OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Pub. L. 103-66, 107 Stat. 312, August 10, 1993

From the Congressional Record

CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

(House of Representatives - August 04, 1993)

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Mr. SABO submitted the following conference report and statement on the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994:

Conference Report (H. Rept. 103-213)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

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TITLE XIV--BUDGET PROCESS PROVISIONS

Note that the House recedes to the Senate on all material related to the executive and congressional budget process. The House conferees agreed to recede based on their understanding that inclusion of that material would make the entire conference report subject to a point of order in the Senate under section 306 of the Congressional Budget Act of 1974 and thereby endanger final enactment of the reconciliation bill. Therefore, the conferees' decisions should not be considered as necessarily judging the relative merits of the Senate and House positions.

DISCRETIONARY SPENDING LIMITS, THE PAY-AS-YOU-GO REQUIREMENT, AND RELATED PROCEDURES

Summary

Subtitles A and B of Title XV (Budget Process) of the House-passed bill amend the Balanced Budget and Emergency Deficit Control Act of 1985, more commonly known as the Gramm-Rudman-Hollings (GRH) Act, and the Congressional Budget Act (CBA) of 1974. The purpose of the amendments is to extend the discretionary spending limits and pay-as-you-go (PAYGO) requirement, both enforced by sequestration, through fiscal year 1998, and to make other changes in the budget process. Subtitle A, called the Budget Enforcement Act (BEA) of 1993, revises the procedures under the Gramm-Rudman-Hollings Act for enforcement of the discretionary spending limits and the pay-as-you-go requirement. Subtitle B revises and extends the discretionary spending limits in the Congressional Budget Act of 1974 (and makes other changes in the congressional budget process, which this joint statement discusses below).

Title XIV (Enforcement Procedures) of the Senate amendment extends the discretionary spending limits and the pay-as-you-go requirement through fiscal year 1998, and makes minor modifications in the procedures for enforcing them, by amending the Congressional Budget Act and the Gramm-Rudman-Hollings Act

In conference, the House recedes to the Senate. As noted, both the House and the Senate extend the discretionary caps and the pay-as-you-go requirement through 1998. Both chambers consider this extension to be important for enforcing the overall budget and economic plan. Thus, the conference disposition of title XV, subtitle A, of the House bill and title XIV of the Senate bill is consistent with the intent of both chambers.

Background

Congress enacted the Gramm-Rudman-Hollings Act (Pub. L. No. 99-177, tit. II, 99 Stat. 1037, 1038-1101 (1985)) in late

1985, following a period of prolonged deadlock over budgetary policies, to provide a strong incentive for the President and Congress to reduce the deficit each year through the regular legislative process. The Gramm-Rudman-Hollings Act established a declining series of deficit targets (referred to as 'maximum deficit amounts') leading to a balanced budget in fiscal year 1991. The Act enforced the deficit targets by the sequestration process, under which automatic, across-the-board spending reductions would occur if the projected deficit exceeded the deficit targets.

Two years later, after the Supreme Court ruled the sequestration triggering mechanism in the Gramm-Rudman-Hollings Act unconstitutional in Synar v. Bowsher, 478 U.S. 714 (1986), Congress amended the Act (by the Balanced Budget and Emergency Deficit Control Act of 1987, Pub. L. No. 100-119, tit. I, 101 Stat. 754, 754-784 (1987)), extending the goal of a balanced budget to fiscal year 1993 and placing responsibility for the automatic triggering of sequestration in the hands of the Director of the Office of Management and Budget (OMB).

Congress fundamentally revised the sequestration process with the Budget Enforcement Act (BEA) of 1990 (title XIII of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, tit. XIII, 104 Stat. 1388, 1388-573 to -630 (Nov. 5, 1990) (codified as amended in scattered sections of 2 U.S.C. and at 15 U.S.C. Sec. 1022 (Supp. II 1990)). First, the Act extended the process through fiscal year 1995 (although the budget was not required, nor expected, to be balanced by that time). Second, the Act made the deficit targets adjustable for changes in economic conditions and other factors. Third, the Act established adjustable discretionary spending limits to control the growth of annual appropriations and instituted a pay-as-you-go (PAYGO) requirement to ensure that legislative changes in mandatory spending and revenue levels do not increase the deficit in the net. The act also made these latter two procedures (in effect through fiscal year 1995) enforceable by sequestration. Congress intended that the appropriations caps and the pay-as-you-go requirement would control subsequent legislation, so that Congress and the President would not undo the deficit reduction that the 1990 budget summit agreement accomplished. Congress has the same purpose for extending the appropriations caps and the pay-as-you-go requirement in this Act--to prevent future legislation from undoing the spending cuts and revenue increases agreed to in the budget resolution and the other titles of this Act, the Omnibus Budget Reconciliation Act (OBRA) of 1993.

The Congressional Budget Act of 1974 is linked to the procedures under the Gramm-Rudman-Hollings Act in various ways. In particular, the Congress Budget Act of 1974 sets forth the deficit targets and discretionary spending limits used for purposes of sequestration.

1. Definitions (Section 250 Of Gramm-Rudman-Hollings)

Current Law

Section 250 of the Gramm-Rudman-Hollings Act provides 21 definitions and treatments that underlie the other sections of the Act. Included are 'budget authority,' 'outlays,' 'deficit,' 'sequester,' "beach,' 'baseline,' 'discretionary appropriation,' and 'deposit insurance,' among others.

House Bill

The House bill includes many wording changes. (In the following description, all references are to the paragraph numbers in the House bill unless noted.)

In section 250(b)(1), the bill deletes a provision that includes the Health Insurance (HI) Trust Fund (Medicare Part A) in the budget for purposes of Gramm-Rudman-Hollings. That provision is also deleted in the existing section 257(b)(3). Instead, a single provision treating HI as on-budget for all purposes of Gramm-Rudman-Hollings is included in the new section 250(b)(20). A similar general rule is incorporated into the Congressional Budget Act by an amendment made in subtitle B to section 403 of that Act.

In section 250(b)(2) and many places throughout the bill, any reference to 'budgetary resources' is changed to a reference to 'budget authority.' This simplification is made possible by a change in the definition of budget authority, in the Congressional Budget Act, made by subtitle B.

In section 250(b)(3) the term 'breach' is modified by deleting obsolete references to 'categories.' The bill also codifies existing practice, that the measurement of enacted appropriations follows rules specified in section 257, the baseline. (Those rules themselves are also clarified, especially regarding part-year appropriations.)

The existing section 250(b)(4), defining 'category,' is deleted as obsolete.

In section 250(b)(6), defining 'discretionary,' and in section 250(b)(7), defining 'direct spending,' scorekeeping rule #3 is codified. This scorekeeping rule has been Gramm-Rudman-Hollings practice since 1990 and congressional practice since the Congressional Budget Act was enacted, if not before. Under scorekeeping rule #3, if the Appropriations Committee writes substantive legislation that would otherwise be considered direct spending, the effect is charged against the discretionary caps. Vice versa if an authorizing committee writes provisions that would otherwise be considered discretionary appropriations. The purpose is to maximize Committee accountability.

When this scorekeeping rule is invoked, OMB later reclassifies the amount of 'otherwise direct spending' placed on the discretionary scorecard (or the amount of discretionary spending placed on the pay-as-you-go scorecard), using the authority to reclassify under section 251(b)(1). Thus, for example, if an appropriations Act includes a direct spending increase, initially the Appropriations Committee is held accountable by having the increase entered on the discretionary scorecard, but ultimately it is held accountable by having the discretionary caps lowered by the amount of the increase.

In section 250(b)(8) which replaces (b)(18), the bill envisions a new list of mandatory and discretionary appropriations to be included in the Statement of Managers. It should be noted that even with no changes in definitions or interpretations, the existing list needs updating (and can be updated without a change in statute) simply to reflect the many new accounts, changes in account names, or changes in account numbers made since 1990, especially as a result of the reform of credit accounting.

In section 250(b)(9), which defines 'current' economic and technical assumptions to be those consistent with the President's budget submission, the bill allows correction of pure errors in the statement of economic and technical assumptions, if the corrections are submitted in the mid-session review. It should be noted that the existing interpretation of Gramm-Rudman-Hollings is that pure errors can and should be corrected.

In section 250(b)(10), which defines 'real economic growth,' the bill changes the measurement from Gross National product (GNP) to Gross Domestic Product (GDP), a similar concept of annual economic activity that is now the standard used by the government and economics profession.

In section 250(b)(14), which defines 'outyear,' the bill defines that term to mean each fiscal year after the budget year through 1998 for purposes of enforcing discretionary funding. But the term is defined to cover fiscal years through 2002 for pay-as-you-go purposes. This is explained more fully in the discussion of 5-year rolling enforcement under the House provisions for section 252.

The existing section 250(b)(17), dealing with pay-as-you-go scoring of legislation at the end of the 101st Congress, is deleted as obsolete.

In section 250(b)(18), defining and setting forth composite outlay rates, the definition is simplified by dropping as obsolete the separate rates for the international and domestic categories. Previously outlay rates were used to compute the spendout of the 'Special Budget Authority Allowance' for those two categories, both to calculate an upward cap adjustment and a decrease in the available 'Special Outlay Allowance' by the same amount. In the bill, the use of a composite outlay rate applies only to the simplified calculation of an inflation adjustment; the Special Budget Authority Allowance is dispensed with, and the Special Outlay Allowance is handled in other ways.

In section 250(b)(19), the definition of 'asset sale' is limited to non-loan assets since credit reform accounting now handles loan asset sales. This codifies the existing treatment.

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Senate Amendment

The Senate amendment makes no changes to section 250 of the Gramm-Rudman-Hollings Act.

Conference Agreement

The House recedes.

2. Discretionary Spending Limits (Section 251 Of Gramm-Rudman-Hollings)

Current Law

The Budget Enforcement Act of 1990 established discretionary spending limits for fiscal years 1991 through 1995 in section 601(a)(2) of the Congressional Budget Act of 1974. The limits on discretionary budget authority and discretionary outlays are used for spending control under section 251 of the Gramm-Rudman-Hollings Act and are enforceable by the sequestration process. The Budget Enforcement Act of 1990 divides total discretionary spending into three categories--defense, international, and domestic--for fiscal years 1991 through 1993. For fiscal years 1994 and 1995, the limits apply to total discretionary budget authority and total discretionary outlays.

Additionally, section 601(b) of the Congressional Budget Act of 1974 creates a point of order in the Senate against the consideration of any budget resolution or appropriations bill that violates the discretionary spending limits.

Section 251 of the Gramm-Rudman-Hollings Act sets forth a detailed procedure for the periodic, automatic adjustment of the discretionary spending limits. Adjustments are made for various factors, including (among others) changes in accounting concepts and inflation, quota increases for the International Monetary Fund, funding increases for the compliance initiative of the Internal Revenue Service, and emergency spending if so designated by the President and Congress.

Section 251 also provides: (1) that a within-session sequester may occur prior to July 1 during a fiscal year, but after that date the amount of the breach is dealt with in the subsequent fiscal year; and (2) that sequestration reductions must be applied uniformly (at the account and, if appropriate, activity level).

House bill

The House bill continues the use of adjustable discretionary limits ('caps'). They initially are set forth in a new section 601 of the Congressional Budget Act of 1974, and cover the period 1994-1998. The current limits for fiscal years 1994 and 1995 are revised and new limits are established for fiscal years 1996 through 1998 (see table below). Those limits are consistent with the fiscal year 1994 budget resolution, H. Con. Res. 64 (103d Congress), adopted by the House on March 31, 1993, and by the Senate on April 1. As is the case under current law, separate limits are established each year for total discretionary budget authority and outlays.

Consistent with the budget resolution, the bill reduces the current budget authority limits for fiscal years 1994 and 1995 by almost $27 billion. It sets the outlay limits equal to those stated in OMB's most recent preview report plus the outlays flowing from the existing 'Special Budget Authority Allowance' (section 251(b)(2)(E)(i) and (ii) of current law, as made applicable to fiscal years 1994 and 1995 under the last sentence of the current section 253(g)(1)(B)). This allows the deletion, as obsolete, of those provisions.

Current law, the House bill, and the Senate amendment have the same outlay limits for fiscal years 1994 and 1995. In the table below, the current and Senate outlay limits appear lower than those in the House bill only because they do not yet reflect the outlays from the 'Special Budget Authority Allowance,' an adjustment that will be made at the end of the session. The House bill and Senate amendment have the same budget authority and outlay limits for fiscal years 1996-1998.

Unlike the current process (in which adjustments are made in the limits when the President submits his budget and when the OMB Director issues a final sequestration report for the year), the bill allows adjustments to be made whenever appropriate. Further, all references to adjustments for fiscal years 1991-1993 are dropped as obsolete.

A 'discretionary scorecard' is added by the bill. The scorecard captures the multiyear effects of individual appropriation Acts (as well as any sequester that occurs), listed by fiscal year. This provision codifies existing practice, and allows a clearer explanation of scorekeeping and enforcement under section 251.

In subtitle B, the bill remains with modifications (in a new section 602) the former section 606(d)(2) of the Congressional Budget Act. That section of the Congressional Budget Act reflects the fact that some adjustments to the discretionary limits are contingent upon enactment of appropriations for specific purposes. Those adjustments have the effect of 'holding harmless' for some or all of those specific appropriations. In Congress, the analogous way to 'hold harmless' is to not score those costs, which is what the existing section 606(d)(2) provides. The new section 602 simply conforms that approach to subtitle A.

In specific, the House bill provides for the following:

In section 251(b)(1), adjustments are required for changes in accounting concepts, as in current section 251(b)(1)(A). The purpose of this provision of current law is to ensure that discretionary programs are neither unfairly squeezed or given an inappropriate windfall. This is accomplished by adjusting the limits upward or downward to the extent that a change in what is scored as 'discretionary' is just a deficit-neutral accounting change. Such a change can occur when, for example, accounting concepts are altered by the scorekeepers. The House bill makes clear that a change in accounting concepts also includes changes in scorekeeping conventions, classifications, and definitions.

An accounting change can also occur when a new law has the effect of changing the way an existing budgetary transaction should be scored, even under current accounting concepts. For example, a new law might make an existing discretionary program mandatory, or vice versa. But it is not always obvious whether such a law is establishing a new program or, in effect, reclassifying an existing one. Therefore, if (for example) Congress intends to convert an existing discretionary program to mandatory, it should provide legislative history that the new law is intended as a 'change in budget classifications' under section 251(b)(1). If so, the limits are changed by the baseline amount of that program (as it existed before the bill), and savings or costs are entered on the pay-as-you-go scorecard only to the extent that they are decreased or increased by the bill. If not (i.e. if the intent is to create a new program that does not replace an existing program), the limits are not changed. Scorekeepers should give weight to Congressional intent in judging whether a reclassification has occurred.

Treatments of reclassifications are addressed in the scorekeeping rules, in part to explain the discretionary and pay-as-you-go rules that scorekeepers should follow when faced with a law that has the effect of reclassifying an existing budgetary transaction, and in part to cover the period after the enactment of the law that will generate the reclassification. The latter is needed because, under existing law, reclassifications cannot generate cap adjustments until the next session's 'preview report.' One purpose of the House bill is to allow cap adjustments during the immediate session.

In section 251(b)(2), the bill provides for increases or decreases to the limits if actual inflation differs from inflation as projected at the time of the fiscal year 1994 budget resolution. This is the same approach taken by current law in section 251(b)(1)(B). The bill simplifies the calculation by allowing the budget authority limit to be adjusted directly to reflect any observed change in inflation, and the outlay limit to be changed by the average composite spend out of the budget authority change. (Current law required making a baseline projection using two different sets of inflators, and treating the resulting budget authority and outlay differences as the amount by which the limits should be changed.)

The House bill also resolves the question, under current law, of whether a change in inflation applies to the entire amount of the limits or just to the 'non-pay' amount; under the House bill, changes in inflation apply to the entire amount of the limits.

Finally, the bill establishes benchmark levels of 'expected inflation' for the fiscal year 1996-98 cycles consistent with levels for the GDP fixed-weight deflator assumed in the fiscal year 1994 budget resolution. It also rebases the expected fiscal year 1993 benchmark (which will produce the inflation adjustment occurring with the fiscal year 1995 Budget) at the level assumed in that budget resolution.

The current section 251(b)(1)(C), allowing adjustments if OMB changes is estimates of the amount of subsidy budget authority needed to finance a given volume of direct or guaranteed loans, is deleted. Those adjustments have proven very complex, and have had very little effect on the total levels of the limits.

The current section 251(b)(2)(B), providing adjustments if appropriations were enacted in 1990 or 1991 forgiving any part of Egypt or Poland's debt to the US, is deleted as obsolete.

In section 251(b)(3), the bill provides an adjustment to the budget authority limit if a 'replenishment' of the International Monetary Fund quota is enacted in an appropriation Act. This extends through 1998 a similar provision of current law, section 251(b)(2)(C). Thee are no outlays associated with such an appropriation, and many analysts do not consider it to be budget authority; it is akin to an equal-value exchange of lines of credit. Such replenishments occur periodically, and one might be called for by fiscal year 1998.

In section 251(b)(4), the bill retains the current adjustment to the limits that occurs if appropriations for the IRS compliance initiative are above the levels in CBO's 1990 baseline. Under section 251(b)(2)(A) of current law and in the House and Senate bills, this provision applies through fiscal year 1995. The House bill simplifies the text by dropping portions relating to years already completed.

In section 251(b)(5), the bill provides a new adjustment for the net costs of the advance appropriations made in section 601 of Public Law 102-391. OMB has estimated those costs at zero, so the limits would not actually be adjusted under this provision. However, as described previously, Congress would be held harmless for CBO's higher estimate of the costs by the operation of section 602 of the Congressional Budget Act, as provided in subtitle B of the bill. The purpose of this approach is to minimize CBO-OMB scoring differences. While such estimating differences are inevitable, this is the only specific budget authority and outlay difference already on the books (because the advance appropriations were enacted last session); therefore, that estimating difference is resolved by this bill.

In section 251(b)(6), the bill provides a new adjustment to the extent that the costs of renewing expiring multiyear subsidized housing contracts or providing replacement contracts when units are lost due to 'prepayments' differs from current estimates. This adjustment reflects the bitter experience Congress has had with estimates of expiring housing contracts. When such contracts expire or are prepaid, they must be renewed or the stock of subsidized housing decreases--renters are evicted. The existing baseline, the 1994 budget resolution, and the limits in the bill all include the currently estimated costs of those renewals in each fiscal year. But given the poor quality of past estimates, this bill provides an adjustment if the estimates prove wrong again.

A number of features should be noted. First, the adjustment might be up or down. Second, the adjustment is limited to changes in costs solely for renewals/prepayments. There would be no adjustment triggered by an increase or decrease in funding for subsidized housing generally, or for an appropriation that could be used for this or some other purpose. Likewise, if a later law transferred or reprogrammed any extra funding to another purpose, the limits would be adjusted down. In other words, the amount of expiring units, though quite hard to estimate in advance, is ultimately a matter of fact, not of Congressional policy--Congress cannot create extra costs simply by choosing to increase the appropriation.

In section 13560, (contained in title XIII of the house bill), a new adjustment for fiscal year 1994 and 1995 is created to cover appropriation increases for medicare administrative costs related to enforcement. The purpose is to reduce erroneous or fraudulent payments. This provision was also included last session in H.R. 11, a bill vetoed by President Bush. This provision is similar to the IRS adjustment in that it is made only if appropriations bills fund this activity above the existing baseline level, is limited to the amount of the increase, and is further limited to not more than an amount specified in the provision.

In section 251(b)(7), current law is repeated; it provides that the limits are adjusted for any appropriation that is designated as an emergency by the President and Congress. Congress must designate by statute, and the President may independently designate some or all of the amount Congress designates. When funds are designated as an emergency, the limits are increased by the amount so designated; when funds previously designated as emergency are rescinded, the limits are decreased. Current law is modified only by dropping an obsolete provision relating to Operation Desert Shield, and by requiring presidential designations to be made in writing.

As discussed above, the bill deletes the current section 251(b)(2)(E)(i) and (ii), the 'Special Budget Authority Allowance.'

In section 251(b)(8)(A), which is akin to the current section 251(b)(2)(E)(iii), a budget authority estimating margin is provided, extending through fiscal year 1998. The estimating margin is set at no more than one-tenth of one percent of the amount of the budget authority limit for each fiscal years 1994-1998. The intent of the provision is to provide a margin if OMB's estimates of indefinite budget authority are higher than CBO's.

In section 251(b)(8)(B), which is akin to the current section 251(b)(2)(F), an outlay estimating margin is provided, extending through fiscal year 1998. Under current law, the outlay estimating margin for fiscal years 1994 and 1995 equals $6.5 billion less the amount of outlays flowing from the 'Special Budget Authority Allowance.' In the bill, current law is extended through 1998; calculation of the subtraction associated with the 'Special Budget Authority Allowance' is likewise extended through fiscal year 1998 (as though it had applied through that year and had not been repealed); and the total amount of the outlay estimating margin is further limited to no more than one percent of the outlay limit for each fiscal years 1994-1998. As with the budget authority margin, the intent of the provision is to provide a margin if OMB's estimates of outlays are higher than CBO's.

In section 251(c)(1), the bill establishes a 'scorecard' for discretionary amounts, as discussed above. While this is a new provision in law, it confirms to OMB's existing practice. OMB is allowed to correct erroneous entries to the scorecard; as noted, this codifies current interpretations. The scorekeeping related to the scorecard is derived from the current section 251(a)(7), with the language simplified and clarified without any change in its effect.

In section 251(c)(2), the bill provides for 'lookback' enforcement of supplemental appropriations enacted after June 30--so late in the fiscal year that a sequestration might be infeasible. The effect of this provision is the same as section 251(a)(5) of current law, which penalizes breaches caused by a post-June supplemental by lowering the next year's limits. The bill accomplishes the same result by putting the post-June costs on the next year's scorecard. It is easier to conform Congressional scorekeeping to the approach in the bill than to conform budget resolution allocations to the current approach (since that could require reducing the allocations already made in a budget resolution). The bill also clarifies the treatment of any fiscal year 1993 'lookback breach'--current law requires the reduction of 'that category' for the next year; the phrase is ambiguous in that the meaning of 'category' changes between fiscal years 1993 and 1994.

In section 251(d) of the bill, sequestration is provided as the remedy in the event a discretionary limit is breached. This provision mirrors the current section 251(a)(1)-(4), except that a de minimis is provided--no sequestration is needed if a budget authority or outlay breach would otherwise require a budget authority sequestration of less than $50 million.

In section 251(d)(2), which sets forth the calculation of the percentage sequestration, the bill clarifies the treatment of offseting collections credited to discretionary appropriations; they are subject to discretionary sequestration, not pay-as-you-go sequestration. Current law is ambiguous.

In section 251(d)(3), which allows the President to exempt some or all military personnel from sequestration, the language is simplified with no change in effect.

In section 251(e), which is akin to the current section 251(a)(6), a 'within session' sequestration is provided for if a pre-July supplemental causes a breach. The language is simplified with no change in effect.

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Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides that '[t]he Senate declares that it is essential to . . . extend the system of discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974.' H. Con. Res. 64, 103d Cong., 1st Sess. 12(a)(2), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). Section 12(b) set forth those limits for fiscal years 1996 through 1998 and created a point of order in the Senate to enforce them. See id. Sec. 12(b).

In furtherance of the budget resolution, section 14002 of the Senate amendment continues the use of adjustable discretionary spending limits through fiscal year 1998. Unlike the House bill, the Senate amendment retains the current limits for fiscal years 1994 and 1995 without charge and establishes new limits for fiscal years 1996 through 1998. (See table below.) Section 14002 provides that the discretionary spending limits for fiscal years 1996 through 1998 are those set forth in section 12(b)(1) of the budget resolution, which the House also used. As is the case for fiscal years 1994 and 1995 under current law, the Senate amendment establishes separate limits each year for total discretionary budget authority and total discretionary outlays.

The Senate amendment retains, with minor technical and conforming changes, the current law's procedures for periodically adjusting the discretionary spending limits.

Conference Agreement

The conference agreement contains the Senate language.

The table below sets forth the proposed discretionary spending limits in the House bill, the Senate amendment, and the conference agreement.

DISCRETIONARY SPENDING LIMITS: FISCAL YEARS 1994-98

[In billions of dollars]

	Fiscal year--				
	1994	1995	1996	1997	1998

Current law 1 :					
Budget authority	509.920	517.398			
Outlays	537.254	538.952			
House bill:					
Budget authority	500.964	506.287	519.142	528.079	530.639
Outlays	538.688	541.137	547.263	547.346	547.870
Senate amendment:					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870
Conference agreement:					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870

[Footnote] 1 Discretionary spending limits under current law are the 'preview report discretionary limits' in the 'Budget of the U.S. Government, fiscal year 1994, 135 (1993)'. Current law provides, and the Senate amendment retains, a 'special budget authority allowance' through fiscal year 1995 that will increase the limits on budget authority and outlays for those years when the end-of-session sequestration reports are prepared. Including that adjustment as currently estimated, the outlay limits for 1994 and 1995 are the same in current law, the House bill, and the Senate amendment.

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3. Pay-As-You-Go (Paygo) Requirement (Section 252 Of Gramm-Rudman-Hollings)

Current Law

The Budget Enforcement Act of 1990 established a pay-as-you-go (PAYGO) requirement for fiscal years 1991 through 1995 in section 252 of the Gramm-Rudman-Hollings Act. Under pay-as-you-go, direct (mandatory) spending and revenue legislation may not increase the deficit for these fiscal years. Sequestration enforces this requirement, if necessary, applying to selected direct spending programs. A sequester does not alter revenues, nor does it affect such direct spending programs as Social Security, net interest, Federal retirement, most veterans' benefits, low-income entitlements, and regular unemployment benefits. The pay-as-you-go process does not require any offsetting action when the spending increase or revenue decrease is due to the operation of existing law, such as greater-than-forecast increase in the number of persons participating in an entitlement program.

Spending for Social Security benefits and Federal deposit insurance commitments in effect at the time the Budget Enforcement Act of 1990 was enacted (whether from current law or new legislation), as well as emergency direct spending and revenue legislation (if so designated by the President and by Congress in statute), is exempted completely from pay-as-you-go accounting and enforcement.

The budgetary effects of direct spending and revenue legislation are tracked over the full five years of the process using pay-as-you-go scorecard. Although it covers five fiscal years, pay-as-you-go is enforced one year at a time. In determining whether a pay-as-you-go sequester for a fiscal year is necessary, the pay-as-you-go deficit calculations must take into account enacted legislation affecting both that and the preceding fiscal year.

House bill

The House bill amends section 252 of the Gramm-Rudman-Hollings Act, extending the pay-as-you-go process for legislation enacted through fiscal year 1998 (including the effects of such legislation through fiscal year 2002). The bill retains the basic elements of the existing process, consolidating and clarifying some existing provisions, rebasing the pay-as-you-go scorecard to zero, and adding two new features. The pay-as-you-go process continues to involve the sequestration of selected direct spending programs if there is a net increase for a fiscal year due to the enactment of direct spending and revenue legislation.

A significant feature of the House bill is that the pay-as-you-go scorecard is created anew and applies only to bills enacted after this reconciliation bill. In other words, the pay-as-you-go scorecard is rebased to zero. Rebasing has the effect of wiping out the surplus shown by OMB on the current pay-as-you-go scorecard, and of excluding all the additional deficit reduction from the scorecard as well. Put most simply, rebasing the pay-as-you-go scorecard guarantees that the net entitlement cuts and tax increases included in this reconciliation bill are 100% dedicated to deficit reduction. Any later attempt to spend those savings is illegal, and will create a completely offsetting sequestration.

Rebasing was a goal of the 1994 budget resolution, H. Con. Res. 64: section 11, a Sense of the House provision, and section 12(c), a new Senate point of order, both addressed this issue. As stated in the House report on the budget resolution, 'the intent is that later legislation not undo the deficit reduction this budget resolution calls for.' Following through, rebasing guarantees that later legislation not undo the deficit reduction this reconciliation bill achieves. This provision reinforces the effect of the 1994 budget resolution, which provided no room for future deficit increasing legislation.

The first new feature of the bill is the establishment of a pay-as-you-go scorecard and 'five-year rolling enforcement.' The scorecard captures amounts for the budget year and the ensuing four fiscal years. For example, under the 'fixed' approach established by the Budget Enforcement Act of 1990, a measure enacted for fiscal year 1995 would be scored only for that one year, since pay-as-you-go expires after 1995 under current law. Under the Senate amendment, a measure enacted for fiscal year 1995 is scored through fiscal year 1998, since the Act is extended through that year. Under the House bill, the same measure would be scored for five years, fiscal years 1995-1999. Thus, the pay-as-you-go scorecard established by the House bill will include amounts through fiscal year 2002. A pay-as-you-go sequester could occur during fiscal years 1999 through 2002, based on pay-as-you-go legislation enacted in fiscal year 1998 and earlier years. In sessions after that for budget year 1998, no new entries would be made on the scorecard. The intent of the House bill is to provide a greater incentive for new pay-as-you-go legislation, in net, to conform to the norm of deficit neutrality.

The second new features is a de minimis rule, comparable to the one for discretionary spending, that sets aside the requirement for a sequester if the violation is less than $50 million.

In specific, the House bill provides for the following:

In section 252(a)(1), a pay-as-you-go scorecard is established, as noted. While this is new to the statute, it is current OMB practice. OMB is allowed to correct erroneous entries to the scorecard; as noted, this codifies current interpretations. The scorekeeping related to the scorecard is derived from the current section 252(d), with the language simplified and clarified without any change in its effect. The bill clarifies that costs or savings are measured relative to baseline.

The bill also codifies and clarifies what to do if expiring direct spending programs or taxes, assumed to be extended, actually expire (SEE section 257(b)). The budgetary effects of a Congressional decision to allow such an expiration should be entered on the scorecard, and at the end of session in which the provision expires.

The bill also codifies the current treatment of debt service; only the costs or savings of a direct spending or revenue bill count, not the effect that the costs or savings will have on the government's interest payments.

The bill also codifies a scorekeeping convention for legislation that has incidental effects on the intragovernmental receipts of Federal retirement trust funds. Excluding those incidental effects is current practice. Under this rule, only the retirement effects of retirement legislation are entered on the pay-as-you-go scorecard; if the effects on intergovernmental receipts were scored, the result could be that a bill cutting retirement benefits would be shown as increasing the deficit, and vice versa.

Legislative provisions whose purpose is to alter agency payments to retirement trust funds are not 'incidental' and so are not covered by this rule. If Congress desires to hold the appropriations process harmless for such an alteration in required agency payments, the legislative provisions should be identified by Congress as a change in accounting concepts, so that the discretionary caps would be automatically adjusted.

In section 252(a)(2) of the bill, 5-year rolling scorekeeping through 2002 is established, as discussed above.

In section 252(a)(3) of the bill, the 'lookback' feature of current law is simplified and corrected. Lookback was included in the Budget Enforcement Act of 1990 amendments because it was considered infeasible to administer within-session sequestrations each time a pay-as-you-go bill increasing the current-year deficit was enacted. Under lookback, such current-year effects were instead controlled by adding them to the budget-year effects; the sum is enforced when the end-of-session sequestration report is made. But through a drafting error in Budget Enforcement Act of 1990, lookback not only counts (in the budget year) the current-year effects of current-year legislation, but also the current-year effects of prior legislation. The House bill corrects the error.

In section 252(a)(4), current law is repeated; it provides that the scorecard exclude any costs/savings provision of a direct spending or revenue law that is designated as an emergency by the President and Congress. Congress must designate by statute, and the President may independently designate. Current law is modified only by requiring presidential designations to be made in writing.

In section 252(b)(1), akin to the current section 252(a), sequestration is provided if Congress ends a session with a net deficit increase on the scorecard for the budget year. As noted, a $50 million de minimis is provided by the House bill.

In section 252(b)(2), the sequestration calculation and process is set forth; the provisions are akin to the current section 252(b). The bill clarifies the current treatment of the three so-called 'Automatic Spending Increase' (ASI) programs; the maximum reduction is made if any sequestration is needed. The bill also moves sequestration of the guaranteed student loan program from step 2 (where it is covered by a special rule) to step 3 (where it is sequestered across-the-board, as needed). The same treatment is provided for the new direct student loan program.

In section 252(b)(3), the bill simplifies accounting and prevents over-sequestering. The sequestration of some programs provides savings (or in rare cases, costs) in the first outyear. Under current law, those extra savings are not counted toward meeting a budget-year overage. This results in a higher sequestration percentage, and necessitates putting the outyear sequestration savings on the next year of the pay-as-you-go scorecard. An exception is made for CCC, for which about half of the savings occur in the first outyear; those savings are counted toward offsetting a budget-year overage, and are not placed as a credit on the pay-as-you-go scorecard. The House bill simplifies the Act by adopting the CCC model across the board, thus preventing over-sequestration and eliminating any need to make extra entries on the scorecard.

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Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides:

(a) Purpose.--The Senate declares that it is essential to--

(1) ensure compliance with the deficit reduction goals embodied in this resolution;

* * *

(3) extend the pay-as-you-go enforcement system;

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill pursuant to section 7 of this resolution will create under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. * * *

H. Con. Res. 64, 103d Cong., 1st Sess. 12(a), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted).

The Senate amendment amends section 252 of the Gramm-Rudman-Hollings Act, extending the pay-as-you-go process for legislation enacted through fiscal year 1998. The pay-as-you-go scorecard ends with fiscal year 1998; the effects of enacted direct spending and revenue legislation in fiscal year 1999 and beyond are not taken into account. Additionally, the Senate amendment requires that the yearly pay-as-you-go balances be adjusted for deficit reduction achieved by the Omnibus Budget Reconciliation Act of 1993.

Section 12(c) of the budget resolution establishes a new point of order in the Senate that supplements the pay-as-you-go process under the Gramm-Rudman-Hollings Act. The point of order bars consideration of any legislation affecting direct spending or revenues (with certain exceptions) that would increase the deficit above the levels for fiscal years 1994 through 1998 set in the budget resolution for fiscal year 1994. The point of order also applies to any such increases in deficit levels for fiscal years 1999 through 2003. While this new prohibition applies to individual pay-as-you-go measures as they are considered, the pay-as-you-go requirement under the Gramm-Rudman-Hollings Act, in contrast, is applied at the end of a session to all pay-as-you-go measures enacted into law.

Conference Agreement

The conference agreement contains the Senate language.

4. Deficit Targets Or 'Maximum Deficit Amounts' (Section 253 Of Gramm-Rudman-Hollings)

Current Law

The Budget Enforcement Act of 1990 revised the deficit targets (maximum deficit amounts). The Act revised the deficit targets for fiscal years 1991 through 1993 and established new targets for fiscal years 1994 and 1995 (the targets for fiscal years 1991 through 1995 were set forth in section 601(a)(1) of the Congressional Budget Act of 1974). The sequestration procedures for enforcing the deficit targets are set forth in section 253 of the Gramm-Rudman-Hollings Act. Section 253 also provides for the periodic adjustment of the deficit targets.

The deficit targets were required to be adjusted for fiscal years 1992 and 1993, and are adjustable at the President's option for fiscal years 1994 and 1995. The President has chosen to make the 1994 adjustment, and will decide whether or not to adjust the fiscal year 1995 targets next year. Whenever a deficit target is adjusted, it is set at the level consistent with the discretionary spending limits and the pay-as-you-go requirement. Therefore, when adjusted, the deficit target provides no constraint beyond the appropriations caps and pay-as-you-go requirement, so no deficit sequester can occur.

Section 605 of the Congressional Budget Act of 1974 establishes a point of order in the Senate against the consideration of any measure that would cause the deficit target for the coming fiscal year to be exceeded. Section 606, in subsections (b) and (c), prohibits the consideration in the House and Senate of a budget resolution recommending a deficit in excess of the applicable deficit target.

House Bill

The House bill retains the procedures in section 253 of the Gramm-Rudman-Hollings Act for enforcing the deficit targets through fiscal year 1995. It also retains the feature in current law which allows the President to adjust the deficit targets again when he submits his budget for fiscal year 1995 early next year. The only amendments to section 253 are conforming; the intent is that section 253 remain in effect through 1995.

Senate Amendment

The Senate amendment contains no such changes.

Conference agreement

The conference agreement contains no such changes.

5. Sequestration Reports and Orders (Section 254 of Gramm-Rudman-Hollings)

Current Law

Under the Gramm-Rudman-Hollings Act, as amended, there are several basic requirements for sequestration reports and orders set out in section 254: (1) sequestration is triggered by a report from the OMB Director; (2) the OMB Director must issue a preview sequestration report with the President's budget submission, an update sequestration report by August 20, and a final sequestration report 15 days after the end of a session; (3) if a sequester is required, the President must issue a sequestration order, on the same day that the final OMB sequestration report is issued, that conforms strictly with the report; (4) the CBO Director must also issue such reports, five days before the OMB Director's reports are issued, and OMB must explain its differences with CBO; and (5) the contents of sequestration reports are prescribed in the Act.

In addition, the OMB Director must use for each sequestration report issued for a fiscal year the same economic and technical assumptions that underlie the President's most recent budget submission.

House Bill

The House bill retains the basic requirements for sequestration reports and orders set forth in section 254, with two changes: (1) the elimination of the update sequestration reports, currently required to be issued by OMB and CBO in August of each year; and (2) the weekly issuance by the OMB Director of reports on the discretionary and pay-as-you-go scorecards, beginning the second Wednesday in September.

Specific provisions include:

In section 254(a) and (c), the bill deletes the January 21 date for the President to announce his decision on adjusting the maximum deficit amount. For fiscal year 1994, that provision has been executed; for fiscal year 1995, the President's decision comes with his budget submission.

In section 254(b)(2) and (3), sequestration reports are required to include bill scoring to date, which is current OMB practice.

In section 254(e), a new requirement for bill cost reports is set forth, replacing similar requirements in the current section 251(a)(7) and section 252(d).

In section 254(f), a new requirement for weekly scorecard reports, starting the second week in September, is created, as noted. This is current OMB practice.

Also as noted, the current section 254(f), the annual update report, is deleted; it is made unnecessary by the scorecard reports.

Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The conference agreement contains no such changes.

6. Other Matters

Current Law

The Gramm-Rudman-Hollings Act, as amended, contains additional sections that relate to the sequestration process.

Section 255 lists programs and activities that are exempt from sequestration.

Section 256 provides exceptions, limitations, and special rules that determine the manner in which sequestration is applied to certain programs and activities.

Section 257 prescribes the methodology for constructing baseline estimates for purposes of measuring appropriations bills and comparing direct spending and revenue bills to the baseline.

Section 258 and 259A-C contain certain 'fast-track procedures' dealing with suspension of budget enforcement procedures in the event of war or low economic growth (section 258); the modification of a presidential sequestration order (section 258A); presidential authority to propose modifications in a sequester of defense programs, projects, and activities (section 258B); and a special reconciliation process (in the Senate only) for responding to an anticipated or actual sequester (section 258C).

Section 274 of the Gramm-Rudman-Hollings Act provides for expedited judicial review of cases involving the operation of the Act and establishes a 'fallback procedure' for triggering sequestration through the legislative process.

Section 275 provides effective dates and expiration dates for sections of the Gramm-Rudman-Hollings Act.

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House Bill

The House bill makes technical and conforming changes in the following sections of the Gramm-Rudman-Hollings Act: 255, 256, 257, 258, and 258A-C.

The list of exempt programs and activities in section 255 is recodified to bring it up to date. Specifically:

In section 255, the lists of accounts or activities exempt from sequestration are repeated with technical changes. Many accounts have had name changes and/or account number changes since 1990. Some accounts have expired. The bill also codifies exemptions that are freestanding provisions of law (conservation reserve; vaccine compensation). But there are no changes in what is exempt. 1

1 The thrift savings fund is not deleted from the list; rather, it is retained for redundancy even though the exemption is unnecessary because the Gramm-Rudman-Hollings Act does not apply to non-budgetary transactions. The bill also contains an erroneous deletion of interest payments to the Farm Credit System, Financial Assistance Corporation (FAC) from the list, and fails to include FAC, now an on-budget account, on the list.

In section 255(g)(1)(A), the bill exempts credit liquidating and financing accounts: financing accounts because they are non-budgetary; liquidating accounts because they pay only for prior legal obligations of the government, which are exempt under the current section 255(g)(2). As a result of this single listing, credit accounts are no longer listed under section 255(g)(2).

The bill deletes as unnecessary the current section 255(f), exempting the base amounts of Automatic Spending Increase programs from sequestration. The base amounts of the ASI programs are still exempt, and only the increase is subject to sequestration.

In the new section 255(f) created by the bill, the current optional exemption for military personnel is set forth. This corrects an error of current law, which contains two subsection (h)'s. The language also removes an obsolete reference to a 'snapshot date.'

In section 5181 of the House bill (contained in title V), section 2161 of the Public Health Service Act contains an exemption from sequestration for the new National Childhood Immunization Trust Fund.

The bill also makes corrections or clarifications to section 256 of the Gramm-Rudman-Hollings Act, which provides special rules for sequestration. Specifically:

In section 256(a), 'budget-year sequestration,' the 1st sentence clarifies existing practice--that a sequestration shall start with the date of the presidential order and apply to a program for the remainder of the fiscal year, unless the Act specifies otherwise. This makes unnecessary the current section 256(1)(4).

The second sentence is a conforming amendment. It takes the idea of crediting outyear effects to the sequestration (as explained in the discussion of section 252) and (1) treats section 253 sequestration the same way for purpose of calculating sequestration percentages, and (2) credits section 252 sequestrations against the maximum deficit amount the same way to prevent inadvertent section 253 sequestrations when the maximum deficit amount has been fully adjusted.

The current section 256(b), relating to the sequestration of the guaranteed student loan program, is deleted, for the reasons explained above under section 252. A new section 252(l) sets forth the mechanism for providing across-the-board sequestration of the that program and the new direct student loan program. Sequestration is accomplished by raising the origination fees by an amount that reduces loan costs by the standard sequestration percentage applicable to all direct spending programs in the 'across-the-board' category. This may be the most logical way to sequester from those programs even in the absence of a special rule.

In section 256(e), the bill deletes obsolete provision applicable to fiscal year 1986.

In section 256(h)(4), the bill deletes a double lisitng of Office of Thrift Supervision and the no longer extant REFCORP.

In section 256(j), the special rule for CCC sequestration, the bill deletes as redundant the current paragraph (5)--CCC is not an Automatic Spending Increase program (only those specifically listed under section 256(b) are), and so is not subject to a double reduction. The bill inserts a new paragraph (5), which simply incorporates existing sequestration rules for the diary program, found in the Agricultural Act of 1949, into the text of the Budget Enforcement Act.

In section 256(k), the special rule for sequestration of the AFDC JOBS program, the bill makes a purely technical correction to the formula allocation by state of AFDC amounts that should apply after the program is cut by the full amount of a sequestration.

The bill clarifies existing rules relating to the computation of a baseline.

For discretionary programs, the baseline follows historical practice in assuming inflation adjustments until an appropriation for the fiscal year is enacted. There are three separate reasons for the baseline to reflect inflation rather than the discretionary limits imposed by section 251. (1) A 'capped' baseline contains only a discretionary aggregate--it has no programmatic detail. There are a number of legal requirements in this Act (for example, the requirement to adjust the discretionary limits by the baseline amount of a program when there is a change in accounting classifications) that can only occur with a baseline that has account-level detail. (2) The lack of programmatic detail in a 'capped' baseline makes it impossible to analyze discretionary policy except in aggregate; it is for this reason that CBO's annual listing of budget reduction options analyzes each option relative to the inflated baseline. (3) The spending limits imposed by section 251 require cutbacks in real (inflation-adjusted) resources. Such cutbacks might have many different results: project cancellations, reductions in Federal military or civilian personnel levels, base closings, reductions in the number of research grants, delays in maintenance schedules, etc. It is useful to the public to show the numerical extent of such cutbacks, and the individuals who are directly affected will certainly feel them as cutbacks.

The bill makes specific changes in the language of section 257:

In section 257(a) and (b)(1), the baseline modified to include the extension of 'discretionary regulations' without assumed change. 2

This has been CBO's baseline practice, and was also the Gramm-Rudman-Hollings requirement before the amendments made Budget Enforcement Act of 1990. By assuming that discretionary regulations continue unchanged (as opposed to OMB's current approach of assuming future changes consistent with administration policy), congressional prerogatives in establishing policy are not made subservient to those of the administration.

2 A 'discretionary regulation' is issued pursuant to a law that grants the executive branch discretion in setting some rate, date, or other feature that would affect the amount of costs or savings under a plan.

In section 257(b)(2)(A), the bill makes two changes. First, it switches from $50 million in outlays to $50 million in gross budget authority the threshold that a direct spending program must atain before the baseline should assume its continuation past its scheduled expiration date. Second, the bill clarifies how to project a direct spending program is that assumed to continue after its scheduled expiration: where the program is driven by substantive provisions of authorizing law, assume that the program continues as in effect just before its expiration. 3

Expiring programs funded by backdoor definite budget authority have that budget authority inflated as though it were discretionary.

3 In case of CCC, which reverts to older, very general authority, existing practice is to assume that authority would be used in the same manner as the just expired law.

In section 257(b)(2)(A), the bill clarifies the intent of existing law: that the percent increase in veterans compensation is assumed to be the same percent as the automatic increase in veterans pensions. This does not mean that the veterans compensation baseline follows other aspects of pension law such as rounding down.

The current section 257(b)(3) relating to the treatment of Health Insurance Trust Fund, is deleted. See the discussion under section 250(b)(1) and (20).

In section 257(b)(3) the bill establishes a cutoff date after which the baseline will no longer assume the extension of certain expiring law. This codifies and makes explicit the existing implicit treatment if Congress allows a program or tax to expire.

In section 257(c), covering the projection of discretionary programs, the wording change recognizes that all spending is either direct spending or discretionary--there is no third type.

In section 257(c)(2), concerning the projection of expiring housing contracts, the bill that expiring contracts include prepayments as well (because prepayments are simply a form of expiration; the contracts expire because the budget authority runs out rather than because a time limit is reached.)

In section 257(c)(3), the bill includes OSADI administrative expenses in the special baseline rule that allows caseload changes to be taken into account; this inclusion reflects OMB's treatment of these costs as part of the Gramm-Rudman-Hollings system.

The bill deletes the current section 257(c)(4), providing for pay annualization and an offset to absorption. The reference to absorption is dropped since OMB and CBO agree it is not a meaningful concept in the absence of routine 'pay supps.' Annualization is covered automatically by the wording in the new section 257(c)(4) whereby inflation covers average rates of pay for a fiscal year.

In section 257(c)(4), the bill conforms the inflator for civilian and military personnel to the pay rate increases required by existing law. It also changes the reference for non-pay inflation from GNP to GDP.

In section 257(c)(5), the bill codifies the existing treatment of annualizing part-year budget-year appropriations, not just part-year current-year appropriations. This prevents any disjunction between the amount sequestered (which is based on a full-year scoring under section 251(d)(4)) and the amount scored, which follows baseline rules.

In section 257(c)(5), the bill allows the scoring of permissive transfers to be updated for those accomplished by the submission of the midsession review. But this change does not override the Gramm-Rudman-Hollings requirement to use budget technical assumptions of prior-year outlays in scoring bills; it applies only in the very unlikely case in which Congress adjourns without enacting even a temporary continuing appropriation to cover a set of accounts. It also applies to unofficial baseline projections made after the midsession review.

In section 257(e), the bill rewrites the treatment of asset sales to conform to existing practice: asset sales count for the budget (they are not a 'means of financing'), but the proceeds of asset sales newly enacted in a session don't count in that session as negative spending, so can't be used to meet targets or cover other spending.

The bill also makes technical corrections to the 'fast-track' procedures provided in section 258 and section 258A-C. Specifically:

The bill repeals the first of the two section 258's. It was intended to have been repealed by Budget Enforcement Act of 1990, and was replaced in Budget Enforcement Act of 1990 by section 258A.

In section 258A, B, and C, the bill conforms cross-references.

In the second of the two section 258's, the bill clarifies that the 1st sentence of section 258(a)(4) applies only to the Senate, as intended.

In section 258C, a conforming amendment makes this fast-track procedure triggered by receipt of a scorecard report rather than the deleted update report.

The House bill revises section 274 to make conforming amendments that should have been made in Budget Enforcement Act of 1990. Further, the fallback procedure, which was written in Gramm-Rudman-Hollings I in anticipation that it might be ruled unconstitutional (as it was), is deleted.

Finally, the House bill retains the current expiration date for section 253, extends the expiration date for sections 251, 257, and 258B to the end of fiscal year 1998, and extends the expiration date for sections 250, 252, 254, 255, 256, 258, 258A, and 258C to the end of fiscal year 2002.

In section 275, the bill provides that any part of the Act that touches pay-as-you-go sequestration is extended to 2002.

The remaining parts are extended to 1998 (but this does not supersede provisions within various sections specifying a shorter application, such as the cap adjustment for IRS funding).

In section 15111(b), effective dates are set forth. The provisions of the bill are effective immediately, but they alter procedures or otherwise make changes with respect to reports, orders, calculations, etc. first applicable to fiscal year 1994. For fiscal year 1993, the current Gramm-Rudman-Hollings is deemed to remain in place.

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Senate Amendment

The Senate amendment extends the expiration date of sections 250 through 258C (except for section 253, which pertains to the enforcement of the deficit targets) from the end of fiscal year 1995 to the end of fiscal year 1998.

Conference Agreement

The conference agreement contains the Senate language.

THE CONGRESSIONAL BUDGET PROCESS

Subtitle B of Title XV (Budget Process) of the House-passed bill amends the Congressional Budget Act (CBA) of 1974 (P.L. 93-344, as amended) and related Standing Rules of the House of Representatives to make various changes in the congressional budget process. (In addition, Subtitle B extends the discretionary spending limits in the CBA of 1974, which are used for purposes of sequestration under the Gramm-Rudman-Hollings Act, through fiscal year 1998; these changes are discussed elsewhere).

Title XIV (Enforcement Procedures) of the Senate amendment amends the CBA of 1974 only the purpose of extending certain procedures in Title VI of that Act (including the discretionary spending limits).

The conference agreement includes the Senate language. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

1. Budget Resolution Coverage and Enforcement

Current Law

The Budget Enforcement Act of 1990 put in place temporary provisions in Title VI of the Budget Act to make the congressional budget process fit with the sequestration scheme that was also a part of the 1990 Budget Enforcement Act. These provisions were only temporary since Congress was venturing into new procedural territory and needed to see how the changes would play out. Titles III (Congressional Budget Process) and VI of the CBA of 1974 establish the requirements for the coverage and enforcement of the budget resolution. Each year, Congress adopts a concurrent resolution on the budget setting forth levels of spending, revenues, the deficit, and the public debt that reflect broad congressional budget policies and priorities. In general, budgetary legislation first effective in a fiscal year may not be considered until the budget resolution for that year has been adopted, with different exceptions specified for the House and Senate--including an exception in the House for regular appropriations measures considered after May 15.

The budget resolution is enforced principally through two means: (1) points of order under the CBA of 1974, which may be raised against legislation in violation of budget resolution levels or other CBA requirements, and (2) reconciliation instructions to House and Senate committees to bring existing spending revenue, and debt limit laws within their jurisdiction into conformity with budget resolution levels.

In particular, procedures under Section 302 and Section 311 of the CBA of 1974 (and under Section 602 for fiscal years 1991 through 1995 (see below) are prominent in the enforcement of budget resolution spending levels by points of order, especially with respect to the consideration of annual appropriations measures.

Under Section 302, once the budget resolution is adopted, all committees with spending jurisdiction receive an allocation of spending under the resolution for programs within their jurisdiction. (In the House, allocations are made for new budget authority, entitlement authority and outlays; in the Senate, allocations are made for new budget authority and outlays.) Committees then are required to subdivide amounts allocated to them among their subcommittees or by program. The Appropriations Committees must subdivide by subcommittee. In general, the House or Senate may not consider spending legislation for a fiscal year that would cause any committee subdivision of spending for that year to be exceeded. Outlay subdivisions are not enforced by point of order in the House.

Under section 311, the House and Senate may not consider spending or revenue measures that would cause the aggregate levels of spending and revenues in the budget resolution to be violated. An exception is provided in the House for instances in which the spending measure would not cause the pertinent committee's allocation of new discretionary budget authority or new entitlement authority to be exceeded. Section 311 also provides a procedure only in the Senate for the enforcement of spending and revenue levels for Social Security.

Title VI of the CBA of 1974, enacted as part of the Budget Enforcement Act (BEA) of 1990, sets forth temporary requirements for budget resolution coverage and enforcement for fiscal years 1991 through 1995. Budget resolutions and committee allocations are required to cover five fiscal years (rather than three fiscal years, as required under permanent law). Enforcement procedures under Section 302 are superseded through fiscal year 1995 by temporary requirements established in Section 602, including requirements that: (1) direct spending legislation is subject to a point of order if it breaches a spending allocation in the budget year or over the 5-year period covered by the allocation; (2) only the Appropriations Committees must make subdivisions of spending of amounts allocated to them under the budget resolution; and (3) if Congress has not adopted a budget resolution by April 15, the House Budget Committee must make an allocation of spending to the House Appropriations Committee consistent with the discretionary spending limits. Title VI also provides 1-year and 5-year enforcement of revenue legislation.

Under Section 310 of the CBA of 1974, reconciliation instructions in a budget resolution typically are used to reduce mandatory spending (particularly entitlements) and increase revenues, thereby reducing the deficit. Under Section 310(g), provisions making any change in Social Security may not be included in reconciliation legislation. (Provisions relating to the timing of action on reconciliation measures are discussed in Section 4 below.)

With respect to other elements included in a budget resolution, Section 710 of the Social Security Act requires that the receipts and disbursements of the Hospital Insurance Trust Fund be placed off budget, beginning in 1993. However, section

606 of the CBA of 1974 requires that a budget resolution not exceed the maximum deficit amount as determined under section 601(a)(1). The receipts and disbursements of the Hospital Insurance Trust Fund (HI) must be included in deficit calculations, notwithstanding any other provision of law, for purposes of determining the maximum deficit amount under section 601(a)(1). So, for the last several years, the budget resolution has included a separate display of the receipts and disbursements of the Hospital Insurance Trust Fund--and two separate deficit amounts, one including and one excluding the HI amounts--in order to comply with the requirement to place HI off-budget and the requirement not to exceed the maximum deficit amount including HI. Further, the CBA of 1974 requires that credit amounts (new direct loan obligations and new primary loan guarantee commitments) be provided on a functional basis--even though the Federal Credit Reform Act of 1990 (incorporated into the CBA of 1974 as a new Title V) rendered these amounts less relevant or significant.

House Bill

In light of Congress' experience since 1990 with the Budget Enforcement Act, the House bill proposes changes that: make 5-year budget resolutions and 1-year/5-year enforcement permanent; focus points of order on the deficit impact of legislation; reduce the need for technical waivers to the congressional budget process; and rewrite points of order so that they apply only to the language that is actually before the House when it considers a bill.

Under the House bill, various changes are made in permanent provisions of the CBA of 1974, and the temporary provisions of the Act (except for the ones dealing with the discretionary spending limits) either are revised and made permanent, or are repealed. The term 'budget authority' is redefined so that all types of spending including grants, loans, and entitlements compete on a level playing field. The term 'direct spending' is defined so that salary and basic pay are more properly controlled as discretionary items.

The procedures for making and enforcing spending allocations to committees (in Sections 302 and 602) and for enforcing aggregate spending and revenue levels (in Section 311) are revised. In essence, the old enforcement system is replaced by an expanded enforcement procedure that focuses on committee responsibility and deficit impact.

The House bill modifies procedures for enforcing committee allocations and subdivisions in a new Section 302, which applies solely to the House and Senate Appropriations Committees, and a new Section 311, which applies to committees with jurisdiction over direct (mandatory) spending and revenues. Both provisions clarify the way points of order are applied. Under this proposal, points of order would only apply to the language that is actually before the House when it considers a bill.

Under the new Section 302, the Committees on Appropriations would receive an allocation of spending (for new budget authority and outlays), which they then would subdivide among their subcommittees. Appropriations legislation that would cause an allocation or subdivision of new budget authority to be exceeded would be out of order. The prohibition does not apply to current-year supplemental appropriations measures as long as the total allocation to the Committee is not exceeded. Outlay allocations would not be enforced in either chamber.

Under the new Section 311, committees other than the Appropriations Committees would be allocated a 'deficit impact number' (or 'surplus impact number') for the first fiscal year and the total for all fiscal years covered by the budget resolution. The deficit impact number (or surplus impact number) reflects the change in the deficit (or surplus) assumed under the budget resolution for direct spending or revenue legislation within a committee's jurisdiction. Legislation increasing the deficit (or lowering the surplus) in any fiscal year covered by the budget resolution that also produces a higher deficit (or lower surplus) than the committee's first-year or five-year impact number would be out of order.

Certain changes also are made by the House bill with respect to the reconciliation process under Section 310. First, spending directives may cover only direct spending, affirming the current practice that reconciliation is not applied to discretionary appropriations. Second, the current prohibition against making changes in Social Security in reconciliation legislation is changed to a prohibition against reducing Social Security benefits. Third, reconciliation instructions can either direct separate targets for revenues and spending changes or a combined deficit reduction amount. Under current law,a committee 'complies' with its instructions so long as it does not exceed or fall below the separate revenue and spending targets by more than 20%. Under the House proposal, there is no wiggle room.

In addition, the following temporary requirements in Title VI are retained and made permanent: (1) that budget resolutions cover five fiscal years; and (2) that the House Budget Committee make an allocation of spending to the House Appropriations Committee consistent with the discretionary spending limits if the budget resolution is not adopted by April 30 (the House bill also retains the current law deadline of April 15 for adoption of the budget resolution).

The House bill modifies the prohibition under Section 303 against considering legislation for a fiscal year before the budget resolution for that year is adopted. Under the proposed procedure, any spending or revenue legislation first effective in the last fiscal year covered by the most recently agreed to budget resolution or in any subsequent fiscal year is out of order (i.e., the fifth year covered by the budget resolution and subsequent fiscal years). No exceptions are specified.

Finally, the House bill also makes changes in the required and optional elements of the budget resolution. It clarifies a requirement that the budget resolution include the receipts and disbursements of the Old Age Survivors and Disability Insurance (OASDI) trust funds solely for the purpose of Senate points of order. It specifies that the receipts and disbursements of the Hospital Insurance trust fund shall be included in the budget resolution. It also deletes the requirement that budget resolutions include direct loan and loan guaranty amounts; this requirement is no longer necessary in light of the credit reform provisions in Title V and the new definition of budget authority. Finally, the bill deletes the deferred enrollment procedure from the list of optional budget resolution elements.

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Senate Amendment

The Senate amendment, in Section 14002(3)(B), extends all of the temporary enforcement procedures in Title VI and the CBA of 1974 through the end of fiscal year 1998 without change.

The conferees note that in the context of the other changes made by the conference agreement, the extension of section 601(b)(1) will codify a point of order in the Senate identical in effect to that created by section 12(b)(2) of the concurrent resolution adopted in April of 1993. (H. Con. Res. 64, 103rd Cong., 1st Sess., section 12(b)(2), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993)(adopted)).

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

2. Timing of Congressional Budget Action

Current Law

The timetable in Section 300 provides that the House of Representatives should complete action on all of the regular appropriations bills for the coming fiscal year by June 30. (Section 300 also provides that the House Appropriations Committee should report all of the regular appropriations bills for the coming fiscal year by June 10.) In furtherance of this objective, Section 309 of the Act prohibits the House of Representatives from considering a resolution that provides for an adjournment of more than three days in July until it has passed all of the regular appropriations bills for the coming fiscal year.

The timetable in Section 300 also provides that the House of Representatives should complete action on any required reconciliation legislation for the coming fiscal year by June 15. Section 310(f) of the Act prohibits the House of Representatives from considering a resolution that provides for an adjournment of more than three days in July until it has passed the required reconciliation legislation.

Section 402 of the Act, as originally framed in 1974, required that authorizing measures for a fiscal year be reported by May 15 preceding the fiscal year; this requirement was repealed (and the original language of section 402 was replaced with an unrelated provision) by the GRH Act of 1985.

House Bill

The House bill retains the June 30 deadline in Section 300 of the CBA of 1974 for the completion of House action on the regular appropriations bills for the coming fiscal year and changes the deadline for completed House action on required reconciliation measures from June 15 of June 30. Further, the House bill repeals the prohibitions against House consideration of a July adjournment resolution if either of these conditions have not been met. In Section 309, the current language dealing with the prohibition against adjournment in July is replaced by language that encourages (but does not require) the reporting of pertinent authorizing measure by May 15.

Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

3. Other Changes In The Congressional Budget Act Of 1974 And Related House Rules

Current Law

Title IV of the CBA of 1974 contains provisions that control 'backdoor spending' (borrowing, contract, and entitlement authority) and new credit authority (in Sections 401 and 402, respectively), require the Congressional Budget Office to prepare cost estimates for legislation and the General Accounting Office to study on a continuing basis permanent forms of spending (in Sections 403 and 405, respectively), require that certain previously off-budget entities be included in the budget (in Section 406), and establish in the House a Member User Group to study budgetary scorekeeping rules and practices (in Section 407). (Section 404 amended House and Senate rules with regard to the jurisdiction of the Appropriations Committees.)

Title V, referred to as the Federal Credit Reform Act of 1990, establishes procedures for accounting for credit transactions on a subsidy basis and requiring subsidy costs to be appropriated annually for most credit programs.

Title VII amended the Legislative Reorganization Acts of 1946 and 1970 (in Sections 701 and 702) to provide for continuing program review and evaluation by House and Senate committees and by the Comptroller General and (in Section 703) required the House and Senate Budget Committees to engage in continuing study of budget process reform proposals. Section 701 was executed upon enactment in 1974, Section 702 was repealed by Public Law 97-278 (96 Stat. 1082), which revised and codified Title 31 (Money and Finance) of the United States Code, and Section 703 remains in effect.

Title VIII amended the Legislative Reorganization Act of 1970 (in Section 801) to provide for the establishment and standardization of information systems for fiscal and budgetary control and set up a consultative procedure for changes in functional categories of the budget (in Section 802). Both sections were repealed by Public Law 97-278 (96 Stat. 1082).

House Bill

The House bill amends Title IV of the CBA of 1974 by: (1) revising Section 401 and making it apply only to borrowing and contract authority (entitlement authority is controlled under the House bill be revised procedures in Title III); (2) making technical changes in Section 402; (3) redesignating Sections 403 and 406 as Sections 202(f)(5) and 403, respectively; and (4) repealing Sections 405 and 407.

The House bill makes largely technical changes to Title V dealing with credit budgeting.

The House bill amends Title VII by repealing Sections 701 and 702 and redesignating Section 703 as Section 701.

The House bill creates a new Title VIII (Social Security Protection), redesignating Sections 13301(a) (which deals with the off-budget status of Social Security) and 13302 (which deals with a point of order in the House maintaining the Social Security trust fund balances) of the BEA of 1990 as Sections 801 and 802, respectively.

Additionally, the House bill also makes certain technical changes in the House rules and adds a new Clause 7 to House Rule XI. Clause 7 permits a committee, by majority vote, to invoke a requirement of deficit-neutrality for amendments to direct spending or revenue legislation under consideration in that committee. Clause 7 is similar in effect to a requirement in Section 310(d) of the CBA of 1974 pertaining to floor amendments offered to reconciliation measures.

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Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

DEFICIT REDUCTION TRUST FUND PROVISION

Current Law

Current law includes no analogous provision.

The House Bill

The House bill creates the Deficit Reduction Trust Fund, an account to identify the reduced outlays and increased receipts achieved through reconciliation. Under the requirements of reconciliation and the terms of the Trust Fund, the legislative savings could not be spent and are solely reserved for deficit reduction. The Deficit Reduction Trust Fund would provide a quantitative display of the level of deficit reduction achieved through the adoption of the President's policies in reconciliation.

The Trust Fund would operate in the following manner: 1) an amount equal to the net deficit reduction estimated to result from reconciliation is transferred to the Trust Fund within 10 days of enactment; 2) amounts in the Trust Fund are unavailable for appropriation, obligation, transfer or expenditure, and may only be used to pay off maturing public debt obligations; 3) amounts in the Trust Fund are excluded from Pay-As-You-Go budget enforcement and cannot finance new spending or tax reductions; and 4) the President's budget request is required to include a separate statement of funds held by the Trust Fund.

The Senate Bill

The Senate adopted no analogous provisions.

The Conference Agreement

The conference agreement does not include the House provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the Deficit Reduction Trust Fund would make the entire conference report subject to a point of order in the Senate and thereby endanger final enactment of the reconciliation bill, and based on their further understanding that President Clinton has agreed to establish a Deficit Reduction Trust Fund by Executive Order.

ENTITLEMENT REVIEW

Current Law

Current law includes no analogous provision for monitoring and budgeting federal expenditures for entitlement and mandatory programs.

The House Bill

Federal spending for entitlements and other mandatory programs represent, along with interest on the national debt, the fastest growing area of federal spending. The Congressional Budget Office projects outlays for entitlement and mandatory programs to increase by 6.4% per year (FY 1993-98). However, Congress is acutely aware that entitlement programs represent important commitments to the public in vital areas such as health, income security and economic stability.

Growth in entitlement spending has resulted in large part from the explosion in health care costs throughout society. National spending on health care currently represents more than 14% of the nation's total economic output and is projected to rise to 18% of Gross Domestic Product by the year 2000 if corrective action is not taken. Through its various programs, the federal government pays approximately 25% of the nation's health care costs, primarily through the medicare and medicaid entitlement programs. The social security, medicare and medicaid programs represent nearly 70% of all entitlement spending.

The House is concerned with our ability to project, monitor and pay for rising health care costs within the federal budget. Federal spending for entitlements and other mandatory programs is expected to total approximately $770 billion in 1993, representing one-half of federal outlays and more than 12% of our nation's Gross Domestic Product.

The House, acknowledging the acute budgetary pressure placed on the federal government through rising health care costs, created an entitlement review process requiring the following action on the part of the President:

(1) Following enactment of reconciliation, the Office of Management and Budget sets targets for the total level of entitlement spending levels expected to result from enactment

of reconciliation.

(2) The targets would be adjusted annually for:

(a) Increases in the number of beneficiaries for direct spending programs in which the number of beneficiaries is a variable in determining costs (e.g., Social Security, Medicare, Medicaid, Food Stamps, Unemployment Compensation, Federal Civilian/Military Retirement and Veterans' Pensions/Compensation).

(b) Subsequently enacted legislation increasing or decreasing revenues and legislation designated as an 'emergency' measure under the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) The President's budget must include annual review of actual and projected costs for direct spending and revenues (FY 1994-97). the report shall include: total outlays for direct spending programs and projections for the following five fiscal years; the basis of any variance from the targets, including permissible adjustments; and information regarding major categories of fiscal receipts, including any variance between projected and actual receipts.

(4) If actual outlays for direct spending programs for the prior fiscal year or projected outlays for the current fiscal year or budget year exceed the targets, the President is required to propose measures to address any overage, either through spending cuts, revenue increases or outlay target increases. However, no proposal is required if projected outlays exceed the targets by 1/2 % estimating margin of error or less.

(5) The President and Congress should 'seriously consider' all other proposals (outlay target/revenue increases, discretionary cuts or non-means tested program cuts) prior to considering reductions for means-tested programs.

The entitlement review also requires the following action on the part of Congress:

(1) If the President identifies an overage and recommends legislation to recoup or eliminate it, the budget resolution must incorporate a title to address the overage through reconciliation. The reconciliation directive can reflect any combination of spending cuts or revenue increases, but must achieve legislative savings equal to or greater than the amount recommended by the President (up to the amount of the

overage).

(2) If the budget resolution recommends recouping less than the full overage, the House Budget Committee must report a House resolution directing that the outlay target shall be increased by the amount which is not offset.

(3) If the House resolution requires raising the outlay targets, the House must vote directly on the issue by a separate vote on the House resolution. If the House rejects raising the target, the budget resolution may not be considered as reported.

(4) Points of order are created: (a) The House cannot consider the budget resolution conference report unless the overage has been fully addressed, either by increasing the target or reporting reconciliation instructions to eliminate the overage or both; (b) No appropriations bills may be considered unless a budget resolution complying with this act has been adopted for the current fiscal year. However, this point of order may be waived by vote or resolution for all appropriations bills for the fiscal year.

The Senate Bill

The Senate bill adopts no analogous provisions.

The Conference Agreement

The conference agreement does not include the House entitlement review provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the entitlement review provisions would make the entire conference report subject to a point of order in the Senate and thereby endanger final enactment of the reconciliation bill, and based on their further understanding that President Clinton has agreed to establish by Executive Order a mechanism for monitoring entitlement outlays and making recommendations to address overages.