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SESSIONS-MCCASKILL PROPOSAL TO ESTABLISH DISCRETIONARY FUNDING LIMITS WOULD IMPOSE SEVERE CUTS ON DOMESTIC PROGRAMS

by James Horney

A proposal by Senators Jeff Sessions and Claire McCaskill to establish binding limits on discretionary appropriations for the next three years would necessitate cuts in nondefense discretionary programs that would total nearly \$30 billion in fiscal year 2011 (a 5 percent cut) and could total almost \$100 billion (a 15 percent cut) in fiscal year 2012. These levels represent the amounts that funding for non-defense discretionary programs would have to be cut below the levels President Obama has proposed. The severity of these cuts is not well understood and is in part a result of recent developments related to funding for the Pell Grant program.

In addition to imposing deep cuts in nondefense discretionary programs, the Sessions-McCaskill proposal — embodied in an amendment (SA 3435) offered to Federal Aviation Administration (FAA) legislation the Senate considered in March — would pose several other problems. It would make it less likely that the President's National Commission on Fiscal Responsibility and Reform will be able to agree on, and that Congress then will pass, a package of reductions in discretionary and entitlement programs and revenue increases to substantially reduce future deficits. The Sessions-McCaskill proposal likely would have this unintended effect because, in a sharp departure from past deficit-reduction agreements in which multi-year discretionary caps were part of a deal that included revenue increases and entitlement savings, the Sessions-McCaskill amendment would extract deep savings from domestic discretionary programs *without* securing any savings in return from other parts of the budget. Its passage would make it less likely that those who oppose any revenue increases would agree to move off that position in return for multi-year discretionary program savings as well as changes in entitlement programs, because they already would have secured substantial discretionary program savings.

The proposal also includes a highly undesirable change in Senate rules by requiring a *two-thirds* Senate vote to change the binding limits that the proposal would impose on discretionary funding, regardless of subsequent developments in the economy or other factors that could make reconsideration of those limits important. The Senate already struggles with 60-vote requirements. Requiring a two-thirds supermajority for basic budgetary decisions would represent an unwise precedent.

While the Sessions-McCaskill amendment to the FAA bill was not adopted,¹ the proposal is likely to be considered again, perhaps in the coming debate on the congressional budget resolution for fiscal year 2011.

The Depth of the Cuts

Now that the health reconciliation bill has been enacted, the extent to which funding for the Pell Grant program will be divided between the discretionary and mandatory parts of the budget has become clear — and a fuller assessment can consequently be made of the impact of the Sessions-McCaskill amendment. It is now clear that the amendment would force severe cuts.

- At first glance, the caps that the Sessions-McCaskill proposal would set (including adjustments in the caps that the proposal would allow) would appear to require Congress to cut nondefense discretionary spending by \$5.3 billion in 2011, \$67.5 billion in 2012, and \$23.0 billion in 2013 below the discretionary funding levels proposed in the President's budget (as those levels have been estimated by the Congressional Budget Office).² The cut is particularly large in 2012 because the Highway Trust Fund will not contain sufficient resources to fund all highway and mass transit programs, and consequently some transportation spending proposed by the President that would not ordinarily count as discretionary funding is scored by CBO as \$45 billion in discretionary budget authority.³ The Sessions-McCaskill proposal ignores the potential for substantial amounts of funding needed for highways to be scored as discretionary funding and count against the caps it sets.
- But even the figures just noted greatly understate the magnitude of the cuts that would be required. The President's budget proposed making *all* new funding for the Pell Grant program mandatory starting in 2011,⁴ and CBO's estimate of the discretionary funding levels in the President's budget assumed that proposal would be enacted. As a result, the CBO estimate of the President's request for nondefense discretionary funding, which was used in calculating the cut levels noted above, does not include *any* discretionary funding for Pell Grants.

In enacting the Health Care and Education Reconciliation Act of 2010, however, Congress decided that the bulk of funding for Pell Grants — the amount needed to fund the basic \$4,860

¹ That amendment fell because the waiver of the Budget Act point of order that prohibits consideration of such an amendment to legislation that has not been reported by the Budget Committee failed to receive the required 60 votes.

² This includes add-on funding (\$1.8 billion in fiscal year 2011) for the Low-Income Home Energy Assistance Program (LIHEAP) that the President proposed as mandatory funding but that the Sessions-McCaskill caps assume will be discretionary.

³ If the Highway Trust Fund has adequate resources (in the past, Congress has generally acted to provide such resources), the spending on highways and mass transit set in annual appropriation acts through obligation limits on funds in the Trust Fund does not count as discretionary budget authority.

⁴ In stating that his budget “freezes” non-security discretionary funding for fiscal year 2011 at the 2010 level, the President excluded the 2010 discretionary funding for Pell Grants from the 2010 freeze level to be consistent with his request for no discretionary funding for Pell Grants in 2011 (because that funding would be provided as mandatory spending). If the 2010 Pell Grant discretionary funding had not been excluded, the President's request for non-security funding for 2011 would have appeared to be significantly below the 2010 level.

maximum Pell Grant award — *will remain discretionary*.⁵ CBO estimates that the amount of discretionary funding required to cover the basic award is \$23.2 billion in 2011, \$30.9 billion in 2012, and \$30.8 billion in 2013 (a total of \$85 billion over the three years).⁶ Once these amounts are added to the discretionary funding proposed in the President’s budget — as must be done unless Congress wishes to decimate Pell Grants — the cuts needed to comply with the Sessions-McCaskill nondefense discretionary cap become enormous. The cuts in non-defense discretionary programs amount to nearly \$30 billion in fiscal year 2011 and nearly \$100 billion in fiscal year 2012. (See the table below.)

- As noted above, the Sessions-McCaskill proposal also is complicated by highway funding issues, because the amount of such funding that is scored as discretionary budget authority depends on future congressional action with regard to the Highway Trust Fund. The Sessions-McCaskill proposal ignores this issue, implicitly assuming that legislation will be enacted that adds sufficient resources to the Highway Trust Fund to cover planned spending on highways. But

Table 1:			
Cuts Well Below President Obama’s Funding Request Would Be Required by the Sessions-McCaskill Nondefense Discretionary Spending Limits			
(By fiscal year, nondefense discretionary budget authority in billions of dollars)			
	2011	2012	2013
Sessions-McCaskill limits (Senate Amendment 3435)			
Stated limits	\$529.7	\$533.2	\$540.8
Adjustments ^a	3.7	3.7	3.7
Total allowed	533.3	536.9	544.5
Discretionary funding proposed by President (CBO estimate)^b			
Cuts required by Sessions-McCaskill limits <i>if Pell Grant funding were fully mandatory</i>	-5.3	-67.5	-23.0
Additional discretionary funding requirement			
Discretionary funding needed for basic Pell Grant awards ^c	23.2	30.9	30.8
Obama level with funding for basic Pell Grant awards on the discretionary (rather than mandatory) side of the budget	561.7	635.3	598.3
Cuts required by Sessions-McCaskill limits once Pell Grant funding is taken into account	-28.4	-98.4	-53.8

a. The amendment specifies base amounts for the discretionary funding limits and also provides for adjustments to allow for additional funding for certain specified purposes. For instance, it provides for an upward adjustment to the limit on nondefense funding of up to \$1.9 billion in a fiscal year if an appropriation bill includes funding for the Low-Income Home Energy Assistance Program (LIHEAP) in excess of \$3.2 billion for the year.

b. This includes funding for the add-on amount for LIHEAP, which the President proposed be mandatory (and CBO’s estimate of the President’s budget treated as mandatory). Since the Sessions-McCaskill proposal assumes such add-on funding will be provided through discretionary appropriations — and, as noted above, provides an upward adjustment in the caps if the amount is provided — it is treated as discretionary here.

c. These are CBO’s estimates of the discretionary budget authority required to fund the basic maximum Pell Grant award of \$4,860, given the Pell Grant funding included in the reconciliation legislation enacted in March.

⁵ The reconciliation legislation provides for a mandatory add-on grant amount (in addition to the \$4,860 basic grant) that starts at \$690 and increases over time and provides mandatory funding for that additional amount. It also provides \$13.5 billion in funding to help offset the shortfall in the program in 2010 and 2011 that otherwise might have had to come out of discretionary appropriations for fiscal year 2011.

⁶ The amount needed in 2011 is less than the amounts for 2012 and 2013 because of the \$13.5 billion that the reconciliation legislation provides in mandatory funding for Pell Grants in 2011 to help close a Pell Grant shortfall. In the longer run, as the economy improves and more jobs are available, the demand for and costs of Pell Grants are likely to decline in real terms. Pell Grant costs currently are up substantially because large numbers of people who can’t find jobs are seeking more education while they are out of work, in order to boost their future job prospects and job skills.

enactment of such legislation is far from certain. If the legislation is not enacted, the cuts required under the Sessions-McCaskill proposal in 2012 would be nearly \$100 billion.

The Supermajority Requirement

These funding problems would be exacerbated by the part of the Sessions-McCaskill proposal that would require a two-thirds vote in the Senate to make *any* change in the proposal's caps or how those caps constrain appropriations.

- If the proposed caps were adopted, 34 senators could prevent Congress from raising the caps to reflect the need for discretionary funding for Pell Grants or the highway program. Failure to raise the caps would mean that other discretionary programs would have to be cut \$85 billion more over the next three years to free up the funds needed to make basic Pell Grant awards and \$54 billion in 2012 and 2013 to ensure funding for the highway program if the Trust Fund is not made whole.
- Alternatively, 34 senators could hold legislation to make such an adjustment in the cap hostage to new tax cuts (or other policies that most of the Senate opposes), thereby worsening the fiscal outlook.

Clouding Chances for a Deficit-Reduction Agreement

Establishing binding discretionary funding limits for the next three years would likely reduce the chances of reaching and enacting a bipartisan agreement on taxes and spending that would substantially reduce long-term deficits. Placing multi-year caps on discretionary spending should be part of the broader debate that occurs in coming months among members of the President's National Commission on Fiscal Responsibility and Reform; such multi-year discretionary spending caps were a key part of the 1990, 1993, and 1997 deficit-reduction packages. However, had Congress established those limits separately in 1990, 1993, and 1997 — *before* reaching agreement on those broad deficit-reduction packages — the President and Congress likely would never have reached agreement on those packages. The prospect of discretionary spending limits helped to convince some lawmakers to accept packages that also included tax increases and/or cuts in entitlement programs.

Furthermore, the savings from the multi-year discretionary spending limits in those deficit-reduction packages proved crucial to demonstrating that packages that included tax increases (as well as entitlement savings) reflected an appropriate balance between tax increases and spending cuts. If multi-year discretionary spending caps are enacted *now*, that will reduce the share of a broad deficit-reduction agreement that can come from spending and thus almost certainly make it more difficult to secure an agreement on a broad package that includes the changes in taxes and entitlement programs that are the real keys to long-term deficit reduction.