STAFF PRODUCT

To: House Appropriations Committee, Democratic Member Staff
From: House Appropriations Committee, Democratic Staff
Date: April 19, 2023
Subject: Speaker McCarthy's Cap and Cut Proposal

Today, Speaker McCarthy followed through on House Republicans' threats to slash nondefense discretionary programs and to enshrine these cuts with caps on future spending as a precondition for preventing a debt default. The legislation introduced by the Speaker is exactly as House Democrats have warned it would be—**across-the-board cuts of at least $142 billion (or 9 percent) for critical government programs, which would likely climb to 22 percent or higher for nondefense discretionary programs**. The legislation further seeks to lock in those cuts by bringing back the looming threat of sequestration for 10 years. By all accounts, Speaker McCarthy's regime would ensure that **by the year 2033, nondefense programs would still be at least 15 percent below their current levels**.

In order to better understand the mechanisms at play, this memo from the Democratic Staff of the Committee on Appropriations provides analysis of two primary components of the Speaker's legislation:

(1) The bill's attempt to drastically cut discretionary spending; and

(2) The bill's threat to cap (that is, cut) future discretionary spending.

The cuts proposed by Speaker McCarthy to both FY 2024 and for the next 10 years are just a few items in the list of demands made to provide **less than a year of protection from catastrophic default**.

I. Where We Are

A. Recently finished: FY 2023

The 12 annual appropriations Acts for FY 2023 were enacted in December of 2022 at the end of the 117th Congress as part of the Consolidated Appropriations Act, 2023 (Public Law 117–328), which also provided emergency supplemental funding to respond to the situation in Ukraine, and for domestic disaster relief requirements.

All together, after excluding amounts given special treatment during the congressional budget process and other supplemental investments such as those in the Infrastructure Investment and Jobs Act (Public Law 117–58), the topline agreement for the Consolidated Appropriations Act, 2023 was $1.6 trillion in discretionary resources for enduring needs:

- $858 billion for defense programs, $76 billion (or 10 percent) more than FY 2022);
- $119 billion for Veterans Medical Care, $22 billion (or 22 percent) more than FY 2022; and
- $653 billion for other nondefense programs, $44 billion (or 7 percent) more than FY 2022.

These increases built on the successes of the bipartisan FY 2022 process to provide additional programmatic increases to priorities of Democrats and Republicans, while also providing billions in funding directly to thousands of communities across the country through Community Project Funding. These increases passed with bipartisan majorities in the Senate (68-29) and the House (225-201-1).

B. Next up: FY 2024

FY 2024 begins on October 1, 2023, and appropriations legislation must again be enacted by then to avoid a government shutdown. Despite the bipartisan successes of the FY 2023 appropriations process, Speaker McCarthy introduced legislation today that would cut discretionary spending for FY 2024 back to the FY 2022 level following through on the bargains he made to secure the Speaker's office. This legislation follows on repeated calls from Members of the House Republican Caucus to make these calls for drastic spending cuts their price for agreeing to protect the full faith and credit of the United States.

It is worth noting that House Republicans continue to frame the conversation around debt as a "spending problem" that fails to acknowledge the effect of revenues on the deficit and debt. This is intentional on their part and is part of a broader desire to cut not just discretionary programs but to also undermine entitlements and other critical programs that many Americans depend on to make ends meet. For additional earnest discussion on the debt, we would recommend an analysis by the Center for American Progress, which concluded: "In other words, the current fiscal gap—the growing debt as a percentage of the economy—stems from legislation that cut taxes, disproportionately for the very rich."

Regardless of what Speaker McCarthy's legislation envisions, the present imperative to prevent a catastrophic debt default is a separate and distinct issue from what the level of discretionary appropriations should be for FY 2024. Other resources are available to your offices to discuss the history of the issue, but at its core, the need to raise or suspend the debt limit is existential, and President Biden has pledged that he "will not let anyone use the full faith and credit of the United States as a bargaining chip." Ranking Member DeLauro shares those sentiments, and in response to Speaker McCarthy's speech at the New York Stock Exchange, she said: "Raising the debt ceiling is an obligation we have as Members of Congress…I urge the Speaker to step back and pass a clean debt ceiling increase. Leave the annual appropriations process out of it."

II. House Republican Proposals to Drastically Cut Discretionary Appropriations Would Be Devastating for American Families

A. The size of the proposed cuts ranges from 9 percent across-the-board cuts to nearly 30 percent cuts in nondefense programs.

Speaker McCarthy's legislation sets the FY 2024 levels for discretionary spending at no more than the FY 2022 level would require a total cut of **at least $142 billion** from the FY 2023 appropriations Acts. If applied uniformly to defense, Veterans Medical Care, and other nondefense programs, that would require a **9 percent across-the-board cut**. In fact, the legislation does nothing to protect any funding for defense or veterans from indiscriminate cuts.

However, Republican rhetoric indicates that they intend to force nondefense programs to bear 100 percent of their Conference's desired cuts, despite those programs constituting less than half of last year's funding agreement. Moreover, if House Republicans fully fund Veterans Medical Care while holding defense funding flat, that would require them to pursue at least **$144 billion in cuts to the nondefense level from FY 2023**, a reduction of **over 22 percent**.

In addition to these dramatic cuts, many Republicans have pledged to underfund Department of Veterans Affairs' request of $20 billion for the Costs of War Toxic Exposures Fund established by the overwhelmingly bipartisan PACT Act. Going back on that bipartisan promise to veterans, or increasing defense spending to the President's Budget level or beyond would lead to cuts of almost 30 percent **in nondefense programs**.

This analysis of potential cuts is consistent with independent work of the Office of Management and Budget (OMB), the Senate Democratic and Policy Communications Committee, and other outside groups in reaction to previous rumors of these spending cuts.

Note, however, that these proposals to cut discretionary programs do not account for other economic and technical issues that will have a significant effect on the FY 2024 appropriations process. For example, a technical budgetary issue related to the Congressional Budget Office's baseline projections for housing receipts will likely make discretionary appropriations for nondefense programs appear as much as $9 billion higher than they were last year. Coupling that technical issue with the real economic costs of increasing rents, initial estimates show that merely maintaining the same level of housing services through the Department of Housing and Urban Development will cost an additional $13 billion—or more—in FY 2024 on top of last year's levels. As noted, none of the proposals to indiscriminately slash funding take this reality—or issues like this—into account.

B. Cutting FY 2024 discretionary spending back to FY 2022 levels would endanger public safety, increase costs for families, undermine American workers, hurt seniors, and weaken our national security.

Most obviously, an indiscriminate cut to all programs of 9 percent below the enacted levels of December's appropriations Acts would roll back the progress made in last year's bills. For programs that provide direct services to individuals and families, that would mean a smaller population served; for grant programs, fewer recipients, smaller awards, or both; and for capital investments, slower progress in addressing deficiencies in infrastructure.

But the 22 percent—or greater—cuts sought by the House Republican Conference would be devastating. In response to this House Republican plan, Ranking Member DeLauro requested detailed analysis on the ramifications of these cuts from Executive Branch agency heads. Across the entire government, the heads of 21 Federal agencies provided analysis to Ranking Member DeLauro detailing acute examples of how the proposed cuts would endanger public safety, increase costs for families, undermine American workers, hurt seniors, and weaken our national security.

For example, the Department of Education estimated that the cuts would "likely reduce the maximum Pell award by nearly $1,000, decreasing aid to all 6.6 million Pell recipients and eliminating Pell Grants altogether for approximately 80,000 students." A subsequent analysis of the cuts by the White House projected that in the Ranking Member's home state of Connecticut alone, Pell grants for 1,100 students would be eliminated, and for those that might continue to receive Pell Grants, the maximum award could decline by nearly $1,000. (State-by-state analyses of the proposed cuts for all 50 States and the District of Columbia are available here.)

The Department of Health and Human Services estimated, to name only a few programs, that a cut to Head Start funding of 22 percent would eliminate more than 200,000 slots for children, and that 22 percent cuts to the State Opioid Response grant program would cause 29,000 people to be denied recovery services for opioid use disorder.

Dozens of other examples are detailed in the responses to Ranking Member DeLauro, and even more have been addressed in testimony from agency heads during the FY 2024 budget hearings before the Appropriations Committee.

C. The full faith and credit of the United States cannot be used as leverage to upend the annual appropriations investments that American families depend on. The appropriations process for FY 2024 must be debated and decided separately.

The evidence provided in the Administration's responses to Ranking Member DeLauro and in the testimony during the budget hearings has made this much clear: the human consequences of the House Republican cuts would be devastating for our country and for American families. Some Republican Appropriators—when faced with the consequences of potential cuts—have gone so far as to pledge to protect certain programs from cuts. But that simply means even deeper cuts for other critical government programs. Setting a fixed topline that would require across-the-board cuts to nondefense programs at 22 percent means that if any program is "protected" from cuts, **cuts over and beyond 22 percent would be required for everything else**.

In addition, it is clear from the thousands of Member requests for **continued increases** in community project funding and government programs—from both Republicans and Democrats—that the House Republican plan to instead slash funding is untenable.

The need for increased funding is a perspective that Ranking Member DeLauro shares: the appropriations process for FY 2024 must provide the resources necessary to build upon the bipartisan growth in vital investments that Americans depend on.

President Biden's budget framework would do exactly that, by fully and separately funding all promises to provide medical care to veterans, including fulfilling the PACT Act's promises to veterans who have been exposed to burn pits, Agent Orange, and other toxic substances. After fulfilling those promises, the framework sets up an appropriate congressional debate to determine the appropriate increases to defense programs and nondefense programs. This framework is critical to ensuring that the Congress can make funding decisions without the interference of inflexible and arbitrary limitations that cannot account for the latest economic and technical budgetary information.

III. "Caps" are Cuts by Another Name

In addition to the Speaker McCarthy bill's dramatic cuts to spending in FY 2024, the legislation would enshrine these cuts with fixed caps on spending in future years to come. Put simply, **caps are cuts**.

These proposals mirror the 2011 vintage of House Republican threats to the full faith and credit of the United State Government that resulted in the Budget Control Act of 2011 (BCA). Indeed, the BCA is the inflexible statutory regime that the legislation would bring back for FY 2024 to make their austere spending goals binding on congressional Democrats for as long as possible, enforced by the threat of indiscriminate cuts—known as sequestration—to all discretionary programs for noncompliance.

The BCA constrained discretionary appropriations for each of FYs 2012 through 2021—a decade of austerity for most discretionary programs. After the BCA expired at the end of FY 2021, Congress returned to setting topline discretionary levels each year as part of the annual congressional budget and appropriations cycle. The successes for the FY 2022 and 2023 appropriations Acts are evidence of the types of bicameral, bipartisan investments that can be achieved when we work outside the BCA framework.

Although the House Democratic caucus was split over support for the BCA back in 2011, the BCA has become known as an era of disinvestment and ultimately represented a **10-year** deal for protecting the full faith and credit of the United States for only **17 months**. We have already seen proposals from Speaker McCarthy and other prominent stakeholders in the House Republican Conference that are reminiscent of the 2011 deal with some suggesting a repeat of **10 years of cuts** in exchange for **a mere year** of protecting the full faith and credit of the United States.

A. Overview of the BCA regime: caps and sequestration

The BCA's disinvestments were made possible through annual statutory caps that were backed by an enforcement mechanism known as sequestration, which is a blunt tool, akin to a hatchet, used to cut already-enacted appropriations. Over that 10-year period, the BCA statutorily capped the allowable annual appropriations for both defense and nondefense discretionary funding. And in the event that the Office of Management and Budget determined that Congress appropriated either defense or nondefense discretionary appropriations in excess of that year's cap, the Executive Branch would be required to issue an indiscriminate, across-the-board sequestration within the applicable category (defense or nondefense) to cut the enacted appropriations by the amount of the "excess."

B. Caps, and the threat of sequestration, locked in disinvestment and austerity for 10 years

The BCA caps locked in the austerity sought by House Republicans of the 112th Congress for 10 years. Over those 10 years, the House Republicans' austere caps were protected by the BCA's enforcement mechanism of sequestration—setting up an era marked by constant brinksmanship, delays in final appropriations, and threats of shutdown.

Despite efforts to unwind the austerity through 5 bipartisan budget agreements, the BCA cut spending, relative to the trajectory we were on, and actual discretionary expenditures were $1.6 trillion less over the BCA era than CBO had projected in 2011.

This era of disinvestment was signposted along the way by the depressed growth in topline spending, resulting in average annual growth of only 1.4 percent. Just focusing on nondefense programs, despite suffering flat funding in FY 2012 and a 3.5 percent cut in FY 2013, nondefense resources subsequently rebounded to grow at an average annual rate of 2.6 percent over the 2012-2021 period. Speaker McCarthy's bill is much worse than this, as it would only allow for 1 percent annual growth in the future. Speaker McCarthy's proposal to first cut by 22 percent **and then** to "cap" growth at 1 percent would translate to drastic and enduring cuts to nondefense resources in nominal terms, which would be exacerbated under even the tamest of inflation scenarios. Locking those cuts in with 1 percent annual growth would mean that **by 2033 nondefense programs would still be 15 percent below their current levels**.

Under the BCA regime, the policies of stagnation were exacerbated by its rigid statutory framework that was unable to accommodate big policy changes, such as the accelerating need for funding to support Veterans Medical Care. Beginning as less than 4 percent of the discretionary budget in FY 2011, the portion of the budget needed to support Veterans Medical Care grew by over 76 percent to a level $90 billion in FY 2021. Because Veterans Medical Care is categorized as nondefense discretionary, the rigidity of the BCA forced the rapid increases in Veterans Medical Care under the nondefense discretionary cap. Other nondefense discretionary program funding therefore had to be further constrained in order to pay for Veterans Medical Care, without like-consequence for defense program funding.

Category	VA Medical Care	Other Nondefense	Defense
BCA (2012-2021) Avg. Annual Growth:	6.5%	2.1%	0.4%
FY 2022 Increases:	8.0%	6.4%	5.6%
FY 2023 Increases:	22.4%	7.2%	9.7%

By contrast, the last two years—after the expiration of the BCA—have proven hugely successful, particularly in contrast to the preceding decade. In each of FYs 2022 and 2023, Congress has been able to negotiate bipartisan legislation to properly account for the costs of fully funding veterans programs, while ensuring resources remain to make investments in both defense and nondefense programs. This is exactly the framework that the President has proposed again for FY 2024 negotiations. While some Republicans appear to recognize this reality, others will attempt to disrupt the existing framework to pit Veterans Medical Care against other budgetary resources across the government, without recognition of those programs' unique requirements. Speaker McCarthy's legislation is divorced from this reality and would not just pit Veterans Medical Care against nondefense programs but would do nothing to protect those programs from increases in defense spending. Speaker McCarthy's proposal instead embraces another rigid statutory regime in order to pursue deeper cuts to nondefense programs at the risk of those critical services, and those that veterans depend on.

IV. A Return to the BCA Framework is a Return to Disinvestment, Republican Agenda Setting, and Executive Branch Control

In addition to the problematic discretionary spending levels, this proposal to reinstate the BCA framework would also be structurally problematic for the following reasons:

A. ***This proposal's reinstatement of the BCA framework likely means it will be further extended in the future.*** This proposal would reinstate the BCA framework for fiscal years 2024 through 2033. But even if the BCA framework were reinstated with discretionary caps only for one or two fiscal years, we are concerned about the long-term effects of its reinstatement. That is because the BCA framework would become the default going forward, and it would be extraordinarily easy to further extend this framework in future deals. This prediction has already proven true for the sequestration of mandatory programs, which continues to be extended for a couple fiscal years at a time and has now been extended through FY 2031.

B. ***This proposal's BCA framework is a return to a rigid framework that doesn't prioritize veterans funding.*** This proposal's reinstatement of the BCA framework is a return to a statutory regime that does not recognize the unique nature of funding requirements for Veterans Medical Care.

C. ***This proposal's BCA framework is inflexible and enforced by Executive Branch across-the-board sequestration.*** We are also concerned that caps are inflexible and allow OMB to trigger an across-the-board sequestration if OMB determines that their score of discretionary appropriations exceeds the BCA caps. That gives unnecessary power and control to the Executive Branch to enforce a political topline agreement. We also note that the past abuses of the Trump Administration create concern about how a future Republican White House could seek to abuse this power.

D. ***This proposal's BCA framework also reinstates Overseas Contingency Operations funding.*** In the first congressional budget and appropriations cycle after the end of the BCA, congressional Democrats successfully eliminated the Overseas Contingency Operations ("OCO") / Global War on Terrorism funding category that had been used to inflate and obscure Pentagon funding. Congress has now enacted appropriations Acts for two cycles without any use of OCO funding.

E. ***This proposal's BCA framework gives the President unilateral authority to block appropriations designated as an "emergency" by the Congress.*** In the first congressional budget and appropriations cycle after the end of the BCA, congressional Democrats successfully eliminated the President's after-enactment discretion to prevent the use of any appropriations designated as "emergency" by the Congress without recourse. (The BCA also provides this discretion for OCO funding—a category wholly eliminated in the aftermath of the BCA as noted above.) Again, we note that the past abuses of the Trump Administration create concern about how a future Republican White House could seek to abuse this power.

V. Conclusion

With the information above, it should be easy to identify that Speaker McCarthy's legislation, and the other proposals put forward so far to drastically cut spending for FY 2024 and to continue those cuts into the outyears are not a reasonable middle ground, nor are they even a starting point for discussion. However, it is important to remember that the annual appropriations process is a long one, which requires iteration, and compromise between political parties and congressional chambers. For this reason, the urgency of the debt limit should be addressed immediately, while each chamber continues a longer discussion—fully informed by relevant economic and technical factors provided by the Congressional Budget Office for **FY 2024—**to decide the appropriate budgetary resources to meet the needs of Americans for the upcoming fiscal year.