§ 253 **SEC. 253.[1352] ENFORCING DEFICIT TARGETS.**

§ 253(a) **(a) SEQUESTRATION.[1353] — Within 15 calendar days after Congress adjourns[1354] 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 252, but after any sequestration required by section 251 (enforcing discretionary spending limits[1355]) or section 252 (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit[1356] (if any remains) if it exceeds the margin.**

§ 253(b) **(b) EXCESS DEFICIT; MARGIN. — The excess deficit is, if greater than zero, the estimated deficit[1357] for the budget**

[1352] Section 253 is codified as amended at 2 U.S.C. § 903 (Supp. IV 1992). Section 13101(a) of the Budget Enforcement Act amended section 253 to read 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 253, see *infra* note 1411.

[1353] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

[1354] What happens if the Congress recesses to end the first session of a Congress? Congress plainly intended to require annual review of legislation. This language should be read as "adjourns or recesses to end a session."

[1355] Section 250(c)(1) of Gramm-Rudman-Hollings (*see supra* p. 440) defines "discretionary spending limit" by adopting the definition of section 601(a)(2) of the Congressional Budget Act (*see supra* pp. 301-303) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

[1356] Section 253(b) defines the term "excess deficit." *See infra* pp. 523-524.

[1357] 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.

As used here, the deficit means the deficit left after any savings achieved for the fiscal year by sections 251 and 252. This conclusions flows from the language of subsection (a) stating that sequestration under this section shall occur "*after* any sequestration required by section 251 (enforcing discretionary spending limits) or section 252 (enforcing pay-as-you-go)" and that there shall be sequestration of the excess deficit "if any *remains*" (emphasis added).

year,[1358] minus —

§ 253(b)(1) **(1) the maximum deficit amount[1359] for that year;**

§ 253(b)(2) **(2) the amounts for that year designated as emergency direct spending[1360] or receipts legislation under section 252(e); and**

§ 253(b)(3) **(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance[1361] reestimate for that year, if any, calculated under subsection (h).[1362]**

The "margin" for fiscal year 1992 or 1993 is zero and for fiscal year 1994 or 1995 is $15,000,000,000.

§ 253(c) **(c) DIVIDING THE SEQUESTRATION.[1363] — To eliminate the excess deficit[1364] in a budget year,[1365] half of the**

[1358] Section 250(c)(12) defines "budget year." *See supra* p. 446.

[1359] Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See infra* pp. 475-502, 523-533.

[1360] Section 250(c)(8) defines "direct spending." *See supra* p. 444.

[1361] Section 250(c)(19) defines "deposit insurance." *See supra* p. 447.

[1362] *See infra* p. 533.

Note that section 252(b)(1)(A) regarding enforcing pay-as-you-go also excludes "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment." *See supra* p. 510. 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]."

[1363] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

[1364] Section 253(b) defines the term "excess deficit." *See supra* pp. 523-524.

required outlay[1366] reductions shall be obtained from non-exempt defense accounts[1367] (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

§ 253(d) (d) DEFENSE. — Each non-exempt defense account[1368] shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources[1369] in that account at that time by the uniform percentage necessary to carry out subsection (c), except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 251(a)(3).

§ 253(e) (e) NON-DEFENSE. — Actions to reduce non-defense accounts[1370] shall be taken in the following order:

§ 253(e)(1) (1) FIRST. — All reductions in automatic spending increases under section 256(a) shall be made.

§ 253(e)(2) (2) SECOND. — If additional reductions in non-defense accounts[1371] are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

[1365](...continued)
[1365] Section 250(c)(12) defines "budget year." *See supra* p. 446.

[1366] 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.

[1367] Section 250(c)(11) defines "account." *See supra* p. 445.

[1368] Section 250(c)(11) defines "account." *See supra* p. 445.

[1369] Section 250(c)(6) defines "budgetary resources." *See supra* p. 443.

[1370] Section 250(c)(11) defines "account." *See supra* p. 445.

[1371] Section 250(c)(11) defines "account." *See supra* p. 445.

§ 253(e)(3)(A) **(3) THIRD. — (A) If additional reductions in non-defense accounts[1372] are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays[1373] required by subsection (c), except that —**

§ 253(e)(3)(A)(i) **(i) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and**

§ 253(e)(3)(A)(ii) **(ii) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 251),**

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.[1374]

§ 253(e)(3)(B) **(B) For purposes of determining reductions under subparagraph (A), outlay[1375] reduction (as a result of sequestration[1376] of Commodity Credit Corporation com-**

1372 Section 250(c)(11) defines "account." *See supra* p. 445.

1373 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.

1374 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.

1375 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.

1376 Section 250(c)(2) defines "sequestration." *See supra* p. 440.

modity 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.

§ 253(f) **(f) BASELINE[1377] ASSUMPTIONS; PART-YEAR APPROPRIATIONS. —**

§ 253(f)(1) **(1) BUDGET ASSUMPTIONS. — For purposes of subsections (b), (c), (d), and (e), accounts[1378] shall be assumed to be at the level in the baseline[1379] minus any reductions required to be made under sections 251 and 252.**

§ 253(f)(2) **(2) PART-YEAR APPROPRIATIONS. — If, on the date specified in subsection (a), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account,[1380] then the dollar sequestration[1381] calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from —**

§ 253(f)(2)(A) **(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and**

§ 253(f)(2)(B) **(B) when a full-year appropriation for that**

[1377] Section 250(c) (*see supra* p. 442) defines "baseline" in substantial part by reference to section 257. *See infra* pp. 600-617.

[1378] Section 250(c)(11) defines "account." *See supra* p. 445.

[1379] Section 250(c) (*see supra* p. 442) defines "baseline" in substantial part by reference to section 257. *See infra* pp. 600-617.

[1380] Section 250(c)(11) defines "account." *See supra* p. 445.

[1381] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

account[1382] is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered[1383] from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline[1384] for that account.

§ 253(g) **(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.[1385]**

§ 253(g)(1) **(1) ADJUSTMENTS. —**

§ 253(g)(1)(A) **(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.**

§ 253(g)(1)(B) **(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maxi-**

1382 Section 250(c)(11) defines "account." *See supra* p. 445.

1383 Section 250(c)(2) defines "sequester." *See supra* p. 440.

1384 Section 250(c) (*see supra* p. 442) defines "baseline" in substantial part by reference to section 257. *See infra* pp. 600-617.

1385 Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

mum deficit amounts[1386] for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions.[1387] If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits[1388] described in sections 251(b)(1)(C) and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

§ 253(g)(1)(C) **(C) When the budget for fiscal year 1994 or 1995 is submitted and the sequestration[1389] reports for those years under section 254 are made (as applicable), if the President does not choose to make the adjustments set forth in subparagraph (B), the**

1386 Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

1387 For an explanation of this power, see ROBERT KEITH, OPTIONAL ADJUSTMENT OF GRAMM-RUDMAN-HOLLINGS ACT DEFICIT TARGETS FOR FISCAL YEARS 1994 AND 1995 (Oct. 27, 1992) (Cong. Res. Serv. rep. no. 92-773).

1388 Section 250(c)(1) of Gramm-Rudman-Hollings (*see supra* p. 440) defines "discretionary spending limit" by adopting the definition of section 601(a)(2) of the Congressional Budget Act (*see supra* pp. 301-303) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

1389 Section 250(c)(2) defines "sequestration." *See supra* p. 440.

maximum deficit amount[1390] for that fiscal year shall be adjusted by the amount of the adjustment to discretionary spending limits[1391] first applicable for that year (if any) under section 251(b).

§ 253(g)(1)(D) **(D) For each fiscal year the adjustments required to be made with the submission of the President's budget for that year shall also be made when OMB[1392] submits the sequestration[1393] update report and the final sequestration report for that year, but OMB shall continue to use the economic and technical assumptions in the President's budget for that year.**

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts[1394] set forth in section 601 of the Congressional Budget Act of 1974.

§ 253(g)(2) **(2) CALCULATIONS OF ADJUSTMENTS. — The required increase or decrease shall be calculated as follows:**

[1390] Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

[1391] Section 250(c)(1) of Gramm-Rudman-Hollings (*see supra* p. 440) defines "discretionary spending limit" by adopting the definition of section 601(a)(2) of the Congressional Budget Act (*see supra* pp. 301-303) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

[1392] Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

[1393] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

[1394] Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

§ 253(g)(2)(A) **(A) The baseline[1395] deficit[1396] or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations,[1397] using the discretionary spending limits[1398] set forth in section 601 of the Congressional Budget Act of 1974[1399] as adjusted under section 251.[1400]**

§ 253(g)(2)(B) **(B) The net deficit[1401] increase or decrease caused by all direct spending[1402] and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration[1403] of**

[1395] Section 250(c) (*see supra* p. 442) defines "baseline" in substantial part by reference to section 257. *See infra* pp. 600-617.

[1396] 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.

[1397] Section 250(c)(7) defines "discretionary appropriations." *See supra* p. 444.

[1398] Section 250(c)(1) of Gramm-Rudman-Hollings (*see supra* p. 440) defines "discretionary spending limit" by adopting the definition of section 601(a)(2) of the Congressional Budget Act ~~(*see supra* pp. 301-303) as~~ adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

[1399] Section 601(a)(2) of the Congressional Budget Act sets forth these discretionary spending limits. *See supra* pp. 301-303.

[1400] Section 251(b) of Gramm-Rudman-Hollings provides for these adjustments. *See supra* pp. 493-502.

For a discussion of whether this subparagraph provides a basis for using the discretionary spending limits as the baseline levels of appropriations, see *infra* note 1663.

[1401] 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.

[1402] Section 250(c)(8) defines "direct spending." *See supra* p. 444.

[1403] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

direct spending accounts[1404]) shall be calculated for each fiscal year by adding —

§ 253(g)(2)(B)(i) **(i) the estimates of direct spending and receipts legislation transmitted under section 252(d) applicable to each such fiscal year; and**

§ 253(g)(2)(B)(ii) **(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration[1405] under this section or section 252 of direct spending,[1406] if any, as contained in OMB's[1407] final sequestration report for that year.**

§ 253(g)(2)(C) **(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).**

§ 253(g)(2)(D) **(D) The maximum deficit amount[1408] set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).**

§ 253(g)(2)(E) **(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment**

[1404] Section 250(c)(11) defines "account." *See supra* p. 445.

[1405] Section 250(c)(2) defines "sequestration." *See supra* p. 440.

[1406] Section 250(c)(8) defines "direct spending." *See supra* p. 444.

[1407] Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

[1408] Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See* pp. 475-502, 523-533.

required by paragraph (1).

§ 253(h) **(h) TREATMENT OF DEPOSIT INSURANCE.[1409] —**

§ 253(h)(1) **(1) INITIAL ESTIMATES. — The initial estimates of the net costs of federal deposit insurance for fiscal year 1994 and fiscal year 1995 (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) shall be set forth in that budget.**

§ 253(h)(1) **(2) REESTIMATES. — For fiscal year 1994 and fiscal year 1995, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth under paragraph (1) for that year from the current[1410] estimate of deposit insurance costs (but assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of submission of the budget for fiscal year 1993).[1411]**

[1409] Section 250(c)(19) defines "deposit insurance." *See supra* p. 447.

Section 253(b)(3) instructs the Office of Management and Budget to exclude from its calculation of the excess deficit "the deposit insurance reestimate for that year, if any, calculated under subsection (h)." *See supra* p. 524.

Note that section 252(b)(1)(A) regarding enforcing pay-as-you-go also excludes "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment." *See supra* p. 510. 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]."

[1410] Section 250(c)(9) defines "current." *See supra* p. 445.

[1411] Section 13101(a) of the Budget Enforcement Act amended section 253 to read as it does now. *See infra* p. 701. The statement of managers accompanying the conference report on the Budget Enforcement Act explains section 253 generally:

III. REVISING AND ENFORCING DEFICIT TARGETS

Current law

(continued...)

[1411](...continued)

Gramm-Rudman-Hollings established deficit targets ("maximum deficit amounts") in 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 revised them as follows (in billions of dollars):

	1985 law	1987 revision
Fiscal year:		
1986	171.9	
1987	144	
1988	108	144
1989	72	136
1990	36	100
1991	0	64
1992		28
1993		0

Gramm-Rudman-Hollings enforces these targets, based on projections of the deficit, through across-the-board cuts on October 15. The cuts cancel non-exempt budgetary resources to achieve outlay savings sufficient to reduce the deficit to the maximum deficit amount. Under section 301(i) of the Congressional Budget Act, budget resolutions must also meet these maximum deficit amount targets or be subject to a point of order (that requires 60 votes to waive in the Senate and a three-fifths majority to waive in the House). Gramm-Rudman-Hollings expires on September 30, 1993. For a discussion of current law, see the conference report to accompany H.J. Res. 324 (Increasing the Statutory Limit on the Public Dept), House Report 100-313 (September 21, 1987), 100th Cong. 1st Sess., pages 42-62.

House bill

The House bill revises the deficit targets as follows (in billions of dollars):

	Current law	House bill
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	302.3
1992	28	276.8
1993	0	189.7
1994		58.1
1995		18.7

(continued...)

[1411](...continued)

The House bill amends Gramm-Rudman-Hollings to provide for sequestration in a manner similar to current law, except that for fiscal years 1991 through 1993 the President must annually revise the targets for changes in economic and technical assumptions occurring since the last year. As a consequence, during those years, the sequester covers only changes caused by legislative actions. The consequences of those actions, however, are addressed by the new mechanisms for enforcement of the discretionary spending limits and pay-as-you-go. Thus, during the first three years covered by the House bill, this should not require the President to order cuts under the conventional Gramm-Rudman-Hollings process. For fiscal years 1994 and 1995, the House bill authorizes (but does not require) the President to continue the process of adjustment for economic and technical changes, but continues a process similar to the current Gramm-Rudman-Hollings for those years if the President chooses not to make such adjustments

Senate amendment

The Senate amendment revises the deficit targets as follows (in billions of dollars):

	Current law	Senate amendment
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	242
1992	28	219
1993	0	165
1994		86
1995		62

The Senate amendment retains much of the language of the existing Gramm-Rudman-Hollings, but adopts a process similar to the House bill for annual adjustment of the deficit targets.

The revised deficit targets proposed by the Senate differ from those proposed by the House because of differences in economic and technical assumptions.

Conference agreement

(continued...)

[1411](...continued)

The conference agreement revises the deficit targets (as a new section of the Congressional Budget Act of 1974) as follows (in billions of dollars):

	Current law	House bill
Fiscal year:		
1986	171.9	
1987	144	
1988	144	
1989	136	
1990	100	
1991	64	327
1992	28	317
1993	0	236
1994		102
1995		83

The conference agreement incorporates the procedures proposed by the House under which the President must adjust the deficit targets for fiscal years 1991 through 1993 and may adjust the target for fiscal years 1994 and 1995. The deficit targets established reflect current economic projections and the removal of Social Security trust fund balances from the deficit calculation. These deficit targets will be adjusted for further updated economic and technical factors through fiscal year 1993.

H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1155-56 (1990), *reprinted in* 1990 U.S.C.C.A.N. 2374, 2859-61.

Before the Budget Enforcement Act amended it, Gramm-Rudman-Hollings enforced a series of fixed deficit targets, or "maximum deficit amounts." The history of Gramm-Rudman-Hollings demonstrated the futility of fixed targets, as the Congress was forced to revise those targets twice before the close of 6 years. Fixed deficit targets promised a balanced budget, but always in an unreachable future. Gramm-Rudman-Hollings thus followed the White Queen's admonition to Alice: "The rule is, jam to-morrow and jam yesterday — but never jam *to-day*." LEWIS CARROLL (CHARLES L. DODGSON), THROUGH THE LOOKING GLASS ch. 5 (1872) (emphasis in the original).

The joint statement of managers accompanying the conference report on the 1987 revision of Gramm-Rudman-Hollings explained the deficit-reduction procedures in effect before the Budget Enforcement Act and the changes made in 1987. *Note that the Budget Enforcement Act changed these procedures significantly:*

III. DEFICIT REDUCTION PROCEDURES AND BUDGET PROCESS REFORM

(continued...)

[1411](...continued)

OVERVIEW

The Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), commonly referred to as the 1985 Balanced Budget Act or the Gramm-Rudman-Hollings Act, established deficit targets (leading to a balanced budget by fiscal year 1991) and a special deficit-reduction process known as sequestration. Additionally, the Act made extensive changes in congressional procedures under the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with deficit reduction procedures or budget process reform.

Senate amendment numbered 3 adds two new titles to the joint resolution that modify the deficit targets and sequestration process under the 1985 Balanced Budget Act . . . .

. . . .

The following discussion explains current law, the Senate amendment, and the conference agreement in more detail, according to specific topics.

A. DEFICIT REDUCTION PROCEDURES UNDER THE 1985 BALANCED BUDGET ACT

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with the 1985 Balanced Budget Act. Senate amendment numbered 3 in part adds a new Title II (Budget and Fiscal Procedures) to the joint resolution; Part A of Title II contains the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987." The conference agreement adds a new Title I (Deficit Reduction Procedures).

1. Deficit Targets and Amount of Sequestration

Current Law

The 1985 Balanced Budget Act established (in Section 3(7) of the 1974 Budget Act) a deficit target, referred to as a "maximum deficit amount," for each of six consecutive fiscal years, beginning with $171.9 billion for FY 1986, $144 billion for FY 1987, and declining by $36 billion a year thereafter until a balanced budget is achieved in FY 1991. The deficit targets are as follows:

FY 1986 — $171.9 billion;
FY 1987 — $144 billion;
FY 1988 — $108 billion;

(continued...)

[141](...continued)

FY 1989 — $72 billion;
FY 1990 — $36 billion; and
FY 1991 — zero.

The Act contains emergency procedures, known generally as sequestration, to eliminate the deficit excess — that amount of the estimated deficit that exceeds the deficit target. Sequestration involves the issuance of a presidential order that permanently cancels (with certain exceptions) budgetary resources in order to achieve a required amount of outlay savings. If sequestration is required for a fiscal year, the entire amount of the deficit excess for that year must be eliminated. (To eliminate a deficit excess of $20 billion, for example, budgetary resources would have to be reduced by a much greater amount in order to yield the $20 billion in aggregate required outlay reductions).

Sequestration would not occur during FY 1987-1990 if the deficit excess is $10 billion or less. (The $10 billion margin-of-error amount does not apply for FY 1991; in that year, any deficit excess would have to be eliminated.)

Provisions in the 1985 Balanced Budget Act pertaining to the deficit targets and sequestration procedures expire on September 30, 1991.

. . . .

Senate Amendment

The Senate amendment revises the deficit targets beginning with FY 1988 and extends them for one year, as follows:

FY 1988 — $150 billion;
FY 1989 — $130 billion;
FY 1990 — $90 billion;
FY 1991 — $45 billion; and
FY 1992 — zero.

Under the Senate amendment, if sequestration is required, the entire amount of the deficit excess must be eliminated (except possibly for FY 1989). Also, the $10 billion margin-of-error amount applies for FY 1988-1991, but not for FY 1992.

In the case of FY 1989 only, the amount of required outlay reductions is the lesser of (1) the amount of the deficit excess or (2) the amount necessary to achieve a $36 billion reduction from a current services baseline deficit. With regard to the second condition, sequestration would not occur if a report issued by the Director of the Office of Management and Budget

(continued...)

[1411](...continued)
(OMB) indicates that $36 billion in deficit reduction has been achieved. This final OMB report is issued after preliminary reports are made by the OMB Director, the Director of the Congressional Budget Office (CBO), and the Comptroller General.

To determine whether the second condition has been met, each agency estimates the amount of deficit reduction achieved below its own current services baseline deficit estimate made earlier in the year. (Current services is defined as zero percent real growth for all programs subject to appropriation.) OMB must use a baseline estimate (and corresponding economic and technical assumptions) that it is required to submit as part of the President's annual budget in January. CBO must use a baseline deficit estimate and assumptions that it is required to include in its annual February report. After reviewing the OMB and CBO estimates, the Comptroller General must issue on March 1 his own estimate of the FY 1989 baseline deficit and corresponding assumptions.

The Senate amendment changes the expiration date for provisions dealing with the deficit targets and sequestration procedures to September 30, 1992.

. . . .

Conference Agreement

The conference agreement revises the deficit targets beginning with FY 1988 and extends them for two years, as follows:

FY 1988 — $144 billion;
FY 1989 — $136 billion;
FY 1990 — $100 billion;
FY 1991 — $64 billion;
FY 1992 — $28 billion; and
FY 1993 — zero.

Under the conference agreement, if sequestration is required, the entire amount of the deficit excess must be eliminated (except for FY 1988 and possibly for FY 1989). Also, the $10 billion margin-of-error amount, defined as the "margin," is set at $10 billion for FY 1988-1992 and zero for FY 1993.

For FY 1988 only, the conference agreement provides that the aggregate required outlay reductions to be accomplished through sequestration shall be the amount of unachieved deficit reduction for the fiscal year. Unachieved deficit reduction for FY 1988 is set at $23 billion, minus the net deficit reduction achieved (because of laws enacted or regulations promulgat-
(continued...)

[141](...continued)
ed as final) between January 1, 1987 and the appropriate "snapshot date" (in the case of the initial sequestration report, October 10, 1987, and in the case of the final sequestration report, the latest date possible before its submission on November 15, 1987 by the CBO Director and on November 20, 1987 by the OMB Director).

For FY 1989 only, the conference agreement provides that the aggregate required outlay reductions to be accomplished through sequestration shall be the lesser of the deficit excess or the amount of unachieved deficit reduction for the fiscal year (or zero if the deficit excess is equal to or less than the margin for that year — $10 billion). Unachieved deficit reduction for FY 1989 is set at $36 billion, minus the net deficit reduction achieved (because of laws enacted or regulations promulgated as final) between January 1, 1988 and the appropriate "snapshot date" (in the case of the initial sequestration report, August 15, 1988, and in the case of the final sequestration report, the latest date possible before its submission on October 10, 1988 by the CBO Director and on October 15 by the OMB Director).

The conferees recognize that the "snapshot date" may be different for the final OMB and CBO reports and therefore some legislation and regulations reflected in one report may not be reflected in the other. The OMB and CBO Directors shall ensure that the revised sequestration reports reflect legislation enacted or regulations promulgated as final as of three days prior to the issuance of such reports. In addition, the Directors shall ensure to the maximum extent practicable that the revised reports reflect legislation enacted or regulations promulgated as final during the three days immediately prior to the issuance of such reports.

The conference agreement caps the maximum amount of aggregate required outlay reductions at $23 billion for FY 1988 and $36 billion for FY 1989, but such amounts are not capped for the remaining fiscal years. The OMB and CBO Directors would determine the amount of net deficit reduction achieved for a fiscal year using the methodology and guidelines for making baseline estimates prescribed in Section 251(a)(6) of the 1985 Balanced Budget Act, as amended by this Act.

For the remaining fiscal years, FY 1990-1993, the aggregate required outlay reductions to be accomplished through sequestration would be equal to the amount of the deficit excess (or zero if the deficit excess is equal to or less than the margin for that year — $10 billion for FY 1990-1992 and zero for FY 1993).

H.R. CONF. REP. NO. 100-313, 100th Cong., 1st Sess. 42-46 (1987), *reprinted in* 1987 U.S.C.C.A.N. 739, 743-46. ("FY" stands for "fiscal year.")

§ 254 **SEC. 254.[1412] REPORTS AND ORDERS.**

§ 254(a) **(a)[1413] TIMETABLE. — The timetable with respect to this part for any budget year[1414] is as follows:**

Date:	**Action to be completed:**
January 21	**Notification regarding optional adjustment of maximum deficit amount.[1415]**
5 days before the President's budget submission	**CBO[1416] sequestration[1417] preview report.**

[1412] Section 254 is codified as amended at 2 U.S.C. § 904 (Supp. IV 1992), *amended by* the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §§ 14002(c)(2) & 14003(b), 107 Stat. 312 (1993). Section 13101(a) of the Budget Enforcement Act amended section 254 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 254, see *infra* note 1518.

[1413] Before enactment of the Budget Enforcement Act, section 254(a) dealt with special procedures in the event of low economic growth. Section 13101(a) of the Budget Enforcement Act repealed the old section 254(a). *See infra* p. 701. Section 13101(f) of the Budget Enforcement Act (*see infra* p. 705) added a new section 258 to Gramm-Rudman-Hollings (*see infra* pp. 619-630) based on the old section 254(a) to deal with special procedures in the vent of low economic growth. For the text of the old section 254(a), see *infra* note 1705.

[1414] Section 250(c)(12) defines "budget year." *See supra* p. 446.

[1415] Section 250(c)(1) (*see supra* p. 440) defines "maximum deficit amount" by adopting the definition of section 601(a)(1) of the Congressional Budget Act (*see supra* p. 299) as adjusted under sections 251 and 253 of Gramm-Rudman-Hollings. *See supra* pp. 475-502, 523-533.

[1416] Section 250(c)(16) defines "CBO" to mean "the Director of the Congressional Budget Office." *See supra* p. 446.

[1417] Section 250(c)(2) defines "sequestration." *See supra* p. 440.