

## SPENDING CONTROL ACT OF 2004

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MARCH 19, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. NUSSLE, from the Committee on the Budget,  
submitted the following

### R E P O R T

together with

### MINORITY VIEWS

[To accompany H.R. 3973]

The Committee on the Budget, to whom was referred the bill (H.R. 3973) to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits and pay-as-you-go through fiscal year 2009, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## LEGISLATIVE LANGUAGE

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Spending Control Act of 2004”.

**SEC. 2. EXTENSION OF DISCRETIONARY SPENDING LIMITS.**

(a) DISCRETIONARY SPENDING LIMITS.—(1) Section 251(c)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting a dash after “2005”, by redesignating the remaining portion of such paragraph as subparagraph (B) and by moving it two ems to the right, and by inserting after the dash the following new subparagraph:

“(A) for the general purpose discretionary category: \$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays; and”.

(2) Section 251(c)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting a dash after “2006”, by redesignating the remaining portion of such paragraph as subparagraph (B) and by moving it two ems to the right, and by inserting after the dash the following new subparagraph:

“(A) for the general purpose discretionary category: \$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays; and”.

(3) Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating paragraphs (4) through (9) as paragraphs (7) through (12) and inserting after paragraph (3) the following new paragraphs:

“(4) with respect to fiscal year 2007 for the general purpose discretionary category: \$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays;

“(5) with respect to fiscal year 2008 for the general purpose discretionary category: \$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays; and

“(6) with respect to fiscal year 2009 for the general purpose discretionary category: \$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays;”.

(b) ADVANCE APPROPRIATIONS.—Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

“(d) ADVANCE APPROPRIATIONS.—In any of fiscal years 2005 through 2009, discretionary advance appropriations provided in appropriation Acts in excess of \$ \_\_\_\_\_ shall be counted against the discretionary spending limits for the fiscal year for which the appropriation Act containing the advance appropriation is enacted.”.

**SEC. 3. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.**

(a) PURPOSE.—Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

“(a) PURPOSE.—The purpose of this section is to assure that any legislation that is enacted before October 1, 2009, that causes a net increase in direct spending will trigger an offsetting sequestration.”.

(b) **TIMING.**—Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “any net deficit increase” and all that follows through “2002,” and by inserting “any net increase in direct spending enacted before October 1, 2009,”.

(c) **CALCULATION OF DIRECT SPENDING INCREASE.**—Section 252(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking “deficit” the first place it appears and inserting “direct spending”;

(2) in subparagraph (A) by striking “and receipts”;

(3) in subparagraph (C) by striking “and receipts”; and

(4) by amending the heading to read as follows: “**CALCULATION OF DIRECT SPENDING INCREASE.**—”.

(d) **CONFORMING AMENDMENTS.**—(1) The heading of section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows: “**ELIMINATING A DIRECT SPENDING INCREASE.**—”.

(2) Paragraphs (1), (2), and (4) of section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by striking “or receipts” each place it appears.

(3) Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “or receipts” and by striking “, outlays, and receipts” and inserting “and outlays”.

(4) Section 254(c)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subparagraph (A) by striking “net deficit increase or decrease” and by inserting “net increase or decrease in direct spending”;

(B) in subparagraph (B) by striking “amount of deficit increase or decrease” and by inserting “increase or decrease in direct spending”; and

(C) in subparagraph (C) by striking “a deficit increase” and by inserting “an increase in direct spending”.

#### **SEC. 4. DEFINITIONS.**

(a) **IN GENERAL.**—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraphs:

“(20) The term ‘advance appropriation’ means appropriations that first become available one fiscal year or more beyond the fiscal year for which an appropriation Act making such funds available is enacted.

“(21)(A) Except as provided by subparagraph (B), the term ‘emergency requirement’ means any provision that provides new budget authority and resulting outlays for a situation that poses a threat to life, property, or national security and is—

“(i) sudden, quickly coming into being, and not building up over time;

“(ii) an urgent, pressing, and compelling need requiring immediate action;

“(iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

“(iv) not permanent, temporary in nature.

“(B) An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.”.

(b) CONTINGENCY OPERATIONS RELATED TO GLOBAL WAR ON TERRORISM.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

“(I) CONTINGENCY OPERATIONS RELATED TO GLOBAL WAR ON TERRORISM.—If supplemental appropriations for discretionary accounts are enacted for contingency operations related to the global war on terrorism that, pursuant to this subparagraph, the President designates as a contingency operation related to the global war on terrorism and the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts so designated and the outlays flowing in all fiscal years from such appropriations.”.

(c) CONFORMING AMENDMENT.—The second sentence of section 250(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows: “The general purpose discretionary category shall consist of accounts designated in the joint explanatory statement of managers accompanying the conference report on the Spending Control Act of 2004.”.

#### **SEC. 5. PROJECTIONS UNDER SECTION 257.**

Section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after paragraph (6) the following new paragraph:

“(7) EMERGENCIES.—New budgetary resources designated under section 251(b)(2)(A) or 251(b)(2)(I) shall not be assumed beyond the fiscal year for which they have been enacted.”.

#### **SEC. 6. EXCEPTION FOR OUTLAY COMPONENTS OF EXPIRING RECEIPTS LEGISLATION.**

Section 252(d)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “and” at the end of subparagraph (A), by striking the period and inserting “; and” at the end of subparagraph (B), and by adding at the end the following new subparagraph:

“(C) extending provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 or provisions in sections 101 through 104, section 202, or sections 301 and 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.”.

#### **SEC. 7. REPORTS.**

Subsections (c)(2) and (f)(2)(A) of section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by striking “2002” and inserting “2009”.

#### **SEC. 8. EXPIRATION.**

Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “2002” and inserting “2009” and by striking “2006” and inserting “2013”.

**SEC. 9. TECHNICAL CORRECTIONS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.**

Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In section 250(a), strike “SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES” and insert “Sec. 256. General and special sequestration rules” in the item relating to section 256.

(2) In subparagraphs (F), (G), (H), (I), (J), and (K) of section 250(c)(4), insert “subparagraph” after “described in” each place it appears.

(3) In section 250(c)(18), insert “of” after “expenses”.

(4) In section 251(b)(1)(A), strike “committees” the first place it appears and insert “Committees”.

(5) In section 251(b)(1)(C)(i), strike “fiscal years” and insert “fiscal year”.

(6) In section 251(b)(1)(D)(ii), strike “fiscal years” and insert “fiscal year”.

(7) In section 252(b)(2)(B), insert “the” before “budget year”.

(8) In section 252(c)(1)(C)(i), strike “paragraph (1)” and insert “subsection (b)”.

(9) In section 254(c)(3)(A), strike “subsection” and insert “section”.

(10) In section 254(f)(4), strike “subsection” and insert “section” and strike “sequesterable” and insert “sequestrable”.

(11) In section 255(g)(1)(B), move the fourteenth undesignated clause 2 ems to the right.

(12) In section 255(g)(2), insert “and” after the semicolon at the end of the next-to-last undesignated clause.

(13) In section 255(h)—

(A) strike “and” after the semicolon in the ninth undesignated clause;

(B) insert “and” after the semicolon at the end of the tenth undesignated clause; and

(C) strike the semicolon at the end and insert a period.

(14) In section 256(k)(1), strike “paragraph (5)” and insert “paragraph (6)”.

(15) In section 257(b)(2)(A)(i), strike “differenes” and insert “differences”.



## INTRODUCTION

The alarming budget deficits that emerged in the past 2 years resulted from one factor more than any other: government spending. In response to a series of extraordinary circumstances, Congress—out of necessity—increased spending significantly. There was no other option. Responding to the terrorists attack, leading the war against global terrorism, and protecting America’s homeland required large investments—investments beyond the reach of the government’s cash resources. This led to borrowing, the product of budget deficits.

Deficits do matter—but they must be understood correctly for what they are: a symptom of excess government spending. When Congress controls its spending, it can reduce deficits, and eventually restore the common-sense sanity of balancing budgets.

That is the purpose of the Spending Control Act of 2004 (H.R. 3973). It restores a system of spending control measures that lapsed at the end of fiscal year 2002; and it gives those measures, once again, the force of law. The controls are backed with automatic spending cuts if they are breached. The discipline cannot be waived—it can be altered only by enacting laws amending it.

The measure restores the system of caps on discretionary spending, and a pay-as-you-go strategy for entitlement spending. This bill rests on three principles:

- All government spending must be paid for—through taxes or borrowing—and both are burdens on the economy. Raising taxes—even if the intent is to close deficits—does not by itself reduce the economic burden of government spending. Only spending control can do this.
- Chasing entitlement expansions with higher taxes—as some recommend—does not reduce the problem of higher spending. Only spending control can control spending.

The discussion below explains why this bill is necessary, and why it is the appropriate means.

## NEED FOR THE LEGISLATION

The Congressional Budget Act was enacted in 1974, and has been the congressional budget blueprint since that time. It established a method for Congress to examine its spending needs from a government-wide perspective, and therefore choosing priorities and distributing resources accordingly. It also created a means of managing subsequent legislation to implement the budget blueprint, and for enforcing the levels Congress envisions in the budget resolution.

The points of order provided for in the Budget Act can be an effective means of budget enforcement, if applied diligently. They can help control spending, and thereby keep deficits relatively small and short-lived.

But exceptional times require exceptional measures—in this case, measures with the force of law. The deficits that grew from recent crises are large, and threaten to become chronic if not controlled swiftly and firmly. It will take several years of determined effort at controlling spending to restore budget balance. Along the way, other unexpected events will arise. Points of order can be waived, and the discipline sustained solely by political will can be challenged. Congress needs to embrace spending control in a law by which it will be governed for several years. The Spending Control Act is such a law.

Federal Reserve Chairman Alan Greenspan is just one of many prominent observers who has endorsed the restoration of disciplines such as those contained here. As he has put it, “I would like to see the restoration of PAYGO and discretionary caps which essentially will restrain the expansion of the deficit and, indeed, ultimately contain it. It did that back in the early ’90s, and I thought it was quite and surprisingly successful in restraining what had been a budget which had gotten out of kilter. I would like to see those restraints reimposed, and by their very nature they will bring back fiscal balance.” (July 2003)

A look at historical trends supports this point. Total government spending as a share of the economy (as a percentage of gross domestic product [GDP]) declined steadily from the time the statutory disciplines were imposed until the beginning of the current decade. In 2001, it began to surge upward again, largely because of budget surpluses, and then September 11 and its ramifications. But a significant additional factor was that the existing statutory budget disciplines expired at the end of fiscal year 2002.

#### STRUCTURE OF THE LEGISLATION

The key elements of the bill are the following:

##### *Discretionary spending caps*

The discretionary spending caps provided for in this bill—which establish ceilings for spending that is subject to annual appropriations—have two principal advantages over existing enforcement procedures. Because the caps are embraced in law, they cannot be waived or altered in the way that points of order can be. They can only be changed by a new law, or an amendment to the existing law—and either requires the approval of both Houses of Congress, and the President’s signature.

A breach of the caps leads to automatic, across-the-board spending cuts in discretionary programs. This is a powerful sanction against excess spending. As with total spending, discretionary spending also declined as a share of the economy throughout the 1990s, when the spending caps were in place.

##### *Pay-as-you-go for spending*

When the Budget Act was adopted in 1974, mandatory spending accounted for about 41 percent of the budget; discretionary spending was about 51 percent. By 1988, mandatory spending had grown to 42 percent of the budget; discretionary was 44 percent. Today, 30 years after adoption of the Budget Act, more than half of the



budget is mandatory spending—thus, more than half of the Federal Government’s spending is on “autopilot.”

The statutory discipline of pay-as-you-go—which required entitlement spending increases to be offset—was effective in controlling mandatory spending. But the previous version of PAYGO allowed entitlement spending increases to be financed by tax increases. This practice may have prevented deficits from increasing. But it did not, in principle, control the growth of spending.

As noted above, deficits are a symptom of an inability to control spending. The Budget Act itself defines a “deficit” not as a shortage of tax revenue, but an excess of spending. All government spending must be paid for—through taxes or borrowing—and both are burdens on the economy. Raising taxes—even if the intent is to close deficits—does not by itself reduce the economic burden of government spending. Chasing entitlement expansions with higher taxes does not reduce the problem of higher spending. Only spending control can control spending.

Furthermore, now is not the time to be raising taxes on the economy, when it is in the early stages of expansion and struggling to produce stronger jobs growth. Congress needs to maintain policies that are pro-growth. Tax increases are anti-growth and would hurt our economy and prospects for jobs growth. Even Federal Reserve Chairman Greenspan has cautioned about raising taxes. He has stated that “tax rate increases \* \* \* pose significant risks to economic growth and the revenue base. \* \* \* [S]uch risks \* \* \* are of enough concern \* \* \* to warrant aiming to close the fiscal gap primarily, if not wholly, from the outlay side.”

For all these reasons, this bill focuses the PAYGO discipline on spending, consistent with the President’s recommendations.

#### CONCLUSION

This legislation would be useful for budget enforcement under any circumstances. But it is especially important now, with Congress facing large budget deficits that threaten to become chronic. A long-term approach to budget enforcement is now a necessary step; and it must focus on the central problem: the need to control government spending.



## SHORT SUMMARY

The Spending Control Act of 2004 restores a system of spending control measures with the force of law, and the backing of automatic spending cuts if the controls are breached. The discipline cannot be waived; it can be altered only by enacting laws amending it.

**Spending Controls.** Both annual appropriations and permanent mandatory spending are addressed.

- *Spending Caps*—The measure reestablishes, though 2009, the caps on discretionary (annually appropriated) spending, which expired at the end of fiscal year 2002. These caps are set for budget authority and outlays at specific levels. The caps put firm limits on discretionary spending—and those limits have the force of law. (The actual cap levels will be specified through a manager’s amendment, consistent with levels in the forthcoming conference report on the budget resolution for fiscal year 2005.)

- *PAYGO for Spending*—The bill also extends through 2009 the pay-as-you-go [PAYGO] requirements, which expired at the end of fiscal year 2002, for mandatory spending only. This PAYGO-for-spending regimen requires that bills increasing entitlement spending must be offset by reductions in other spending. They may not be financed by raising taxes. The intent is to restrain the growth of government, and that can only be done by controlling spending—not by financing higher spending with higher taxes.

**Enforcement of Caps and PAYGO.** Any breach of either of these spending disciplines results in automatic spending cuts—known as “sequesters.”

- *Discretionary Sequester*—Any breach of the discretionary spending cap in a given fiscal year results in a compensating, across-the-board reduction in discretionary spending programs.

- *Entitlement Sequester*—Similarly, if the sum of all entitlement spending bills in a given fiscal year increases the budget deficit, then a compensating sequester is applied to all non-exempt entitlement spending. (The measure retains the exemptions from sequester that were contained in the previous Budget Enforcement Act. Exempt programs included Social Security and several other highly sensitive benefits programs.)

**Emergencies.** The bill ratifies previous and current treatment of emergencies, consistent with administration policy and recent budget resolutions. It allows the discretionary caps to be adjusted in the event spending provisions are designated as emergencies. It also codifies the definition of an emergency as an unanticipated and temporary event requiring funding for the preservation of life, property, or national security. The bill also requires that future spending projections will no longer assume that “emergency” spending amounts will be repeated in future years.

Advance Appropriations. The bill limits the amount of “advance appropriations”—spending authority provided for a year subsequent to the budget year—and the programs for which advances may be used. These provisions, too, are consistent with administration policy and recent budget resolutions.

## BACKGROUND AND PURPOSE

### SUMMARY

A brief summary of the reasons for this bill, and the disciplines it contains, is the following:

- *Discretionary spending caps.* The principal aim of these is to augment controls provided for in the Congressional Budget Act, which are currently enforced through points of order. Statutory spending caps with reinforce these mechanisms.

- *Pay-as-you-go for spending.* This mechanism provides a tough enforcement tool to begin gaining control of mandatory spending programs. These programs—which run essentially on a kind of “automatic pilot”—have grown to more than half of the Federal budget. They are highly subject to factors outside the control of Congress—such as demographics and economic changes—but are rarely subjected to congressional review, except when they are being expanded.

- *Emergency designations.* The bill recognizes the need for a designating and emergency—a means of responding to sudden, dramatic events that cannot be anticipated in the regular budget process. Nevertheless, it seeks to limit emergency designations by placing in law a consensus understanding of what truly constitutes an “emergency.” In doing so, the bill intends to remove an incentive for circumventing budgetary limits, and thereby making use of the emergency designation more responsible and credible.

### DISCRETIONARY SPENDING LIMITS

#### *Background*

Discretionary spending limits were first established in 1990. The limits were revised and extended through fiscal year 2002 by various laws, including the Omnibus Budget Reconciliation Act of 1993 [OBRA '93] and the Budget Enforcement Act of 1997 [BEA '97]. In addition, discretionary spending limits established in other laws—for violent crime reduction programs, highway and mass transit programs, and conservation programs—eventually were incorporated into the limits. Violations of the discretionary spending limits were enforced by automatic, across-the-board spending cuts called “sequestration.” Statutory limits on discretionary spending expired at the end of fiscal year 2002.

Through much of the 1990s, statutory caps proved a surprisingly effective means of restraining discretionary spending. This was at least partly true because exceeding them required agreement from both Houses of Congress and the President. Over the past 5 years, however, discretionary spending increased steeply, according to calculations by both the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO]. One reason surely was the emergence of budget surpluses in the late 1990s, which created an

irresistible temptation toward higher spending. Another was September 11 and subsequent related events—which clearly demanded a vigorous response. But a third factor undoubtedly was the expiration of spending caps at the end of fiscal year 2002. Under normal conditions, this might have been less significant. But in the extraordinary circumstances of the past 2 years, the absence of statutory caps has only created another strong incentive for higher spending.

Some discretionary spending is provided in the form of “advance appropriations.” An advance appropriation becomes available in a fiscal year following the fiscal year to which the annual appropriations act generally applies. Both the President and Congress, over the years, have used advance appropriations to circumvent budgetary controls.

#### *Purpose*

As noted above, discretionary spending caps written in law are designed to reinforce procedures contained in the congressional budget process. The process constrains discretionary spending through the Congressional budget process through points of order. These mechanisms can be effective when applied diligently. But they are confined to congressional consideration of legislation, and—because they do not have the force of law—they can be waived.

Statutory discretionary spending limits augment congressional budget discipline on this category of spending through the prospect of sequestration. Spending above a statutory cap will cause a sequester, an across-the-board spending reduction in all discretionary programs. This is further supported by the constitutional arrangement: the only way to circumvent the statutory spending level is by agreement among both Houses of Congress and the President. There can be no unilateral waiver (as there can be with points of order), and either Congress or the President can effectively halt an attempt to evade the caps simply by refusing to agree to it.

The bill includes a restriction on the total amount of advance appropriations that may be enacted for a fiscal year for the same period for which the new discretionary spending limits will apply. Any amount provided in excess of the limit is counted against the discretionary spending limits for the fiscal year to which the annual appropriations act generally applies, not to the fiscal year for which the advance appropriation is made. Generally this puts into law a curb on the use of advance appropriations to push spending higher.

### THE PAY-AS-YOU-GO REQUIREMENT

#### *Background*

A “pay-as-you-go” [PAYGO] requirement was established in 1990. PAYGO was extended for legislation enacted through fiscal year 2002 by various laws, including OBRA '93 and BEA '97. Although the PAYGO requirement only applied to legislation enacted by the end of fiscal year 2002, it covered the out-year effects of the legislation through fiscal year 2006.

Under the PAYGO requirement, legislation causing an increase in direct spending or a decrease in revenue for a fiscal year was prohibited from resulting in a net cost for that year. Balances for each fiscal year were maintained on a rolling PAYGO “scorecard” that accumulated the budgetary effects of laws enacted during the session and in prior years. Violations of the PAYGO requirement were enforced by sequestration, an across the board cut in all non-exempt mandatory spending programs.

#### *Purpose*

The bill extends the PAYGO requirement through fiscal year 2009, but amends the law to only apply to bills which increase the level of direct spending without offsetting the spending with reductions in other direct spending programs. If the total effect on direct spending in a fiscal year increases spending without offsets, a sequester is triggered across mandatory spending programs.

Mandatory spending programs are set in law and the level of outlays may rise or fall due to events entirely outside congressional decision making. These programs are usually entitlements that have a set beneficiary class and formula by which those benefits are distributed. Consequently, the varying number of beneficiaries or the rate of inflation—factors that are outside the control of Congress—can cause steep increases in spending.

Unlike annual appropriation bills—these programs cause spending without yearly action by Congress and so are often the most volatile, and can increase rapidly. Further, the programs are rarely subjected to congressional review, except when they are being expanded. For all these reasons, the Spending Control Act re-establishes PAYGO with respect to mandatory spending. When new mandatory spending programs are considered—because of the prospect of a program increasing without further congressional action—other mandatory spending should be decreased to offset it. This is the first step in preventing unrestricted expansion in entitlement programs.

#### EMERGENCIES

#### *Background*

Since 1990, spending designated as an “emergency” generally was exempted from budget controls. There are legitimate reasons for this: unforeseen events with dramatic consequences—events that cannot be anticipated in normal budgeting.

But the emergency designation also has become another opportunity for evading budget discipline, and has served as a method for back-door spending on items that might not otherwise merit funding. Though genuine emergencies require such a designation, much spending has proceeded through the legislative process that was clearly not a genuine emergency. This generally has contributed to higher spending. There have been a variety of attempts, both through statute and congressional rule making, to reign in the ability of congressional spending committees to use the designation. These attempts have been unsuccessful.

*Purpose*

As noted above, this bill acknowledges the need for an emergency designation. But it seeks to prevent misuse by placing in law a consensus understanding of what truly constitutes an “emergency.” This will remove an incentive for circumventing budgetary limits, and thereby make use of the emergency designation more responsible and credible.

The bill adds a definition of the term “emergency requirement” as “any such provision is an emergency requirement if the underlying situation poses a threat to life, property, or national security and is: (i) sudden, quickly coming into being, and not building up over time; (ii) an urgent, pressing, and compelling need requiring immediate action; (iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and (iv) not permanent, temporary in nature.”

The bill also includes a new adjustment in the discretionary spending limit for 2005 for supplemental appropriations for “contingency operations related to the global war on terrorism.” If spending is designated as such, OMB adjusts the discretionary spending cap by that amount.



## LEGISLATIVE HISTORY

For nearly 30 years, the House and Senate have considered revenue, spending, and debt-limit legislation within the framework of concurrent resolutions on the budget required by the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). The policies reflected in the budget resolution adopted each year are enforced during the consideration of individual budgetary measures by various points of order contained in Titles III and IV of the 1974 act and by optional budget reconciliation procedures set forth in Section 310 of the act.

After a decade of experience with the congressional budget process, and facing large deficits, Congress and the President enacted the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of Public Law 99–177). The 1985 act augmented budget enforcement procedures under the 1974 Congressional Budget Act with additional statutory controls involving declining deficit targets enforced by sequestration, a process by which automatic, across-the-board spending cuts are made in nonexempt programs to eliminate any deficit excess. The process by which a sequester could be triggered was modified by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Title I of Public Law 100–119), placing carefully delineated authority for a triggering report in the hands of the Director of the Office of Management and Budget [OMB]. If the OMB Director determined that a sequester was necessary, the President was required to issue a sequestration order in strict conformity with the OMB Director’s sequestration report.

The Budget Enforcement Act [BEA] of 1990 (Title XIII of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990) amended the 1985 Balanced Budget Act in order to revise the statutory enforcement scheme. The BEA of 1990 effectively replaced the deficit targets with two new enforcement devices for the period covering fiscal year 1991–1995—annual limits on discretionary spending (i.e., spending controlled through the annual appropriations process) and a “pay-as-you-go” [PAYGO] requirement applicable to revenue and direct spending legislation (i.e., spending controlled in substantive legislation). These procedural changes were an integral component of the 5-year budget agreement reached that year between Congress and the President and were seen as key to preserving the significant deficit reduction achieved at that time. Sequestration was retained as the means of enforcing violations under either of the two new mechanisms.

The discretionary spending limits and PAYGO requirement were extended through fiscal year 1998 by the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), and later through fiscal year 2002, by the Budget Enforcement Act of 1997 (Title X of Public Law 105–33), which was part of the Balanced Budget Act

of 1997, a reconciliation bill. In addition, they have been modified and expanded over the years through the enactment of various laws.

The discretionary spending limits expired on September 30, 2002, at the end of fiscal year 2002. The PAYGO requirement, which applies to the out-year effects (through fiscal year 2006) of legislation enacted on or before September 30, 2002, effectively expired at the same time due to the enactment of legislation (Public Law 107-312) setting the balances for all years on the PAYGO scorecard to zero.

The Committee on the Budget has taken several actions with regard to the revision and extension of the discretionary spending limits and PAYGO requirement. On June 27, 2001, the Committee held a hearing on the Forthcoming Extension/Modification of the Budget Enforcement Act. Testimony was received from Mitchell E. Daniels, Jr., Director of the Office of Management and Budget; Dan L. Crippen, Director of the Congressional Budget Office; Dr. Kevin A. Hassett, Resident Scholar, the American Enterprise Institute; and Carol Cox Wait, President, Committee for a Responsible Federal Budget.

On July 19, 2001, the Committee on the Budget held another hearing, Federal Budget Process Structural Reform, in which the issue of modifying and extending the discretionary spending limits and PAYGO requirement was addressed, along with various other matters. Testimony was received from the Honorable Bill Frenzel, former ranking member of the House Budget Committee; the Honorable Robert L. Livingston, former chairman of the House Appropriations Committee; Robert D. Reischauer, President of the Urban Institute and former Director of the Congressional Budget Office; the Honorable Christopher Cox, chairman of the Republican Policy Committee; Barry B. Anderson, Deputy Director of the Congressional Budget Office; and Susan J. Irving, Director for Federal Budget Analysis of the General Accounting Office.

Legislation to modify the discretionary spending limits for fiscal year 2002, and for other purposes, was reported by the Committee on the Budget on December 13, 2001 (see H.Rpt. 107-338, Interim Budget Control and Enforcement Act of 2001, to accompany H.R. 3084).

In 2002, the Committee on the Budget held a hearing on April 25 on Predictability and Control: Twin Reasons for Restoring Budget Disciplines. Testimony was received from Thomas J. Donohue, President and CEO of the U.S. Chamber of Commerce; Susan J. Irving, Director for Federal Budget Analysis of the General Accounting Office; Barry B. Anderson, deputy Director of the Congressional Budget Office; and Richard Kogan, Senior Fellow, Center on Budget and Policy Priorities.

#### THE SEQUESTRATION PROCESS

The sequestration process was established in 1985 as a means of enforcing compliance with a series of annual deficit targets leading to a balanced budget. If the estimate of the deficit made around the beginning of a fiscal year exceeded the allowed level, sequestration was triggered automatically, resulting in largely across-the-board spending reductions in nonexempt appropriations and budget ac-

counts. Appropriations and other forms of budgetary resources were required to be reduced by amounts sufficient to achieve the necessary outlay savings. The sequestration was to be evenly distributed across domestic and other discretionary accounts. Some of the reductions in direct spending accounts were to be made under “special rules” that determined the amounts to be cut and limited their size or application; the remaining domestic spending programs and all of the defense spending programs were to be cut by uniform reduction percentages (the domestic and defense percentages could differ from each other). Further, the required reductions for each account were to be applied uniformly to programs, projects, and activities within that account.

Initially, the authority to trigger a sequester was lodged with the Comptroller General of the United States (as head of the General Accounting Office), who was required to issue initial and final sequestration reports based on reports prepared jointly by OMB and CBO. In anticipation of a constitutional challenge to this arrangement, the 1985 act included “fallback procedures” under which the necessary reductions could be implemented through the enactment of a joint resolution reported by a Temporary Joint Committee on Deficit Reduction (consisting of the membership of the House and Senate Budget Committees). Whenever a sequester was triggered, the President was required to issue immediately a sequestration order in strict conformity with the requirements of the sequestration report (or joint resolution). The authority to trigger a sequester was placed solely in the hands of the OMB Director in 1987.

Beginning in 1990, sequestration was used to enforce the discretionary spending limits and PAYGO requirement. As a general rule, the enforcement procedures for the discretionary spending limits, on the one hand, and the PAYGO requirement on the other, were separated by a “firewall.” Violations of the discretionary spending limits were to be remedied by reductions only in discretionary spending programs; violations of the PAYGO requirement were to be corrected by reductions solely in direct spending programs.

Some flexibility in these procedures was provided by “scorekeeping rule number three.” The rule provided that changes in direct spending made in an annual appropriations act be counted under the discretionary spending limits. Accordingly, a reduction in direct spending made in an annual appropriations act had to be treated as an offset to an equivalent increase in discretionary spending; such changes in direct spending were referred to as “mandatory offsets.” In addition, “directed scorekeeping” provisions were included in legislation from time to time that have instructed the OMB Director not to score the direct spending or revenue impact of a measure for purposes of the PAYGO requirement.

Like the earlier deficit sequestration procedures, the revised sequestration procedures were automatic and were triggered by a report from the OMB Director. For sequestration purposes generally, there was only one triggering report issued each year (just after the end of the congressional session). However, OMB reports triggering a “within-session sequester” in one or more categories of discretionary spending were to be issued during the following session if legislative developments so warranted (i.e., the enactment of a

supplemental appropriations measure that violated the limit for one or more discretionary spending categories).

Spending for the Social Security program, except for administrative expenses, was exempt from sequestration, as were many other programs. Reductions in certain programs were to be made under “special rules.”

OMB and CBO each were required to prepare three different types of sequestration reports annually, as discussed below. The CBO reports, which were advisory only, preceded the OMB reports by several days. In all three types of reports, OMB had to explain any differences between its estimates and those of CBO.

If the President was required to issue a sequestration order in any year, the order was to be issued on the same day that the final OMB sequestration report was issued and the order had to implement without change all of the reductions identified in the OMB report.

Two preliminary sequestration reports were required to be issued before the final sequestration report, in order to give the President and Congress advance warning of any possible sequester. Early in the session, OMB and CBO issued sequestration preview reports. The reports provided estimates of the discretionary spending limits, with the adjustments prescribed by law. Also, the reports provided estimates of any net change in the balances on the PAYGO scorecard caused by the enactment of direct spending or revenue legislation subject to the PAYGO process. The OMB preview report contained the same information as the CBO preview report and explained any differences between its estimates and those of CBO.

In August, OMB and CBO issued sequestration update reports to reflect the impact of legislation enacted in the interim.

Finally, OMB and CBO issued final sequestration reports shortly after Congress adjourned to end the session. Both reports had to reflect any pertinent legislation enacted since the update reports were issued. The final reports indicated the baseline amount of budgetary resources and the amount and percentage of the reduction for each account subject to sequestration. As indicated previously, further sequestration reports were to be issued if a “within-session sequester” was required.

In preparing its update and final sequestration reports, OMB had to use the economic and technical assumptions that were used in the earlier preview report. (In the first years of sequestration, OMB could determine in late summer the economic and technical assumptions that it would use for sequestration in October.)

During the course of the session, OMB was required to provide Congress with cost estimates of budgetary legislation within several days of its enactment, so that compliance with the discretionary spending limits and PAYGO requirements could be monitored. The cost estimates had to be based on the economic and technical assumptions used in the President’s most recent budget, and had to include similar cost estimates prepared by CBO together with an explanation of any differences between the two sets of estimates.

During the period that sequestration was in previously effect, sequesters were triggered five times in four different years. The first three sequesters occurred during the 5-year period when deficit

targets were in effect, covering fiscal years 1986–1990. One deficit sequester occurred each year for fiscal year 1986, fiscal year 1988, and fiscal year 1990 (no sequester was triggered for fiscal year 1987 or fiscal year 1989). Sequestration was intended to deter Congress and the President from enacting spending in excess of the set limit.

During the remaining 12 years, covering fiscal years 1991–2001, sequestration applied to the enforcement of the discretionary spending limits and PAYGO requirement. Two sequesters occurred under the discretionary spending limits, both for fiscal year 1991. No sequesters under the discretionary spending limits occurred subsequently, and no PAYGO sequester ever occurred.

#### DISCRETIONARY SPENDING LIMITS

##### *Procedures under the discretionary spending limits*

The discretionary spending limits applied to two different measurements of spending—budget authority and outlays. Budget authority represents the legal authority for agencies to incur obligations. Annual appropriations are perhaps the most well known form of budget authority. Outlays represent the liquidation of the obligation, usually in the form of an electronic funds transfer or the issuance of a check by the Treasury Department.

Enforcement of the discretionary spending limits involved different broad categories of discretionary spending. The categorization scheme varied from year to year, initially from three categories to subsequently a single category (variously called the “general purpose discretionary” category, the “other discretionary” category, or simply the “discretionary” category).

The Budget Enforcement Act of 1990 set separate limits for new budget authority and outlays for fiscal years 1991–1993 for three different categories—defense, international, and domestic. For fiscal years 1994–1995, the limits on new budget authority and outlays were established for a single category—total discretionary spending. The Omnibus Budget Reconciliation Act of 1993 retained the existing limits for fiscal year 1994 and fiscal year 1995 without change and added new limits on total discretionary spending for fiscal years 1996–1998.

In 1994, the Violent Crime Control Act (Public Law 103–322) established separate limits through fiscal year 2000 on discretionary spending from the Violent Crime Reduction Trust Fund. When this category lapsed at the end of fiscal year 2000, such spending was placed under the general purpose discretionary limit.

The Budget Enforcement Act of 1997 revised the discretionary spending limits again and extended them through fiscal year 2002 with new categories for defense and nondefense spending for fiscal year 1998 and fiscal year 1999; for fiscal years 2000–2002, all discretionary spending was merged into a single category (except for the separate Violent Crime Reduction category in effect through fiscal year 2000).

In 1998, the Transportation Equity Act for the 21st Century (Public Law 105–178), also known as TEA–21, established separate outlay limits for two new categories, highways and mass transit, through fiscal year 2003.

In 2000, the Interior Appropriations Act for fiscal year 2001 (Public Law 106–291) established limits for fiscal years 2002–2006 under a new category, conservation spending. Further, the Act established six different subcategories under the conservation category for each of the fiscal years covered. These subcategories include: (1) federal land and state land water conservation fund; (2) state and other conservation; (3) urban and historic preservation; (4) payments in lieu of taxes; (5) federal deferred maintenance; and (6) coastal assistance.

Finally, the outlay limits established by TEA–21 for highway and mass transit categories were extended through fiscal year 2004 by the Surface Transportation Extension Act of 2003, which was signed into law on September 30, 2003, as Public Law 108–88.

Although the outlay limits on highway and mass transit spending extended through fiscal year 2004, and budget authority and outlay limits for conservation spending extend through fiscal year 2006, the procedures necessary to enforce them expired at the end of fiscal year 2002.

Any breach of the discretionary spending limits was to be enforced only in the category in which the violation occurred, except that breaches of the highway and mass-transit outlay limits were counted toward the single discretionary category.

The discretionary spending limits were adjusted from time to time by the OMB Director. Adjustments were made for several factors specified in law, including changes in budgetary concepts, the enactment of measures containing spending designated by the President and Congress as an emergency requirement, and the enactment of legislation meeting certain predetermined requirements (i.e., spending for continuing disability reviews, adoption incentive payments, the earned income tax credit compliance initiative, and international arrearages). With regard to the conservation category established by the Interior Appropriations Act for fiscal year 2001, the adjustment amount (added to the limit for the following fiscal year) equaled the amount, if any, by which appropriations for a fiscal year fell below the limit for that fiscal year; the adjustment applied to each of the subcategories as well.

Factors upon which adjustments were based periodically changed. For example, the Budget Enforcement Act of 1990 provided for adjustments due to changes in inflation, but this factor was eliminated by the BEA of 1997.

A sequester under the discretionary spending limits is triggered by a sequestration report prepared by the OMB Director, generally within 15 days after the end of a congressional session. If a sequester under this process is required at the end of a session, it must occur on the same day as any sequestration tied to enforcement of the PAYGO procedures. During the following session, a “within-session sequester” could occur prior to July 1 if Congress and the President enacted legislation (e.g., a supplemental appropriations act) causing a violation of one or more of the discretionary spending limits for the ongoing fiscal year. Any breaches of the limits that occur during the final quarter of the ongoing fiscal year (i.e., July 1–September 30) would result in a lowering of the applicable limits for the following fiscal year rather than a within-session sequester.

## THE PAYGO REQUIREMENT

*Procedures under the PAYGO requirement*

Under the “pay-as-you-go” [PAYGO] requirement, total legislation enacted in a year causing an increase in new direct spending or a decrease in revenues for a fiscal year was prohibited from resulting in a net cost for that year. The PAYGO requirement was intended to keep newly enacted entitlement and tax laws from increasing the deficit. This requirement, which was revised and extended over the years, applied to legislation enacted through the end of fiscal year 2002 (on September 30, 2002) and covered the out-year effects of such legislation through fiscal year 2006.

Direct spending is controlled by the legislative committees of the House and Senate through substantive law and funds entitlement and other mandatory programs, such as Medicare, federal military and civilian retirement, and unemployment compensation. Spending for Social Security is not subject to the PAYGO requirement. Direct spending is distinguished from discretionary spending, which falls under the control of the House and Senate Appropriations Committees and is provided in annual appropriations acts. Direct spending and discretionary spending together make up total federal spending.

The PAYGO requirement, as originally set forth in the BEA of 1990, covered fiscal years 1991–1995. Like the discretionary spending limits, it was extended by the Omnibus Budget Reconciliation Act of 1993, through fiscal year 1998, and by the BEA of 1997, through fiscal year 2002. With regard to direct spending, the PAYGO requirement applied to outlay levels rather than levels of budget authority.

The PAYGO balances for each fiscal year were maintained on a rolling PAYGO “scorecard” that accumulated the budgetary effects of laws enacted during the session and in prior years (beginning with fiscal year 1992). On several occasions, PAYGO balances were reset to zero or otherwise modified pursuant to law, primarily to prevent the sizeable savings from reconciliation legislation from being used as offsets to subsequent direct spending increases.

As was the case with the discretionary spending limits, the sequestration process was retained by the BEA of 1990 and later laws as the means of enforcing the PAYGO requirement.

If the OMB Director’s final sequestration report indicated that enacted direct spending and revenue levels incurred a net cost for the fiscal year on the PAYGO scorecard, then the President was required to immediately issue a sequestration order to remedy the violation. The sequester would have eliminated any net positive balance on the PAYGO scorecard, for that fiscal year and the prior fiscal year combined, caused by the enactment of legislation during the session and in prior years.

Any required reductions would have been made in non-exempt direct spending programs. Emergency direct spending and revenue legislation, so designated by the President and in statute, was not covered by the PAYGO sequestration process. Spending for the Social Security program, except for administrative expenses, was exempt from sequestration, as were many other direct spending programs.





## SECTION BY SECTION

### *Section 1. Short title; table of contents*

Section 1 gives the bill the following short title: “Spending Control Act of 2003”.

### *Section 2. Extension of discretionary spending limits*

Subsection (a) amends section 251(c) of the Balanced Budget and Emergency Deficit Control Act [Deficit Control Act] to re-establish a set of spending limits for each of fiscal years 2005 through 2009. It does not amend the existing limits and assumes separate limits will be established for highways and mass transit pending final negotiations on a reauthorization of the Transportation Equity Act. A new cap is set forth for fiscal year 2005, and each year thereafter through fiscal year 2009.

The bill, as reported, does not include the specific spending caps. At the time the measure was ordered to be reported, the House had not acted on the budget resolution or reached an agreement with the Senate on the overall discretionary level for the discretionary spending limits. The spending levels will be set within the context of a conference report on the fiscal year 2005 budget resolution, the budget committee will cause these levels to be inserted into the legislative text.

Subsection (b) establishes a limit on advance appropriations comparable to the limit established in the most recent concurrent resolution on the budget (see section 501 of H. Con. Res. 95 and the budget resolution for fiscal year 2005 reported by the House Budget Committee). The limit is set at \$23.548 billion and is the same as recent budget resolutions. It has been adjusted to reflect advance appropriations first made available two or more years after the applicable budget resolution is enacted.

### *Section 3. Extension of the pay-as-you-go requirement*

Section 3 amends section 252 of the Deficit Control Act to extend pay-as-you-go [PAYGO] requirements that expired at the end of fiscal year 2002 through fiscal year 2009. PAYGO applies to legislation passed prior to this date. Under this PAYGO, a law or laws that increases direct spending must be fully offset by reducing direct spending by the same amount in the applicable fiscal year. PAYGO is enforced by a session-by-session basis by automatic reductions in certain entitlement programs through a process known as sequestration.

### *Section 4. Definitions*

Subsection (a) amends section 250(c) of the Deficit Control Act by adding two definitions. First, it defines an “advance appropriation” as any appropriation that first becomes available in any fiscal year following the year for which the bill including it is making general

appropriations. Second, it provides a definition of an “emergency” as:

“An emergency requirement if the underlying situation poses a threat to life, property, or national security and is—

- (i) sudden, quickly coming into being, and not building up over time;
- (ii) an urgent, pressing, and compelling need requiring immediate action;
- (iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and
- (iv) not permanent, temporary in nature.”

This definition is adapted from OMB Circular No. A-11-Preparation and Submission of Budget Estimates.

Subsection (b) amends section 251(b)(2) of the Deficit Control Act to provide an adjustment in the discretionary spending limit for 2005 for supplemental appropriations related to the war on terrorism. If the Congress passes, and the President signs, a bill providing supplemental appropriations for “contingency operations related to the global war on terrorism,” the Director of the Office of Management and Budget is directed to increase the appropriations limit to accommodate this spending. Hence, though the spending will be above the level of the spending limit enacted into law, the adjustment will raise the cap, and the measure will not trigger an across-the-board spending reduction (or sequester). The bill is expected to provide appropriations for the ongoing operations in Iraq and Afghanistan. Both the Congress and the President must agree that the spending designated under this section meets these terms for an adjustment to occur. This designation exemption from budget controls for appropriations related to the war on terrorism is in addition to the exemption given to emergency spending.

Subsection (c) amends section 250(c)(4)(A) of the Deficit Control Act to define the term “general purpose discretionary category.” It indicates that any joint statement of managers on a conference report to accompany the “Spending Control Act of 2004” would identify the accounts to be included in this category.

#### *Section 5. Projections under section 257*

Section 5 amends section 257 of the Deficit Control Act to make a revision in the calculation of the baseline, which is prepared by both the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO]. Those offices must follow section 257 of the Deficit Control Act in making budget projections. Under current law, the baseline includes emergency spending as if it continues and increases at the inflation rate (as determined by OMB and CBO pursuant to 257). Since emergency spending, by the definition included in the “Spending Control Act”, is considered to be a one-time spending event, there is no need to assume spending designated as such in a given year continues into the future. The baseline will also not include spending that has been designated as supplemental appropriations related to the global war on terrorism if they are not enacted as part of the regular appropriations process.

*Section 6. Exception for outlay components of expiring receipts legislation*

Section 6 amends the Deficit Control Act to exempt certain spending provisions that may be enacted into law from the PAYGO sequestration process. Under the provisions of the “Spending Control Act,” increases in direct spending not offset would cause a sequester. This exemption would allow a law that makes permanent the Economic Growth and Tax Relief Reconciliation Act of 2001 and also makes permanent certain sections of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [JGTRRA] to include an increase in outlays without causing a PAYGO sequester. The specific provisions of JGTRRA are the sections providing for accelerated phases of the child tax credit, the 10 and 15-percent tax bracket provisions, marriage-penalty relief, capital gains tax provisions and small business deductions. As part of a bill to make these tax provisions permanent, Congress may include refundable tax credits which are categorized as direct spending and hence would cause outlays to rise.

*Section 7. Reports*

Section 7 amends section 254 of the Deficit Control Act to require certain reports related to discretionary and mandatory sequestration be extended for years through fiscal year 2009.

*Section 8. Expiration date*

Section 8 amends section 275(b) of the Deficit Control Act to revise the expiration dates to extend the statutory budget controls through fiscal year 2009. It allows for pay-as-you-go balances to allow a sequester through fiscal year 2013, in order to reflect the out-year effects of spending and tax bills passed prior to fiscal year 2009. The intent of this provision is to discourage the enactment of laws with significant costs beyond fiscal year 2009.

*Section 8. Technical corrections to Deficit Control Act*

Section 8 amends various sections in the Deficit Control Act to correct punctuation, spelling, and designations.



## COMMITTEE HEARINGS

### TASK FORCE HEARINGS—105TH CONGRESS

On February 5, 1998, the Budget Committee created a Task Force on Budget Process Reform to address budget process issues. The Task Force was authorized pursuant to a colloquy between the Honorable John R. Kasich, chairman of the Budget Committee, and the Honorable David L. Hobson, then a Budget Committee member. The Honorable Jim Nussle was appointed as Task Force chairman, and the Honorable Benjamin L. Cardin as ranking minority member. The other members of the Task Force were Representatives George P. Radanovich, John E. Sununu, Kay Granger, David Minge, and Alan B. Mollohan.

On April 1, the Task Force held a hearing on baselines and budgetary projections. The witnesses included Timothy J. Penny, a former Member of Congress and current co-chairman of the Committee for a Responsible Federal Budget; Paul N. Van de Water, Assistant Director for Budget Analysis, Congressional Budget Office [CBO]; and Timothy J. Muris, Foundation Professor, George Mason University School of Law.

On June 18, 1998, Task Force Chairman Nussle invited House Members to testify on their ideas for reforming the budget process. Representatives Cox, Barton, Sabo, Stenholm, and Castle testified before the Task Force. In addition, Representatives Radanovich, Goss, Sam Johnson, and Livingston submitted prepared statements for the record.

A hearing, concerning emergencies, was held on June 23. The hearing featured James L. Witt, the Director of the Federal Emergency Management Agency [FEMA]. Director Witt was followed by a panel of experts on the budgetary treatment of emergencies: James L. Blum and Theresa A. Gullo of CBO, and Keith Bea of the Congressional Research Service [CRS].

### FULL COMMITTEE HEARINGS—106TH CONGRESS

The full House Budget Committee held a hearing on the Comprehensive Budget Process Reform Act of 1999. Three panels of witnesses testified: the Honorable David Minge testified in support of the bill during the first panel. Following the Members' testimony, Jacob J. Lew, Director of the Office of Management and Budget [OMB], presented the Clinton Administration's view. The third panel began with a statement by Carol Cox Wait, President of the Committee for a Responsible Federal Budget. CBO Director Dan L. Crippen discussed how the budget resolution and automatic continuing resolution would change the budget process. Dr. Rudolph G. Penner, a senior fellow at the Urban Institute and a former Director of CBO, generally supported the bill, particularly the joint resolution and the insurance provisions. Robert Green-

stein, Executive Director of the Center on Budget and Policy Priorities, opposed most elements of the bill other than the subtitle on accrual budgeting. The Honorable Porter Goss, chairman of the Rules Committee's Subcommittee on Legislative and Budget Process, submitted a written statement for the hearing in which he disputed the contention that the budget process wasn't broken and focused on procedural elements of the bill that bring more accountability into the budget process.

FULL COMMITTEE HEARINGS—107TH CONGRESS

The full House Budget Committee held a hearing on July 7, 2001 that was entitled "Federal Budget Process Structural Reform." The hearing had three panels: The first panel included the Honorable Bill Frenzel, former ranking member, House Budget Committee; the Honorable Robert L. Livingston, former chairman, House Appropriations Committee; Robert D. Reischauer, President, Urban Institute, former Director, Congressional Budget Office. Panel II: The Honorable Christopher Cox (R-CA), Republican Policy Committee Chairman; The Honorable David R. Obey (D-WI), ranking member, House Appropriations Committee. Panel III: Barry B. Anderson, Deputy Director, Congressional Budget Office; Susan J. Irving, Director for Federal Budget Analysis, General Accounting Office.

The full House Budget Committee held a hearing on April 25, 2002, entitled "Predictability and Control: Twin Reasons for Restoring Budget Disciplines." The hearing had two panels: The first included Thomas J. Donohue, President and CEO, U.S. Chamber of Commerce; Honorable Bill Frenzel, former ranking member, House Budget Committee. The second panel included Susan J. Irving, Director for Federal Budget Analysis, U.S. General Accounting Office; Barry B. Anderson, Deputy Director, Congressional Budget Office; Richard Kogan, Senior Fellow, Center on Budget and Policy Priorities.

## SUMMARY OF AMENDMENTS ADOPTED IN COMMITTEE

### AMENDMENT IN THE NATURE OF A SUBSTITUTE

During the Budget Committee's markup of H.R. 3973, the Spending Control Act of 2004, on March 17, 2004, Chairman Jim Nussle offered an amendment in the nature of a substitute to the bill, which is the base text of the legislation reported by the committee. The amendment made technical and conforming changes to the legislation as introduced. It also made the following substantive change:

- The amendment in the nature of a substitute amended section 4(b) of H.R. 3973 to expand the exemption for the fiscal year 2005 supplemental which will provide funds for contingency operations related to the global war on terrorism. The amendment expanded the exemption to apply to all future supplementals which may provide budget authority for that purpose.

### AMENDMENTS TO THE SUBSTITUTE

There were no amendments adopted to the amendment in the nature of a substitute.





## ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each recorded vote on a motion to report the measure or matter, and on any amendments offered to the measure or matter, the total number of votes for and against and the names of the Members voting for and against.

The Chairman of the Committee, Mr. Nussle, offered an amendment in the nature of a substitute to H.R. 3973, the Spending Control Act of 2004.

1. A perfecting amendment was offered by Mr. Thompson to the amendment in the nature of a substitute to H.R. 3973. The amendment extended pay-as-you-go treatment to measures increasing or reducing revenue.

| Representatives   | Yes | No | Present | Representatives | Yes | No    | Present |
|-------------------|-----|----|---------|-----------------|-----|-------|---------|
| Nussle .....      |     | X  | .....   | Spratt .....    | X   | ..... | .....   |
| Shays .....       |     | X  | .....   | Moran .....     | X   | ..... | .....   |
| Gutknecht .....   |     | X  | .....   | Hookey .....    | X   | ..... | .....   |
| Thornberry .....  |     | X  | .....   | Baldwin .....   | X   | ..... | .....   |
| Ryun .....        |     | X  | .....   | Moore .....     | X   | ..... | .....   |
| Toomey .....      |     | X  | .....   | Lewis .....     | X   | ..... | .....   |
| Hastings .....    |     | X  | .....   | Neal .....      | X   | ..... | .....   |
| Portman .....     |     | X  | .....   | DeLauro .....   | X   | ..... | .....   |
| Schrock .....     |     | X  | .....   | Edwards .....   | X   | ..... | .....   |
| Brown .....       |     | X  | .....   | Scott .....     | X   | ..... | .....   |
| Crenshaw .....    |     | X  | .....   | Ford .....      | X   | ..... | .....   |
| Putnam .....      |     | X  | .....   | Capps .....     | X   | ..... | .....   |
| Wicker .....      |     | X  | .....   | Thompson .....  | X   | ..... | .....   |
| Hulshof .....     |     | X  | .....   | Baird .....     | X   | ..... | .....   |
| Tancredo .....    |     | X  | .....   | Cooper .....    |     | ..... | .....   |
| Vitter .....      |     | X  | .....   | Emanuel .....   | X   | ..... | .....   |
| Bonner .....      |     | X  | .....   | Davis .....     | X   | ..... | .....   |
| Franks .....      |     | X  | .....   | Majette .....   | X   | ..... | .....   |
| Garrett .....     |     | X  | .....   | Kind .....      | X   | ..... | .....   |
| Barrett .....     |     | X  | .....   |                 |     |       |         |
| McCotter .....    |     | X  | .....   |                 |     |       |         |
| Diaz-Balart ..... |     | X  | .....   |                 |     |       |         |
| Hensarling .....  |     | X  | .....   |                 |     |       |         |
| Brown-Waite ..... |     | X  | .....   |                 |     |       |         |

The amendment was not agreed to by a vote of 18 ayes and 24 noes.

2. An amendment was offered by Mr. Spratt to amend the Congressional Budget Act of 1974 to create a point of order against consideration of any reconciliation bill that increases the deficit in any fiscal year covered by a budget resolution providing for such reconciliation.

The amendment was not agreed to by voice vote.

3. Mr. Shays moved that the committee adopt the amendment in the nature of a substitute.

| Representatives   | Yes | No    | Present | Representatives | Yes   | No    | Present |
|-------------------|-----|-------|---------|-----------------|-------|-------|---------|
| Nussle .....      | X   | ..... | .....   | Spratt .....    | ..... | X     | .....   |
| Shays .....       | X   | ..... | .....   | Moran .....     | ..... | X     | .....   |
| Gutknecht .....   | X   | ..... | .....   | Hooley .....    | ..... | X     | .....   |
| Thornberry .....  | X   | ..... | .....   | Baldwin .....   | ..... | X     | .....   |
| Ryun .....        | X   | ..... | .....   | Moore .....     | ..... | X     | .....   |
| Toomey .....      | X   | ..... | .....   | Lewis .....     | ..... | X     | .....   |
| Hastings .....    | X   | ..... | .....   | Neal .....      | ..... | X     | .....   |
| Portman .....     | X   | ..... | .....   | DeLauro .....   | ..... | X     | .....   |
| Schrock .....     | X   | ..... | .....   | Edwards .....   | ..... | X     | .....   |
| Brown .....       | X   | ..... | .....   | Scott .....     | ..... | X     | .....   |
| Crenshaw .....    | X   | ..... | .....   | Ford .....      | ..... | X     | .....   |
| Putnam .....      | X   | ..... | .....   | Capps .....     | ..... | X     | .....   |
| Wicker .....      | X   | ..... | .....   | Thompson .....  | ..... | X     | .....   |
| Hulshof .....     | X   | ..... | .....   | Baird .....     | ..... | X     | .....   |
| Tancredo .....    | X   | ..... | .....   | Cooper .....    | ..... | ..... | .....   |
| Vitter .....      | X   | ..... | .....   | Emanuel .....   | ..... | X     | .....   |
| Bonner .....      | X   | ..... | .....   | Davis .....     | ..... | X     | .....   |
| Franks .....      | X   | ..... | .....   | Majette .....   | ..... | X     | .....   |
| Garrett .....     | X   | ..... | .....   | Kind .....      | ..... | X     | .....   |
| Barrett .....     | X   | ..... | .....   |                 |       |       |         |
| McCotter .....    | X   | ..... | .....   |                 |       |       |         |
| Diaz-Balart ..... | X   | ..... | .....   |                 |       |       |         |
| Hensarling .....  | X   | ..... | .....   |                 |       |       |         |
| Brown-Waite ..... | X   | ..... | .....   |                 |       |       |         |

The motion to adopt the amendment in the nature of a substitute was agreed to by a vote of 24 ayes and 18 noes.

4. Mr. Shays moved that the Spending Control Act of 2003 be reported to the House with a favorable recommendation.

The motion was agreed to by voice vote.

Mr. Shays asked for unanimous consent that the Chairman be authorized to make a motion to go to conference pursuant to clause 1 of House rule XXII, and that the staff be authorized to make any necessary technical and conforming corrections in the Spending Control Act of 2004, and any committee amendments, prior to filing the bill.

There was no objection to the unanimous consent requests.

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES  
OF THE HOUSE

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill reauthorizes and amends the Budget Enforcement Act of 1990 and extends the direct spending limits under the Act. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill reauthorizes and amends the Budget Enforcement Act of 1990 and extends the direct spending limits under the Act. As such, the bill does not contain any unfunded mandates.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE  
COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 18, which grants Congress the general legislative power to make all laws necessary and proper for carrying into execution the enumerated powers of Congress.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3973. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 18, 2004.*

Hon. JIM NUSSLE,  
*Chairman, Committee on the Budget,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3973, the Spending Control Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff Holland.

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*H.R. 3973—Spending Control Act of 2004*

The Spending Control Act of 2004 would amend the Balanced Budget and Emergency Deficit Control Act of 1985 to restore certain budget enforcement procedures that expired at the end of fiscal year 2002. The bill would establish limits on discretionary spending for fiscal years 2005 through 2009 and reinstate pay-as-you-go requirements for mandatory spending (but not for revenues) through 2009, both enforceable by automatic spending cuts if the limits are not adhered to. In addition to restoring expired procedures, the legislation would add some new definitions, prohibit the extension of emergency funding in future baseline projections, except refundable tax credits from the new pay-as-you-go procedures, and make a number of technical corrections.

The Spending Control Act would have no direct effects on federal spending or receipts but would establish budget enforcement procedures that could affect the budget. H.R. 3973 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact is Jeff Holland. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOAL AND OBJECTIVES

In accordance with Clause (3)(c)(4) of House Rule XIII, the goals of H.R. 3973 are to extend and amend the Balanced Budget and Emergency Control Act as amended by the Budget Enforcement Act of 1990. Its purpose is to strengthen budget controls, to reduce budget deficits, and to ensure responsible decision making in the federal budget making process. The Committee expects the Office of Management and Budget to comply with H.R. 3973 and implement the changes to the law in accordance with these stated goals.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**BALANCED BUDGET AND EMERGENCY DEFICIT  
CONTROL ACT OF 1985**

\* \* \* \* \*

**PART C—EMERGENCY POWERS TO ELIMINATE  
DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT**

**SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS.**

(a) TABLE OF CONTENTS.—

Sec. 250. Table of contents; budget enforcement statement; definitions.

\* \* \* \* \*

**[SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.]**

*Sec. 256. General and special sequestration rules.*

\* \* \* \* \*

(c) DEFINITIONS.—

As used in this part:

(1) \* \* \*

\* \* \* \* \*

(4)(A) The term “category” means the subsets of discretionary appropriations in section 251(c). **[Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997.]** *The general purpose discretionary category shall consist of accounts designated in the joint explanatory statement of managers accompanying the conference report on the Spending Control Act of 2004.* New accounts or activities shall be categorized only after consultation with the committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.

\* \* \* \* \*

(F) The term “Federal and State Land and Water Conservation Fund sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph (E)(i)–(E)(iv)* or portions thereof.

(G) The term “State and Other Conservation sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph (E)(v)–(E)(ix)*, with the exception of Urban and Community Forestry as described in *subparagraph (E)(ix)*, or portions thereof.

(H) The term “Urban and Historic Preservation sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph (E)(ix)–(E)(xii)*, with the exception of Forest Legacy and Smart Growth Partnerships as described in *subparagraph (E)(ix)*, or portions thereof.

(I) The term “Payments in Lieu of Taxes sub-category” means discretionary appropriations for activities in the account described in *subparagraph (E)(xiii)* or portions thereof.

(J) The term “Federal Deferred Maintenance sub-category” means discretionary appropriations for activities in the account described in *subparagraph (E)(xiv)* or portions thereof.

(K) The term “Coastal Assistance sub-category” means discretionary appropriations for activities in the accounts described in *subparagraph (E)(xv)–(E)(xvii)* or portions thereof.

\* \* \* \* \*

(18) The term “deposit insurance” refers to the expenses of the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

\* \* \* \* \*

(20) *The term “advance appropriation” means appropriations that first become available one fiscal year or more beyond the fiscal year for which an appropriation Act making such funds available is enacted.*

(21)(A) *Except as provided by subparagraph (B), the term “emergency requirement” means any provision that provides new budget authority and resulting outlays for a situation that poses a threat to life, property, or national security and is—*

*(i) sudden, quickly coming into being, and not building up over time;*

*(ii) an urgent, pressing, and compelling need requiring immediate action;*

*(iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and*

*(iv) not permanent, temporary in nature.*

*(B) An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.*

#### **SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.**

(a) \* \* \*

(b) **ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—**

(1) **PREVIEW REPORT.—**

(A) **CONCEPTS AND DEFINITIONS.**—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the **[committees]** *Committees on Appropriations and the Budget of the*

House of Representatives and the Senate and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

\* \* \* \* \*

(C)(i) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal [years] year 2000, 2001, 2002, or 2003, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

(I) \* \* \*

\* \* \* \* \*

(D)(i) \* \* \*

(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal [years] year 2000, 2001, 2002, or 2003, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

\* \* \* \* \*

(2) SEQUESTRATION REPORTS.—When OMB submits a sequestration report under section 254(e), (f), or (g) for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year, as follows:

(A) \* \* \*

\* \* \* \* \*

*(I) CONTINGENCY OPERATIONS RELATED TO GLOBAL WAR ON TERRORISM.—If supplemental appropriations for discretionary accounts are enacted for contingency operations related to the global war on terrorism that, pursuant to this subparagraph, the President designates as a contingency operation related to the global war on terrorism and the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts so designated and the outlays flowing in all fiscal years from such appropriations.*

\* \* \* \* \*

(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term “discretionary spending limit” means—

(1) \* \* \*

(2) with respect to fiscal year 2005—

(A) *for the general purpose discretionary category:*  
\$ \_\_\_\_\_ in new budget authority and \$ \_\_\_\_\_ in outlays; and

- (B) for the conservation spending category: \$2,240,000,000, in new budget authority and \$2,192,000,000 in outlays;
- (3) with respect to fiscal year 2006—
- (A) for the general purpose discretionary category: \$\_\_\_\_\_ in new budget authority and \$\_\_\_\_\_ in outlays; and
- (B) for the conservation spending category: \$2,400,000,000, in new budget authority and \$2,352,000,000 in outlays;
- (4) with respect to fiscal year 2007 for the general purpose discretionary category: \$\_\_\_\_\_ in new budget authority and \$\_\_\_\_\_ in outlays;
- (5) with respect to fiscal year 2008 for the general purpose discretionary category: \$\_\_\_\_\_ in new budget authority and \$\_\_\_\_\_ in outlays; and
- (6) with respect to fiscal year 2009 for the general purpose discretionary category: \$\_\_\_\_\_ in new budget authority and \$\_\_\_\_\_ in outlays;
- [(4)] (7) with respect to each fiscal year 2002 through 2006 for the Federal and State Land and Water Conservation Fund sub-category of the conservation spending category: \$540,000,000 in new budget authority and the outlays flowing therefrom;
- [(5)] (8) with respect to each fiscal year 2002 through 2006 for the State and Other Conservation sub-category of the conservation spending category: \$300,000,000 in new budget authority and the outlays flowing therefrom;
- [(6)] (9) with respect to each fiscal year 2002 through 2006 for the Urban and Historic Preservation sub-category of the conservation spending category: \$160,000,000 in new budget authority and the outlays flowing therefrom;
- [(7)] (10) with respect to each fiscal year 2002 through 2006 for the Payments in Lieu of Taxes sub-category of the conservation spending category: \$50,000,000 in new budget authority and the outlays flowing therefrom;
- [(8)] (11) with respect to each fiscal year 2002 through 2006 for the Federal Deferred Maintenance sub-category of the conservation spending category: \$150,000,000 in new budget authority and the outlays flowing therefrom;
- [(9)] (12) with respect to fiscal year 2002 for the Coastal Assistance sub-category of the conservation spending category: \$440,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2003 for the Coastal Assistance sub-category of the conservation spending category: \$480,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2004 for the Coastal Assistance sub-category of the conservation spending category: \$520,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2005 for the Coastal Assistance sub-category of the conservation spending category: \$560,000,000 in new budget authority and the outlays flowing therefrom; and with respect to fiscal year 2006 for the Coastal Assistance sub-category of the conservation spending category:



\$600,000,000 in new budget authority and the outlays flowing therefrom;  
as adjusted in strict conformance with subsection (b).

(d) *ADVANCE APPROPRIATIONS.*—*In any of fiscal years 2005 through 2009, discretionary advance appropriations provided in appropriation Acts in excess of \$\_\_\_\_\_ shall be counted against the discretionary spending limits for the fiscal year for which the appropriation Act containing the advance appropriation is enacted.*

**SEC. 252. ENFORCING PAY-AS-YOU-GO.**

[(a) *PURPOSE.*—The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.]

(a) *PURPOSE.*—*The purpose of this section is to assure that any legislation that is enacted before October 1, 2009, that causes a net increase in direct spending will trigger an offsetting sequestration.*

(b) *SEQUESTRATION.*—

(1) *TIMING.*—Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 251 or 253, there shall be a sequestration to offset the amount of [any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002,] *any net increase in direct spending enacted before October 1, 2009*, as calculated under paragraph (2).

(2) [CALCULATION OF DEFICIT INCREASE.—] *CALCULATION OF DIRECT SPENDING INCREASE.*—OMB shall calculate the amount of [deficit] *direct spending* increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending [and receipts] legislation transmitted under subsection (d);

(B) the estimated amount of savings in direct spending programs applicable to *the* budget year resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending [and receipts] legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration report for the current year.

(c) [ELIMINATING A DEFICIT INCREASE.—] *ELIMINATING A DIRECT SPENDING INCREASE.*—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) \* \* \*

\* \* \* \* \*

(C) *THIRD.*—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by [paragraph (1)] *subsection (b)*; except that the medi-

care programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

\* \* \* \* \*

(d) ESTIMATES.—

(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any direct spending [or receipts] legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB ESTIMATES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending [or receipts] legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) \* \* \*

\* \* \* \* \*

(4) SCOPE OF ESTIMATES.—The estimates under this section shall include the amount of change in outlays [or receipts] for the current year (if applicable), the budget year, and each out-year excluding any amounts resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; [and]

(B) emergency provisions as designated under subsection (e)[.]; and

(C) *extending provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 or provisions in sections 101 through 104, section 202, or sections 301 and 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.*

\* \* \* \* \*

(3) Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “or receipts” and by striking “, outlays, and receipts” and inserting “and outlays”.

(e) EMERGENCY LEGISLATION.—If a provision of direct spending [or receipts] legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority[, outlays, and receipts] *and outlays* in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d). This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.

\* \* \* \* \*

**SEC. 254. REPORTS AND ORDERS.**

(a) \* \* \*

\* \* \* \* \*

(c) SEQUESTRATION PREVIEW REPORTS.—

(1) \* \* \*

(2) DISCRETIONARY SEQUESTRATION REPORT.—The preview reports shall set forth estimates for the current year and each subsequent year through [2002] 2009 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

(A) The amount of [net deficit increase or decrease] *net increase or decrease in direct spending*, if any, calculated under [subsection] *section 252(b)*.

(B) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the [amount of deficit increase or decrease] *increase or decrease in direct spending* and specifying the budgetary effect of each such law.

(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate [a deficit increase] *an increase in direct spending* under section 252(c).

\* \* \* \* \*

(f) FINAL SEQUESTRATION REPORTS.—

(1) \* \* \*

(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through [2002] 2009 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

\* \* \* \* \*

(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under [subsection] *section 252(b)*, any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of [sequesterable] *sequesterable* resources for any budget account to be reduced if such difference is greater than \$5,000,000.

\* \* \* \* \*

**SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.**

(a) \* \* \*

\* \* \* \* \*

(g) OTHER PROGRAMS AND ACTIVITIES.—

(1)(A) \* \* \*

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20–8144–0–7–601);

\* \* \* \* \*

Railroad supplemental annuity pension fund (60–8012–0–7–602);

\* \* \* \* \*

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Biomass energy development (20–0114–0–1–271);

\* \* \* \* \*

Rail service assistance (69–0122–0–1–401); *and*

Department of Veterans Affairs, Servicemen’s group life insurance fund (36–4009–0–3–701).

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Block grants to States for temporary assistance for needy families;

\* \* \* \* \*

Supplemental Security Income Program (75–0406–0–1–609);

**[and]**

Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605); *and*

Family support payments to States (75–1501–0–1–609)**;;**.

\* \* \* \* \*

#### **SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.**

(a) \* \* \*

\* \* \* \* \*

(k) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph **[(5)]** (6).

\* \* \* \* \*

#### **SEC. 257. THE BASELINE.**

(a) \* \* \*

(b) DIRECT SPENDING AND RECEIPTS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) \* \* \*

(2) EXCEPTIONS.—(A)(i) No program established by a law enacted on or before the date of enactment of the Balanced Budget Act of 1997 with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are **[differenes]** *differences* between CBO and OMB.

\* \* \* \* \*

(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

(1) \* \* \*

\* \* \* \* \*

(7) *EMERGENCIES.*—*New budgetary resources designated under section 251(b)(2)(A) or 251(b)(2)(I) shall not be assumed beyond the fiscal year for which they have been enacted.*

\* \* \* \* \*

#### SEC. 275. EFFECTIVE DATES.

(a) \* \* \*

(b) EXPIRATION.—Sections 251, 253, 258B, and 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, [2002] 2009. The remaining sections of part C of this title shall expire September 30, [2006] 2013.

\* \* \* \* \*

#### VIEWS OF COMMITTEE MEETINGS

Clause 2(l) of rule XI requires each committee to afford a 2-day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. The following views were submitted:

MINORITY VIEWS OF REPS. JOHN M. SPRATT, JAMES P. MORAN, DARLENE HOOLEY, TAMMY BALDWIN, DENNIS MOORE, HAROLD E. FORD, JR., JOHN LEWIS, RICHARD E. NEAL, ROSA L. DeLAURO, CHET EDWARDS, ROBERT C. SCOTT, LOIS CAPPS, MIKE THOMPSON, BRIAN BAIRD, JIM COOPER, RAHM EMANUEL, ARTUR DAVIS, DENISE L. MAJETTE, RON KIND

Democrats support strong and effective budget enforcement rules. Indeed, Congressional Democrats wrote and passed the budget enforcement rules that led to balanced budgets in the 1990s. Those rules turned record deficits into record surpluses in large part because they subjected all parts of the budget—discretionary and mandatory spending, as well as revenues—to budget discipline. Any successful path out of the current deficits will put everyone at the table and everything on the table. Unfortunately, this bill does not meet that standard.

The bill proposes a deeply flawed modification of the Pay-As-You-Go (PAYGO) provisions that were adopted under the Budget Enforcement Act of 1990 (BEA), which expired in 2002. While the original PAYGO rules were effective in reducing deficits, the modified PAYGO rules contained in this bill would hurt, not help, the budget bottom line. The original PAYGO rules limited mandatory spending and tax cuts alike. This bill, however, totally exempts tax cuts from PAYGO budget disciplines. The proposed PAYGO rules would allow unlimited new tax cuts of unlimited cost—an unmistakable invitation to drive the budget even deeper into the red.

Creating a loophole in the PAYGO rules for tax cuts would not only result in larger deficits, it would also result in a more complicated tax code. Because the bill subjects spending proposals—but not tax cuts—to budgetary limits, it would result in the creation of targeted tax breaks to accomplish policy objectives that otherwise would be handled on the mandatory side of the ledger.

While this bill's PAYGO rules would allow for an unlimited amount of most tax cuts—regardless of their effect on the deficit—they simultaneously would restrict new proposals to increase refundable tax credits. Such tax credits provide tax relief to low- and moderate-income Americans who pay payroll taxes but whose incomes are so low that they do not owe income taxes. Because refundable tax credits are scored as outlays, this bill's PAYGO rules would subject virtually all of them to the same limitations as new spending proposals. As a result, the policy process would become more tilted toward those who need help the least.

In exempting tax cuts from the PAYGO budgetary restraint, this bill mirrors the approach of the Bush Administration. This bill is sharply at odds, however, with the views of Federal Reserve Chairman Alan Greenspan, who recently testified that—in order to be effective—PAYGO rules should apply to both mandatory spending and taxes. It also marks a departure from the bipartisan approach adopted recently in the Senate, which approved the Feingold amendment to its budget resolution, creating a Senate PAYGO procedure for both tax cuts and mandatory spending increases.

The bill also extends discretionary spending caps, which were first established under BEA and which expired in 2002. Democrats believe that a set of discretionary spending caps—arrived at through bipartisan negotiation—is an important part of an effective budget enforcement system. Here again, though, the proposal embodied in the bill does not pass muster.

The bill establishes binding discretionary spending caps for the next 5 years. The bill does not, however, indicate the level of the discretionary caps, providing only blanks for budget authority and outlays. The Majority has indicated that those levels will be added later (likely through a manager's amendment), perhaps at the level of discretionary spending provided in the budget resolution. Establishing caps at or near the levels contained in the House Republican budget resolution would not, however, take our budget in right direction.

If the caps were set at levels consistent with those in the House Republican budget resolution; steep cuts in domestic discretionary programs would be required, unless funding for national defense and homeland security were cut below the budget resolution levels. The House Republican budget resolution cuts domestic non-homeland security funding for 2005 by \$10.5 billion below the amount needed to maintain services at the 2004 level. Over the 5-year period covered by the discretionary spending caps (2005–2009), the House Republican budget is \$113.4 billion below the amount needed to maintain services at the 2004 level. Clearly, if implemented as envisioned, the discretionary caps being contemplated would produce unacceptable cuts to domestic programs—cuts that could fall on education, health, environmental protection, and other priorities.

Alternatively, Congress might simply seek to circumvent the unrealistically low caps. In 1997, unrealistically austere spending caps were established as part of the Balanced Budget Act. In the end, these caps were evaded, and therefore provided no meaningful budgetary restraint. By contrast, the more realistic discretionary spending caps established in 1990 and 1993 worked effectively.

If discretionary spending caps are to work effectively, they must be established as part of a bipartisan negotiation that also includes a balanced PAYGO provision encompassing both mandatory spending and revenues. This balanced approach worked in the 1990s, and it should serve as the model for efforts to reform the budget process today.

Democrats are deeply concerned about the rapid deterioration of the budget over the past 3 years—from a 10-year projected surplus of \$5.6 trillion to a 10-year projected deficit of \$2.9 trillion. Democrats also support strong budget enforcement rules that would help guide the budget back toward balance. Unfortunately, the unbalanced approach contained in this bill would place important priorities at risk while failing to protect the budget against additional deficits and debt.

JOHN M. SPRATT, Jr.  
JIM MORAN.  
DARLENE HOOLEY.  
TAMMY BALDWIN.  
JOHN LEWIS.  
RICHARD E. NEAL.  
ROSA L. DELAURO.  
CHET EDWARDS.  
BOBBY SCOTT.  
DENNIS MOORE.  
HAROLD FORD.  
LOIS CAPPS.  
BRIAN BAIRD.  
JIM COOPER.  
MIKE THOMPSON.  
RAHM EMANUEL.  
ARTUR DAVIS.  
DENISE MAJETTE.  
RON KIND.