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HB 284 (Compact for a Balanced Budget) Sectional Analysis

Section 1, Article I: Declaration of Policy, Purpose, and Intent of Compact for a Balanced Budget Amendment. All states adopting the compact agree to be bound by its provisions.

Article II, Sections 1-6: Definition of terms.

Article II, Section 7: Provisions of Balanced Budget Amendment (BBA)

Section 1: Total government outlays cannot exceed total government receipts except for the exclusive debt financing option allowed in the BBA.

Section 2: Authorized debt of the United States cannot exceed 105% of the country's outstanding debt the date the BBA is enacted. Authorized debt cannot exceed established threshold except as provided in Section 3.

Section 3: Congress may only increase the authorized debt (Sec. 2) only upon the approval of a simple majority of the fifty states. If approval is not achieved within sixty days, the Congressional request is deemed disapproved and the authorized debt remains unchanged. Explicitly prohibits raising the debt limit by a *quid pro quo* trade of increased federal spending in the states.

Section 4: When the outstanding debt exceeds 98% of the limit established in Section 2, the President of the United States is required to enforce the 105% debt limit by designating specific expenditures for impoundment. Such cuts become effective within thirty days unless Congress designates other cuts of the same or greater amount. Failure by the President of the United States to designate the required cuts is an impeachable misdemeanor. Any incurred or issued debt exceeding the Sec. 2 105% threshold is void.

Section 5: Congress may not issue new or increased tax revenue without an affirmative two-thirds votes each from the House of Representatives and Senate. This restriction does not apply to enactment of a sales tax provided that 1) the proposed tax completely replaces all existing federal income taxes or 2) provides for the reduction or elimination of an exemption, deduction, or credit under an existing general revenue tax.

Section 6: Defines "debt," "outstanding debt," "authorized debt," "total outlays of the government of the United States," "total receipts of the government of the United States," "impoundment," and "general revenue tax."

Section 7: The Balance Budget Amendment takes effect immediately upon ratification. Congress may enact legislation needed to enforce the BBA.

Article III: Compact Membership and Withdrawal

Section 1: Member states are bound to the Compact's provisions to the fullest extent of the law.

Section 2: Member states agree to perform and strictly comply with the Compact's terms and conditions. Compact is contractually binding on each member state when at least two states pass substantively similar legislation adopting the Compact for America.

Section 3: Outlines four caveats to the "substantively identical" legislation requirement.

Section 4: States may withdraw from Compact so long as the three-fourths membership threshold is not reached. States cannot withdraw from the Compact once three-fourths of the states are members.

Article IV: Compact Commission and Compact Administrator

Section 1: Outlines the powers and duties of the Compact Commission.

Section 2: Outlines the Compact Commission membership.

Section 3: Each commission member is entitled to one vote, majority membership is required in order to take action, and number of meetings to be held.

Section 4: First actions the Commission is to take.

Section 5: How the Commission is to be funded.

Section 6: Powers and duties of the Compact Administrator.

Section 7: Specific events the Compact Administrator is required to send notice to all Compact Notice Recipients (Article II, Sec. 5).

Section 8: The Commission, member states, and Compact Administrator will work together to enforce the Balanced Budget Amendment Interstate Compact.

Section 9: Article IV requires at least to member states in order to take effect.

Article V: Resolution Applying for Convention

Section 1: The legislature of each Compact member state applies (via the Compact) to Congress for an Article V Convention for the purpose of proposing for ratification the Balanced Budget Amendment.

Section 2: Requests Congress to refer the BBA to the States for ratification.

Section 3: Article V requires three-quarters of the state to join the Compact before taking effect.

Article VI: Delegate Appointment, Limitations and Instructions

Section 1: Each state is entitled to one delegate at the Convention.

Section 2: The governor of each state is that state's sole convention delegate.

Section 3: Outlines when a state's convention delegate may be recalled.

Section 4: The power and authority of each delegate is exercisable only after affirming the oath and Congress calling for the Convention.

Section 5: Convention delegate term limits.

Sections 6-8: Power and authority of convention delegates.

Section 9: The Convention's first order of business is to adopt the convention rules outlined in the Compact. Failure to do so requires an immediate vacation of the convention.

Section 10: Member states or delegates who violate the Compact's provisions forfeit participate in the Convention.

Section 11: Delegates are entitled to reimbursement for reasonable expenses incurred while attending the Convention.

Article VII: Convention Rules

Section 1: Convention is organized to exclusively represent interests of the member states.

Section 2: The Convention's sole agenda is to introduce, debate, and vote to either accept or reject the Balanced Budget Amendment. Consideration of other matters is not permitted.

Section 3: Provides the rules for how many delegates member and non-member states may have and the credentials they are required to provide while attending the Convention.

Section 4: Outlines the voting powers of states attending the Convention.

Section 5: Quorum requirements for the Convention.

Section 6: The Convention is chaired by the delegate of the first State to become a member of the Compact. Any business conducted by the Convention requires a quorum and a majority vote of those states constituting the quorum.

Section 7: Provides the guidelines for relocating or rescheduling the Convention should the need arise.

Section 8: Convention shall be conducted according to Robert's Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary Procedure.

Section 9: Rules for transmitting the Convention's approval of the Balanced Budget Amendment and requesting Congress to refer the BBA to the 50 states for ratification.

Section 10: Public record requirements for the Convention.

Section 11: Convention has twenty-hours to complete its business and is required to adjourn thereafter.

Article VIII: Prohibition on Ultra Vires Convention

Section 1: Member states are prohibited from participating in the Convention unless 1) Congress passes the omnibus resolution calling for the Convention and 2) the Convention completes Article VI, Sec. 9.

Section 2: Any proposal or action by the Convention that violates the Compact's rules, proposes a mode of ratification not permitted in Article V of the Constitution of the United States, or tries to form a new government is void ab initio (from the beginning).

Section 3: Member states are not permitted to approve any revision to the Constitution of the United States other than the Balanced Budget Amendment.

Article IX: Resolution Prospectively Ratifying the Balanced Budget Amendment

Sections 1-2: Provision in Compact whereby each member state automatically adopts and ratifies the Balanced Budget Amendment following its Article V referral to the States by the Congressional resolution--thus meeting the three-fourths ratification requirement.

Article X: Construction, Enforcement, Venue, and Severability

Section 1: Member states agree to be bound to the Compact to the fullest extend allowed by their respective constitutions.

Section 2: Date and time of the Convention.

Section 3: The Attorney General of Alaska is required to defend the Compact against any legal challenge.

Section 4: The exclusive venue for all legal actions relating to the Compact shall be in the United States District Court for the Northern District of Texas or the courts of the State of Texas within the District Court's boundaries. However, the Attorney General of Alaska may petition the Compact Commission to waive Article X, Sec. 4 if a different court venue allows for the better enforcement or defense of the Compact.

Section 5: Effective date of Compact.

Section 6: Article VIII of this Compact is non-severable prior to the Compact's termination. If a phrase, clause, sentence or provision of the Compact is ruled invalid by the courts, it may be severed without affecting the applicability of the remaining Compact. If a court rules the Compact to be contrary to a member state's constitution or otherwise held invalid, that state shall withdraw from the Compact.

If a court rules the Compact to be in violation of Article, 1 Section 10, of the Constitution of the United States, it is to be construed and enforced solely as reciprocal legislation. This language ensures that the Compact will not be stopped by a meritless adverse legal determination that it violates the Compact Clause. It is intended to authorize a court to sever from the Compact all of the language that makes the bill a "compact," leaving behind only the legislative elements, which would then be regarded as reciprocal legislation—i.e. simply identical legislation passed in the respective member state, like a sort of "Uniform Commercial Code" for an Article V convention devoted to a Balanced Budget Amendment. Mechanically, it would mean that the Court would strike from the Compact all contractual language ("offer," "accept," "agree," etc.) and all elements of the Compact that cannot exist outside of a contractual relationship, such as the Compact Commission (Article IV in its entirety), much of Article X, leaving behind the balance as purely legislative enactments which are reciprocal to the Compact enactments of other states.

Section 7: The Compact terminates when the Constitution of the United States is amended by the Balanced Budget Amendment. However, if the BBA is not adopted within seven years of the first state adopting the Compact, the Compact Commission and Compact shall be deemed terminated and void ab initio.

Revisor's Instruction

- Instructs the revisor of statutes not to edit out the use of personal pronouns in HB 284 due to the requirement that substantively similar legislation be passed by states adopting the Compact.