

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commitment to Amer-
5 ican Prosperity Act of 2011” or the “CAP Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

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

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

12 (5) Total Federal outlays in fiscal year 2020
13 are projected to be 25.9 percent of gross domestic
14 product according to the Congressional Budget Of-
15 fice's Alternative Fiscal Scenario.

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

21 **SEC. 3. OUTLAYS EXCEEDING THE GDP OUTLAY LIMIT.**

22 (a) DEFINITIONS.—Section 250(c)(4) of the Bal-
23 anced Budget and Emergency Deficit Control Act of 1985
24 is amended by striking paragraph (4), redesignating the

1 succeeding paragraphs accordingly, and adding the fol-
2 lowing paragraphs:

3 “(19) The term ‘GDP’, for any fiscal year,
4 means the gross domestic product during such fiscal
5 year consistent with Department of Commerce defi-
6 nitions.

7 “(20)(A) The term ‘emergency requirement’
8 means any provision that provides new budget au-
9 thority and resulting outlays for a situation that
10 poses a threat to life, property, or national security
11 and is—

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

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

16 “(iii) unforeseen, unpredictable, and unan-
17 ticipated; and

18 “(iv) not permanent, temporary in nature.

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

22 “(21) The term ‘target fiscal year’ means the
23 fiscal year in which a GDP outlay limit is in effect
24 under section 253A.”.

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

4 **“SEC. 253A. ENFORCING GDP OUTLAY LIMITS.**

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

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

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

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

19 “(b) GDP OUTLAY LIMIT AND OUTLAYS.—

20 “(1) DETERMINING THE GDP OUTLAY LIMIT.—
21 The Office of Management and Budget shall esti-
22 mate the GDP outlay limit for the target fiscal year
23 at the outset of the previous fiscal year, on April 30,
24 on August 20, and 15 days after the conclusion of

1 the fiscal year. CBO shall provide advisory reports
2 calculating the GDP outlay limit at identical times.

3 “(2) TOTAL FEDERAL OUTLAYS.—In this sec-
4 tion, total Federal outlays shall include all on-budget
5 and off-budget outlays.

6 “(c) SEQUESTRATION.—

7 “(1) IN GENERAL.—

8 “(A) EXCESS SPENDING.—Not later than
9 45 calendar days after the beginning of a fiscal
10 year, OMB shall conduct a sequestration to
11 eliminate the excess outlay amount.

12 “(B) DEFINITION.—For purposes of this
13 subsection, the term ‘excess outlay amount’
14 means the amount by which total Federal out-
15 lays for a fiscal year exceed the GDP outlay
16 limit as adjusted pursuant to paragraph (2).

17 “(2) PREVIEW REPORT.—CBO shall submit an
18 advisory sequestration preview report as described in
19 section 254(c)(4) on August 10 of each year. OMB
20 shall produce an sequestration preview report on Au-
21 gust 20 as described in section 254(c)(4). Fifteen
22 days after the fiscal year begins, OMB shall issue an
23 updated sequestration report as described in section
24 254(e). Thirty days later, the OMB should issue its
25 final sequestration report as described in section

1 254(f)(3). It shall be accompanied by a Presidential
2 order detailing the uniform spending reductions. The
3 reductions should generally follow the process set
4 forth in section 253 and 254, except as provided in
5 this section.

6 “(3) CONGRESSIONAL ACTION.—If the August
7 20 OMB report projects a sequestration, the Senate
8 and House Budget Committees may report a resolu-
9 tion directing their committees to change the exist-
10 ing law to achieve the goals outlined in the August
11 20 report.

12 “(4) REDUCING NONEXEMPT BUDGETARY RE-
13 SOURCES BY A PROPORTIONAL PERCENTAGE.—

14 “(A) CALCULATION.—OMB shall calculate
15 the increase in outlays attributable to each of
16 the 3 categories described in subparagraph (B)
17 such that the outlay savings resulting from se-
18 questration, as calculated under this subsection,
19 eliminate excess outlays.

20 “(B) CATEGORIES.—The 3 categories are
21 as follows:

22 “(i) Direct spending (social security,
23 medicare, and other such programs).

24 “(ii) Discretionary security spending.

1 “(iii) Discretionary non-security
2 spending.

3 “(C) REDUCTIONS PROPORTIONAL.—The
4 percentage reductions for each category de-
5 scribed in subparagraph (B) shall be in propor-
6 tion to the growth in outlays in such category
7 from the previous fiscal year.

8 “(D) UNIFORM REDUCTION WITHIN CAT-
9 EGORIES.—To achieve the percent reduction
10 within a category under subparagraph (C), a
11 uniform reduction will occur across all pro-
12 grams within that category to achieve the per-
13 cent reduction required for that category.

14 “(E) PRO RATA BASIS.—If legislation
15 funding the Government does not reflect fund-
16 ing amounts for the entire fiscal year, seques-
17 tration required by this section shall be done on
18 a pro rata basis. If legislation funding the Gov-
19 ernment for the remainder of a fiscal year is
20 enacted, the total sequestration required in a
21 fiscal year shall total the necessary level which
22 may be undertaken in a single step or in a se-
23 quence of steps.

24 “(d) EXCEPTIONS.—Total Federal outlays may ex-
25 ceed the GDP outlay limit if during the fiscal year the

1 excess amount is being paid to reduce the public debt or
2 the public debt is zero.

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

6 “(f) LOOK BACK.—If, after November 15, a bill re-
7 sulting in outlays for the fiscal year in progress is enacted
8 that causes excess outlays, the excess outlays for the next
9 fiscal year shall be increased by the amount or amounts
10 of that breach.”.

11 (c) BBEDCA.—Notwithstanding section 275 of the
12 Balanced Budget and Emergency Deficit Control Act of
13 1985, the relevant provisions of such Act shall apply to
14 the extent necessary to enforce this Act, including amend-
15 ments made by this Act.

16 (d) EFFECTIVE DATE.—This section shall apply be-
17 ginning in fiscal year 2013 and beyond, including any re-
18 ports and calculations required for implementation in fis-
19 cal year 2013.

20 **SEC. 4. ENFORCEMENT PROCEDURES UNDER THE CON-**
21 **GRESSIONAL BUDGET ACT OF 1974.**

22 (a) ENFORCEMENT.—Title III of the Congressional
23 Budget Act of 1974 is amended by adding after section
24 315 the following:

1 **“SEC. 316. ENFORCEMENT PROCEDURES.**

2 “(a) GDP OUTLAY LIMITS.—It shall not be in order
3 in the House of Representatives or the Senate to consider
4 any bill, joint resolution, amendment, or conference report
5 that includes any provision that would cause the most re-
6 cently reported, current GDP outlay limits set forth in sec-
7 tion 253A of the Balanced Budget and Emergency Deficit
8 Control Act of 1985 to be exceeded.

9 “(b) WAIVER OR SUSPENSION.—

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

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

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

22 “(d) MOTION TO SUSPEND.—It shall not be in order
23 for the Speaker to entertain a motion to suspend the appli-
24 cation of this section under clause 1 of rule XV.”.

25 (b) TABLE OF CONTENTS.—The table of contents in
26 section 1(b) of the Congressional Budget and Impound-

- 1 ment Control Act of 1974 is amended by inserting after
- 2 the item relating to section 315 the following:

“Sec. 316. Enforcement procedures.”.

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