

Congressman David Dreier
H.R. 2664, the Biennial Budgeting and Appropriations Act of 2005
Section-by-Section

“To provide for a biennial budget and appropriations process and to enhance programmatic oversight and the management, efficiency, and performance of the Federal Government.”

Short Summary: Establishes a two-year budgeting and appropriations cycle and timetable. Defines the budget biennium as the two consecutive fiscal years beginning on October 1 of any odd-numbered year. Sets forth a special timetable for any first session that begins in any year during which the term of a President begins (except one who starts a second consecutive term).

Section 1. Short Title. This Act may be cited as the Biennial Budgeting and Appropriations Act.

Section 2. Revision of Timetable. Amends section 300 of the Congressional Budget and Impoundment Control Act of 1974 to revise the timetable of the congressional budget process to reflect a biennial budget schedule. The first session of any Congress is primarily devoted to the consideration of the budget resolution, the regular appropriations bills, and any necessary reconciliation legislation. In general, the revised timetable is similar to the current timetable except that most of the milestones only apply to the first session of a Congress. The timetable is modified to extend the deadline for completion of the biennial budget resolution to May 15th. The revised timetable contains only three deadlines for the second session: (1) the President must submit a mid-biennium budget review to Congress by February 15th; (2) the Congressional Budget Office must submit its annual report to the Budget Committees of the House and the Senate no later than six weeks after the President submits the budget review; and (3) Congress must complete action on bills and resolutions authorizing new budget authority for the succeeding biennium by the last day of the session. This section also creates a new section 300(b) of the Budget Act that establishes a special timetable for the submission and consideration of a budget in the case of any first session of Congress that begins in any year during which the term of a President (except a President who succeeds himself) begins. Generally, the budget deadlines are extended by 6 weeks to give a new President more time to prepare and submit the budget.

Section 3. Amendments to the Congressional Budget and Impoundment Control Act of 1974. Section 3(a) amends section 2(2) of the Budget Act relating to the “Declaration of Purposes” of the Budget Act to account for the congressional determination biennially of the appropriate level of Federal revenues and expenditures.

Section 3(b)(1) amends the definition of a budget resolution in section 3(4) of the Budget Act to reflect its application to a biennium as opposed to a fiscal year.

Section 3(b)(2) amends section 3 of the Budget Act by adding a new paragraph (11) to define the term biennium as “the period of two consecutive fiscal years beginning on October 1 of any odd-numbered year.”

Section 3(c) amends the Budget Act to make the budget resolution a biennial concurrent resolution on the budget.

Section 3(c)(1) amends section 301(a) of the Budget Act regarding the required contents of the budget resolution to conform its application to the biennium beginning on October 1 of each odd-numbered year and its consideration to the biennial timetable for completion, which is by May 15 of each odd-numbered year.

Section 3(c)(2) amends section 301(b) of the Budget Act to ensure that the additional matters which may be included in the budget resolution apply to a biennium.

Section 3(c)(3) amends section 301(d) of the Budget Act to conform the submission of committee views and estimates to the Budget Committees to a biennial cycle.

Section 3(c)(4) amends section 301(e)(1) of the Budget Act to conform the requirements of the Budget Committee's hearings on the budget and the Budget Committee's reporting of the budget resolution to a biennial schedule. The House Budget Committee would report a biennial budget resolution by April 1st of each odd-numbered year.

Section 3(c)(5) amends section 301(f) of the Budget Act relating to the achievement of goals for reducing unemployment to conform it to a biennial cycle.

Section 3(c)(6) amends section 301(g)(1) of the Budget Act to conform the provisions relating to the economic assumptions of the budget resolution to a biennial schedule.

Sections 3(c)(7) and (8) amend section 301 to make conforming changes to the section heading and the table of contents of the Budget Act.

Section 3(d) amends section 302(a) of the Budget Act, regarding committee allocations in the budget resolution, to require the conference report on a budget resolution to include an allocation of budget authority and outlays to each committee for each year in the biennium and the total of all fiscal years covered by the resolution as well as makes conforming change to subsections (f) and (g) of section 302 to reflect a biennial cycle and the biennial timetable.

Section 3(e)(1) amends section 303(a) of the Budget Act, which prohibits consideration of legislation, as reported, providing new budget authority, changes in revenues, or changes in the public debt for a fiscal year until the budget resolution for that year has been agreed to, to reflect the application of the budget resolution to a biennium.

Section 3(e)(2) amends section 303(b) of the Budget Act relating to the exceptions in the House of Representatives from the application of this point of order, to account for a biennial budget cycle. The application of these exceptions are also amended to reflect the special biennial timetable utilized during the first term of a new President.

Section 3(e)(3) amends section 303(c)(1) of the Budget Act to conform the application of this point of order in the Senate to a biennial budget cycle.

Section 3(f) amends section 304 of the Budget Act, regarding permissible revisions of budget resolutions, to conform to the biennial budget cycle. This subsection maintains current law which allows Congress to revise the budget resolution at any time during the biennium.

Section 3(g) amends section 305(a)(3) of the Budget Act, relating to the procedures for consideration of the budget resolution, to conform references to the budget resolution to account for its application to a biennium.

Section 3(h) amends section 307 of the Budget Act to conform the timetable for completing House Appropriations Committee action on regular appropriations bills by June 10 to a biennial cycle. This section also makes conforming amendments to reflect the special biennial timetable utilized during the first term of a new President.

Section 3(i) amends section 308 of the Budget Act to require the Congressional Budget Office to file quarterly budget reports with the House and Senate Budget Committees. These reports are to compare revenues, spending, and the deficit or surplus for the current fiscal year with the assumptions used in the congressional budget resolution. CBO is also required to make the reports available to other interested parties upon request. These reports will enable the Congress to compare actual budget results to earlier estimates. The frequent periodic reports by CBO on the progress of fiscal policy and economic developments since action on the budget resolution will inform the Congress about current status of the budget and its earlier underlying projections by using updated projections and actual budget figures to date. The reports can also serve to facilitate additional reconciliation legislation (between biennial budget resolutions) as necessary due to changes in the economy or policy emphasis.

Section 3(j) amends section 309 of the Budget Act to conform the timetable for completion of all House action on the regular appropriation bills before the House adjourns for more than three calendar days during the month of July. This section also makes conforming amendments to reflect the special biennial timetable utilized during the first term of a new President.

Section 3(k) amends section 310 of the Budget Act to conform the reconciliation process to a biennial budget cycle. It also strikes subsection (I) which currently prohibits the House from adjourning for more than 3 calendar days during the month of July until all required reconciliation legislation is completed. This is necessary to reflect the budget resolutions application to the biennium and the possibility of considering reconciliation legislation during the second session.

Sections 3(l)(1) and (2) amend section 311(a)(1) and (2) of the Budget Act respectively, to prohibit consideration in the House or Senate of any legislation that would cause the total levels of budget authority or total levels of outlays to greater than or that would cause the total level of revenues to be less than those levels set forth in the most recently agreed to budget resolution for either fiscal year of the biennium or for the total of each fiscal year in the biennium and the ensuing fiscal years for which allocations are provided in the budget resolution.

Section 3(l)(3) amends section 311(a)(3) of the Budget Act to conform the point of order in the Senate against any legislation that would cause a decrease in the Social Security levels set forth in the budget resolution for a biennial budget cycle.

Section 3(m) amends section 312(c) of the Budget Act to conform the Senate's maximum deficit amount point of order for a biennial budget cycle.

Section 4. Amendments to the Rules of the House of Representatives. Section 4(a) amends clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives, relating to the required Appropriations Committee hearings on the President's budget submission, to conform to the biennial timetable.

Section 4(b) amends clause 4(a)(4) of Rule X of the Rules of the House, relating to the suballocations of the Appropriations Committee, to conform to a biennial budget resolution.

Section 4(c) amends clause 4(b)(2) of Rule X of the Rules of the House, relating to the Budget Committee's hearings on the budget, to conform to a biennial budget resolution.

Section 4(d) amends clause 4(b) of Rule X of the Rules of the House to add a new subparagraph (7), to require the House Budget Committee to use the second session of each Congress to study issues with long-term budgetary and economic implications, including holding hearings and receiving testimony from committees of jurisdiction to identify problem areas and to report on the results of their oversight activities. The Budget Committee should issue to the Speaker by January 1 of each odd-numbered year a report identifying the key issues facing the Congress in the next biennium.

Section 4(e) amends clause 11(i) of Rule X of the Rules of the House, relating to the duties of the Permanent Select Committee on Intelligence, to conform to a biennial budget cycle~

Section 4(f) amends clause 4(e) of Rule X of the Rules of the House, relating to the duties of the standing committees of the House to maximize annual appropriations for the programs and activities within their jurisdictions, to establish a new preference for biennial appropriations.

Section 4(g) amends clause 4(f) of Rule X of the Rules of the House, relating to the Budget Act responsibilities of the standing committees of the House, to conform to a biennial timetable.

Section 4(h) amends clause 3(d)(2)(A) of Rule XIII of the Rules of the House, relating to committee cost estimates, to conform to a biennial timetable.

Section 4(i) amends clause 5(a)(1) of Rule XIII of the Rules of the House, relating to privileged reports from the Appropriations Committee, to conform to a biennial timetable.

Section 5. Amendments to Title 31, United States Code. Section 5(a) amends section 1101 of Title 31 to define the term biennium as "the period of two consecutive fiscal years beginning on October 1 of any odd-numbered year." This is the same definition given such term in paragraph (11) of section 3 of the Budget Act.

Section 5(b)(1) amends section 1105 of Title 31 to require that on or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300~) of the Budget Act), the President shall transmit to Congress, the budget for the biennium beginning on October 1 of such calendar year. The President must include a budget message and summary and supporting information with the budget submission.

Section 5(b)(2) amends section 1105(a)(5) of Title 31 to conform the required contents of the budget submission with respect to expenditures to account for a biennial budget cycle.

Section 5(b)(3) amends section 1105(a)(6) of Title 31 to conform the required contents of the budget submission with respect to receipts to account for a biennial budget cycle.

Section 5(b)(4) amends section 1105(a)(9)(C) of Title 31 to conform the required contents of the budget submission with respect to balance statements to account for a biennial budget cycle.

Section 5(b)(5) amends section 1105(a)(12) of Title 31 to conform the required contents of the budget submission with respect to government functions and activities to account for a biennial budget cycle.

Section 5(b)(6) amends section 1105(a)(13) of Title 31 to conform the required contents of the budget submission with respect to allowances to account for a biennial budget cycle.

Section 5(b)(7) amends section 1105(a)(14) of Title 31 to conform the required contents of the budget submission with respect to allowances for unanticipated and uncontrollable expenditures to account for a biennial budget cycle.

Section 5(b)(8) amends section 1105(a)(16) of Title 31 to conform the required contents of the budget submission with respect to tax expenditures to account for a biennial budget cycle.

Section 5(b)(9) amends section 1105(a)(17) of Title 31 to conform the required contents of the budget submission with respect to estimates for future fiscal years to account for a biennial budget cycle.

Section 5(b)(10) amends section 1105(a)(18) of Title 31 to conform the required contents of the budget submission with respect to prior year outlays to account for a biennial budget cycle.

Section 5(b)(11) amends section 1105(a)(19) of Title 31 to conform the required contents of the budget submission with respect to prior year receipts to account for a biennial budget cycle.

Section 5(c) amends section 1105(b) of Title 31, regarding estimated expenditures and proposed appropriations for the legislative and judicial branches, to require the submission of these proposals to the President by October 16th of even-number years.

Section 5(d) amends section 1105(c) of Title 31, regarding the President's recommendations if there is a proposed deficit or surplus, to conform to a biennial budget cycle.

Section 5(e) amends section 1105(e)(1) of Title 31, regarding capitol investment analyses, to conform to a biennial budget cycle.

Sections 5(f)(1) and (2) amends section 1106(a) and (b) of Title 31 respectively, relating to the President's submission of supplemental budget estimates and changes, to conform to a biennial budget cycle. The President is still required to submit a Mid-session Review of the budget by July 16 of each year as well as will now be required to also submit a Mid-biennium Review on or before February 15 of each even numbered year.

Section 5(g)(1) amends section 1109(a) of Title 31, regarding the President's submission of current program and activity estimates, to conform to a biennial budget cycle and require its submission with the overall budget submission for each odd-numbered year as required by section 1105.

Section 5(g)(2) amends section 1109(b) of Title 31, regarding the Joint Economic Committee's analysis of the President's current program and activity estimates, to require the Joint Economic Committee to submit an economic evaluation of such estimates to the Budget Committee as part of its views and estimates within 6 weeks of the President's budget submission for each odd-numbered year.

Section 5(h) amends section 1110 of Title 31, regarding advance requests for authorization legislation to require the President to submit requests for authorization legislation by March 31st of even-numbered years.

Section 6. Two-Year Appropriations; Title and Style of Appropriations Acts. Section 6 amends section 105 of Title I of the U.S. Code to conform the statutory style and definition of appropriations Acts to require that they cover each of two fiscal years of a biennium.

Section 7. Multi-Year Authorizations. Section 7(a) amends Title III of the Budget Act by adding a new section 316 that establishes a new point of order in the House and Senate against the consideration of any bill, joint resolution, amendment, motion or conference report that does contain a specific authorization of appropriations for: any purpose for less than each fiscal year in one or more bienniums. This prohibition does not apply to an authorization of appropriations for a single fiscal year for any program, project or activity if the measure (defined as a bill, joint resolution, amendment, motion or conference report) containing that authorization includes a provision expressly stating the following: "Congress finds that no authorization of appropriation will be required for [Insert name of applicable program, project, or activity] for any subsequent fiscal year." It further defines a specific authorization of appropriations as an authorization for the enactment of an amount of appropriations or amounts not to exceed an amount of appropriations (whether stated as a sum certain, as a limit,, or as such sums as may be necessary) for any purpose for a fiscal year.

Section 7(b) amends section 1(b) of the Budget Act to conform the table of contents of the Budget Act to account for this new section 316.

Section 8. Government Strategic and Performance Plans on a Biennial Basis. Section 8 amends the Government and Performance and Results Act of 1993 (the Results Act) to incorporate GPRA into the biennial budget cycle. The Results Act requires federal agencies to develop strategic plans, performance plans, and performance reports. Strategic plans set out the agencies' missions and general goals. Performance plans lay out the specific quantifiable goals and measures. Performance reports compare actual performance with the goals of past performance plans. The Results Act currently requires federal agencies to consult with congressional committees as they develop their strategic plans. The Results Act requires all federal agencies to submit their strategic and performance plans to the Office of Management and Budget, along with their budget submissions, by September 30 of each year. Finally, the Results Act requires the President to include a performance plan for the entire government.

Sections 8(a) through (g) amend section 306 of title 5, sections 1105, 1119 and 9703 of title 31, and sections 2802 and 2803 of title 39 of require agencies to prepare strategic and performance plans every two years, in conjunction with the President's development of a biennial budget. In addition, these amendments make other changes to conform strategic and performance plans to a biennial budget cycle.

Section 8(h) amends section 301(d) of the Budget Act to require Congressional committees to review the strategic plans, performance plans, and performance reports of agencies in their jurisdiction. Committees may then provide their views on the agency's plans or reports as part of their views and estimates on the President's budget submitted to the Budget Committees.

Section 8(i) provides that the amendments by this section shall take effect on March 1, 2008.

Section 9. Biennial Appropriations Bills. Section 9(a)(1) amends clause 2(a) of House Rule XXI to provide that in the House of Representatives an appropriation may not be reported in a general appropriation bill (other than a supplemental appropriation bill), and may not be in order as an amendment thereto, unless it provides new budget authority or establishes a level of obligations under contract authority for each fiscal year of a biennium. It further provides that this prohibition shall not apply with respect to an appropriation for a single fiscal year for any program, project, or activity if the bill or amendment thereto containing that appropriation includes a provision expressly stating the following: Congress finds that no additional funding beyond one fiscal year will be required and the [Insert name of applicable program, project, or activity] will be completed or terminated after the amount provided has been expended." The subparagraph is further amended to provide that such a statement shall not constitute legislating on an appropriation bill if it is included with an appropriation for a single fiscal year for any program, project, or activity.

Section 9(a)(2) amends clause 5(b)(1) of House Rule XXII to apply similar prohibitions against appropriation conference reports.

Section 9(b)(1) amends Title III of the Congressional Budget Act of 1974 to add a new section 317 to create a point of order in the Senate against consideration in any odd-numbered year of any regular appropriation bill providing new budget authority or a limitation on obligations under the jurisdiction of the Committee on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond one year and will be completed or terminated after the amount provided has been expended.

Section 9(b)(2) amends section 1(b) of the Budget Act to conform the table of contents of the Budget Act to account for this new section 317.

Section 10. Assistance By Federal Agencies to Standing Committees of the House of Representatives and the Senate. Section 10(a) requires the head of each Federal agency under the jurisdiction of a standing committee to provide to committee those studies, information, analyses, reports, and assistance as may be requested by the chairman and ranking minority member of the committee.

Section 10(b) requires the head of each Federal agency to furnish to such committee documentation containing information received, compiled, or maintained by the agency as part of the operation or administration of a program, or specifically compiled pursuant to a request in support of a review of a program, as may be requested by the chairman and ranking minority member of such committee.

Section 10(c) requires that, within 30 days after the receipt of a request from a chairman and ranking minority member of a standing committee having jurisdiction over a program being reviewed, the Comptroller General furnish to the committee summaries of any audits or reviews of such program the Comptroller General has completed during the preceding six years.

Section 10(d) reaffirms the role of the Comptroller General, the Director of the Congressional Research Service, and the Director of the Congressional Budget Office to furnish (consistent with established protocols) to each standing committee of the House and Senate such information, studies, analyses, and reports as the chairman and ranking minority member may request to assist the committee in conducting reviews and studies of programs under its jurisdiction.

Section 11. Report on Two-Year Fiscal Period. Requires that, not later than 180 days after the enactment of this Act, the Director of OMB shall determine the impact of changing the definition of a fiscal year and the budget process based on that definition to a 2 year fiscal period with a biennial budget process based on the 2 year period, and shall report his findings to the Committees on Budget in the House and Senate and the Committee on Rules in the House.

Section 12. Special Transition Period for the 110th Congress. Section 12(a) requires the President to include in the FY 2007 budget submission an identification of the budget accounts for which an appropriation should be made for each fiscal year of the FY 2008-2009 biennium and any necessary budget authority that should be provided for each such fiscal year for those identified budget accounts.

Section 12(b) requires the Appropriations Committees of each House to review the President's recommendations and include an assessment of those recommendations and any recommendations of their own in the committee's overall views and estimates on the President's budget which they are required to submit to their respective Budget Committees.

Section 12(c)(1) requires the Budget Committees of each House to review the recommendations of both the President and the Appropriations Committees with respect to those budget accounts that should be funded for the biennium.

Section 12(c)(2) requires the report of the Committee on the Budget of each House and the joint explanatory statement of the managers accompanying the budget resolution for FY 2008 to include an allocation to the Appropriations Committees for FY 2009 from which the Appropriations Committee can fund certain accounts in the FY 2008 appropriation bills for each of the fiscal years in the FY 2008-2009 biennium.

Section 12(c)(3) requires the report of the Committee on the Budget of each House and the joint explanatory statement of the managers accompanying the budget resolution for FY 2008 to include the assumptions upon which the allocation to the Appropriations Committees for FY 2008 is made.

Section 12(d)(2) directs the GAO to work with the Committees of Congress during the first session of 110th Congress to develop plans to transition program authorizations to a multi-year schedule.

Section 12(d)(2) requires GAO to continue to provide assistance to the Congress with respect to programmatic oversight and in particular to assist committees in designing and conforming programmatic oversight procedures for the Fiscal Year 2009-2010 biennium.

Section 12(e) provides for a CBO report to Congress (before January 15, 2008) listing all those programs and activities that were funded during FY 2008 with no authorization and all those programs and activities whose authorizations will expire during that fiscal year, FY 2009 and FY 2010.

Section 12(f) requires the President's budget submission for FY 2009 to including an evaluation of and recommendations regarding the transitional biennial budget process for the fiscal year 2008-2009 biennium.

Section 12(g) requires CBO to issue a report on or before March 31, 2008 include an evaluation of and recommendations regarding the transitional biennial budget process for the fiscal year 2008-2009 biennium.

Section 13. Effective Date. Except as provided by sections 8, 11 and 12, the Act is effective January 1, 2009, and applicable to budget, authorization and appropriations legislation for the biennium beginning in FY 2010.