Debt Ceiling Update
June 8, 2023

Summary

On May 27th, it was announced that House Republicans and the White House agreed to increase the debt limit while also limiting federal discretionary spending for the next two fiscal years. The negotiations were high stakes and needed to be completed before June 5th. The agreement includes modifications to specific work requirements for federal nutrition and cash assistance programs, rescinding some IRS funding provided by Democrats, rescinding unspent COVID-19 relief funds, reinstating payments for federal student loans, and streamlining energy permitting.

The Congressional Budget Office (CBO) estimates that the Fiscal Responsibility Act of 2023, also known as H.R. 3746, would decrease the federal deficit by $1.5 trillion through fiscal 2033. This includes a $1.3 trillion reduction in discretionary spending starting in fiscal 2024.

The House of Representatives passed the measure on May 31st with a 314-117 bipartisan vote. The Senate passed the legislation in a 63-36 vote on June 1st, and President Biden signed the legislation into law on June 3rd.

Specific Highlights of interest for AMPP members from the bill:

Debt Ceiling

- The legislation would suspend the debt ceiling through January 1st, 2025, which provides the Department of Treasury with two years of borrowing authority before Congress must approve another increase.
- Set a cap at $314 trillion on how much the federal government can borrow to pay existing debt obligations.
- The suspension is limited to debt obligations that require payment before 2025, and Treasury could not create cash reserves during these two years.

Spending

- The measure sets separate spending caps for defense and nondefense spending. Discretionary funding that exceeds these caps for a fiscal year would be subject to sequestration, an automatic process that would cancel spending across the board to conform to the caps set.
- The measure caps nondefense spending at $703.7 billion for fiscal 2024 and $710.7 billion for fiscal 2025.
- It caps defense spending at $886.3 billion for fiscal 2024 and $895.2 billion for fiscal 2025.
- If a continuing resolution (CR) is in effect on January 1st, 2024, the discretionary spending limits for fiscal 2024 would be reduced by 1 percent less than the fiscal 2023 base. This would happen
again if another CR were in effect on January 1st, 2025. This provision incentivizes Congress to move all 12 appropriations bills through by the end of the calendar year.
- The legislation would provide additional funding for the Cost of War Toxic Exposure Fund, created in 2022, to cover veterans’ health care and medical research related to exposure to environmental hazards.
  o $20.3 billion that could be used starting in fiscal 2024 and would be available through fiscal 2028.
  o $24.5 billion that could be used starting in fiscal 2025 and would be available through fiscal 2029.
- The measure also allows for adjustments to the spending caps for fiscal 2024 and 2025 for disaster relief spending while adjusting the formula for calculating the maximum adjustment for disaster relief appropriations in those years.

Rescission of Funds

- The measure would rescind $27.1 billion of unspent Covid relief money. Most of those reductions would come from the Public Health and Social Service Emergency Fund and specific infrastructure and disaster relief programs.
- The measure would also rescind $1.39 billion of the $80 billion in funding provided to the IRS last fall by Democrats.

Administrative PAYGO

- Federal agencies taking administrative actions that would increase mandatory spending must submit a proposal to the Office of Management and Budget (OMB) to reduce spending by an equal or greater amount through other actions. OMB must return the proposed move to the agency if the offsets are not identified.
- This requirement expires on December 31st, 2024, and would not apply to actions that cost less than $1 billion over 10 years or $100 million in any given year during the 10 years.
- The offset requirement would not apply to actions mandated by law. OMB could waive the offset requirement if it finds the waiver necessary to deliver essential services or programs.

Permitting Change

- The measure would modify the National Environmental Policy Act (NEPA) to streamline the environmental review process. The measure would set timelines for completing environmental reviews and establish responsibilities for lead agencies during the review process.
- The lead agency must complete an environmental impact statement within two years or an environmental assessment within one year unless the project sponsor agrees to a deadline extension. A project sponsor could petition a court to order the agency to act if it does not meet its deadline. If the court determines the agency failed to act, they would be required to act no later than 90 days from the court order date.
If a proposed action involves multiple federal agencies, the group must evaluate the proposal in a single environmental document.

If two or more federal agencies are involved in a proposed action, the agencies would be required to determine, by letter or memorandum, which agency would act as the lead agency.

A lead agency would have to create procedures allowing a project sponsor to prepare an environmental assessment or environmental impact statement under the agency’s supervision. The agency must independently evaluate the environmental document and take responsibility for the content.

The measure would allow agencies to consider the “reasonably foreseeable” environmental effects of proposed significant actions and a “reasonable range” of alternatives, including an analysis of the negative environmental impacts of not implementing a proposed action.

Agencies wouldn’t have to prepare environmental analyses under NEPA if the proposed action isn’t final, is covered by a categorical exclusion, or if the analyses would conflict with the requirements of another law.

Agencies could rely on an initial programmatic environmental review analysis — those analyzing a policy, program, or group of actions — in a subsequent document for a related action if it occurs within five years and there’s no substantial new information. After five years, agencies could rely on these reviews if they reevaluate the initial analysis and underlying assumptions.

Agencies could adopt categorical exclusions from other agencies’ NEPA procedures. They would have to consult with the other agency to ensure the adoption is appropriate and identify it publicly.

Other Energy Provisions

Transmission Study:
  - The Electric Reliability Organization would have to study “total transfer capability,” which is the amount of electric power moving from one area to another through transmission lines between transmission planning regions. The study must include recommendations on prudent additions to total transfer capability between planning regions to strengthen reliability.

Energy Storage Permitting:
  - Energy storage projects would be added to the list of covered projects for streamlined permitting processes under the 2015 FAST Act (Public Law 114-94). The FAST Act defines covered projects as those likely to require a total investment of more than $200 million, are subject to NEPA, and don’t already qualify for abbreviated review processes. Per the law, permitting decisions for covered projects must be issued within 180 days of receiving a project application.

Mountain Valley Pipeline:
  - Approval for the Mountain Valley Pipeline, a roughly 300-mile natural gas pipeline project stretching across parts of Virginia and West Virginia mired in legal and regulatory challenges, would be expedited under the measure.

Student Loans
Sixty days after June 30, the measure would cancel regulations covering extensions of federal student loan payment suspensions, including interest waivers on loans first provided under the 2020 Covid-19 aid package (Public Law 116-136). The suspension was extended multiple times, most recently on Nov. 22, 2022.