II

112TH CONGRESS
1ST SESSION

S. 245

To reduce Federal spending in a responsible manner.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2011

Mr. CORKER (for himself, Mrs. MCCASKILL, Mr. BURR, Mr. MCCAIN, Mr. ALEXANDER, Mr. ISAKSON, Mr. CHAMBLISS, Mr. INHOFE, and Mr. KIRK) introduced the following bill; which was read twice and referred to the Committee on the Budget

---

A BILL

To reduce Federal spending in a responsible manner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commitment to American Prosperity Act of 2011'' or the ''CAP Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) This Act is authorized by the United States Constitution under clause 1 of section 8 of article I, relating to the power of the Congress to tax and spend.

(2) Should an amendment to the United States Constitution be adopted and ratified by the States setting a lower limitation on outlays than provided in this Act, it is appropriate for Congress to consider legislation immediately modifying maximum outlay amounts in this Act.

(3) Total Federal outlays have averaged 20.6 percent of gross domestic product over the past 40 years.

(4) Total Federal outlays in fiscal year 2010 were 23.8 percent of gross domestic product.

(5) Total Federal outlays in fiscal year 2020 are projected to be 25.9 percent of gross domestic product according to the Congressional Budget Office's Alternative Fiscal Scenario.

(6) It is appropriate and necessary to put total Federal outlays under a limitation, as a percent of gross domestic product, such that a downward glide path ultimately brings spending in line with historical norms.

SEC. 3. OUTLAYS EXCEEDING THE GDP OUTLAY LIMIT.

(a) DEFINITIONS.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraph (4), redesignating the succeeding paragraphs accordingly, and adding the following paragraphs:

"(19) The term 'GDP', for any fiscal year, means the gross domestic product during such fiscal year consistent with Department of Commerce definitions.

"(20)(A) 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) 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.

"(21) The term 'target fiscal year' means the fiscal year in which a GDP outlay limit is in effect under section 253A.".

(b) CAPS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 253 the following:

“SEC. 253A. ENFORCING GDP OUTLAY LIMITS.

“(a) ENFORCING GDP OUTLAY LIMITS.—In this section, the term ‘GDP outlay limit’ means an amount, as estimated by OMB, equal to—

“(1) the average GDP for the first 3 of the 4 fiscal years preceding the target fiscal year (fiscal year 2009, fiscal year 2010 and fiscal year 2011 for target year fiscal year 2013, and so on); multiplied by

“(2)(A) 25 percent for fiscal year 2013; and

“(B) for fiscal years 2014 through 2022, 25 percent minus 0.1711 percent accumulating for each fiscal year (25 percent minus .1711 percent in fiscal year 2014, 25 percent minus .3422 percent in fiscal year 2015, and so on).

“(b) GDP OUTLAY LIMIT AND OUTLAYS.—

“(1) DETERMINING THE GDP OUTLAY LIMIT.—The Office of Management and Budget shall estimate the GDP outlay limit for the target fiscal year at the outset of the previous fiscal year, on April 30, on August 20, and 15 days after the conclusion of the fiscal year. CBO shall provide advisory reports calculating the GDP outlay limit at identical times.

"(2) TOTAL FEDERAL OUTLAYS.—In this section, total Federal outlays shall include all on-budget and off-budget outlays.

"(c) SEQUESTRATION.—

"(1) IN GENERAL.—

"(A) EXCESS SPENDING.—Not later than 45 calendar days after the beginning of a fiscal year, OMB shall conduct a sequestration to eliminate the excess outlay amount.

"(B) DEFINITION.—For purposes of this subsection, the term 'excess outlay amount' means the amount by which total Federal outlays for a fiscal year exceed the GDP outlay limit as adjusted pursuant to paragraph (2).

"(2) PREVIEW REPORT.—CBO shall submit an advisory sequestration preview report as described in section 254(c)(4) on August 10 of each year. OMB shall produce an sequestration preview report on August 20 as described in section 254(c)(4). Fifteen days after the fiscal year begins, OMB shall issue an updated sequestration report as described in section 254(e). Thirty days later, the OMB should issue its final sequestration report as described in section

254(f)(3). It shall be accompanied by a Presidential order detailing the uniform spending reductions. The reductions should generally follow the process set forth in section 253 and 254, except as provided in this section.

"(3) CONGRESSIONAL ACTION.—If the August 20 OMB report projects a sequestration, the Senate and House Budget Committees may report a resolution directing their committees to change the existing law to achieve the goals outlined in the August 20 report.

"(4) REDUCING NONEXEMPT BUDGETARY RESOURCES BY A PROPORTIONAL PERCENTAGE.—

"(A) CALCULATION.—OMB shall calculate the increase in outlays attributable to each of the 3 categories described in subparagraph (B) such that the outlay savings resulting from sequestration, as calculated under this subsection, eliminate excess outlays.

"(B) CATEGORIES.—The 3 categories are as follows:

"(i) Direct spending (social security, medicare, and other such programs).

"(ii) Discretionary security spending.

"(iii) Discretionary non-security spending.

"(C) REDUCTIONS PROPORTIONAL.—The percentage reductions for each category described in subparagraph (B) shall be in proportion to the growth in outlays in such category from the previous fiscal year.

"(D) UNIFORM REDUCTION WITHIN CATEGORIES.—To achieve the percent reduction within a category under subparagraph (C), a uniform reduction will occur across all programs within that category to achieve the percent reduction required for that category.

"(E) PRO RATA BASIS.—If legislation funding the Government does not reflect funding amounts for the entire fiscal year, sequestration required by this section shall be done on a pro rata basis. If legislation funding the Government for the remainder of a fiscal year is enacted, the total sequestration required in a fiscal year shall total the necessary level which may be undertaken in a single step or in a sequence of steps.

"(d) EXCEPTIONS.—Total Federal outlays may exceed the GDP outlay limit if during the fiscal year the excess amount is being paid to reduce the public debt or the public debt is zero.

"(e) NO EXEMPT PROGRAMS.—Section 255 shall not apply to this section, except that payments for net interest (budget function 900) shall be exempt.

"(f) LOOK BACK.—If, after November 15, a bill resulting in outlays for the fiscal year in progress is enacted that causes excess outlays, the excess outlays for the next fiscal year shall be increased by the amount or amounts of that breach.".

(c) BBEDCA.—Notwithstanding section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985, the relevant provisions of such Act shall apply to the extent necessary to enforce this Act, including amendments made by this Act.

(d) EFFECTIVE DATE.—This section shall apply beginning in fiscal year 2013 and beyond, including any reports and calculations required for implementation in fiscal year 2013.

SEC. 4. ENFORCEMENT PROCEDURES UNDER THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) ENFORCEMENT.—Title III of the Congressional Budget Act of 1974 is amended by adding after section 315 the following:

"SEC. 316. ENFORCEMENT PROCEDURES.

''(a) GDP OUTLAY LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the most recently reported, current GDP outlay limits set forth in section 253A of the Balanced Budget and Emergency Deficit Control Act of 1985 to be exceeded.

''(b) WAIVER OR SUSPENSION.—

''(1) IN THE SENATE.—The provisions of this section may be waived or suspended in the Senate only by the affirmative vote of two-thirds of the Members, present and voting.

''(2) IN THE HOUSE.—The provisions of this section may be waived or suspended in the House of Representatives only by a rule or order proposing only to waive such provisions by an affirmative vote of two-thirds of the Members, present and voting.

''(c) POINT OF ORDER PROTECTION.—In the House, it shall not be in order to consider a rule or order that waives the application of paragraph (2) of subsection (b).

''(d) MOTION TO SUSPEND.—It shall not be in order for the Speaker to entertain a motion to suspend the application of this section under clause 1 of rule XV.''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following:

"Sec. 316. Enforcement procedures.".