

111TH CONGRESS
1ST SESSION

H. R. 2116

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2009

Mr. HILL (for himself, Mr. GRIFFITH, Mr. ALTMIRE, Mr. ELLSWORTH, Mr. BISHOP of Georgia, Mr. ARCURI, Mr. MCINTYRE, Mr. DAVIS of Tennessee, Mr. TANNER, Mr. MELANCON, Mr. BOYD, Ms. HERSETH SANDLIN, Mr. COOPER, Mr. SHULER, Mr. CARDOZA, Ms. GIFFORDS, Mr. MINNICK, Mr. MOORE of Kansas, Mr. CHILDERS, Mr. SCOTT of Georgia, Ms. LORETTA SANCHEZ of California, Mr. SALAZAR, Mr. TAYLOR, Mr. BERRY, Mr. ROSS, Mr. KRATOVIL, Mr. MATHESON, Mr. BRIGHT, Mr. BARROW, Mr. THOMPSON of California, Mr. DONNELLY of Indiana, Mr. WILSON of Ohio, Mr. SPACE, Mr. NYE, Mr. GORDON of Tennessee, Mr. CUELLAR, Mr. BOSWELL, Mr. MARSHALL, Mr. COSTA, Mr. MICHAUD, Mr. POMEROY, Mr. CHANDLER, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. HOLDEN, Mr. BACA, Ms. HARMAN, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes.

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 “Fiscal Honesty and
5 Accountability Act of 2009”.

6 **SEC. 2. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.**

7 (a) PURPOSE.—Section 252(a) of the Balanced
8 Budget and Emergency Deficit Control Act of 1985 is
9 amended by striking “2002” and inserting “2014”.

10 (b) SEQUESTRATION.—Section 252(b)(1) of the Bal-
11 anced Budget and Emergency Deficit Control Act of 1985
12 is amended by striking “2002” and inserting “2014”.

13 (c) EXPIRATION.—Section 275(b) of the Balanced
14 Budget and Emergency Deficit Control Act of 1985 is
15 amended by striking “2006” and inserting “2018”.

16 (d) BROADENING OF SEQUESTRATION BASE.—The
17 Directors of the Congressional Budget Office and of the
18 Office of Management and Budget shall each submit, not
19 later than six months following the enactment of this Act,
20 a report to the Committee on the Budget of the House
21 of Representatives that addresses the issue of how to
22 broaden the pay-as-you-go sequestration base and make
23 it more fair and equitable.

1 **SEC. 3. EXTENSION OF THE DISCRETIONARY SPENDING**

2 **CAPS.**

3 (a) IN GENERAL.—Paragraphs (1) through (13) of
4 section 251(c) of the Balanced Budget and Emergency
5 Deficit Control Act of 1985 are amended to read as fol-
6 lows:

7 “(1) with respect to fiscal year 2011 for the
8 discretionary category: \$1,126,000,000,000 in new
9 budget authority and \$1,189,000,000,000 in outlays;

10 “(2) with respect to fiscal year 2012 for the
11 discretionary category: \$1,150,000,000,000 in new
12 budget authority and \$1,193,000,000,000 in outlays;

13 “(3) with respect to fiscal year 2013 for the
14 discretionary category: \$1,177,000,000,000 in new
15 budget authority and \$1,220,000,000,000 in out-
16 lays;”.

17 (b) EXPIRATION.—Section 275 of the Balanced
18 Budget and Emergency Deficit Control Act of 1985 (2
19 U.S.C. 900 note) is amended by striking subsection (b).

20 **SEC. 4. ACCOUNTABILITY IN EMERGENCY SPENDING.**

21 (a) OMB EMERGENCY CRITERIA.—Section 3 of the
22 Congressional Budget and Impoundment Control Act of
23 1974 is amended by adding at the end the following new
24 paragraph:

25 “(11)(A) The term ‘emergency’ means a situa-
26 tion that—

1 “(i) requires new budget authority and
 2 outlays (or new budget authority and the out-
 3 lays flowing therefrom) for the prevention or
 4 mitigation of, or response to, loss of life or
 5 property, or a threat to national security; and

6 “(ii) is unanticipated.

7 “(B) As used in subparagraph (A), the term
 8 ‘unanticipated’ means that the situation is—

9 “(i) sudden, which means quickly coming
 10 into being or not building up over time;

11 “(ii) urgent, which means a pressing and
 12 compelling need requiring immediate action;

13 “(iii) unforeseen, which means not pre-
 14 dicted or anticipated as an emerging need; and

15 “(iv) temporary, which means not of a per-
 16 manent duration.”.

17 (b) DEVELOPMENT OF GUIDELINES FOR APPLICA-
 18 TION OF EMERGENCY DEFINITION.—Not later than five
 19 months after the date of enactment of this Act, the chair-
 20 men of the Committees on the Budget (in consultation
 21 with the President) shall, after consulting with the chair-
 22 men of the Committees on Appropriations and applicable
 23 authorizing committees of their respective Houses and the
 24 Directors of the Congressional Budget Office and the Of-
 25 fice of Management and Budget, jointly publish in the

1 Congressional Record guidelines for application of the def-
2 inition of emergency set forth in section 3(11) of the Con-
3 gressional Budget and Impoundment Control Act of 1974.

4 (c) SEPARATE HOUSE VOTE ON EMERGENCY DES-
5 IGNATION.—(1) Rule XXII of the Rules of the House of
6 Representatives is amended by adding at the end the fol-
7 lowing new clause:

8 “13. In the consideration of any measure for amend-
9 ment in the Committee of the Whole containing any emer-
10 gency spending designation, it shall always be in order un-
11 less specifically waived by terms of a rule governing con-
12 sideration of that measure, to move to strike such emer-
13 gency spending designation from the portion of the bill
14 then open to amendment.”.

15 (2) The Committee on Rules shall include in the re-
16 port required by clause 1(d) of rule XI (relating to its
17 activities during the Congress) of the Rules of the House
18 of Representatives a separate item identifying all waivers
19 of points of order relating to emergency spending designa-
20 tions, listed by bill or joint resolution number and the sub-
21 ject matter of that measure.

22 (d) COMMITTEE NOTIFICATION OF EMERGENCY
23 LEGISLATION.—Whenever the Committee on Appropria-
24 tions or any other committee of either House (including
25 a committee of conference) reports any bill or joint resolu-

tion that provides budget authority for any emergency, the report accompanying that bill or joint resolution (or the joint explanatory statement of managers in the case of a conference report on any such bill or joint resolution) shall identify all provisions that provide budget authority and the outlays flowing therefrom for such emergency and include a statement of the reasons why such budget authority meets the definition of an emergency pursuant to the guidelines described in subsection (b).

(e) RESERVE FUND FOR EMERGENCIES IN PRESIDENT’S BUDGET.—Section 1105(f) of title 31, United States Code is amended by adding at the end the following new sentences: “Such budget submission shall also comply with the requirements of section 316(b) of the Congressional Budget Act of 1974 and, in the case of any budget authority requested for an emergency, such submission shall include a detailed justification of why such emergency is an emergency within the meaning of section 3(11) of the Congressional Budget Act of 1974.”.

(f) ADJUSTMENTS AND RESERVE FUND FOR EMERGENCIES IN JOINT BUDGET RESOLUTIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

“EMERGENCIES

“SEC. 316. (a) ADJUSTMENTS.—

1 “(1) IN GENERAL.—After the reporting of a bill
2 or joint resolution or the submission of a conference
3 report thereon that provides budget authority for
4 any emergency as identified pursuant to subsection
5 (d) that is not covered by subsection (c)—

6 “(A) the chairman of the Committee on
7 the Budget of the House of Representatives or
8 the Senate shall determine and certify, pursu-
9 ant to the guidelines referred to in subsection
10 (b), the portion (if any) of the amount so speci-
11 fied that is for an emergency within the mean-
12 ing of section 3(11); and

13 “(B) such chairman shall make the adjust-
14 ment set forth in paragraph (2) for the amount
15 of new budget authority (or outlays) in that
16 measure and the outlays flowing from that
17 budget authority.

18 “(2) MATTERS TO BE ADJUSTED.—The adjust-
19 ments referred to in paragraph (1) are to be made
20 to the allocations made pursuant to the appropriate
21 joint resolution on the budget pursuant to section
22 302(a) and shall be in an amount not to exceed the
23 amount reserved for emergencies pursuant to the re-
24 quirements of subsection (b).

25 “(b) RESERVE FUND FOR EMERGENCIES.—

1 “(1) AMOUNTS.—The amount set forth in the
2 reserve fund for emergencies (other than those cov-
3 ered by subsection (c)) for budget authority and out-
4 lays for a fiscal year pursuant to section 301(a)(6)
5 shall equal—

6 “(A) the average of the enacted levels of
7 budget authority for emergencies (other than
8 those covered by subsection (c)) in the 5 fiscal
9 years preceding the current year; and

10 “(B) the average of the levels of outlays
11 for emergencies in the 5 fiscal years preceding
12 the current year flowing from the budget au-
13 thority referred to in subparagraph (A), but
14 only in the fiscal year for which such budget
15 authority first becomes available for obligation.

16 “(2) AVERAGE LEVELS.—For purposes of para-
17 graph (1), the amount used for a fiscal year to cal-
18 culate the average of the enacted levels when one or
19 more of such 5 preceding fiscal years is any of fiscal
20 years 2003 through 2007 is as follows: the amount
21 of enacted levels of budget authority and the amount
22 of new outlays flowing therefrom for emergencies,
23 but only in the fiscal year for which such budget au-
24 thority first becomes available for obligation for each
25 of such 5 fiscal years, which shall be determined by

1 the Committees on the Budget of the House of Rep-
2 resentatives and the Senate after receipt of a report
3 on such matter transmitted to such committees by
4 the Director of the Congressional Budget Office 6
5 months after the date of enactment of this section
6 and thereafter in February of each calendar year.

7 “(c) TREATMENT OF EMERGENCIES TO FUND CER-
8 TAIN MILITARY OPERATIONS.—Whenever the Committee
9 on Appropriations reports any bill or joint resolution that
10 provides budget authority for any emergency that is a
11 threat to national security and the funding of which car-
12 ries out a military operation authorized by a declaration
13 of war or a joint resolution authorizing the use of military
14 force and the report accompanying that bill or joint resolu-
15 tion, pursuant to subsection (d), identifies any provision
16 that increases outlays or provides budget authority (and
17 the outlays flowing therefrom) for such emergency, the en-
18 actment of which would cause the total amount of budget
19 authority or outlays provided for emergencies for the
20 budget year in the joint resolution on the budget (pursu-
21 ant to section 301(a)(6)) to be exceeded:

22 “(1) Such bill or joint resolution shall be re-
23 ferred to the Committee on the Budget of the House
24 or the Senate, as the case may be, with instructions
25 to report it without amendment, other than that

1 specified in subparagraph (B), within 5 legislative
2 days of the day in which it is reported from the orig-
3 inating committee. If the Committee on the Budget
4 of either House fails to report a bill or joint resolu-
5 tion referred to it under this subparagraph within
6 such 5-day period, the committee shall be automati-
7 cally discharged from further consideration of such
8 bill or joint resolution and such bill or joint resolu-
9 tion shall be placed on the appropriate calendar.

10 “(2) An amendment to such a bill or joint reso-
11 lution referred to in this subsection shall only consist
12 of an exemption from section 251 of the Balanced
13 Budget and Emergency Deficit Control Act of 1985
14 of all or any part of the provisions that provide
15 budget authority (and the outlays flowing therefrom)
16 for such emergency if the committee determines,
17 pursuant to the guidelines referred to in subsection
18 (b), that such budget authority is for an emergency
19 within the meaning of section 3(11).

20 “(3) If such a bill or joint resolution is reported
21 with an amendment specified in subparagraph (B)
22 by the Committee on the Budget of the House of
23 Representatives or the Senate, then the budget au-
24 thority and resulting outlays that are the subject of
25 such amendment shall not be included in any deter-

1 minations under section 302(f) or 311(a) for any
2 bill, joint resolution, amendment, motion, or con-
3 ference report.”.

4 (g) CONTENT OF BUDGET RESOLUTIONS.—Section
5 301(a) of the Congressional Budget Act of 1974 is amend-
6 ed by redesignating paragraphs (6) and (7) as paragraphs
7 (7) and (8), respectively, and by inserting after paragraph
8 (5) the following new paragraph:

9 “(6) totals of new budget authority and outlays
10 for emergencies;”.

11 (h) WAIVER AND APPEAL IN THE SENATE.—Section
12 904 of the Congressional Budget Act of 1974 is amend-
13 ed—

14 (1) in subsection (c)(1), by inserting “316,”
15 after “313,”; and

16 (2) in subsection (d)(2), by inserting “316,”
17 after “313,”.

18 (i) CONFORMING AMENDMENT.—The table of con-
19 tents set forth in section 1(b) of the Congressional Budget
20 and Impoundment Control Act of 1974 is amended by in-
21 serting after the item relating to section 315 the following
22 new item:

“Sec. 316. Emergencies.”.

23 (j) APPLICATION OF SECTION 306 TO EMERGENCIES
24 IN EXCESS OF AMOUNTS IN RESERVE FUND.—Section
25 306 of the Congressional Budget Act of 1974 is amended

1 by inserting at the end the following new sentence: “No
2 amendment reported by the Committee on the Budget (or
3 from the consideration of which such committee has been
4 discharged) pursuant to section 316(c) may be amended.”.

5 (k) UP-TO-DATE TABULATIONS.—Section 308(b)(2)
6 of the Congressional Budget Act of 1974 is amended by
7 striking “and” at the end of subparagraph (B), by striking
8 the period at the end of subparagraph (C) and inserting
9 “; and”, and by adding at the end the following new sub-
10 paragraph:

11 “(D) shall include an up-to-date tabulation
12 of amounts remaining in the reserve fund for
13 emergencies.”.

14 (l) POINT OF ORDER.—Section 305 of the Congres-
15 sional Budget Act of 1974 is amended by adding at the
16 end the following new subsection:

17 “(e) POINT OF ORDER REGARDING EMERGENCY RE-
18 SERVE FUND.—It shall not be in order in the House of
19 Representatives or in the Senate to consider an amend-
20 ment to a joint resolution on the budget which changes
21 the amount of budget authority and outlays set forth in
22 section 301(a)(4) for emergency reserve fund.”.

23 (m) TECHNICAL AMENDMENT.—(1) Section
24 904(c)(1) of the Congressional Budget Act of 1974 is
25 amended by inserting “305(e),” after “305(c)(4),”.

1 (2) Section 904(d)(2) of the Congressional Budget
2 Act of 1974 is amended by inserting “305(e),” after
3 “305(c)(4),”.

4 **SEC. 5. DISCLOSURE OF INTEREST COSTS.**

5 Section 308(a)(1) of the Congressional Budget Act
6 of 1974 (2 U.S.C. 639(a)(1)) is amended—

7 (1) in subparagraph (B), by striking “and”
8 after the semicolon;

9 (2) in subparagraph (C), by striking the period
10 and inserting “; and”; and

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(D) containing a projection by the Con-
14 gressional Budget Office of the cost of the debt
15 servicing that would be caused by such measure
16 for such fiscal year (or fiscal years) and each
17 of the four ensuing fiscal years.”.

18 **SEC. 6. CBO SCORING OF CONFERENCE REPORTS.**

19 (a) The first sentence of section 402 of the Congres-
20 sional Budget Act of 1974 is amended as follows:

21 (1) Insert “or conference report thereon,” be-
22 fore “and submit”.

23 (2) In paragraph (1), strike “bill or resolution”
24 and insert “bill, joint resolution, or conference re-
25 port”.

1 (3) At the end of paragraph (2) strike “and”,
2 at the end of paragraph (3) strike the period and in-
3 sert “; and”, and after such paragraph (3) add the
4 following new paragraph:

5 “(4) A determination of whether such bill, joint
6 resolution, or conference report provides direct
7 spending.”.

8 (4) At the end, add the following new sentence:
9 “The Director shall also prepare such estimates for
10 any bill or resolution of a public character that has
11 not been reported by a committee before it may be
12 considered in the House or Representatives or Sen-
13 ate.”

14 (b) The second sentence of section 402 of the Con-
15 gressional Budget Act of 1974 is amended by inserting
16 before the period the following: “, or in the case of a con-
17 ference report, shall be included in the joint explanatory
18 statement of managers accompanying such conference re-
19 port if timely submitted before such report is filed”.

20 **SEC. 7. BUDGET COMPLIANCE STATEMENTS.**

21 Clause 3(d) of rule XIII of the Rules of the House
22 of Representatives is amended by adding at the end the
23 following new subparagraph:

24 “(4) A budget compliance statement prepared
25 by the chairman of the Committee on the Budget,

1 if timely submitted prior to the filing of the report,
 2 which shall include assessment by such chairman as
 3 to whether the bill or joint resolution complies with
 4 the requirements of sections 302, 303, 306, 311,
 5 and 401 of the Congressional Budget Act of 1974
 6 or any other requirements set forth in a concurrent
 7 resolution on the budget and may include the budg-
 8 etary implications of that bill or joint resolution
 9 under section 251 or 252 of the Balanced Budget
 10 and Emergency Deficit Control Act of 1985, as ap-
 11 plicable.”.

12 **SEC. 8. AUTOMATIC BUDGET ENFORCEMENT FOR MEAS-**
 13 **URES CONSIDERED ON THE FLOOR.**

14 (a) IN GENERAL.—Title III of the Congressional
 15 Budget Act of 1974 (as amended by section 5(f)) is fur-
 16 ther amended by adding at the end the following new sec-
 17 tion:

18 “BUDGET EVASION POINTS OF ORDER
 19 “SEC. 317. (a) DISCRETIONARY SPENDING CAPS.—
 20 It shall not be in order in the House of Representatives
 21 or the Senate to consider any bill or resolution (or amend-
 22 ment, motion, or conference report on that bill or resolu-
 23 tion) that waives or suspends the enforcement of section
 24 251 of the Balanced Budget and Emergency Deficit Con-
 25 trol Act of 1985 or otherwise would alter the spending
 26 limits set forth in that section.

1 “(b) PAY-AS-YOU-GO.—It shall not be in order in the
2 House of Representatives or the Senate to consider any
3 bill or resolution (or amendment, motion, or conference
4 report on that bill or resolution) that waives or suspends
5 the enforcement of section 252 of the Balanced Budget
6 and Emergency Deficit Control Act of 1985 or otherwise
7 would alter the balances of the pay-as-you-go scorecard
8 pursuant to that section.

9 “(c) DIRECTED SCORING.—It shall not be in order
10 in the House of Representatives or the Senate to consider
11 any bill or resolution (or amendment, motion, or con-
12 ference report on that bill or resolution) that directs the
13 scorekeeping of any bill or resolution.

14 “(d) FAR-OUTYEARS.—It shall not be in order in the
15 House of Representatives or the Senate to consider any
16 bill or resolution (or amendment, motion, or conference
17 report on that bill or resolution) that contains a provision
18 providing new budget authority or which reduces revenues
19 which first takes effect after the first five fiscal years cov-
20 ered in the most recently adopted concurrent resolution
21 on the budget and would have the effect of reducing the
22 surplus or increasing the deficit in any fiscal year.

23 “(e) ENFORCEMENT IN THE HOUSE OF REPRESENT-
24 ATIVES.—(1) It shall not be in order in the House of Rep-

1 representatives to consider a rule or order that waives the
2 application of this section.

3 “(2)(A) This subsection shall apply only to the House
4 of Representatives.

5 “(B) In order to be cognizable by the Chair, a point
6 of order under this section must specify the precise lan-
7 guage on which it is premised.

8 “(C) As disposition of points of order under this sec-
9 tion, the Chair shall put the question of consideration with
10 respect to the proposition that is the subject of the points
11 of order.

12 “(D) A question of consideration under this section
13 shall be debatable for 10 minutes by each Member initi-
14 ating a point of order and for 10 minutes by an opponent
15 on each point of order, but shall otherwise be decided with-
16 out intervening motion except one that the House adjourn
17 or that the Committee of the Whole rise, as the case may
18 be.

19 “(E) The disposition of the question of consideration
20 under this subsection with respect to a bill or joint resolu-
21 tion shall be considered also to determine the question of
22 consideration under this subsection with respect to an
23 amendment made in order as original text.”.

1 (b) WAIVER AND APPEAL IN THE SENATE.—Section
 2 904 of the Congressional Budget Act of 1974 is amend-
 3 ed—

4 (1) in subsection (c)(1), by inserting “317,”
 5 after “316,”; and

6 (2) in subsection (d)(2), by inserting “317,”
 7 after “316,”.

8 (c) TABLE OF CONTENTS.—The table of contents for
 9 the Congressional Budget Act of 1974 is amended by in-
 10 serting after the item for section 316 the following:

“Sec. 317. Budget evasion points of order.”.

11 **SEC. 9. APPLICATION OF BUDGET ACT POINTS OF ORDER**
 12 **TO UNREPORTED LEGISLATION.**

13 (a) Section 315 of the Congressional Budget Act of
 14 1974 is amended by striking “reported” the first place it
 15 appears.

16 (b) Section 303(b) of the Congressional Budget Act
 17 of 1974 is amended—

18 (1) in paragraph (1), by striking “(A)” and by
 19 redesignating subparagraph (B) as paragraph (2)
 20 and by striking the semicolon at the end of such new
 21 paragraph (2) and inserting a period; and

22 (2) by striking paragraph (3).

1 **SEC. 10. REQUIREMENTS FOR BUDGET ACT WAIVERS IN**
2 **THE HOUSE OF REPRESENTATIVES.**

3 (a) JUSTIFICATION FOR BUDGET ACT WAIVERS.—
4 Clause 6 of rule XIII of the Rules of the House of Rep-
5 resentatives is amended by adding at the end the following
6 new paragraph:

7 “(h) It shall not be in order to consider any resolution
8 from the Committee on Rules for the consideration of any
9 reported bill or joint resolution which waives section 302,
10 303, 311, or 401 of the Congressional Budget Act of
11 1974, unless the report accompanying such resolution in-
12 cludes a description of the provision proposed to be
13 waived, an identification of the section being waived, the
14 reasons why such waiver should be granted, and an esti-
15 mated cost of the provisions to which the waiver applies.”.

16 (b) SEPARATE VOTE TO WAIVE MAJOR BUDGET ACT
17 POINT OF ORDER.—Section 312 of the Congressional
18 Budget Act of 1974 is amended by adding at the end the
19 following new subsection:

20 “(g)(1) It shall not be in order in the House of Rep-
21 resentatives to consider a rule or order that waives the
22 application of a major budget act point of order as defined
23 in paragraph (2).

24 “(2) For the purposes of this subsection, the term
25 ‘major budget point of order’ means any point of order
26 arising under any section listed in section 904.

1 “(3)(A) In order to be cognizable by the Chair, a
2 point of order under the sections referenced in paragraph
3 (2) must specify the precise language on which it is pre-
4 mised.

5 “(B) As disposition of points of order under the sec-
6 tions referenced in paragraph (2), the Chair shall put the
7 question of consideration with respect to the proposition
8 that is the subject of the points of order.

9 “(C) A question of consideration under the sections
10 referenced in paragraph (2) shall be debatable for 10 min-
11 utes by each Member initiating a point of order and for
12 10 minutes by an opponent on each point of order, but
13 shall otherwise be decided without intervening motion ex-
14 cept one that the House adjourn or that the Committee
15 of the Whole rise, as the case may be.

16 “(D) The disposition of the question of consideration
17 under this subsection with respect to a bill or joint resolu-
18 tion shall be considered also to determine the question of
19 consideration under this subsection with respect to an
20 amendment made in order as original text.”.

