

§ 252 **SEC. 252.¹³⁰³ ENFORCING PAY-AS-YOU-GO.**

§ 252(a) **(a) FISCAL YEARS 1992-1998¹³⁰⁴ ENFORCEMENT.** — The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section¹³⁰⁵) affecting direct spending¹³⁰⁶ or receipts¹³⁰⁷ that increases the deficit¹³⁰⁸ in

¹³⁰³ Section 252 is codified as amended at 2 U.S.C. § 902 (Supp. IV 1992), amended by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a), 107 Stat. 312 (1993). Section 13101(a) of the Budget Enforcement Act amended section 252 to read substantially as it does now. See *infra* p. 701. For excerpts from the statement of managers accompanying the conference report on the Budget Enforcement Act explaining section 252, see *infra* note 1351. For a general discussion of the pay-as-you-go process, see EDWARD DAVIS, "PAY-AS-YOU-GO" BUDGET ENFORCEMENT PROCEDURES IN 1992 (Jan. 28, 1993) (Cong. Res. Serv. rep. no. IB92055, updated regularly); SEN. COMM. ON THE BUDGET, CONCURRENT RESOLUTION ON THE BUDGET, FY 1994, S. REP. NO. 103-19, 103d Cong., 1st Sess. 43-46 (1993).

¹³⁰⁴ Section 14003(a)(1) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a)(1), 107 Stat. 312 (1993), changed this reference from "1995" to "1998." For legislative history of the extension, see *infra* notes 1351 & 1807.

¹³⁰⁵ Section 250(c)(17) provides that "[f]or purposes of sections 252 and 253, legislation enacted during the second session of the One Hundred First Congress shall be deemed to have been enacted before the enactment of this Act." See *supra* p. 447.

¹³⁰⁶ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

¹³⁰⁷ The General Accounting Office has defined the term "budget receipts" to mean:

Collections from the public (based on the Government's exercise of its sovereign powers) and from payments by participants in certain voluntary Federal social insurance programs. These collections, also called governmental receipts, consist primarily of tax receipts and social insurance premiums, but also include receipts from court fines, certain licenses, and deposits of earnings by the Federal Reserve System. Gifts and contributions (as distinguished from payments for services or cost-sharing deposits by State and local governments) are also counted as budget receipts. Budget receipts are compared with total outlays in calculating the budget surplus or deficit.

GENERAL ACCOUNTING OFFICE, A GLOSSARY OF TERMS USED IN THE FEDERAL BUDGET PROCESS 47 (3d ed. 1981) (PAD-81-27).

¹³⁰⁸ Section 250(c)(1) (see *supra* p. 440) defines "deficit" at least in part by reference to the definition of section 3(6) of the Congressional Budget Act. See *supra* p. 16.

any fiscal year covered by this Act will trigger an offsetting sequestration.¹³⁰⁹

§ 252(b) (b) SEQUESTRATION;¹³¹⁰ LOOK-BACK. — Within 15 calendar days after Congress adjourns¹³¹¹ to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 253, there shall be a sequestration to offset the amount of any net deficit¹³¹² increase in that fiscal year and the prior fiscal year caused by all direct spending¹³¹³ and receipts legislation enacted after the date of enactment of this section (after adjusting for any prior sequestration as provided by paragraph (2)). OMB¹³¹⁴ shall calculate the amount of deficit increase, if any, in those fiscal years by adding —

§ 252(b)(1) (1) all applicable estimates of direct spending¹³¹⁵ and receipts legislation transmitted under subsection (d) applicable to those fiscal years, other than any amounts included in such estimates resulting from —

§ 252(b)(1)(A) (A) full funding of, and continuation of, the

¹³⁰⁹ Section 250(c)(2) defines "sequestration." See *supra* p. 440.

¹³¹⁰ Section 250(c)(2) defines "sequestration." See *supra* p. 440.

¹³¹¹ What happens if the Congress recesses to end the first session of a Congress? Congress plainly intended to require annual review of legislation. (For example, the use of the words "in that fiscal year" later in this sentence indicate an annual review.) This language should be read as "adjourns or recesses to end a session."

¹³¹² Section 250(c)(1) (see *supra* p. 440) defines "deficit" at least in part by reference to the definition of section 3(6) of the Congressional Budget Act. See *supra* p. 16.

¹³¹³ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

¹³¹⁴ Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." See *supra* p. 446.

¹³¹⁵ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

deposit insurance¹³¹⁶ guarantee commitment in effect on the date of enactment of this section,¹³¹⁷ and

§ 252(b)(1)(B)

(B) emergency provisions as designated under subsection (e); and

§ 252(b)(2)

(2) the estimated amount of savings in direct spending¹³¹⁸ programs applicable to those fiscal years resulting from the prior year's sequestration¹³¹⁹ under this section or section 253, if any (except for any amounts sequestered¹³²⁰ as a result of a net deficit¹³²¹ increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's¹³²² end-of-session sequestration report for that prior year.

¹³¹⁶ Section 250(c)(19) defines "deposit insurance." *See supra* p. 447.

¹³¹⁷ The law probably means the date of enactment of the Budget Enforcement Act of 1990, which added this language (*see* Budget Enforcement Act § 13101(a), *infra* p. 701), or November 5, 1990. Note that section 253 regarding enforcement of deficit targets instructs the Office of Management and Budget to make its calculations "assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of the submission of the budget for fiscal year 1993" — January 29, 1992. *See infra* p. 533.

Note that section 253(b)(3) also excludes changes in deposit insurance from the calculation of sequestration to enforce deficit targets. *See infra* p. 524. Consequently, the Senate Budget Committee does not count toward allocations or aggregates changes in law that merely further "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on [November 5, 1990]."

¹³¹⁸ Section 250(c)(8) defines "direct spending." *See supra* p. 444.

¹³¹⁹ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹³²⁰ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹³²¹ Section 250(c)(1) (*see supra* p. 440) defines "deficit" at least in part by reference to the definition of section 3(6) of the Congressional Budget Act. *See supra* p. 16.

¹³²² Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

§ 252(c)(1) (c)¹³²³ **ELIMINATING A DEFICIT¹³²⁴ INCREASE. — (1)**
The amount required to be sequestered¹³²⁵ in a fiscal year
under subsection (b) shall be obtained from non-exempt direct
spending¹³²⁶ accounts¹³²⁷ from actions taken in the following

¹³²³ Before enactment of the Budget Enforcement Act, section 252(c) dealt with the President's proposal of flexibility among defense programs, projects, and activities. Section 13101(a) of the Budget Enforcement Act repealed the old section 252(c). *See infra* p. 701. Section 13101(g) of the Budget Enforcement Act (*see infra* p. 706) added a new section 258B to Gramm-Rudman-Hollings (*see infra* pp. 643-652) based on the old section 252(c) to deal with the President's proposal of flexibility among defense programs. For the text of the old section 252(c), *see infra* note 1729.

¹³²⁴ Section 250(c)(1) (*see supra* p. 440) defines "deficit" at least in part by reference to the definition of section 3(6) of the Congressional Budget Act. *See supra* p. 16.

¹³²⁵ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹³²⁶ Section 250(c)(8) defines "direct spending." *See supra* p. 444.

¹³²⁷ Section 250(c)(11) defines "account." *See supra* p. 445. The "non-exempt direct spending accounts" to which this subsection refers, the entitlement and other mandatory spending subject to cutting, amount to only \$26.2 billion — a minute, 3.8% share of the \$687 billion total of entitlement and other mandatory spending that the Federal Government disburses each year (*see* CONGRESSIONAL BUDGET OFFICE, *THE ECONOMIC AND BUDGET OUTLOOK: FISCAL YEARS 1992-1996*, at 91 (Jan. 1991) (total fiscal year 1992 entitlement and other mandatory spending, excluding deposit insurance)):

Direct Spending Programs Subject to Sequestration
Under the Pay-as-You-Go Process
(amounts of estimated fiscal year 1992 outlays in billions of dollars)

program	outlays
Automatic spending increase and special rule programs	0.2
4% maximum of \$98.0 billion Medicare program	3.9
Other direct spending programs:	
Commodity Credit Corporation fund	10.3
Social services block grants	2.7
Family support payments to states	1.8
Payments to Japanese internees	0.5
Veterans' education — readjustment benefits	0.5
Payments to states for Mineral Leasing Act	0.4
Agricultural Marketing Service	0.4
Forest Service — cooperative work trust fund	0.3
	(continued...)

order:

§ 252(o)(1)(A) (A) FIRST. — All reductions in automatic spending increases specified in section 256(a) shall be made.

§ 252(o)(1)(B) (B) SECOND. — If additional reductions in direct

¹³⁷(...continued)

Rehabilitation services and handicapped research ..	0.3	
Assets forfeiture fund	0.3	
Foreign military sales	0.3	
Forest Service permanent appropriations	0.2	
Medicare (peer review organizations, etc.)	0.2	
Treasury — Customs Service	0.2	
Employment Training Administration —		
Federal unemployment benefits	0.2	
Interim assistance to states for legalization	0.1	
Veterans' burial benefits and miscellaneous	0.1	
Bureau of Land Management —		
miscellaneous permanent appropriations ...	0.1	
Forest Service — permanent appropriations	0.1	
Unemployment trust fund	0.1	
Immigration user fee	0.1	
Rivers and harbors contributed funds	0.1	
Rural electrification and		
telephone revolving fund	0.1	
Agriculture Marketing Service —		
miscellaneous trust funds	0.1	
Sport fish restoration	0.1	
Immigration examination fee	0.1	
Black lung trust fund	0.1	
Crime victims fund	0.1	
Other	<u>1.3</u>	
Subtotal		20.9
Spending from offsetting collections:		
Patent and Trademark Office —		
salaries and expenses	0.3	
Lower Colorado River Basin development fund	0.1	
United States Mint — salaries and expenses	0.1	
Other	<u>0.8</u>	
Subtotal		<u>1.2</u>
Total		26.2

See STAFF OF HOUSE COMM. ON WAYS AND MEANS, OVERVIEW OF ENTITLEMENT PROGRAMS, W.M. COMM. PRINT 102-9, 102d Cong., 1st Sess. 1592-93 (May 7, 1991).

spending¹³²⁸ accounts¹³²⁹ are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

§ 252(e)(1)(C)(i)

(C) **THIRD.** — (i) If additional reductions in direct spending¹³³⁰ accounts¹³³¹ are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

§ 252(e)(1)(C)(ii)

(ii) For purposes of determining reductions under clause (i),¹³³² outlay¹³³³ reductions (as a result of sequestration¹³³⁴ of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

¹³²⁸ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

¹³²⁹ Section 250(c)(11) defines "account." See *supra* p. 445.

¹³³⁰ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

¹³³¹ Section 250(c)(11) defines "account." See *supra* p. 445.

¹³³² See *supra* p. 514. This rule for crediting Commodity Credit Corporation outlay reductions should also apply for purposes of determining sequestration savings under subsection (b)(2) (see *supra* p. 511) and section 253. See *infra* pp. 523-533.

¹³³³ Section 250(c)(1) (see *supra* p. 440) defines "outlays" at least in part by reference to the definition of section 3(1) of the Congressional Budget Act. See *supra* p. 11.

¹³³⁴ Section 250(c)(2) defines "sequestration." See *supra* p. 440.

§ 252(c)(2) (2) For purposes of this subsection, accounts¹³³⁵ shall be assumed to be at the level in the baseline.¹³³⁶

§ 252(d) (d) OMB¹³³⁷ ESTIMATES. — As soon as practicable after Congress completes action on any direct spending¹³³⁸ or receipts legislation enacted after the date of enactment of this section, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO¹³³⁹ shall provide OMB with an estimate of the amount of change¹³⁴⁰ in outlays¹³⁴¹ or receipts, as the case may be, in each fiscal year through fiscal year 1998¹³⁴² resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in

¹³³⁵ Section 250(c)(11) defines "account." See *supra* p. 445.

¹³³⁶ Section 250(c) (see *supra* p. 442) defines "baseline" in substantial part by reference to section 257. See *infra* pp. 600-617.

¹³³⁷ Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." See *supra* p. 446.

¹³³⁸ Section 250(c)(8) defines "direct spending." See *supra* p. 444.

¹³³⁹ Section 250(c)(16) defines "CBO" to mean "the Director of the Congressional Budget Office." See *supra* p. 446.

¹³⁴⁰ This reference to "change" means change as measured relative to the baseline pursuant to section 257. See *infra* pp. 600-617.

¹³⁴¹ Section 250(c)(1) (see *supra* p. 440) defines "outlays" at least in part by reference to the definition of section 3(1) of the Congressional Budget Act. See *supra* p. 11.

¹³⁴² Section 14003(a)(2) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a)(2), 107 Stat. 312 (1993), changed this reference from "1995" to "1998." For legislative history of the extension, see *infra* notes 1351 & 1807.

each fiscal year through fiscal year 1998¹³⁴³ resulting from that legislation, and an explanation of any difference between the two estimates. Those OMB estimates shall be made using current¹³⁴⁴ economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.¹³⁴⁵

¹³⁴³ Section 14003(a)(2) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a)(2), 107 Stat. 312 (1993), changed this reference from "1995" to "1998." For legislative history of the extension, see *infra* notes 1351 & 1807.

¹³⁴⁴ Section 250(c)(9) defines "current." See *supra* p. 445.

¹³⁴⁵ The statement of managers accompanying the conference report on the Budget Enforcement Act expressed concern regarding the powers conferred on the Office of Management and Budget by this paragraph and set forth the scorekeeping guidelines to which this paragraph refers. See *supra* note 1245.

On January 3, 1991, the House of Representatives adopted a change in the Rules of the House of Representatives to address this concern:

(10) In rule XXI, add at the end the following new clause:

"8. It shall not be in order to consider a bill, joint resolution, or conference report providing, increasing, or decreasing receipts or direct spending (as defined in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985), unless the conference report or bill or joint resolution as reported contains the following statement of law: 'The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows: _____. The blank shall be filled with a cost estimate provided by the Congressional Budget Office (prepared in consultation with the Joint Committee on Taxation where appropriate pursuant to section 201(g) of the Congressional Budget Act of 1974). The cost estimate shall be in writing and shall be signed, and shall contain an estimate of the amount of the change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995, resulting from the conference report or bill or joint resolution as reported.'"

H. Res. 5, 102d Cong., 1st Sess., 137 CONG. REC. H5-6 (daily ed. Jan. 3, 1991).

The House debated the rule change on January 3, 1991. See 137 CONG. REC. H7-26 (daily ed. Jan. 3, 1991). The House voted in favor of the previous question, 250 to 162 (18 (continued...))

§ 252(e) (e) EMERGENCY LEGISLATION. — If, for any fiscal year from 1991 through 1998,¹³⁴⁶ a provision of direct spending¹³⁴⁷ or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority,¹³⁴⁸ outlays,¹³⁴⁹ and receipts in all fiscal years through 1995¹³⁵⁰ resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d).¹³⁵¹

¹³⁴⁵(...continued)

not voting), voted down the Republican leader's motion to recommit 160 to 256 (14 not voting), and approved the resolution amending the rules 242 to 160 (28 not voting). *Id.* at H26-28.

After a session of honoring the rule in the breach, the House repealed clause 8 of rule XXI. *See* 139 CONG. REC. H5, H6, H10, H53-54 (daily ed. Jan. 5, 1993). Majority Leader Gephardt noted that the rule "proved to be difficult to implement." *Id.* at H10.

¹³⁴⁶ Section 14003(a)(3) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a)(3), 107 Stat. 312 (1993), changed this reference from "fiscal year 1991, 1992, 1993, 1994, or 1995" to "any fiscal year from 1991 through 1998." For legislative history of the extension, *see infra* notes 1351 & 1807.

¹³⁴⁷ Section 250(c)(8) defines "direct spending." *See supra* p. 444.

¹³⁴⁸ Section 250(c)(1) (*see supra* p. 440) defines "budget authority" and "new budget authority" at least in part by reference to the definitions of section 3(2) of the Congressional Budget Act. *See supra* pp. 11-13.

¹³⁴⁹ Section 250(c)(1) (*see supra* p. 440) defines "outlays" at least in part by reference to the definition of section 3(1) of the Congressional Budget Act. *See supra* p. 11.

¹³⁵⁰ This should read "1998." Section 14003(a)(3) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003(a)(3), 107 Stat. 312 (1993), extended this section from 1995 to 1998 (*see supra* note 1346), but the drafters of the Act neglected to make this conforming change. Plainly Congress intended the change, for without it, the extension in this subsection cited above would have no effect. For legislative history of the extension, *see infra* notes 1351 & 1807.

¹³⁵¹ Compare the parallel provisions for emergencies for appropriated spending in section 251(b)(2)(D). *See supra* p. 498. For discussions of these emergency provisions, *see* William G. Dauster, *Budget Emergencies*, 18 J. LEGIS. 249 (1992); ROBERT KEITH, EMERGENCY LEGISLATION UNDER THE GRAMM-RUDMAN-HOLLINGS ACT: 101ST-102ND CONGRESSES (Dec. 8, 1992) (Cong. Res. Serv. rep. no. 92-917 GOV).

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¹³⁵¹(...continued)

Section 13101(a) of the Budget Enforcement Act amended section 252 to read substantially as it does now. See *infra* p. 701. The statement of managers accompanying the conference report on the Budget Enforcement Act explains section 252 generally:

II. ENFORCING PAY-AS-YOU-GO

Current law

Under current law, the Senate and the House of Representatives limit entitlements through spending allocations to their respective authorizing committees in the joint statement of the managers accompanying the concurrent resolution on the budget, just as with discretionary spending. A point of order (requiring 60 votes to waive in the Senate and a simple majority to waive in the House) lies against any new entitlement program that would cause spending to exceed limits that flow from these allocations. Similarly, the concurrent resolution on the budget sets a revenue floor, and a point of order (requiring 60 votes to waive in the Senate and a simple majority to waive in the House) lies against any tax-cutting legislation that would cause revenues to fall below the floor in the resolution.

House bill

The House bill creates a new "pay-as-you-go" mechanism to require across-the-board cuts in those entitlement programs subject to Gramm-Rudman-Hollings if new entitlement spending or tax-cutting legislation increases the deficit. The President orders these cuts on October 15 -- the same date that a final sequestration order is issued pursuant to Gramm-Rudman-Hollings. The House bill cuts the first \$5 billion in excess solely from entitlement programs now covered by Gramm-Rudman-Hollings. In the case of any excess above \$5 billion, the House would cut 50 percent of the further excess from entitlement and 50 percent from discretionary spending.

Senate amendment

The Senate amendment creates a mechanism similar to the House bill, except that the President orders these cuts on November 15, and makes the across-the-board cuts solely in entitlement programs now covered by Gramm-Rudman-Hollings. Discretionary programs would not be reduced through the pay-as-you-go sequester.

Conference agreement

The conference agreement makes across-the-board cuts only in non-exempt entitlement programs, as in the Senate amendment. These cuts are ordered on the same day as the discretionary spending and deficit seques-

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¹²⁵¹(...continued)

trations. The conference agreement includes a provision for emergency direct spending or receipts legislation, which would not be subject to the pay-as-you-go requirement.

Section 252(b)(1) of the conference agreement excludes from the pay-as-you-go sequester procedure legislation maintaining the deposit insurance guarantee in effect on the date of enactment. The conferees intend that the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration.

H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1153-54 (1990), *reprinted in* 1990 U.S.C.A.N. 2374, 2858-59.

Section 14003 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 14003, 107 Stat. 312 (1993), extended this section from fiscal year 1995 to fiscal year 1998. The joint statement of managers accompanying that Act explains:

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 pay-as-you-go requirement. . . .

Title XIV (Enforcement Procedures) of the Senate amendment extends . . . 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 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

(continued...)

1891 (...continued)

.....

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. § 1022 (Supp. II 1990))). First, the Act extended the process through fiscal year 1995 Third, the Act . . . 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 . . . procedures (in effect through fiscal year 1995) enforceable by sequestration. Congress intended that . . . 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 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.

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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 account-

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¹³⁵¹(...continued)

ing and enforcement.

The budgetary effects of direct spending and revenue legislation are tracked over the full five years of the process using a 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

. . . .

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
(continued...)

¹³⁵¹(...continued)

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.

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 936-37, 946, 949-50 (1993), *reprinted in* 139 CONG. REC. H6036, H6039-40 (daily ed. Aug. 4, 1993).

As described in the joint statement of managers language just quoted, to lock in the deficit reduction achieved by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993), section 14003(c) of that Act adjusts the yearly pay-as-you-go balances for the deficit reduction achieved by the Act:

(c) Upon enactment of this Act, the director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.

Pub. L. No. 103-66, § 14003(c), 107 Stat. 312 (1993).