The Spending Control Act of 2004

Overview

In order to ensure restraint in the growth of Federal spending, the proposed "Spending Control Act of 2004" includes a comprehensive framework to establish spending controls in law binding both the Congress and the Executive Branch. While a number of other improvements are needed in the Federal budget process, the first imperative is to ensure restraint in the growth in spending. As a result, the "Spending Control Act of 2004" is limited to three critical elements. It would establish binding limits on discretionary spending through 2009; a pay-as-you-go requirement to restrain the growth in mandatory spending; and new measures to control long-term unfunded obligations of major entitlement programs.

This proposal is largely based on the Budget Enforcement Act (BEA) of 1990. From 1991 to 2002, the BEA set statutory budget authority and outlay limits on discretionary spending and a pay-as-you-go requirement for all other legislation, enforced by across-the-board spending reductions.

Until budget surpluses surfaced in 1998, the BEA proved to be an effective brake on the growth in spending. While federal spending is projected to exceed $2.3 trillion this year, there is enormous pressure to add to this spending. The restoration of statutory enforcement mechanisms on spending would serve as a critical tool for this Administration and the Congress to control spending.

This budget enforcement proposal is based on the premise that any increase in spending should be offset by a reduction in other spending. If a new spending proposal is of sufficiently high merit, there should be some item in the over $2 trillion of existing spending that is a lesser priority.

More specifically, this legislative proposal would establish discretionary spending limits, mandatory spending controls, and a new mechanism to measure the Federal Government's long-term unfunded obligations and to make it more difficult to enact a net increase in these obligations.

Discretionary Spending Limits

The proposed legislation would establish annual statutory limits on discretionary spending for 2004-2009 that would be adhered to throughout the budget process. An appropriations bill that exceeded these limits would be subject to a three-fifths vote of the Senate. If an appropriations bill was nevertheless enacted that caused these limits to be exceeded, the Office of Management and Budget (OMB) would be required to make across-the-board cuts to eliminate the excess spending.

Pay-as-you-go for Mandatory Spending

Mandatory spending constitutes spending that is not thought of as under the discretion of Congress in the annual appropriations process and is frequently referred to as being on "automatic pilot." When President Kennedy was in office, mandatory spending represented one-third of the budget. There has been an explosion in mandatory spending since the early 1960s and today it amounts to 60 percent of the budget.

To control mandatory spending, the Spending Control Act would require legislative proposals that increase mandatory spending to be offset by reductions in other mandatory spending. The Administration proposes that the Senate modify its pay-as-you-go rule to subject legislation that violated this requirement to a three-fifths vote of the Senate. If legislation were nevertheless enacted that caused a net increase in mandatory spending, OMB would be required to make across-the-board reductions in non-exempt programs.

From 1990 until 2002, the BEA subjected tax legislation to the pay-as-you-go requirement and provided that tax increases could be used to offset spending increases. This proposal would modify the pre-existing pay-as-you-go mechanism in order to correct for the bias in the legislative process towards increased spending.

This proposal recognizes that spending is the problem. Tax increases could not be used to offset mandatory spending under this proposal. And it would not subject tax relief legislation to pay-as-you-go procedures.

Most states have recognized the bias for spending increases over tax relief and have established procedures to prevent tax increases. Thirty states have tax and expenditure limitations. In 15 states, it takes a three-fifths vote or more to raise taxes. And, two states require tax increases to be approved by a majority of the voters.

Long-term Unfunded Obligations

As discussed in the President's Budget, the real fiscal danger confronting our Nation is posed by the long-term unfunded obligations of Social Security, Medicare, and other entitlement programs. Spending decisions on entitlements often have ramifications on the budget outlook far beyond the 10-year congressional budget window used to score changes in policy. Enforcement mechanisms are needed to address the long-term impact of entitlement spending expansions.

Congress has already acted to require a more comprehensive review of the Medicare program's finances and to require the Medicare trustees to issue a warning when general revenues are projected to exceed 45 percent of Medicare's total expenditures. The President proposes to build on this reform by establishing a new enforcement measure to analyze the long-term impact of legislation on the unfunded obligations of major entitlement programs and to make it more difficult to enact legislation that would expand the unfunded obligations of these programs over the long-run. These measures would highlight proposed legislative changes that appear to cost little in the short run but result in large increases in the spending burdens passed on to future generations.

Section-by-Section Analysis

Title I - Amendments to the Budget Enforcement Act

Sec. 101. Extension of the Discretionary Spending Limits

This section would establish discretionary caps for 2004 through 2009 at the levels proposed in the President's 2005 budget, enforced by a 60-vote point of order in the Senate and sequestration of discretionary spending if the caps are exceeded. For 2004 and 2005, separate defense (050) and nondefense categories would be enforced. In addition, transportation outlays financed by dedicated revenues would be guaranteed for 2004 through 2009. Amounts funded above the transportation guarantee would no longer be counted toward the discretionary category, but rather would be subject to sequestration.

General Purpose Discretionary Caps and Adjustments
(Amounts in billions of dollars)

	2004[1]	2005	2006	2007	2008	2009
Proposed Discretionary Spending Categories:						
Discretionary Category:						
Defense						
Department of Defense - Military						
Budget authority	375.3	401.7	-NA-	-NA-	-NA-	-NA-
Outlays	433.4	428.7	-NA-	-NA-	-NA-	-NA-
Atomic Energy Defense Activities						
Budget authority	16.5	17.0	-NA-	-NA-	-NA-	-NA-
Outlays	16.3	17.4	-NA-	-NA-	-NA-	-NA-
Other Defense-related Activities						
Budget authority	1.7	2.0	-NA-	-NA-	-NA-	-NA-
Outlays	2.0	2.0	-NA-	-NA-	-NA-	-NA-
Defense Category						
Budget authority	393.5	420.7	-NA-	-NA-	-NA-	-NA-
Outlays	451.6	448.2	-NA-	-NA-	-NA-	-NA-
Nondefense Category						
Budget authority	393.8	397.2	-NA-	-NA-	-NA-	-NA-
Outlays	417.7	424.6	-NA-	-NA-	-NA-	-NA-
Discretionary Category						
Budget authority	-NA-	-NA-	842.3	867.0	892.4	918.0
Outlays	-NA-	-NA-	850.9	863.0	881.5	900.5
Proposed Cap Adjustment:						
SSA Continuing Disability Reviews:						
Budget authority	-NA-	0.6	0.6	0.7	0.7	0.7
Outlays	-NA-	0.6	0.6	0.7	0.7	0.7
Total, Discretionary Category:						
Budget authority	787.3	818.4	842.9	867.6	893.0	918.7
Outlays	869.3	873.3	851.5	863.7	882.2	901.2
Highway Category:						
Outlays	31.2	33.2	33.9	34.2	34.5	34.8
Mass Transit Category[2]:						
Outlays	7.6	7.5	6.9	6.5	6.2	6.4
Total, All Discretionary Categories:						
Budget authority	787.3	818.4	842.9	867.6	893.0	918.7
Outlays	908.2	914.0	892.3	904.4	922.9	942.3
Project BioShield Category:						
Budget authority	0.9	2.5	0.0	0.0	0.0	2.2
Memorandum: 2004 Iraq Supplemental						
Budget authority	*87.3*					

1 The budget authority for the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (P.L. 108-106) is displayed separately on a memorandum line.

2 Includes prior-year outlays from general fund budget authority provided in years prior to 2004. Outlays from general fund budget authority

This section would revise the calculation of the adjustment to the highway category cap, consistent with the Administration's Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA) legislative proposal. The proposed revision would eliminate the "look-ahead" portion of the adjustment to the category in an effort to smooth the extreme peaks and valleys in highway funding levels that resulted from the revenue aligned budget authority (RABA) mechanism under the Transportation Equity Act for the 21st Century (TEA-21). The President's budget submission would include a "look-back" calculation to adjust for the actual level of highway account revenues collected. In place of the "look-ahead" adjustment in TEA-21, this provision creates a "look-now" adjustment at mid-year that modifies the highway category cap for the budget year based on the most recent estimate of highway account revenues for the current year. This "look-now" adjustment would occur when the OMB releases the Mid-Session Review document, approximately six months after the President's budget is submitted to Congress. In addition, an adjustment to the mass transit category cap would be added. The calculation of the mass transit adjustment would include the same "look-back" and "look-now" components as described above for the highway category cap.

Spending for conservation programs would be merged with the general purpose funding category and a separate cap for these programs would be discontinued.

This section includes one adjustment to the general purpose caps for Social Security Administration program integrity. The cap adjustments would equal the amount of budget authority appropriated for continuing disability reviews (CDRs), up to a maximum of $561 million in 2005, $604 million in 2006, and $662 million in 2007 through 2009 and the associated outlays in every year. Additional spending on CDRs has proven to reduce erroneous payments in this program. In the past, every $1 expended on CDRs has produced a $10 return to the taxpayer.

To avoid circumventing discretionary spending limits, the bill includes provisions to cap advance appropriations; to prohibit the bundling of emergency spending with other non-emergency funding; to assign a cost to legislation that failed to fund Pell Grant awards or to legislation that mandated higher pay raise; and to prohibit using the funds appropriated for Project BioShield for other purposes.

This section provides that any discretionary advance appropriations provided in appropriations acts in 2005 through 2009 in excess of the $23.158 billion in discretionary advance appropriations provided in 2002 would count against the discretionary cap. It also provides that if the President's authority to designate a provision as an emergency requirement is contingent on his designating one or more other provisions as emergency requirements, then none of the provisions can be considered an emergency requirement.

This section requires CBO and OMB to score appropriations for the Federal Pell Grant program at the amount needed to fully fund the award level set in appropriations acts, if the amount appropriated is insufficient to fully fund all awards. The estimate would be increased to cover any funding shortfall from previous years and reduced by any surplus carried over from previous years. If the amount appropriated exceeded the estimated full cost, the amount appropriated would be scored against that year, and the surplus would carry over as a credit against the following year's cost estimate. The rule would apply only to awards beginning with the 2005-2006 award year and would not apply to the existing shortfall (estimated at $3.7 billion for awards through award year 2004-2005). The Administration will work with Congress to find a solution to the existing shortfall that does not impede funding of new awards.

This section also requires CBO and OMB to score appropriate legislation with the additional costs of either a military or civilian pay raise that is larger than the pay raise assumed in the President's Budget. In addition, this section instructs CBO and OMB not to score provisions in a bill that change the availability of any amounts appropriated for Project BioShield.

Sec. 102. Extension of Pay-as-you-go

This section provides that legislation must not increase direct spending over a two year period, including the current year and the budget year. Tax legislation would not be subject to this requirement. In addition, an exclusion would apply for any amounts of direct spending resulting from extending provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 and certain provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003. This section would be enforced by a sequestration of direct spending equal to the net increase in new direct spending. OMB would score the effect of the legislation in the budget year and the subsequent four fiscal years of new direct spending legislation enacted before October 1, 2009.

This section also provides that an emergency designation by the President cannot be contingent on designating other provisions as emergency requirements.

The Senate has a pay-as-you-go rule that was established by the concurrent resolution on the budget and has been modified several times since. The Administration proposes that the Senate modify this pay-as-you-go rule to conform it to the proposal for section 252 as amended.

Sec. 103. Definitions

This section would revise the definitions in the Budget Enforcement Act to be consistent with the substantive revisions described in the other sections of this bill, including:

1. Deleting the definitions related to the conservation spending category.

2. Deleting the special rule that allowed excess outlays in the highway or transit category to be considered discretionary category outlays.

3. Adding a definition of "emergency requirement."

This definition codifies the criteria for an emergency that have been the standard for a number of years. It is designed to preclude funds from being declared an emergency for events that regularly occur on an annual basis. For example, even though it is not possible to predict the specific occurrence of fires, tornados, hurricanes, and other domestic disasters, it is reasonable to assume that a combination of domestic disasters will occur in any given year that require funding equal to the ten-year average for disaster relief. Funding at this ten-year average, therefore, should not be considered an emergency under this definition. On the other hand, the ten-year average for domestic disasters will not accommodate the level of funding necessary to address a large and relatively infrequent domestic disaster, like the Northridge earthquake that struck California in 1994. Under this definition for emergencies, spending for extraordinary events could be classified as emergency funding. In the end, classification of certain spending as an emergency depends on common sense judgment, made on a case-by-case basis, about whether the totality of facts and circumstances indicate a true emergency.

This definition of an emergency requirement also encompasses contingency operations that are national security related. Contingency operations that are national security related include both defense operations and foreign assistance. Military operations and foreign aid with costs that are incurred regularly should be a part of base funding and, as such, are not covered under this definition.

4. Updating definitions of the highway and mass transit categories to reflect new budget accounts.

5. Adding a definition of "Project BioShield."

6. Adding a definition for the "Federal Pell Grant program."

7. Adding definitions for a "civilian pay raise" and a "military pay raise."

8. Updating the definition of discretionary appropriations to exclude budget authority for Project BioShield.

9. Adding a definition of "advance appropriation," including appropriate budget accounts.

Sec. 104. Reports and Orders

This section conforms the sequestration reports to the new definition of pay-as-you-go that applies to a net increase or decrease in direct spending, rather than a net deficit increase or decrease.

Sec. 105. Baseline

This section would delete the current requirements to adjust the discretionary baseline for social insurance administrative expenses to make it consistent with the treatment of other administrative expenses. It would also delete the special baseline treatment for housing contract renewals because the future pattern of HUD-assisted housing contract renewals no longer requires substantial year-to-year increases in budget authority, above the rate of inflation, related to additional numbers of expiring contracts. In addition, it corrects the overcompensation of baseline budgetary resources for pay-raise related costs due to the way in which pay raises are inflated.

Currently, the baseline assumes major mandatory spending and certain taxes that expire under current law are extended, but does not assume the extension of tax reductions. This section provides the same treatment to expiring tax reduction provisions by extending in the baseline all expiring tax provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 and certain provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003. Finally, the baseline currently assumes emergency spending is permanent. Emergency spending is for one-time emergency costs and extending it permanently in the baseline artificially raises projected spending levels. As a result, this section also would exclude funding for emergency requirements from the baseline in years after the year in which it was appropriated.

Sec. 106. Reports

This section would extend the reporting requirements of the BEA through the end of fiscal year 2009.

Sec. 107. Effective Dates

This section would extend the effective dates for the Act to September 30, 2009, and for scoring PAYGO legislation to September 30, 2013.

Title II – Long-Term Unfunded Obligations

Sec. 201. Long Term Unfunded Obligations

This section would add reporting requirements and a new budget enforcement mechanism to control long-term unfunded obligations in major entitlement programs.

OMB would be required to report on increases in long-term unfunded obligations in entitlement programs. OMB would also be required to state the impact of proposals in the budget on unfunded obligations.

A new point of order in the House and Senate would apply against any legislation that increased long-term unfunded obligations in major entitlement programs.

Although government actuaries have considerable experience analyzing the long-term financial condition of programs such as Social Security, such analyses require the development of long-term estimating models and the accompanying long-run demographic, economic, and other assumptions. The results of these analyses vary considerably if small changes are made to assumptions. Expanding upon this analysis for other major entitlement programs presents a challenge. The Administration's proposal starts by including those programs in this mechanism where there is existing data on long-term obligations, such as Social Security, Medicare, and the federal retirement programs. However, it is critical to capture the long-term impact of other major entitlement programs, such as Medicaid. The Administration plans to build on agency capabilities to measure long-term unfunded obligations to provide policymakers with information on the impact of proposed changes to the long-term budget outlook.

The following constitute the elements of the rule for long-term unfunded obligations.

(a) Requirements for OMB to report on the long-run budgetary pressures of unfunded entitlement obligations, on the impact of any legislation enacted during the past year that worsens long-term unfunded obligations, and on the impact of any proposed legislation in the President's Budget. OMB's report would be submitted with the President's Budget.

(b) A point of order in the House and a 60-vote point of order in the Senate against a bill, amendment, or conference report that worsens the overall long-term unfunded obligation of a specified group of programs.

The programs subject to the rule are those entitlement programs with long-term actuarial estimates of spending and dedicated receipts (if applicable). These programs consist of:

(a) Social Security
(b) Medicare (combined Part A and Part B)

(c) Civilian retirement and disability (CSRS and FERS)
(d) Foreign service retirement and disability
(e) Federal civilian retiree health benefits
(f) Military retirement
(g) Retired military health benefits
(h) Railroad retirement
(i) Veterans disability compensation
(j) Supplemental Security Income (SSI)

Other programs would be added to the list if the Director of OMB, in consultation with CBO and the Committees on the Budget, determines that it is feasible to make long-term estimates for those programs. A leading candidate to be added is Medicaid. The requirement for estimates for veterans disability compensation would be effective as of January 1, 2006, to provide VA sufficient time to enhance its current long-term estimating capability.

The point of order would apply to the overall impact of legislation on all affected programs. Social Security would be treated separately, consistent with its treatment in the Budget Enforcement Act.

For the purpose of the point of order, the "long-term unfunded obligation" of a group of programs is defined as the expenditures of those programs, less any dedicated receipts, measured in two ways: (a) over a long-term estimating period, expressed as a present value as of the beginning of the period; and (b) during the single year at the end of the long-term estimating period, expressed in nominal dollars.

"Expenditures" include benefit payments, administrative expenses to the extent paid from a dedicated fund, and transfers under the financial interchange between the Railroad Retirement trust fund and the Social Security and Medicare trust funds. For Medicare, "expenditures" are defined as in the cost containment provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

"Dedicated receipts" include taxes and fees received from the public, payments received from Federal agencies on behalf of agency employees who are participants in the program (e.g., Federal agency payments of the employer share of Social Security payroll taxes and the accrual payments for Federal employee retirement), transfers of dedicated income tax receipts, and transfers under the financial interchange between the Railroad Retirement trust fund and the Social Security and Medicare trust funds. Dedicated receipts exclude other general fund transfers such as payments to amortize a program's unfunded liability, redirection of existing general fund revenues, and interest earnings on a program's trust fund holdings. For Medicare, dedicated receipts are defined as in the cost containment provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003

A program's "long-term estimating period" is normally 75 years. In recognition of the special budget status of Social Security, and the long lead time involved in many proposals for reform in the program, the estimating period for Social Security is an infinite horizon. For the purpose of the single year calculation for Social Security, the "last year" is defined as the 75th year of the infinite-horizon estimating period.

The point of order applies if the overall unfunded obligation of the programs affected by the legislation is worsened over the long-term estimating period by any of:

(a) 0.02% of the present value of taxable payroll (Social Security and Medicare only)
(b) 0.01% of the present value of gross domestic product (GDP)
(c) 1% of the present value of the affected programs' expenditures

It also applies if the unfunded obligation in the last year of the estimating period is worsened by any of:

(a) 0.02% of taxable payroll, if applicable, in that year (Social Security and Medicare only)
(b) 0.01% of GDP in that year
(c) 1% of the affected programs' expenditures in that year

Section 202. Points of Order in the Senate

This section extends a point of order that enforces discretionary spending limits. Section 312(b) of the Budget Act made it out of order in the Senate to consider an appropriations bill that exceeded any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, which expired on September 30, 2002. This legislation reinstates that point of order and makes it permanent.

Sec. 203. Social Security

This section amends the point of order in the House of Representatives that addresses the old-age, survivors, and disability insurance programs under title II of the Social Security Act to be consistent with the proposed rule for long-term unfunded obligations.

Sec. 204. Exercise of Rulemaking Powers

In proposing the points of order on long-term unfunded obligations and in reinstating and making permanent the discretionary spending point of order in the Senate, the Administration is cognizant that these provisions are an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and this section reiterates the constitutional right of either House to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of such House.