (S. 137). Keeping the Republican rhetoric up against the PPACA, **Senator Mike Enzi** touted his report finding that the law has caused health insurance carriers to stop selling child-only health plans in many states.

PPACA Regulations on Mandated Women’s Health Services

The IRS, HHS and DOL issued an interim final rule which adopts the guidelines on women’s preventive health services recommended by the Institute of Medicine. The rules, effective August 1st, would require health plans, other than

“grandfathered” plans, to cover certain women’s preventive health services without charging copayments, coinsurance or deductibles. The covered services include contraception, well-woman visits, breastfeeding supplies and support, domestic violence

screening, screening for gestational diabetes, human papillomavirus DNA testing for women 30 years and older, sexually transmitted infection counseling and human immunodeficiency virus screening and counseling.

Some States Fail PPACA External Review Requirements

HHS issued a preliminary determination that 17 states, DC and five territories do not have external health insurance claims review

processes that meet the standards set by HHS under the PPACA for non-grandfathered plans. As a result HHS said that health insurers in those cases will have

to use an external review process set up by HHS or contract with an independent review organization to carry out the external reviews.

Part D Premiums May Decrease for Some

CMS announced that, based on bids for Medicare Part D drug plan for 2012, average premiums will be about \$30 per month compared to \$30.76

this year. CMS Administrator Donald Berwick, whose temporary appointment expires when Congress adjourns at year-end, said that competitive markets

and the intelligent behavior of beneficiaries to look for the best deals are the main reasons why premiums continue to be stable and affordable.

Inpatient Hospital Payments to Increase

CMS announced that operating payments to inpatient acute-care hospitals will increase \$1.13 billion for FY 2012 under the final inpatient prospective payment system (IPPS) rule which applies to about 3,400 acute-care hospitals and about 420 long-term care hospitals. The rule is effective for discharges on or after October 1st.

CMS Web-based Initiatives to Improve Health Care

CMS announced a new web-based “Quality Care Finder” and an updated “Hospital Compare” website to help Medicare beneficiaries to make more informed choices about their health care. The first also allows Medicare beneficiaries to obtain detailed, personalized information about the cost and benefits of available Medicare health and drug plans.

Recently Introduced Health Legislation

S. 1454 (MEDICARE), to amend Title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients and other renal dialysis provisions; DURBIN; to the Committee on Finance, July 29.

H.R. 2694 (MEDICARE), to firewall the Medicare Trusts Funds by restoring to those Trust Funds funds transferred by the PPACA; CULBERSON; jointly, to the committees on Ways and Means, Energy and Commerce, and Rules, July 29.

H.R. 2695 (DISEASE RESEARCH), to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health with respect

to translational research and related activities concerning Down syndrome, and for other purposes; MCMORRIS RODGERS; to the Committee on Energy and Commerce, July 29.

H.R. 2696 (DISEASE RESEARCH), to amend the Public Health Service Act to expand and intensify programs of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to translational research and related activities concerning Down syndrome, and for other purposes; MCMORRIS RODGERS; to the Committee on Energy and Commerce, July 29.

H.R. 2700 (AUTISM), to establish a health and education grant program related to autism spectrum disorders, and for other purposes;

SMITH of New Jersey; to the Committee on Foreign Affairs, July 29.

S. 1467 (PATIENT RIGHTS), to amend the PPACA to protect rights of conscience with regard to requirements for coverage of specific items and services; BLUNT; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1468 (MEDICARE), to amend Title XVIII of the Social Security Act to improve access to diabetes self-management training by authorizing certified diabetes educators to provide diabetes self-management training services, including as part of telehealth services, under Part B of Medicare; SHAHEEN; to the Committee on Finance, Aug. 2.

S. 1474 (TAXATION), to amend the Internal Revenue Code of 1986 to provide for a deduction for travel expenses to medical centers of the Department of Veterans Affairs in connection with examinations or treatments relating to service-connected disabilities; HELLER; to the Committee on Finance, Aug. 2.

S. 1479 (MEDICARE), to preserve Medicare beneficiary choice by restoring and expanding Medicare open enrollment and disenrollment opportunities; CASEY; to the Committee on Finance Aug. 2.

S. 1481 (PHYSICIANS), to authorize the secretary of health and human services to establish a program of grants to newly accredited allopathic and osteopathic medical schools for the purpose of increasing the supply of physicians; CASEY; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1484 (ABORTION), to prohibit taxpayer funded abortions and to provide for conscience protections, and for other purposes; NELSON of Nebraska; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1486 (MEDICARE), to amend Title XVIII of the Social Security Act to clarify and expand on criteria applicable to patient admission to and care furnished in long-term care hospitals participating in Medicare, and for other purposes; ROBERTS; to the Committee on Finance, Aug. 2.

S. 1488 (ABORTION), to prohibit the expenditure of federal funds for

abortion, and for other purposes; CASEY; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1489 (ABORTION), to prohibit the discrimination and retaliation against individuals and health care entities that refuse to recommend, refer for, provide coverage for, pay for, provide, perform, assist, or participate in abortions; CASEY; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1490 (REPRODUCTIVE HEALTH), to amend the PPACA to authorize additional funding for the pregnancy assistance fund; CASEY; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1497 (MEDICARE), to amend Title XVIII of the Social Security Act to extend for three years reasonable cost contracts under Medicare; KLOBUCHAR; to the Committee on Finance, Aug. 2.

S. 1500 (HEALTH INSURANCE COVERAGE), to give Americans access to affordable child-only health insurance coverage; MURKOWSKI; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

S. 1504 (MEDICAID), to restore Medicaid eligibility for citizens of the Freely Associated States; AKAKA; to the Committee on Finance, Aug. 2.

S. 1505 (PUBLIC HEALTH), to amend the Public Health Service Act to provide for the participation of particular specialists, determined

by the secretary of health and human services to be directly related to the health needs stemming from environmental health hazards that have led to its declaration as a public health emergency, to be eligible under the National Health Service Corps in the National Health Service Corps Loan Repayment Program, and for other purposes; TESTER; to the Committee on Health, Education, Labor, and Pensions, Aug. 2.

H.R. 2724 (MEDICAID), to amend Title IV of the Budget Control Act of 2011 to protect the Medicaid program from budget cuts under such act; WILSON of Florida; to the Committee on Rules, Aug. 1.

H.R. 2725 (MEDICARE), to amend the Budget Control Act of 2011 to protect the Medicare program from budget cuts under such act; WILSON of Florida; jointly, to the committees on Rules and the Budget, Aug. 1.

H.R. 2727 (MEDICARE/ MEDICAID), to amend Title IV of the Budget Control Act of 2011 to protect the Social Security, SSI, Medicare, Medicaid, and education programs from budget cuts under such act; WILSON of Florida; jointly, to the committees on Rules and the Budget, Aug. 1.

H.R. 2729 (MEDICAID), to amend Title XIX of the Social Security Act to extend to physician assistants eligibility for Medicaid incentive payments for the adoption and use of certified electronic health records, whether or not such physician assistants practice at a rural health center or federally

qualified health center; BASS of California; to the Committee on Energy and Commerce, Aug. 1.

H.R. 2736 (PATIENT RIGHTS), to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; BURTON of Indiana; to the Committee on Energy and Commerce, Aug. 1.

H.R. 2741 (MEDICARE), to amend Title XVIII of the Social Security Act to reduce the occurrence of diabetes in Medicare beneficiaries by extending coverage under Medicare for medical nutrition therapy services to such beneficiaries with pre-diabetes or with risk factors for developing type 2 diabetes; DEGETTE; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 1.

H.R. 2746 (HEALTH CARE COVERAGE), to amend ERISA, the Public Health Service Act, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide for coverage of oral anticancer drugs on terms no less favorable than the coverage provided for intravenously administered anticancer medications; HIGGINS; jointly, to the committees on Energy and Commerce, Ways and Means, and Education and the Workforce, Aug. 1.

H.R. 2747 (MEDICARE), to amend Title XVIII of the Social Security Act to establish a cancer center construction loan

program; HIGGINS; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 1.

H.R. 2749 (NANOTECHNOLOGY), to ensure the development and responsible stewardship of nanotechnology; HONDA; jointly, to the committees on Science, Space, and Technology, Energy and Commerce, Ways and Means, and Homeland Security, Aug. 1.

H.R. 2769 (MENTAL HEALTH), to prohibit the use of federal funds for any universal or mandatory mental health screening program; PAUL; jointly, to the committees on Energy and Commerce, Ways and Means, and Education and the Workforce, Aug. 1.

H.R. 2770 (MEDICARE), to amend Title XVIII of the Social Security Act to extend for three years reasonable cost contracts under Medicare; PAULSEN; jointly, to the committees on Ways and Means and Energy and Commerce, Aug. 1.

H.R. 2783 (MEDICARE), to amend Title XVIII of the Social Security Act to eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under Medicare; TONKO; to the Committee on Ways and Means, Aug. 1.

H.R. 2785 (MEDICARE), to amend Title XVIII of the Social Security Act to provide improved access to physical medicine and rehabilitation services under Part B of Medicare, and for other

purposes; TOWNS; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 1.

H.R. 2787 (MEDICARE), to amend Title XVIII of the Social Security Act to improve access to diabetes self-management training by authorizing certified diabetes educators to provide diabetes self-management training services, including as part of telehealth services, under Part B of Medicare; WHITFIELD; jointly, to the committees on Energy and Commerce and Ways and Means, Aug. 1.

H. CON. RES. 72 (MEDICARE/MEDICAID), expressing the sense of Congress that any legislative language approved by the Joint Select Committee on Deficit Reduction should not reduce benefits for Social Security, Medicare, and Medicaid recipients; CONYERS; jointly, to the committees on Ways and Means and Energy and Commerce, Aug. 1.

Appendix A: SECTION-BY-SECTION ANALYSIS OF THE BUDGET CONTROL ACT OF 2011 AS ANNOUNCED ON JULY 31, 2011

Section 1. Short Title; Table of Contents.

This section provides a short title for the bill, the “Budget Control Act of 2011.” It also provides a table of contents.

Sec. 2. Severability.

This section ensures that if a provision of this bill is found to be unconstitutional, the other provisions of the bill will remain in force and effect.

TITLE I—TEN-YEAR DISCRETIONARY CAPS WITH SEQUESTER

Sec. 101. Enforcing Discretionary Spending Limits

This section amends section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 to establish 10-year discretionary spending limits (caps) for fiscal years 2012 through 2021 that would reduce the deficit by \$917 billion.

Subsection (a) enforces the discretionary spending caps through a sequestration process (across-the-board reductions) occurring 15 days after Congress adjourns at the end of a session and authorizes the President to exempt any military personnel accounts from sequestration provided that the savings are achieved through across-the-board reductions in the remainder of the Department of Defense (DOD) budget.

Subsection (a) largely mirrors the Balanced Budget and Emergency Deficit Control Act of 1985 (also known as “Gramm-Rudman-Hollings”) providing guidance for part year appropriations, a look-back sequester, and a within session sequestration if caps are exceeded. It also provides a timeline of Congressional Budget Office (CBO) and Office of Management and Budget (OMB) estimates and explanation of differences.

Subsection (b) provides for adjustments to discretionary spending limits for emergency appropriations, appropriations for the global war on terrorism, and appropriations for major disasters. It also provides adjustments for additional spending to combat waste, fraud, and abuse.

Subsection (c) establishes discretionary limits for FY 2012 through 2021. It sets separate discretionary limits for security programs (Departments of Defense, Homeland Security, and Veterans’ Affairs, the National Nuclear Security Administration, the intelligence community management account, and Function 150 (State Department and International Assistance)) and non-security programs for FY 2012 and FY 2013.

Sec. 102. Definitions

This section amends section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 to define terms used in the title, including emergencies.

Sec. 103. Reports and Orders

This section provides updates to reports and orders required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Sec. 104. Expiration

This section repeals section 275 of the Balance Budget and Emergency Deficit Control Act of 1985 that has the effect of putting the discretionary enforcement sequester procedures in effect.

Sec. 105. Amendments to the Congressional Budget and Impoundment Control Act of 1974

This section provides for amendments to the Congressional Budget Act of 1974. Specifically, section 314 of that Act is amended to allow the Chairman of the House and Senate Budget Committees to make budgetary adjustments to reflect the adjustments in spending limits. It also provides for the budget treatment of emergency spending and a process by which members of the House can strike a designation for emergency funding.

The section further establishes a new point of order against consideration of a measure that would violate the discretionary spending caps. A waiver of this point of order would require a three-fifths vote in the Senate.

Sec. 106. Senate Budget Enforcement

This section deems a budget passed in the Senate for purposes of providing committee allocations and

budget enforcement tools. With the exception of discretionary levels, the deeming language largely follows CBO baseline levels.

TITLE II—VOTE ON THE BALANCED BUDGET AMENDMENT

Sec. 201. Vote on the Balanced Budget Amendment

This section requires a vote on passage of a joint resolution entitled “Joint resolution proposing a balanced budget amendment to the Constitution of the United States” between October 1, 2011 and December 31, 2011.

Sec. 202. Consideration by the Other House.

This section provides for expedited consideration by the House and Senate of the joint resolution of the other House. These provisions are largely similar to the expedited procedures used in title III.

TITLE III—DEBT CEILING DISAPPROVAL PROCESS

Sec. 301. Debt Ceiling Disapproval Process.

This section adds a new section after 31 U.S.C. 3101 providing for modification of the debt ceiling by the President and a process for the Congress to disapprove of those modifications. The new section provides that if the President submits a written certification to Congress by December 31, 2011 that the debt is within \$100 billion of the debt limit, the Secretary of the Treasury is authorized to borrow an additional \$900 billion, subject to the enactment of a joint resolution of disapproval. Upon submission of the certification, the debt limit is increased by \$400 billion.

The section authorizes the Congress to consider a joint resolution of disapproval subject to the procedures of this section. If Congress fails to enact the joint resolution, the debt limit is increased by an additional \$500 billion.

In the absence of any further action by Congress, this section authorizes the Secretary to borrow an additional amount equal to \$1.2 trillion, subject to Presidential certification and Congressional disapproval. If a balanced budget amendment is sent

to the states for ratification, the Secretary may borrow \$1.5 trillion. If a balanced budget amendment is not sent to the states for ratification, but the amount of deficit reduction achieved by the joint committee is greater than \$1.2 trillion, the Secretary is permitted to borrow an amount equal to the amount of deficit reduction, but may not exceed \$1.5 trillion. All increases in borrowing authority are subject to Congressional disapproval.

The section further mandates the content of the joint resolution of disapproval, limitations on when a joint resolution may be introduced, and expedited procedures for consideration of the joint resolution. Under this section, a resolution of disapproval must be enacted within 50 calendar days for the initial \$900 billion or within 15 calendar days for an additional amount to prevent an increase in borrowing authority.

Expedited procedures in the House:

- ◆ Any committee to which the joint resolution has been referred must report it to the House not later than five calendar days after the introduction of the Presidential certification. If a committee fails to report the joint resolution within the time period, the committee is discharged from further consideration.

- ◆ Requires consideration of the joint resolution in the House not later than six calendar days after introduction of the joint resolution.

- ◆ All points of order against the joint resolution and its consideration are waived.

- ◆ No amendments to the joint resolution are in order.

- ◆ The joint resolution is debatable for two hours prior to a vote on passage.

Expedited procedures in the Senate:

- ◆ A motion to proceed to a joint resolution of disapproval of the initial \$900 billion increase to the debt limit is in order at any time during the period beginning the day after receipt of a Presidential certification and ending on September 14, 2011.

- ◆ A motion to proceed to a joint resolution of disapproval of the additional amount is in order at any time during the period beginning the day after

receipt of a Presidential certification and ending on the 6th day after Congress has received a certification.

- ◆ All points of order against the joint resolution are waived.
- ◆ No amendments to the joint resolution are in order.
- ◆ Consideration of the joint resolution is limited to not more than 10 hours.

The section also provides that if the President vetoes a resolution of disapproval and the Congress overrides the veto, the debt limit is not increased. If the Congress overrides the President's veto, the Office of Management and Budget is directed to sequester pro rata amounts from certain accounts equal to the initial \$400 billion provided in this section for the first round of debt limit increases.

Sec. 302. Enforcement of Budget Goal.

If the joint committee, created in title IV of this bill fails to achieve at least \$1.2 trillion in deficit reduction, a sequestration process must be implemented. As part of the sequestration procedures, this section establishes revised security and non-security allocations for each fiscal year and revises the definition of security category, limiting the category to the Department of Defense. It also reduces the discretionary spending limits and includes sequestration procedures for direct spending to ensure these spending reductions are achieved.

TITLE IV—JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

Sec. 401. Establishment of Joint Committee.

Subsection (a) defines terms used in the title. Specifically, it defines the term "joint committee" as the Joint Select Committee on Deficit Reduction and "joint committee bill" as the bill containing the legislative recommendations of the joint committee.

Subsection (b) provides for the establishment of the joint committee.

Paragraph (1) establishes the joint committee, and paragraph (2) sets forth the goal of reducing the deficit by \$1.5 trillion over the period of 2012 through 2021. Paragraph (3) establishes the duties of the joint committee. The joint committee is required to provide recommendations (including legislative language) that will significantly improve both the short- and long-term fiscal imbalance of the Federal Government.

The joint committee must also consider any recommendations from House and Senate committees with respect to changes in law necessary to meet the goal of the joint committee. Those committees may report their recommendations to the joint committee by October 14, 2011.

By November 23, 2011, the joint committee is required to vote on a report which contains the findings, conclusions, and recommendations of the joint committee, as well as the estimates provided by the Congressional Budget Office (CBO) and legislative language in support of those recommendations, which must also contain a statement of the deficit reduction achieved over fiscal years 2012 through 2021. A majority of the members of the joint committee must approve the report and accompanying legislative language. The text of the report and accompanying legislative language must be made public promptly after the vote on adoption of those matters.

The legislation also provides for any member of the joint committee to file additional, supplemental, or minority views within 3 calendar days if that member provides notice of his or her intention at the time of final vote on adoption of the report and legislative language. The report and accompanying legislative language must be transmitted to the President, Vice President, the Speaker of the House, and the majority and minority leaders of the House and Senate by December 2, 2011.

The joint committee is to be comprised of 12 members appointed by the majority and minority leaders of the Senate, and the Speaker and minority leader of the House, who each must appoint three members. The Speaker and the majority leader of the Senate must each appoint one member to serve as Co-Chair from among the members of the joint committee. The

members of the joint committee and the Co-Chairs must be appointed within 14 calendar days after enactment of this bill. Members are appointed for the life of the joint committee, and a vacancy must be filled in the same manner as the original appointment. The Co-Chairs must jointly hire a staff director for the joint committee. It is also authorized to incur expenses in the same manner as the Joint Economic Committee and any actual and necessary expenses approved by the co-chairs are authorized to be disbursed by the Senate, subject to Senate rules and regulations.

Seven members of the joint committee constitute a quorum for purposes of voting, meeting, and holding hearings. With respect to voting, proxy voting is prohibited and the joint committee is enjoined from voting on the report, recommendations, or legislative language unless an estimate from the CBO is available to the members of the joint committee for at least 48 hours prior. In its analysis, CBO is required to estimate the effect of interest payments on the debt, and CBO is also directed to estimate the budgetary effects of the legislative language beyond 2021.

The joint committee must hold its first meeting not later than 45 days after the date of enactment of this legislation and the Co-Chairs must provide an agenda at least 48 hours prior to each meeting.

The joint committee is authorized to hold hearings, require attendance of witnesses and production of documents, take testimony, receive evidence, and administer oaths as the committee deems advisable. It may also sit and act whenever necessary.

Hearings must be announced at least 7 days in advance, unless the Co-Chairs determine that there is good cause to hold a hearing earlier. Witnesses appearing before the joint committee must file a written statement of proposed testimony at least 2 days prior to appearance, unless waived by the Co-Chairs.

Federal agencies must provide technical assistance to the joint committee on the written request of the Co-Chairs.

Subsection (c)(1) addresses the staff of the joint committee. The Co-Chairs are authorized to appoint and set the compensation of staff as they deem

necessary, and within the guidelines and rules for Senate employees. Paragraph (2) provides that the members of the joint committee will be bound by the rules and ethical requirements of the House in which they serve, while the staff of the joint committee is governed by the Senate ethics rules.

Sec. 402. Expedited Consideration of Joint Committee Recommendations.

Subsection (a) provides for introduction of the joint committee's legislative recommendations. If approved by the joint committee, the legislative language accompanying their recommendations must be introduced on the next session or legislative day in the House or Senate, respectively. The measure is to be introduced (by request) in the Senate and House by the majority leader of each body or a designee.

Subsection (b) provides for expedited consideration in the House. Each committee receiving a referral of the joint committee bill must report that bill without amendment not later than December 9, 2011. If a committee fails to report the bill prior to that date, a member may offer a motion to discharge the bill. That motion is debatable for 20 minutes, equally divided and controlled between the proponent and an opponent and a motion to reconsider the vote disposing of the motion is not available. The motion to discharge is not available after the last committee reports the bill or the House has considered a prior motion to discharge. If the motion is adopted or after the last committee reports the joint committee bill, a motion to proceed to the consideration of the bill is in order. The motion to proceed is not debatable, and a motion to reconsider the vote disposing of the motion to proceed is not available.

If the House proceeds to consideration of the joint committee bill, all points of order against the bill and its consideration are waived, and it is considered as read.

The joint committee bill is debatable for 2 hours, equally divided and controlled by the proponent and an opponent. One motion to limit debate is available, while a motion to reconsider the vote disposing of the joint committee bill is not in order.

The vote on passage of the joint committee bill must

occur on or before December 23, 2011.

Subsection (c) provides for expedited consideration in the Senate. The joint committee bill must be referred jointly to the committees of jurisdiction. Each committee to which the bill is referred must report the bill with a favorable or unfavorable recommendation, or no recommendation, by not later than December 9, 2011 and without amendment. If any committee fails to report the bill by that date, that committee will be automatically discharged and the joint committee bill placed on the appropriate calendar.

Two days after the last Senate committee reports the joint committee bill or is discharged, the majority leader of the Senate or a designee may move to proceed to the consideration of the joint committee bill, even if a prior motion to proceed has failed. All points of order against the motion to proceed are waived and it is not debatable, and it is not subject to a motion to postpone or reconsider. If the motion to proceed is agreed to, the joint committee bill will remain unfinished business until it is disposed of.

Consideration of the joint committee bill, including all debatable motions and appeals, is limited to 30 hours equally divided between the majority and minority leaders of the Senate. All points of order against the joint committee bill and its consideration are waived. A non-debatable motion to limit debate is available and requires an affirmative three-fifths vote. Any debatable motion or appeal is limited to one hour, equally divided between a proponent and an opponent. All time used for consideration of the joint committee bill, including time used for quorum calls, counts against the 30-hour total.

No amendments to the joint committee bill or a motion to postpone, proceed to the consideration of other business, or recommit are in order. Appeals from decisions of the chair regarding application of the rules of the Senate to consideration of the joint committee bill are non-debatable.

The Senate must vote on passage of the joint committee bill immediately after the conclusion of debate and a quorum call, if requested. The Senate must also vote on the joint committee bill not later than December 23, 2011.

Subsection (d) provides that the joint committee bill is not subject to amendment in either the House or Senate.

Subsection (e) provides standard language to address the handling of the joint committee bill if passed by one chamber before the other has completed its consideration. It also provides that if the joint committee bill is a revenue measure, the subsection does not apply to the House.

Subsection (f) also contains several standard provisions to address issues in the Senate when they receive a joint committee bill from the House. First, it provides that joint committee bill originated by the House is entitled to expedited consideration in the Senate if the Senate fails to introduce or consider a joint committee bill. Second, if the Senate receives the joint committee bill after passage of the joint committee bill, the House version is not debatable and the vote on passage of the Senate version is considered to be the vote on the House version.

Finally, it provides that debate on a veto message on the joint committee bill in the Senate is limited to one hour, equally divided between the majority and minority leaders.

Subsection (g) provides that the joint committee bill loses its privileged status if the joint committee fails to vote on the report or legislative language by November 23, 2011 or the joint committee bill does not pass both the House and Senate by December 23, 2011.

Sec. 403. Funding.

This section provides that the funding of the joint committee is to be paid equally out of the applicable accounts of the Senate and House of Representatives, subject to the rules and regulations of the Senate.

Sec. 404. Rulemaking.

This section clarifies that the provisions are enacted as an exercise of the rulemaking powers of the House and Senate, that they are considered part of the rules of each House, and that each House has a constitutional right to change the rules in the same manner that each House may change any other rule.

TITLE V—PELL GRANT AND STUDENT LOAN PROGRAM CHANGES

Sec. 501. Federal Pell Grants.

This section provides \$17 billion in mandatory funds over two years to help fill the funding gap in the Federal Pell Grant program. This additional funding is offset by reductions through reforms to the student loan program in sections 502 and 503.

Sec. 502. Termination of Authority to Make Interest Subsidized Loans to Graduate and Professional Students.

This section eliminates the ability of graduate and professional students to take out subsidized Stafford loans, beginning on July 1, 2012. This elimination does not apply to students enrolled in a program leading up to a degree or certificate or students enrolled in a program necessary for a teaching credential or certification where such credential or certification is required by the state.

Sec. 503. Termination of Direct Loan Repayment Incentives.

This section sunsets the Secretary of Education's authority to provide incentives for on-time repayment of students loans on July 1, 2012. This section also explicitly prohibits the Secretary of Education from creating any incentives for on-time repayment of student loans.

Sec. 504. Inapplicability of Title IV Negotiated Rulemaking and Master Calendar Exception.

This section clarifies that the negotiated rulemaking requirement included in title IV and the master calendar requirements to not apply to the changes made in this Act.