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RSC THE REPUBLICAN STUDY COMMITTEE

Bipartisan Budget Act of 2018

CONTACT: Jay Fields, 202-226-9143; Amanda Lincoln 202-226-2076; Nicholas Rodman 202-226-8576; Noelani Bonifacio 202-226-0707; Matthew Dickerson 202-226-9718

FLOOR SCHEDULE:

The Bipartisan Budget Act of 2018 is expected to be considered on February 8, 2018, under a closed rule.

TOPLINE SUMMARY:

The bill would extend discretionary spending to March 23, 2018, at current levels.

The would amend the Budget Control Act of 2011 (BCA) to raise the discretionary spending limits (a.k.a., the BCA Caps) on defense and non-defense spending by a total of $296 billion over FY2018 and FY 2019.

The bill would suspend the debt limit until March 1, 2019.

The bill would establish two new joint select committee on pensions and budget process reform.

The bill would provide beneficial tax treatment of 2017 hurricane and wildfire victims and retroactively extend dozens of expired tax deductions and credits.

The bill would appropriate $89.3 billion in emergency sending.

The bill would provide an additional four-year extension of the Children's Health Insurance Program on top of the six-year extension passed on January 22, and extend and modify numerous expiring Medicare and public health policies. It would also repeal Obamacare's Independent Payment Advisory Board. The bill would make reforms and additional appropriations related to foster care and related child services.

The bill would make cotton eligible for the Price Loss Coverage and Agriculture Risk Coverage programs, and reduce premiums and increase coverage for the dairy Margin Protection program.

COST:

According to the Congressional Budget Office (CBO), the bill would decrease direct spending by $46.9 billion and would reduce revenues by $8.7 billion. Additionally, the bill would increase base discretionary outlays subject to the BCA caps over the ten-year budget window by $290.3 billion and cap-exempt emergency outlays by $67.9 billion. Combined the bill would increase deficits by $320 billion over ten years.[1]

Deficit Impact of Bipartisan Budget Act of 2018

[1] This figure does not include potential cap adjustments under Sec. 30206, projected to cost $174 million by CBO or non-scorable projected savings of $299 million under section 10506.

(in billions of dollars)	
Decrease in Direct Spending	-46.9
Reduction in Revenues	8.7
Increase in Discretionary Outlays (pursuant to increased BCA caps)	290.3
Increase in Disaster Outlays (exempt from BCA Caps)	67.9
TOTAL	320

CBO projects that Subdivisions 1 and 3 of the bill (Disaster funding and Continuing Resolution) would provide funding at a $1.071 trillion annualized rate for base purposes. After adding in cap-exempt spending, H.R. 195 provides for total discretionary spending at an annualized rate of $1.309.9 trillion.

The bill would provide a total of $84.7 billion in spending authority for disaster relief. This spending is designed as an emergency and thus not subject to the BCA caps.
The bill would increase the Budget Control Act caps on discretionary spending by $296 billion over the FY 2018 – 2019 period.

Increases in BCA Caps (in billions of dollars)			
	Defense	**Non-Defense**	**Total**
FY 2018 Base Discretionary	80	63	143
FY 2019 Base Discretionary	85	68	153
Total	**165**	**131**	**296**

The Joint Committee on Taxation (JCT) estimates that the tax provisions (disaster relief and tax extenders) would reduce revenue by $17.436 billion over ten years.

CONSERVATIVE CONCERNS:

Many conservatives will be very concerned that the 652-page amendment was only made publicly available at 11:59 PM on February 8, 2018, in violation of the House Republican three-day rule. The three-day rule was created to ensure that members have a legitimate opportunity to analyze legislation. The magnitude of this violation is enhanced considering the magnitude of the bill.

Many conservatives will be concerned that the bill would raise the discretionary spending caps under the BCA be $296 billion over two fiscal years. This is bigger than the last three cap increases combined.

Many conservatives will be concerned that the bill's offset provisions do not fully offset the increases in the discretionary caps, as has been the precedent under previous cap adjustment legislation. Further, many conservatives will be concerned that several of the bill's offset provisions are designed to raise revenues rather than cut spending. Some conservatives may view the provision reducing the amount of surplus funds that Federal Reserve Banks may maintain would by $2.5 billion dollars as a budget gimmick. Some conservatives are opposed to sell offs from the Strategic Petroleum Reserve believing that the reserve should be left alone in case of an energy shortage in the United States.

Some conservatives may be concerned that the bill would suspend the debt limit, rather than raise is by a dollar amount, and view this as writing a blank check for the federal government to accumulate debt. Further, conservatives may be concerned that the bill does not contain any spending controls paired with the debt ceiling suspension as has largely been the historical precedent.

Some conservatives may be concerned that the bill would authority for the House and Senate Committees to deem a budget, negating the need for a bicameral budget resolution to set discretionary spending levels. Conservatives may view this as a dereliction of Congress's duty to pass a budget that puts our nation on a sustainable fiscal trajectory. Additionally, without a budget resolution passed by both chambers, Congress would not be able to use reconciliation procedures to implement conservative policy and spending reforms.

Conservatives may be concerned that the bill would erase the effects of all spending and revenue legislation for purposes of the 5 and 10 year PAYGO scorecards.

Some conservative may be concerned that the CR portion of the bill extends the appropriations provided by H.R.244, the Consolidated Appropriations Act 2017 ("FY 2017 Omnibus) that was passed with primarily Democratic support. For conservative concerns of the FY 2017 Omnibus, the RSC Legislative Bulletin is available here.

Some conservatives oppose continuing resolutions arguing that they perpetuate an inability of Congress to wield its power of the purse and properly carry out the annual appropriations process to prioritize funding decisions based on the will of the voters that elected them.

Some conservatives may be concerned that this bill would be the fifth CR passed in FY 2018.

Some conservatives may be concerned that the bill retroactively extends dozens of tax credits and deductions that that could be viewed as some as special interest tax treatment. Congress recently enacted comprehensive tax reform to eliminate special interest tax breaks.

Some conservatives may be concerned the bill establishes two new "super committees" that would trample on the jurisdictions of the standing Committees of the House. Some conservatives may be further concerned that the super committees would be made up of equal numbers of Republicans in Democrats, despite the fact that the American people elected a majority of Republicans in both chambers.

Some conservatives may be pleased that the bill would increase defense spending to improve military readiness and strength.

Some conservatives may be concerned Department of Health and Human Services (HHS) would be appropriated an additional $8 million in FY 2018 to make grants to states to support efforts to recruit foster families, and the bill would appropriate $100 million for the federal government to pay for outcomes under social impact partnerships.

- **Expand the Size and Scope of the Federal Government?** Yes.
- **Encroach into State or Local Authority?** Some conservatives may believe the programs and activities funded by the bill would be more appropriately handled by state or local governments, or the private sector.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Division B – SUPPLEMENTAL APPROPRIATIONS, TAX RELIEF, AND MEDICAID CHANGES RELATING TO CERTAIN DISASTERS AND FURTHER EXTENSION OF CONTINUING APPROPRIATIONS

Division B, Subdivision 1 – Disaster Relief Appropriations

The bill would provide $89.3 billion for programs and activities addressing the Hurricanes and wildfires of 2017. The funding would be emergency designated and therefore exempt from the Budget Control Act (BCA) discretionary spending limits.

In November, the President requested $44 billion in additional disaster funding, along with $59 billion in proposed offsets. This bill includes approximately twice the requested funding and none of the offsets for disaster spending.

Combined with the past two laws containing disaster funding (H.R. 601 and H.Res. 569), disaster appropriations for the 2017 incidents would total about $140 billion – none of which would be offset.

Agriculture: The bill includes $3.6 billion for agriculture programs. The bill would provide $2.6 billion for crops, trees, bushes, vines, and livestock losses, which can be provided in the form of grants and cover up to 85 percent of the loss. The bill would remove the annual cap on the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish Program. The bill would include livestock sold for a reduced price in the Livestock Indemnity Program. The bill would increase the acreage for the Tree Assistance Program. The bill would provide $941 million for conservation programs. The bill would provide $184 million for rural development. The bill would provide $24 million for the Emergency Food Assistance Program and $14 million for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

Commerce Justice and Science: The bill would provide $1.2 billion for CJS programs. The bill would provide $600 million for the Economic Development Assistance (EDA). The bill would provide $400 million for National Oceanic and Atmospheric Administration (NOAA). The bill would provide $15 million for the Legal Services Corporation.

Defense: The bill would provide $434 million for the Department of Defense to repair facilities and replace equipment.

Energy and Water: The bill would provide $17.4 billion for Energy and Water programs. The bill would provide $15 billion for Army Corps construction, including $10.4 billion for areas affected by Hurricanes Harvey, Irma, and Maria, and $4.6 billion for areas that had any flood disaster declaration between 2014 and 2017. The bill would provide $770 million for Mississippi River and Tributaries, $608 million for Operation and Maintenance, and $810 for Flood Control and Coastal Emergencies.

Financial Services and General Government: The bill would provide $1.8 billion for Financial Services and General Government programs. The bill would provide $1.6 billion for the SBA Disaster Loans Program.

Homeland Security: The bill would provide $24.7 billion for Homeland Security programs. The bill would provide $23.5 for the FEMA Disaster Relief Fund (DRF). The bill would provide $150 million for Customs and Border Protection (CBP) and $64 million for Immigration and Customs Enforcement (ICE). The bill would provide $835 million for the Coast Guard. The bill includes a provision to ensure religious non-profit organizations can qualify for disaster assistance. The bill would set the federal cost share for wildfire debris removal costs at 90 percent in 2017.

Interior and Environment: The bill would provide $699 million for Interior and Environment programs.

Labor, Health, and Human Services: The bill would provide $8.9 billion for Labor, health, and Human Services programs. The bill would provide $131 million for the Department of Labor. The bill would allow the Virgin Islands to delay an Unemployment Insurance debt payment for one year. The bill would provide $200 million for the Centers for Disease Control (CDC). The bill would provide $650 million for Head Start. The bill would provide $162 million for the Public Health and Social Services Emergency Fund. The bill would provide $2.46 billion for elementary and secondary schools affected by disasters. The bill would forgive loans from hurricane Katrina to four Historically Black Colleges and Universities.

Military Construction and Veterans Affairs: the bill would provide $815 million for Military Construction and Veterans Affairs programs. The bill would provide $720 million for Department of Defense construction. The bill would provide $94 million for the Department of Veterans Affairs.

Transportation, Housing and Urban Development: The bill would provide $29.8 billion for Transportation, Housing and Urban Development programs. The bill would provide $28 billion for the Community Development Block Grant program. The bill would provide $1.4 billion for the Federal Highway Administration Emergency Relief program. The bill would provide $115 million for the FAA. The bill would provide $330 million for the Federal Transit Administration Emergency Relief program.

Division B, Subdivision 2 – Tax and Medicaid for Disasters

The bill would allow for penalty-free withdrawals from retirement savings accounts for those affected by wildfires in California. The withdrawals must be repaid within three years.

The bill would provide a tax credit to employers affected by wildfires in California. The credit would be equal to 40 percent of up to $6,000 of the wages paid to an employee, without regard to whether the employee performs services.

The bill would suspend the limit on charitable contributions made for relief in areas affected by wildfires in California.

The bill would extend tax relief provided to those affected by Hurricanes Harvey, Irma, and Maria.

The bill would provide an additional $3.6 billion of Medicaid funding for Puerto Rico and $107 million for the Virgin Islands for the January 2018 – September 30, 2019 period. The bill would also provide an additional $1.2 billion for Puerto Rico and $36 million for the Virgin Islands if the Secretary of Health and Human Services certifies that they have "taken reasonable and appropriate steps" to improve its data collection and fraud control.

CONTINUING APPROPRIATIONS

The bill would extend discretionary appropriations for defense and non-defense programs through March 23, 2018. It would do so by extending the expiration date of the September CR, which provided continuing discretionary appropriations through December 8, 2017, and was subsequently extended by H.J.Res. 123, the Continuing Appropriations Act through December 22, 2017, then by H.R. 1370, Further Continuing Resolution through January 19, 2018, then by H.R. 195, the Extension of Continuing Appropriations Act through February 8, 2018.

This bill would be the fifth CR passed this fiscal year.

The bill contains a number of anomalies--- provisions that enumerate exceptions to the duration, amount, or purposes for which those funds may be used for certain appropriations accounts or activities. The bill would appropriate an additional $182 million to the Census Bureau for completing the 2020 census, increase funding to the Southeastern Power Administration from $1 million to $6.4 million, allow a $350 million selloff from the Strategic Petroleum Reserve (SPR) to use for the SPR's Life Extension II project, would nearly double the amount of funding previously provided to the Department of Health's Indian Health Services program in the CR passed by the House on December 21, 2018, allow for new military construction projects, all reallocation of National Surface Transportation and Innovative Finance Bureau funding.

INCREASE BCA DISCRETIONARY SPENDING CAPS

Background: For the last several months, the White House, the Speaker, the Senate Majority Leader, and the House and Senate Minority Leaders have been negotiating a potential deal to increase the Budget Control Act (BCA) spending caps.

The BCA stablished caps on defense and non-defense discretionary spending. These caps are enforced by a mechanism called sequestration. When discretionary spending in either category exceeds its cap for that fiscal year, the sequestration process eliminates excess spending through across-the-board cuts to non-exempt programs.

BCA Caps: The current BCA caps, and the adjustment proposed under the current bill, is reflected in the table below. The bill would raise the defense cap for FY 2018 by $80 billion and FY 2019 by $85 billion. The bill would also raise the non-defense cap for FY 2018 by $63 billion and FY 2019 by $68. Together, the bill would increase the combined caps by $296 billion over FY 2018 and FY 2019.

Budget Control Act (BCA) Discretionary Spending Caps								
In billions	**FY2014**	**FY2015**	**FY2016**	**FY2017**	**FY2018**	**FY2019**	**FY2020**	**FY2021**
Defense (current law)	$520	$521	$548	$551	$549	$562	$576	$590
Defense (raised)					$629	$647		
Non-Defense (current law)	$492	$492	$518	$519	$515	$529	$543	$555
Non-Defense (raised)					$578	$597		
Total (current law)	$1,012	$1,014	$1,066	$1,070	$1,064	$1,091	$1,119	$1,145
Total (raised)					$1,207	$1,244		

The BCA caps have been adjusted on three occasions since enactment. Understanding those prior adjustments is useful for comparing the fiscal prudence of past deals to the one currently under consideration. Overall the precedent in past legislation to alter the BCA caps has been to couple those adjustments with offsets and spending controls. The following is a short description of the original legislation establishing the BCA caps and the three subsequent deals adjusting those caps:

The Budget Control Act of 2011 (BCA)

- ***Raised Debt Limit***: raised by over $2 trillion dollars
- ***Spending Controls***: Combined, two main components were projected to reduce the deficit by roughly $2 trillion over the FY2012-FY2021 period.
    1) discretionary spending caps that came into effect in FY2012; and
    2) a $1.2 trillion automatic spending reduction process that was initially scheduled to come into effect on January 2, 2013.
- ***Balanced Budget Vote***: House and Senate each required to vote on balanced budget amendment.

The American Taxpayer Relief Act of 2012 (ATRA)

- ***Delayed Spending Reductions*** - Postponed the start of the automatic spending reductions until March 1, 2013. Consequently, this reduced the FY2013 spending reductions by $24 billion.
- ***Offsets***:
    1) adjusted FY2013 spending caps downward by $4 billion and FY2014 by $8 billion (about half of the total cost of the delay); and

2) raised revenue by permitting certain retirement accounts to be transferred to designated Roth accounts without distribution to offset the remaining cost of the legislation.

The Bipartisan Budget Act of 2013 (BBA 2013)

- ***Raised Discretionary Caps***: increased caps for FY2014 ($44 billion combined) and FY2015 ($9 billion combined).
- ***Offsets***:
  - Extended the mandatory spending sequestration process by two additional years to FY2022 and FY2023 to reduce the deficit by a total of $28 billion.
    - For the additional two years, the bill required the President to sequester the same percentage of mandatory budgetary resources in FY2022 and FY2023 as will be sequestered in FY2021.
  - Dozens of specific deficit-reduction provisions to offset remainder of caps increase and reduce the deficit by between $20 and $23 billion.

The Bipartisan Budget Act of 2015 (BBA 2015)

- ***Raised Discretionary Caps***: $25 billion each in FY2016 and $15 billion each in FY2017 (total $79.4 billion). See the below chart "Congress Busts BCA Caps" from the Heritage Foundation for illustration of all caps adjustments.
- ***OCO:*** Established nonbinding targets for OCO in FY2016 and FY2017 (about $31 billion increase overall)
- ***Debt Limit Suspension***: Suspended the statutory debt limit until March 2017.
- ***Offsets:*** total of $79.9 billion.
  - Extended mandatory spending sequestration process for FY2025 ($14 billion savings).
  - Contained dozens of specific deficit reducing offsets, but many were budgetary gimmicks.

The three past cap deals combined increased the BCA caps by a total of $179 billion dollars. That amount was spread over a five fiscal year period. The present deal would raise the caps by $296 billion over FY 2018 and FY 2019. However, FY 2018 which started on October 1, 2017, is already approximately halfway over.

PAYGO Nullification

The bill would nullify the balances on the 5 and 10-year PAYGO scorecards at the time of enactment of the bill. The scorecards track the deficit impact of all legislation affecting mandatory spending and revenues over those time periods. Legislation increasing the deficit over those time periods triggers across the board cuts to non-exempt programs implemented by the Office of Management and Budget (OMB) to negate the net deficit.

Deeming Resolutions

The bill would authorize the chairmen of the House and Senate Budget Committee to establish for FY 2019 302(a) spending allocations for the House and Senate Appropriations Committees. This will set a topline discretionary spending level from which House and Senate Appropriators will then set 302(b) sub-allocations among the dozen appropriations subcommittees. This is a deeming resolution. The bill instructs the chairmen to do so after April 15, 2018 and on or before May 15, 2018.

OFFSETS TO CAPS INCREASE

The bill contains a number of provisions designed to offset a portion of the caps increase. These include the following:

- The bill would extend current law's expiration date on certain customs user fees.
- The bill would direct the Department of Homeland Security to collect about $3.3 billion in aviation security service fees over FY 2026 and FY 2027.
- The bill extend several immigration fees associated with the visa waiver program, L-1 visas, and H-1B visas.

- The bill would direct the Energy Department to sell from the Strategic Petroleum Reserve 100,000,000 barrels of crude between 2022 and 2027.
- The bill would reduce the amount of surplus funds that Federal Reserve Banks may maintain would be reduced by $2.5 billion dollars, and this amount would have to be transferred to the Treasury's general fund.
- The bill would direct the Department of Labor to award grants to states to conduct a reemployment services and eligibility assessments program. Such a program is designed to help newly unemployed individuals find a job.

Extension of Mandatory Sequestration

Section 251A of the BCA called for $1.2 trillion in overall budgetary savings over FY2013 to FY2021 in addition to the savings produced by the spending limits. These savings were to come from the enactment of a Joint Committee on Deficit Reduction bill. However, such a bill was not enacted, and as a result the BCA required that those savings be achieved through automatic spending reductions split evenly between non-exempt defense and non-defense spending ($54.7 billion to each category). Cuts were applied proportionally to discretionary and mandatory programs within each category. The mandatory portion of the sequester has since been extended through FY 2025.

The bill would extend the mandatory sequester through FY 2027. According to the Office of Management and Budget, this extension would produce about $44 billion in savings.

JOINT SELECT COMMITTEES

The would establish two joint select committees: 1) the Joint Select Committee on Solvency of Multiemployer Pension Plans; and 2) the Joint Select Committee on Budget and Appropriations Process Reform.

Each Committee would be made up of 16 Members – Four appointed by each of the Speaker of the House, the House Minority Leader, the Senate Majority Leader, and the House Minority Leader. The Committees could only report legislation that is supported by a majority of both the majority and minority members. Legislation reported by the Committees would be subject to expedited consideration in the Senate, but would still be subject to a 60-vote threshold.

The Joint Select Committee on Solvency of Multiemployer Pension Plans would have the goal to "improve the solvency of multiemployer pension plans and the Pension Benefit Guaranty Corporation." It would be directed to provide legislation and vote on a report to that effect. The committee would dissolve on December 31, 2018 or earlier if a report and legislation is submitted first.

The Joint Select Committee on Budget and Appropriations Process Reform would have the goal to "to reform the budget and appropriations process." It would be directed to provide legislation and vote on a report to that effect. The committee would dissolve on December 31, 2018 or earlier if a report and legislation is submitted first.

DEBT LIMIT

The bill would suspend the debt limit until March 1, 2019.

Previously, the debt limit was suspended by H.R. 601, the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 until December 8, 2017. Since that date the Treasury has been utilizing so-called "extraordinary measures" to manage cash flow and temporarily alleviate the need to increase the debt limit. On December 8, 2017, total public debt subject to the debt limit was $20.46 trillion.

TAX EXTENDERS

The bill provides retroactive extensions of the following expired tax provisions through 2017:

- Exclusion from gross income of discharge of qualified principal residence indebtedness
- Treatment of mortgage insurance premiums treated as qualified residence interest
- Deduction for qualified tuition and related expenses
- Indian employment tax credit
- Railroad track maintenance credit
- Mine rescue team training credit.
- 3-year recovery period for race horses
- 7-year recovery period for motorsports complexes
- Accelerated depreciation for business property on an Indian reservation
- Election to expense mine safety equipment
- Special expensing rules for certain film, television, and theatrical productions
- deduction for income attributable to domestic production activities in Puerto Rico
- Empowerment zone tax incentives
- American Samoa economic development credit
- Credit for nonbusiness energy property
- Credit for new qualified fuel cell motor vehicles
- Credit for alternative fuel vehicle refueling property
- Credit for 2-wheeled plug-in electric vehicles
- Second generation biofuel producer credit
- The $1.00 per gallon tax credit for biodiesel and biodiesel mixtures
- The small agri-biodiesel producer credit of 10 cents per gallon
- The $1.00 per gallon production tax credit for diesel fuel created from biomass
- The fuel excise tax credit for biodiesel mixtures
- Production credit for Indian coal facilities
- Credit for facilities producing energy from certain renewable resources
- Credit for energy-efficient new homes
- Special allowance for second generation biofuel plant property
- Energy efficient commercial buildings deduction
- special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities
- excise tax credits relating to alternative fuels

Other extensions:

- The bill would extend the rum cover over through the end of 2021.
- The bill would extend through December 18, 2018 the waiver of the statute of limitations with respect to excluding from gross income amounts received by wrongfully incarcerated individuals.

Miscellaneous Tax Reforms:

- The bill would make reforms as to improper levies on IRAs and certain other employer-sponsored retirement plans.
- The bill would modify user fee requirements for installment agreements with the IRS to pay tax bills.
- The bill would require the IRS to publish a simplified income tax return form designated a Form 1040SR, for use by persons who are age 65 or older by the close of the taxable year.
- The bill would create a deduction for attorneys' fees spent in connection with certain whistleblower cases.
- The bill would lessen the number of colleges subject to the excise tax on investment income.
- The bill directs the IRS to modify rules regarding hardship distributions from retirement accounts.
- The bill would expand Opportunity Zones, which have tax preferences, to Puerto Rico.
- The bill would allow combat zones to be eligible for income exclusion rules.

- The bill would increase corporate installment payments for three months in 2020 and reduce them for the three next months.
- The bill would expand the Carbon Dioxide Sequestration Credit.
- The bill would allow the Treasury in 2021 to reallocate unused megawatt capacity to existing then new facilities.
- The bill would extend the oil spill excise tax.
- The bill would set a tax rate of 23.8% on C corporation timber gains.
- The bill would extend the credit for residential energy efficient property for all qualified property placed in service prior to 2022 and make modifications to the rate.
- The bill would largely reconcile the expiration dates and phaseout schedules for different properties with regard to the Investment Tax Credit.

HEALTH CARE PROVISIONS

Title I – CHIP

Section 50101. Funding extension of the Children's Health Insurance Program through fiscal year 2027.

The January 2022 Continuing Resolution extended federal funding for the Children's Health Insurance Program (CHIP) for six years, through 2023, and reflected a bipartisan agreement between Senators Hatch and Wyden that gradually eliminated an Obamacare increase to the federal CHIP matching rate, but was otherwise generally a "clean" extension of policies first enacted on a primarily partisan basis by a Democrat-controlled Congress in 2009.

This section would provide an additional four-year extension of federal CHIP funding, through FY 2027, without making any major policy changes. It would also extend the Child Enrollment Contingency Fund, Qualifying States Option, and Express Lane Eligibility Option, and require states to maintain eligibility levels for CHIP children through FY 2027. Some conservatives may be concerned that extending CHIP through the budget window limits opportunities for congressional debate surrounding pertinent program issues. A legislative bulletin on the 2009 bill can be found here.

This section would fund CHIP for FY 2024 through FY 2026 at "such sums as may be necessary." Funding for FY 2027 would be structured similarly to CHIP's FY 2015 and FY 2017 funding, with semiannual appropriations of $7.65 billion. Some conservatives have raised concerns that some of the CHIP appropriation has historically exceeded outlays and been diverted to other, unrelated HHS programs and thus the formula-derived funding levels may be inflated. Many conservatives have raised concerns about the use of "such sums" in authorizing statute, given that it can lead to increased spending because it does not establish an upper bound. Some conservatives view "such sums" as a way to prevent redirection of the CHIP funds, however, given that states are limited in how much they can spend each year by their state allotment, which grows according to a statutory formula, and thus a "such sums" approach might not lead to additional spending.

Section 50102: Extension of pediatric quality measures program.

- This section would extend funding for the pediatric quality measures program through FY 2027.

Section 50103: Extension of outreach and enrollment program.

- This section would extend funding for outreach and enrollment grants through FY 2027.

Title II – Medicare Extenders

Sec. 50201: Extension of Work GPCI Floor.

- This section would extend the floor for the work geographic index under current law until January 1, 2020. GPCIs are adjustments that are applied to the physician payment formula to account for geographic variations in the costs of practicing medicine in the different areas of the country relative to the national average. In 2003, Congress set a "floor" of 1.0, meaning that physician payments in any given geographic area would not be reduced just because the relative cost of physician work was less than the national average.

Sec. 50202: Repeal of Medicare Payment Cap for Therapy Services; Limitation to Ensure Appropriate Therapy.

- This section would repeal the Medicare "therapy caps" beginning on January 1, 2018. The "therapy caps" were first enacted as a cost control mechanism under the Balanced Budget Act of 1997, and include a separate $1,980 cap on the amount of (1) physical therapy services and speech-language pathology services and (2) occupational therapy services that Medicare beneficiaries may consume each year. Congress has consistently acted to override any imposition of the caps, so some conservatives argue they function more as a budget gimmick than a spending limitation as the compounded cost of temporarily suspending the therapy caps has exceeded any original projected savings. This section would require the HHS Secretary to implement a targeted manual medical review process for outpatient therapy services provided after a beneficiary exceeds $3,000 in annual claims, and require that providers indicate on such claims that services are medically necessary.

Sec. 50203: Medicare Ambulance Services.

- This section would provide a five-year extension through December 31, 2022, of the urban (2 percent), rural (3 percent), and super-rural (22.6 percent) ground ambulance add-on payments and require annual cost reporting from providers and suppliers. It would also require the Secretary to develop a system to collect data from suppliers and providers, including cost, revenue, utilization, and any other information the Secretary determines appropriate.

Sec. 50204: Extension of Increased Inpatient Hospital Payment Adjustment for Certain Low-Volume Hospitals.

- Qualifying low-volume hospitals receive add-on payments based on the number of Medicare discharges. Low-volume hospitals must be more than 15 road miles from the nearest hospital and have fewer than 1600 Medicare discharges. This section would provide a five-year extension of Medicare low-volume hospital payments through September 30, 2022, but modify payment adjustments based on total discharges starting on October 1, 2018.

Sec. 50205: Extension of the Medicare-dependent Hospital (MDH) Program.

- The Medicare-dependent hospital (MDH) program provides enhanced reimbursement to support rural health infrastructure and to support small rural hospitals for which Medicare patients make up a significant percentage of inpatient days or discharges. A hospital qualifies for the MDH program if it is located in a rural area, has no more than 100 beds, is not classified as a sole community hospital, and has at least 60 percent of inpatient days or discharges covered by Medicare. This section would extend the program through October 1, 2022.

Sec. 50206: Extension of Funding for Quality Measure Endorsement, Input, and Selection; Reporting Requirements.

- This section would provide $7.5 million for each of FY 2018 and FY 2019 for the National Quality Forum's (NQF) review, endorsement, and maintenance of quality and resource use measures.

Sec. 50207: Extension of Funding Outreach and Assistance for Low Income Programs; State Health Insurance Assistance Program Reporting Requirements.

- This section would extend funding for the State Health Insurance Program, the Area Agencies on Aging, and the National Center for Benefits and Outreach Enrollment for two years, through FY 2019, and require the Agency for Community Living (ACL) to publicly post funding and other grant information.

Sec. 50208: Extension of Home Health Rural Add-On.

- This section would extend the add-on to payments made for home health services in rural areas for five years, through October 1, 2022, and modify the methodology to target the add-on payment to rural areas with a population density of six or fewer individuals per square mile. The home health add-on would be applied at three percent in FY 2018, and increase to four percent in FY 2019 before phasing down to three percent in FY 2020, two percent in FY 2021, and one percent in 2022. The section would also require the HHS Inspector General to analyze home health utilization and provide recommendations to Congress.

Title III – Creating High Quality Results and Outcomes Necessary to Improve Chronic (CHRONIC) Care.

Subtitle A –Section 50301: Extending the Independence at Home Demonstration Program

- This section would provide a two-year extension of the Independence at Home Demonstration program to give Congress additional time to evaluate its effectiveness and increase the cap on the total number of participating beneficiaries. The program has been found to save money.

Section 50302: Expanding access to home dialysis therapy

- This section would allow providers to use telehealth to monitor home dialysis patients, which is prohibited under current law.

Subtitle B – Advancing Team-Based Care

Section 50311. Providing continued access to Medicare Advantage special needs plans for vulnerable populations.

- Medicare Advantage special needs plans (SNPs) are specifically designed to provide targeted care to individuals with special needs, including those who are (1) institutionalized (I-SNPs); (2) dually eligible for Medicare and Medicaid (D-SNPs); or (3) living with severe or disabling chronic conditions (C-SNPs). This section would permanently reauthorize the SNPs and make modifications to D-SNPs and C-SNPs.

Subtitle C -- Expanding Innovation and Technology

Section 50321: Adapting benefits to meet the needs of chronically ill Medicare Advantage enrollees.

- The Centers for Medicare and Medicaid Innovation (CMMI) is currently testing the Medicare Advantage Value-Based Insurance Design Model, which provides Medicare Advantage plans with additional flexibility to tailor their plans to chronically-ill beneficiaries. The demonstration is currently limited to ten states and will be expanded to 25 total states in 2019. This section would expand the demonstration to all states in 2020.

Section 50322: Expanding supplemental benefits to meet the needs of chronically ill Medicare Advantage enrollees.

- Under current law, MA plans must comply with specific criteria governing the provision of supplemental benefits. This section would give MA plans flexibility to offer additional supplemental benefits to chronically ill beneficiaries, beginning in 2020, as long as the supplemental benefits are not limited to primarily health related services and have a reasonable expectation of improving or maintaining the beneficiary's health or overall function.

Section 50323: Increasing convenience for Medicare Advantage enrollees through telehealth.

- Under current law, Medicare provides limited coverage of telehealth services. This section would allow MA plans to include additional clinically-appropriate telehealth services, beyond those currently covered under Part B, in the annual bid amount beginning in 2020. The section requires the HHS Secretary to request comment on the types of telehealth services that should be considered as additional benefits, and the requirements for offering said benefits. The section also requires that the MA plan ensure that beneficiaries retain the right to decide whether to receive a service in person or via telehealth, and requires that MA plans that provide access to services via telehealth must also provide in person access.

Section 50324: Providing accountable care organizations (ACOs) the ability to expand the use of telehealth.

- This section would allow accountable care organizations to expand the use of telehealth by applying the Next Generation ACO telehealth waiver criterion to the Medicare Shared Savings Program (MSSP) Track II and III, and two-sided risk ACO models with prospective assignment that CMMI tests or expands to improve flexibility.

Section 50325: Expanding the use of telehealth for individuals with stroke.

- This section would permit physician payment in any area of the country for physician payments related to the diagnosis, evaluation, or treatment of an acute stroke, beginning January 1, 2019. Under current law, Medicare covers telehealth services for patients experiencing acute stroke symptoms only if the beneficiary presents in certain rural areas.

Subtitle D -- Identifying the Chronically Ill Population

Section 50331: Providing flexibility for beneficiaries to be part of an ACO.

- This section would permit ACOs in the MSSP the option to have their beneficiaries assigned prospectively at the beginning of a performance year and give beneficiaries the option to voluntarily align to their main primary care provider's MSSP ACO. The section would require the

Secretary to develop a process to notify beneficiaries of their ability to make the election as well as how to change the election. Nothing in the section would limit a beneficiary's freedom of choice to see any provider.

Subtitle E -- Empowering Individuals and Caregivers in Care Delivery

Section 50341: Eliminating Barriers to Care Coordination under ACOs.

- This section would establish a new voluntary ACO Beneficiary Incentive Program to allow certain two-sided risk ACOs to make incentive payments of up to $20 for each qualifying service to all assigned beneficiaries that are receiving qualifying primary care services. The section would not provide ACOs with any additional Medicare reimbursement to cover the incentive payment costs. Additionally, the section would require the Secretary to report to Congress on the program's impact on expenditures and beneficiary health outcomes by October 1, 2023.

Section 50342: GAO study and report on longitudinal comprehensive care planning services under Medicare Part B.

- This section would direct the Government Accountability Office (GAO) to report to Congress within 18 months of enactment on the development of a new payment code related to longitudinal care planning services for serious or life-threatening illnesses like Alzheimer's disease and cancer, which may not have a predictable trajectory.

Subtitle F -- Other Policies to Improve Care for the Chronically Ill

Section 50351: GAO study and report on improving medication synchronization.

- This section would direct GAO to report to Congress within 18 months of enactment on the prevalence and effectiveness of medication synchronization programs operated by Medicare or other payers. Medication synchronization is the practice of aligning prescription lengths and dispensing times, which can improve medication adherence for individuals with chronic conditions.

Section 50352: GAO Study and report on impact of obesity drugs on patient health and spending.

- This section would direct GAO to report to Congress within 18 months of enactment on the use of obesity drugs on health outcomes and spending. Medicare Part D does not cover these drugs.

Section 50353: HHS study and report on long-term risk factors for chronic conditions among Medicare beneficiaries.

- This section would require the HHS Secretary to report to Congress within 18 months of enactment on long-term Medicare cost drivers, including obesity, tobacco use, mental health conditions, and other factors that may affect individuals with chronic conditions.

Section 50354: Providing prescription drug plans with parts A and B claims data to promote the appropriate use of medications and improve health outcomes.

- Medicare beneficiaries may be eligible to enroll in medication therapy management (MTM) programs, which can help to coordinate prescription drug regimens. Under current law, however, Part D plan sponsors only have access to data regarding therapies provided outside of the Part D benefit if the beneficiary is also enrolled in the sponsor's Medicare Advantage plan.

This section would require the HHS Secretary to establish a process under which Part D plan sponsors could request CMS Part A and B claims data in order to optimize therapeutic outcomes through improved medication use, improved care coordination, and other purposes determined by the Secretary. Plan sponsors would not be permitted to use the data to inform coverage determinations, retroactively review coverage indications, facilitate enrollment changes, market benefits, or any other purposes determined such as the Secretary may prohibit to protect the identify of Medicare beneficiaries and protect the security of personal health information.

Title IV – Part B Improvement Act and other Part B Enhancements

Subtitle A – Medicare Part B Improvement Act

Section 50401: Home infusion therapy services temporary transitional payment.

- The 21st Century Cures Act included two provisions affecting Medicare coverage of home infusion therapy. First, it applied the formula used for most Part B drugs, Average Sales Price (ASP) plus six percent, to Part B infusion drugs furnished through durable medical equipment. Medicare had reimbursed for these drugs at 95 percent of the Average Wholesale Price (AWP) since 2003, but the HHS Office of the Inspector General found that the formula was "unrelated to actual prices in the marketplace... and has cost Medicare millions of dollars." Second, 21st Century Cures created a new benefit to provide a single payment for items and skilled care furnished by home infusion suppliers -- including professional and nursing services, training and education, remote monitoring, and monitoring services -- whereas Medicare had previously only paid for the medication. The first 21st Century Cures provision became effective in January 2017 and the second will become effective in 2021. Some stakeholders have labeled this discrepancy a "coverage gap," and the disruption to provider payments may affect access to care for medically fragile beneficiaries. This section would create a new temporary Medicare payment system to provide a transitional payment for items and services furnished in coordination with home infusion drugs, beginning in 2019 and operating until the permanent payment system is finalized.

Section 50402: Orthotist's and prosthetist's clinical notes as part of the patient's medical record.

- This section would ensure that clinical notes created by an orthotist or prosthetist are considered part of the Medicare beneficiary's patient record in order to support claims of medical necessity. Medicare's current claims review process has resulted in payment denials for medically necessary orthotics and prosthetics due to insufficient evidence to support medical necessity.

Section 50403: Independent accreditation for dialysis facilities and assurance of high quality surveys

- This section would allow renal dialysis facilities to use an outside agency to survey and accredit their facility for Medicare participation. Under current law, some Medicare providers may use an outside agency for accreditation purposes, but not dialysis facilities.

Section 50404: Modernizing the application of the Stark rule under Medicare

- This section would codify recent CMS modifications of the physician self-referral regulations that are related to the use of signatures to document the terms of legal arrangements and when leases violate the Stark laws. The Stark laws prohibit physician self-referral, specifically prohibiting physician referral of Medicare or Medicaid patients to other health care entities in which the physician or an immediate family member has a financial relationship and prohibiting the facility from billing CMS for any services performed related to such a referral. The regulatory updates generally sought to reduce burden by providing clarifying terminology and guidance.

Subtitle B -- Additional Medicare Provisions

Section 50411: Making permanent the removal of the rental cap for durable medical equipment under Medicare with respect to speech generating devices

- This section would make the Steve Gleason Act permanent by repealing a provision that sunset the law in 2018. The Steve Gleason Act, passed in 2015, allows Medicare beneficiaries to purchase speech generating devices as durable medical equipment immediately, rather than requiring beneficiaries to rent the device for 13 months before becoming the owner of the device.

Section 50412: Increased civil and criminal penalties and increased sentences for Federal health care program fraud and abuse

- This section would update and modernize numerous existing civil and criminal penalties that apply in instances of Medicare fraud. Many of these penalties have not been updated for 20 years.

Section 50413: Reducing the volume of future EHR-related significant hardship requests

- This section would remove a requirement in the Health Information Technology for Economic and Clinical Health (HITECH) Act that requires the Secretary to make meaningful use standards more stringent over time. The meaningful use standards were intended to incentivize providers to adopt electronic health records, but many providers have faced difficulties demonstrating compliance with the meaningful use requirements.

Section 50414: Strengthening rules in case of competition for diabetic testing strips

- This section would codify numerous beneficiary protections established in regulations for Medicare's competitive bidding program, under which Medicare relies on supplier bids to set the amount it pays for certain durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) items. Medicare beneficiaries have reported facing issues related to how CMS has enforced beneficiary protections, for example, providing evidence that CMS has not fully enforced the "50 Percent Rule" which is intended to ensure that suppliers make available at least half of all types of diabetes testing supplies on the market before enactment of the competitive bidding program. The section would also require additional reporting to ensure beneficiary access to diabetes testing supplies.

Title V – Other Health Extenders

Section 50501. Extension for family-to-family health information centers.

- This section would provide for a two-year extension of the Family-to-Family Health Information Center program at $6 million a year, and provide for the creation of Family-to-Family Health Information Centers in the territories and for the Indian tribes. This program funds grants to assure that families of children with special health care needs are able to participate in all levels of decision-making and be satisfied with the services they receive.

Section 50502: Extension for sexual risk avoidance education

- This section would provide for a two-year extension of the Sexual Risk Avoidance Education program (previously the Abstinence Education Program) at $75 million a year. It would also require data collection on activities funded under the program, require the Secretary to evaluate the program, and allow unused funds to be distributed through a competitive grant process.

Section 50503: Extension for personal responsibility education

- This section would provide for a two-year extension of the Personal Responsibility Education Program (PREP) at $75 million a year. This program provides federal funding for programs that teach about abstinence and contraception for the prevention of pregnancy and sexually transmitted infections.

Title VI – Child and Family Services and Supports Extenders

Subtitle A – Continuing the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program

Section 50601: Continuing evidence-based home visiting program

- This section provides a five-year extension of MIECHV, which provides grants to states to support evidence-based home visiting programs for at-risk families, at $400 million per year.

Section 50602: Continuing to demonstrate results to help families.

- This section requires that states with MIECHV programs demonstrate improvements in certain statutorily-defined benchmark areas and develop a plan to meet outcomes if the state fails to demonstrate improvement.

Section 50603: Reviewing statewide needs to target resources.

- This section would require states to conduct a follow-up statewide needs assessment to determine where home visiting services are most needed by October 1, 2020, and allows the assessment to be combined or coordinated with a similar assessment required for the Maternal and Child Health Services Block Grant.

Section 50604: Improving the likelihood of success in high-risk communities.

- This section would require states to continue to prioritize serving families in the communities that are identified as most in need of home visiting services, and allows states to consider community resources or other service delivery requirements that may need to be developed for communities to operate at least one home visiting program.

Section 50605: Option to fund evidence-based home visiting on a pay for outcome basis.

- This section would allow states to use up to 25 percent of MIECHV funding to pay for home visiting services on a "pay for outcome" basis.

Section 50606: Data exchange standards for improved interoperability.

- This section would require HHS to develop data standards to help state agencies and the federal government exchange information related to home visiting programs.

Section 50607: Allocation of Funds.

- This section would permit HHS to allocate MIECHV funds using census bureau data for states and an appropriate alternative data source for territories.

Subtitle B – Extension of Health Professions Workforce Demonstration Projects.

Section 50611: Extension of health workforce demonstration projects for low-income individuals.

- This section would extend the Health Workforce Demonstration Project created under Obamacare through FY 2019 at $85 million per year.

Title VII—Family First Prevention Services Act

The bill would allow states to utilize foster care and adoption appropriations under the Social Security Act for up to a year to pay for a portion of expenses related to the state's effort to provide mental health and substance abuse prevention services and parent skills training. Generally, eligible children include those that are at risk of entering foster care.

The bill would also allow states to utilize these appropriations for children that have been placed in foster care of a parent that is being treated for substance abuse. Additionally, the bill would allow these appropriations to be used for kinship navigator programs.

Similarly, the bill would allow states to use funds available under the Social Security Act for child welfare services to provide support to children in foster care for an unrestricted amount of time and after reunified with their family for a 15-month period.

States would be required to operate a case processing system before the 2028 fiscal year so that children can be better placed across state lines.

The bill would require the Department of Health and Human Services to make federal substance abuse prevention and treatment block grants to regional partnerships for FY 2017 - FY 2021. Grant applicants would have to require the applicant set goals for improving wellbeing of family as a whole including addressing substance abuse. HHS would also be required to consider the partnership's track record on child welfare, substance abuse treatment and mental health.

The bill would make reforms to licensing standards for family members seeking to foster a child, particularly requiring HHS to identify evaluation standards. States would have to describe how they gather child maltreatment information.

The bill would limit foster care maintenance payment support when a child is placed in a non-foster family home setting to two weeks unless certain exemptions exist. One such exemption would be that the setting is a qualified residential treatment program which is defined in the bill. The bill would set parameters for assessing and documenting children placed in a qualified residential treatment program.

The bill would require states to conduct criminal and child abuse background check on adults working in certain child care settings.

HHS would be appropriated an additional $8 million in FY 2018 to make grants to states to support efforts to recruit foster families

The bill would reauthorize through FY 2021 several programs:

1) the Stephanie Tubbs Jones Child Welfare Services Program;
2) the promotion of safe and stable families program;
3) funding reservations for monthly caseworker visits and regional partnership grants, and
4) the Highest State Court Entitlement to Court Improvement Program.

The bill would make changes to the John H. Chafee Foster Care Independence Program. For instance, it would permit states to serve youth who have aged out of care and are not yet 23 years of age, and it would focus on kids 14 years old and over. The bill would allow HHS to reallocated unused funds from the program.

The will would extend the federal program providing states with incentive payments regarding legal guardianship at current levels for the next five fiscal years (through FY 2020).

As of July 1, 2024, the bill would change current law so that no income test would be used for purposes of determining a child's eligibility for adoption assistance, regardless of the child's age.

Title VIII Supporting Social Impact Partnerships to Pay for Results

The bill would appropriate $100 million for the federal government to pay for outcomes under social impact partnerships.

Title IX – Public Health Programs

Section 50901. Extension for community health centers, the National Health Service Corps, and teaching health centers that operate GME programs.

This section would provide for a two-year extension of funding for (1) Community Health Centers, (2) the National Health Service Corps (NHSC), and (3) the Teaching Health Center Graduate Medical Education (THCGME) program created under Obamacare. When combined with funding previously provided in the December 2017 Continuing Resolution and the Disaster Tax Relief and Airport and Airway Extension Act, this section would provide:

- for Community Health Centers, $3.8 billion in mandatory funding in FY 2018 and $4 billion for FY 2019. Some conservatives may be concerned that this represents an additional $0.6 billion in new mandatory funding relative to the bill that the House passed Monday.
- For NHSC, $310 million for each of FY 2018 and FY 2019.
- For THCGME, $126.5 million for each of FY 2018 and FY 2019.

Section 50902: Extension for special diabetes programs.

- This section would provide for a two-year extension of the Special Diabetes Program for Type 1 diabetes and the Special Diabetes Program for Indians. When combined with funding provided in previous legislation, this section would provide $150 million for each program for each of FY2018 and FY 2019.

Title X – Miscellaneous Health Care Policies

Section 51001. Home health payment reform.

- This section would require the Secretary to reform the current home health payment system to implement a 30-day episode for payment beginning on January 1, 2020.

Section 51002: Information to satisfy documentation of Medicare eligibility for home health services

- This section would permit CMS to use records created by home health providers to determine a Medicare beneficiary's eligibility for home health services, in addition to physician records required under current law.

Section 51003: Technical amendments to Public Law 114-10

- This section includes certain technical amendments to the Medicare Access and CHIP Reauthorization Act (MACRA) of 2015, which correct drafting errors and provide CMS with additional flexibility to ensure participation for eligible physicians, in line with congressional intent.

Section 51004: Expanded access to Medicare intensive cardiac rehabilitation programs

- This section provides the Secretary with additional flexibility to qualify providers of intensive cardiac rehabilitation.

Section 51005: Extension of blended site neutral payment rate for certain long-term care hospital discharges; temporary adjustment to site neutral payment rates.

- This section would provide a two-year delay of a current law policy requiring site neutral discharges for long-term care hospitals (LTHCs) to be reimbursed as a blend of the site neutral payment rate and the LTCH payment rate. The section would also reduce the LTCH market basket update by 4.6 percent to offset the delay.

Section 51006: Recognition of attending physician assistants as attending physicians to serve hospice patients.

- This section would allow physician assistants to serve as the attending physician for the purposes of establishing and reviewing the hospice plan of care. Similar to nurse practitioners, physician assistants would not be permitted to certify or recertify hospice care.

Section 51007: Extension of enforcement instruction on Medicare supervision requirements for outpatient therapeutic services in critical access and small rural hospitals

- This section would provide a one-year extension of a current law policy that blocks CMS from enforcing direct supervision rules for outpatient therapy services in critical access and small rural hospitals.

Section 51008: Allowing physician assistants, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation programs.

- This section would permit a physician assistant, nurse practitioner, or clinical nurse specialist to supervise a cardiac, intensive cardiac, or pulmonary rehabilitation program beginning on January 1, 2024. Under current law, physicians must supervise these programs.

Section 51009: Transitional payment rules for certain radiation therapy services under the physician fee schedule.

- This section would extend current payment levels for certain radiation therapy services through 2019.

Title XI – Protection Seniors' Access to Medicare Act

Section 52001: Repeal of the Independent Payment Advisory Board.

- The IPAB, created as a part of Obamacare, was established to develop proposals to "reduce the per capita rate of growth in Medicare spending." The Secretary is required to implement these proposals unless Congress acts to achieve the same savings in a different manner. IPAB action is triggered if the projected five-year average growth in per capita Medicare program spending exceeds a specified target. There are numerous concerns with how the IPAB is structured and the amount of power an unelected board of 15 members would have over the Medicare system. The IPAB would remove Medicare spending decisions from Congress and place them with an unelected board that has no obligation to engage in public notice or comment. This section would fully repeal the IPAB. The House advanced a similar measure in November 2017 with strong bipartisan support.

Title XII – Offsets

Section 53101: Modifying reductions in Medicaid Disproportionate Share Hospital (DSH) allotments.

- This section would eliminate current law reductions to the Medicaid Disproportionate Share Hospital (DSH) payments for FY 2018 and FY 2019, and offset the delay by increasing DSH reductions by $8 billion in FY 2021 - 2025. Certain hospitals that treat a large number of low income patients are eligible for Medicaid DSH payments to help offset losses from treating uninsured patients and low Medicaid reimbursement rates.

Section 53102: Third party liability in Medicaid and CHIP.

- This section would modify provisions governing third party liability in the Medicaid and CHIP programs to ensure other responsible parties pay claims first.

Section 53103: Treatment of lottery winnings and other lump-sum income for purposes of income eligibility under Medicaid.

- This section would require states to consider lottery winnings and other lump sum income for the purposes of determining Medicaid eligibility over a period of months. Under current law, lump sum payments are only considered for Medicaid eligibility purposes during the month in which they are earned.

Section 53104: Rebate obligation with respect to line extension drugs.

- Under current law, an alternative rebate formula applies to line extension drugs, or new formulations of an existing brand name drug, for the purposes of the Medicaid Drug Rebate Program. This section would clarify that the rebate for line extension drugs is the greater of either (1) the base rebate plus the additional rebate or (2) the base rebate plus the line extension rebate.

Section 53105: Medicaid Improvement Fund.

- This section would rescind all funds available in the Medicaid Improvement Fund (MIF). The Energy and Commerce and Senate Finance Committees use this fund as a parking spot to bank savings to offset future spending. If not redirected by Congress, the MIF is available to the HHS Secretary for specific uses related to improving the Medicaid program.

Section 53106: Physician fee schedule update.

- This section would reduce the 2019 Physician Fee Schedule update from 0.5 percent to 0.25 percent.

Section 53107: Payment for outpatient physical therapy services and outpatient occupational therapy services furnished by a therapy assistant.

- This section would provide reimbursement for Part B therapy services that are furnished in full or part by a physical and occupational therapy assistant at 85 percent of the physician rate.

Section 53108: Reduction for non-emergency end stage renal disease (ESRD) ambulance transports.

- This section would increase the current law 10 percent payment reduction for non-emergency dialysis ambulance transports to 23 percent.

Section 53109: Hospital transfer policy for early discharges to hospital care.

- This section would add hospice as an additional setting of care under current law post-acute care transfer policies, beginning on October 1, 2018, so that hospitals would receive lower reimbursement when transferring a patient that had a short length of stay in the hospital to hospice.

Section 53110: Medicare payment update for home health services.

- This section would set the home health market basket update for FY 2020 to 1.5 percent, a reduction compared to current law.

Section 53111: Medicare payment update for skilled nursing facilities.

- This section would set the skilled nursing facility market basket update for FY 2019 to 2.4 percent, a reduction compared to current law.

Section 53112: Preventing the artificial inflation of star ratings after the consolidation of MA plans offered by the same organization.

- This section would direct CMS to calculate a weighted average of star ratings across MA plan contracts that have been consolidated, given that MA plan consolidation can artificially increase star ratings and related quality bonus payments.

Section 53113: Sunsetting exclusion of biosimilars from Medicare Part D coverage gap discount program.

- This section would add biosimilars to the Medicare Coverage Gap Discount Program. The Medicare Coverage Gap Discount Program requires brand drug and biologic manufacturers to provide a 50 percent discount to assist beneficiaries with drug costs when they reach the Part D coverage gap, or "donut hole," which may incentivize beneficiaries in the coverage gap to choose higher cost biologics over less expensive biosimilars, increasing federal costs.

Section 53114: Adjustments to Medicare Part B and Part D.

- This section would require individuals making more than $500,000 per year and married couples filing jointly who make more than $875,000 per year to pay 85 percent of their Medicare Part B and D premiums, a five percent increase compared to current law requirements. Under current law, the affected beneficiaries pay 80 percent of their premiums, which themselves represent approximately 25 percent of the cost of Medicare Part B and D. Some conservatives may have concerns that this policy is weaker than a similar policy recently advanced by the House that would require these individuals to pay 100 percent of their Part B and D premiums.

Section 53115: Medicare Improvement Fund.

- This section would zero out the Medicare Improvement Fund (MIF). The Ways and Means and Energy and Commerce Committees use this fund as a "parking spot" to bank savings that can offset future spending. The MIF may only be used to make improvements to the Medicare fee-for-service program and if not spent by Congress, is available to the HHS Secretary after FY 2021.

Section 53116: Closing the Donut Hole for Seniors.

- This section would close the Part D program coverage gap, known as the "donut hole," faster. Specifically, it would expand an Obamacare provision intended to close the donut hole by increasing the percentage that a prescription drug manufacturer is required to provide when a beneficiary is in the donut hole to 70 percent, compared to 50 percent under current law. Some conservatives have argued that the donut hole acts as a cost control mechanism.

Section 53117: Modernizing child support enforcement fees.

- The bill would raise the annual fee on child support enforcement services from $25 to $35 and increase the amount of child support that must be collected for the case to be subject to a fee of $550.

Section 53118: Increasing efficiency of prison data reporting.

- The bill would make it so that the $400 incentive fee related to the prison data reporting program would not be available unless it is made within 15 days of a social security beneficiary's imprisonment.

Section 53119: Prevention and Public Health Fund.

- This section would cut mandatory funds in the Prevention and Public Health Fund by $1.35 billion over the ten-year budget window. The Prevention Fund is a mandatory funding stream, available unless otherwise allocated by Congress, to be spent by the HHS Secretary to "provide for expanded and sustained national investment in prevention and public health programs to improve health and help restrain the rate of growth in private and public health care costs." Some conservatives have raised concerns that the Prevention Fund mirrors a slush fund, and in recent years has been used to support grants for activities including free pet spaying and neutering, Zumba classes, and urban gardening.

AGRICULTURE PROVISIONS

This title would make cotton growers eligible for the Price Loss Coverage (PLC) program instead of the Stacked Income Protection Plan (STAX), beginning with the 2018 crop year. It would also set a reference price of 36.7 cents per pound for seed cotton, which would be defined under the legislation as "unginned upland cotton that includes both lint and seed."

Under current law, upland cotton is not eligible for traditional farm support programs like PLC and Agricultural Risk Coverage (ARC), because Congress revoked this eligibility in the 2014 Farm Bill in order to address the United States' obligations regarding a World Trade Organization (WTO) dispute with Brazil. Instead, the 2014 Farm Bill created an insurance-based program specific to cotton producers known as the Stacked Income Protection program (STAX). Some conservatives may be concerned about providing new federal subsidies to cotton growers when cotton is already eligible for federal programs like STAX and crop insurance. Some conservatives may also be concerned that the policy could subject the United States to retaliatory trade measures, given that the changes made in the 2014 Farm Bill were included to resolve a WTO dispute.

The title would also remove premiums and increase coverage for the dairy Margin Protection Program, and remove spending caps related to livestock insurance policies.

BUDGETARY WAIVERS

The bill contains a number of provisions waiving the budgetary impact of Division A, subdivision 2 of Division B (Tax Relief and Medicaid Changes for Disaster Victims), Division C (BCA Caps increase, Debt limit), Division D (Tax Extenders), Division E (Health Extenders), and Division F (Agriculture).

The bill would waive the requirement that the budgetary impact of those divisions be added to the annual statutory PAYGO scorecard maintained by OMB. By doing so, any deficit impact would not be offset by across the board spending cuts to non-exempt programs through the sequestration process.

The Senate PAYGO rule establishes a point of order -- requiring 60 votes to overcome -- against tax and mandatory spending legislation that would increase or produce the deficit over a 6 or 11-year period. The FY2018 budget resolution restates the 6 and 11-year tests and adds new current year and budget year tests.

The bill would waive any budgetary impact of those divisions from these scorecards. The bill would also exempt any budgetary impact of those divisions for purposes of the BCA's discretionary sequestration.

OUTSIDE GROUPS:

Key Vote Alerts:

Heritage Action: Key Vote: "NO" on Bipartisan Budget Act of 2018; Heritage Action Opposes $300 Billion Budget Deal
FreedomWorks (triple weight key vote): Key Vote NO on the Bipartisan Budget Act; Budget Deal is a Fiscal Abomination
NTU (weighted key vote): Lawmakers Should Reject Irresponsible Budget Deal
Club for Growth: Key Vote Alert – "NO" on Schumer-McConnell Budget Deal

What outside groups are saying:

Citizens Against Government Waste: Fiscal Responsibility Flouted in Cap-Busting Budget Deal

Defense Priorities: Statement on Schumer-McConnel Budget Agreement: "Math Still Applies to Superpowers."
Committee for a Responsible Federal Budget: Budget Deal Will Bring Back Trillion-Dollar Deficits and Could Ultimately Add More Than $1.5 Trillion to the Debt
Freedom Partners: Budget Deal Riddled with Overspending & Corporate Welfare is a Betrayal of American Taxpayers, Would be Massive Failure After Historic Tax Reform
Americans for Prosperity: Budget Deal Riddled with Overspending & Corporate Welfare is a Betrayal of American Taxpayers, Would be Massive Failure After Historic Tax Reform
Coalition letter in opposition from **Americans for Prosperity, Concerned Veterans for America, Freedom Partners Chamber of Commerce, The LIBRE Initiative, and Generation Opportunity**

COMMITTEE ACTION:

The bill was posted at 11:59 PM on February 7, 2018.

ADMINISTRATION POSITION:

According to the Statement of Administration Policy, "If the Bipartisan Budget Act of 2018 were presented to the President in its current form, his advisors would recommend that he sign it into law."

CONSTITUTIONAL AUTHORITY:

The original Constitutional authority statement for H.R. 1892 was "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18".

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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