

112TH CONGRESS
2^D SESSION

H. R. 6365

AN ACT

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 to replace the sequester established by the Budget Control Act of 2011.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Security and
3 Job Protection Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Current law requires that there be across-
7 the-board cuts, known as a “sequester”, imposed on
8 January 2, 2013. The sequester will result in a 10
9 percent reduction in non-military personnel pro-
10 grams of the Department of Defense and an 8 per-
11 cent reduction in certain domestic programs, such as
12 the National Institutes of Health (NIH) and border
13 security.

14 (2) Intended as a mechanism to force action,
15 there is bipartisan agreement that the sequester
16 going into place would undercut key responsibilities
17 of the Federal Government.

18 (3) As the Administration stated in its fiscal
19 year 2013 budget request, “[Sequestration] would
20 lead to significant cuts to critical domestic programs
21 such as education and research and cuts to defense
22 programs that could undermine our national secu-
23 rity. * * * [C]uts of this magnitude done in an
24 across-the-board fashion would be devastating both
25 to defense and non-defense programs.” (The Budget

1 of the United States Government, Fiscal Year 2013,
2 p. 24, February 13, 2012).

3 (4) On March 29, 2012, The House of Rep-
4 resentatives passed H. Con. Res. 112, the budget
5 resolution for fiscal year 2013, which includes rec-
6 onciliation instructions directing House Committees
7 to craft legislation that would achieve the savings re-
8 quired to replace the sequestration called for in fis-
9 cal year 2013, as established by the Budget Control
10 Act of 2011.

11 (5) On May 10, 2012, the House of Represent-
12 atives passed H.R. 5652, the Sequestration Replace-
13 ment Reconciliation Act of 2012, which would re-
14 place the \$98 billion sequestration of discretionary
15 spending called for in 2013, as established by the
16 Budget Control Act of 2011, by making changes in
17 law to reduce direct spending by \$310 billion
18 through fiscal year 2022.

19 (6) An analysis of the impact of the sequestra-
20 tion prepared for the Chairman of the House Armed
21 Services Committee found that if left in place, se-
22 questration would cut the military to its smallest
23 size since before the Second World War, all while we
24 are still a nation at war in Afghanistan, facing in-

1 creased threats from Iran and North Korea, unrest
2 in the Middle East, and a rising China.

3 (7) Major consequences identified by the House
4 Armed Services Committee include the following:

5 (A) 200,000 soldiers and Marines sepa-
6 rated from service, bringing our force well
7 below our pre-9/11 levels.

8 (B) Ability to respond to contingencies in
9 North Korea or Iran at jeopardy.

10 (C) The smallest ground force since 1940.

11 (D) A fleet of fewer than 230 ships, the
12 smallest level since 1915.

13 (E) The smallest tactical fighter force in
14 the history of the Air Force.

15 (F) Our nuclear triad that has kept the
16 U.S. and 30 of our allies safe for decades will
17 be in jeopardy.

18 (G) Reductions of 20 percent in defense ci-
19 vilian personnel.

20 (H) Two BRAC rounds of base closings.
21 (House Armed Services Committee memo enti-
22 tled “Assessment of Impacts of Budget Cuts”,
23 September 22, 2011).

1 (8) Secretary Panetta and the professional mili-
2 tary leadership have also looked at the impact of se-
3 questration and reached similar conclusions.

4 (9) Secretary Panetta stated, “If the maximum
5 sequestration is triggered, the total cut will rise to
6 about \$1 trillion compared with the FY 2012 plan.
7 The impacts of these cuts would be devastating for
8 the Department * * * Facing such large reductions,
9 we would have to reduce the size of the military
10 sharply. Rough estimates suggest after ten years of
11 these cuts, we would have the smallest ground force
12 since 1940, the smallest number of ships since 1915,
13 and the smallest Air Force in its history.” (Sec-
14 retary Panetta, Letter to Senator John McCain, No-
15 vember 14, 2011).

16 (10) General Dempsey, Chairman of the Joint
17 Chiefs of Staff, stated, “[S]equestration leaves me
18 three places to go to find the additional money: op-
19 erations, maintenance, and training. That’s the defi-
20 nition of a hollow force.”.

21 (11) The individual branch service chiefs echoed
22 General Dempsey:

23 (A) “Cuts of this magnitude would be cat-
24 astrophic to the military * * * My assessment
25 is that the nation would incur an unacceptable

1 level of strategic and operational risk.”—Gen-
2 eral Ray T. Odierno, Chief Of Staff, United
3 States Army.

4 (B) “A severe and irreversible impact on
5 the Navy’s future”—Admiral Jonathan W.
6 Greenert, Chief of Naval Operations.

7 (C) “A Marine Corps below the end
8 strength that’s necessary to support even one
9 major contingency,”—General James F. Amos,
10 Commandant of the Marine Corps.

11 (D) “Even the most thoroughly deliberated
12 strategy may not be able to overcome dire con-
13 sequences,”—General Norton A. Schwartz,
14 Chief of Staff, United States Air Force (Testi-
15 mony of Service Chief before House Armed
16 Services Committee, November 2, 2011).

17 (12) According to an analysis by the House Ap-
18 propriations Committee, the sequester will also have
19 a significant impact on non-defense discretionary
20 programs, including the following:

21 (A) Automatically reducing Head Start by
22 \$650 million, resulting in 75,000 fewer slots for
23 children in the program.

24 (B) Automatically reducing the National
25 Institutes of Health (NIH) by \$2.4 billion, an

1 amount equal to nearly half of total NIH
2 spending on cancer this year.

3 (C) A reduction of approximately 1,870
4 Border Patrol Agents (a reduction of nearly 9
5 percent of the total number of agents).

6 (13) Beyond the negative impacts sequestration
7 will have on defense readiness, it will also undermine
8 the industrial base needed to equip our armed forces
9 with the weapons and technology they need to com-
10 plete their mission. A study released by the National
11 Association of Manufacturers suggests that 1.1 mil-
12 lion workers in the supply chain could be adversely
13 affected, including 3.4 percent of workers in the
14 aerospace industry, 3.3 percent of the workforce in
15 the shipbuilding industry and 10 percent of the
16 workers in the search and navigation equipment in-
17 dustry.

18 **SEC. 3. CONDITIONAL REPLACEMENT FOR FY 2013 SEQUES-**

19 **TER.**

20 (a) CONTINGENT EFFECTIVE DATE.—This section
21 and the amendments made by it shall take effect upon
22 the enactment of—

23 (1) the Act contemplated in section 201 of H.
24 Con. Res. 112 (112th Congress) that achieves at

1 least the deficit reduction called for in such section
2 for such periods; or

3 (2) similar legislation that achieves outlay re-
4 ductions within five years after the date of enact-
5 ment that equal or exceed the outlay reductions
6 flowing from the budget authority reductions man-
7 dated by sections 251A(7)(A) and 251A(8) of the
8 Balanced Budget and Emergency Deficit Control
9 Act of 1985, as in force immediately before the date
10 of enactment of this Act, as it applies to direct
11 spending in the defense function for fiscal year 2013
12 combined with the outlay reductions flowing from
13 the amendment to section 251A(7)(A)(i) of the Bal-
14 anced Budget and Emergency Deficit Control Act of
15 1985 made by subsection (c) of this section.

16 (b) REVISED 2013 DISCRETIONARY SPENDING
17 LIMIT.—Paragraph (2) of section 251(c) of the Balanced
18 Budget and Emergency Deficit Control Act of 1985 is
19 amended to read as follows:

20 “(2) with respect to fiscal year 2013, for the
21 discretionary category, \$1,047,000,000,000 in new
22 budget authority;”.

23 (c) DISCRETIONARY SAVINGS.—Section 251A(7)(A)
24 of the Balanced Budget and Emergency Deficit Control
25 Act of 1985 is amended to read as follows:

1 “(A) FISCAL YEAR 2013.—

2 “ (i) FISCAL YEAR 2013 ADJUST-
3 MENT.—On January 2, 2013, the discre-
4 tionary category set forth in section
5 251(c)(2) shall be decreased by
6 \$19,104,000,000 in budget authority.

7 “ (ii) ENFORCEMENT OF DISCRE-
8 TIONARY SPENDING CAPS.—OMB shall
9 issue a supplemental report consistent with
10 the requirements set forth in section
11 254(f)(2) for fiscal year 2013 using the
12 procedures set forth in section 253(f) on
13 April 15, 2013, to eliminate any discre-
14 tionary spending breach of the spending
15 limit set forth in section 251(c)(2) as ad-
16 justed by clause (i), and the President
17 shall issue an order to eliminate the
18 breach, if any, identified in such report.”.

19 (d) ELIMINATION AND CONDITIONAL REPLACEMENT
20 OF THE FISCAL YEAR 2013 SEQUESTRATION FOR DIRECT
21 SPENDING.—

22 (1) ELIMINATION.—Any sequestration order
23 issued by the President under the Balanced Budget
24 and Emergency Deficit Control Act of 1985 to carry
25 out reductions to direct spending for the defense

1 function (050) for fiscal year 2013 pursuant to sec-
2 tion 251A of such Act shall have no force or effect.

3 (2) **CONDITIONAL REPLACEMENT.**—To the ex-
4 tent that legislation enacted pursuant to section
5 3(a)(2) achieves outlay reductions that exceed the
6 outlay reductions flowing from the budget authority
7 reductions required in section 251A(8) of the Bal-
8 anced Budget and Emergency Deficit Control Act of
9 1985, as in force immediately before the date of en-
10 actment of this Act, the direct spending reductions
11 for the nonsecurity category for fiscal year 2013
12 otherwise required to be ordered pursuant to such
13 section shall be reduced by that amount, and Con-
14 gress so designates for such purpose.

15 **SEC. 4. PRESIDENTIAL SUBMISSION.**

16 Not later than October 15, 2012, the President shall
17 transmit to Congress a legislative proposal that meets the
18 requirements of section 3(a)(2) of this Act.

Passed the House of Representatives September 13,
2012.

Attest:

Clerk.

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