

§ 256 SEC. 256.¹⁵⁴⁹ EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES

§ 256(a) (a)¹⁵⁵⁰ **AUTOMATIC SPENDING INCREASES.** — Automatic spending increases are increases in outlays¹⁵⁵¹ due to changes in indexes in the following programs:

§ 256(a)(1) (1) National Wool Act;

§ 256(a)(2) (2) Special milk program; and

¹⁵⁴⁹ Section 256 is codified as amended at 2 U.S.C. § 906 (Supp. IV 1992).

¹⁵⁵⁰ Section 13101(d)(1) of the Budget Enforcement Act amended subsection (a) to read as it does now. *See infra* p. 703. Prior to enactment of the Budget Enforcement Act, subsection (a) read as follows:

(a) EFFECT OF REDUCTIONS AND SEQUESTRATIONS. —

(1) **REDUCTIONS IN AUTOMATIC SPENDING INCREASES.** — Notwithstanding any other provision of law, any change in the Consumer Price Index or any other index measuring costs, prices, or wages (or in any component of any such index), under a program listed in section 257(1), that is not taken into account for purposes of determining the amount of an automatic spending increase (if any) under such program for a fiscal year for which an order is issued under section 252 shall not be taken into account for purposes of determining any automatic spending increase during any fiscal year thereafter.

(2) **SEQUESTRATIONS.** — Any amounts of new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; or obligation limitations which are sequestered or automatic spending increases which are reduced under an order issued under section 252 are permanently cancelled or reduced; with the exception of amounts sequestered or reduced in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act.

¹⁵⁵¹ 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.

§ 256(a)(3)

(3) Vocational rehabilitation basic State grants.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.¹⁵⁵²

§ 256(b)

(b)¹⁵⁵³ EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM. —

§ 256(b)(1)

(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965, as a consequence of an order issued pursuant to section 254,¹⁵⁵⁴ shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

§ 256(b)(2)

(2) For any loan made during the period beginning on the date that an order issued under section 254¹⁵⁵⁵ takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of —

¹⁵⁵² See also subsection (f) of section 255 (the section on exemptions), which also limits sequestration of these programs. See *supra* p. 563.

¹⁵⁵³ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (c) to be what is now subsection (b) (and moved what used to be subsection (b) to what is now subsection (b)). See *infra* p. 704.

¹⁵⁵⁴ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. See *infra* p. 704.

¹⁵⁵⁵ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. See *infra* p. 704.

§ 256(b)(2)(A)

(A) 0.40 percent, or

§ 256(b)(2)(B)

(B) the percentage by which the rate specified in such section exceeds 3 percent.

§ 256(b)(3)

(3) For any loan made during the period beginning on the date that an order issued under section 254¹⁵⁵⁶ takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

§ 256(c)

(c)¹⁵⁵⁷ TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS. — Any order issued by the President under section 254¹⁵⁵⁸ shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the

¹⁵⁵⁶ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁵⁵⁷ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (l) to be what is now subsection (c) (and moved what used to be subsection (c) to what is now subsection (b)). *See infra* p. 704.

¹⁵⁵⁸ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration¹⁵⁵⁹ percentage.¹⁵⁶⁰ No State may, after the date of the enactment of this joint resolution, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

§ 256(d) **(d) SPECIAL RULES FOR MEDICARE PROGRAM. —**

§ 256(d)(1) **(1)**¹⁵⁶¹ **CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.** — To achieve the total percentage reduction in those programs required by sections 252 and 253, and notwithstanding section 710 of the Social Security

¹⁵⁵⁹ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁵⁶⁰ Section 13101(d)(4) of the Budget Enforcement Act added this second sentence of subsection (c). *See infra* p. 704.

¹⁵⁶¹ Section 13101(d)(5) of the Budget Enforcement Act amended paragraph (1) to read as it does now. *See infra* p. 704. Before the enactment of the Budget Enforcement Act, paragraph (1) read as follows:

(1) **MAXIMUM PERCENTAGE REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.** — The maximum permissible reduction for the health insurance programs under title XVIII of the Social Security Act for any fiscal year, pursuant to an order issued under section 252 [dealing, as it did then, with Presidential orders], consists only of a reduction of —

(A) 1 percent in the case of fiscal year 1986, and

(B) 2 percent (or such higher percentage as may apply as determined in accordance with section 252(a)(4)(B)(ii)) in the case of any subsequent fiscal year,

in each separate payment amount otherwise made for a covered service under those programs without regard to this part.

Act, OMB¹⁵⁶² shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII¹⁵⁶³ of the Social Security Act for services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

§ 256(d)(2)

(2) TIMING OF APPLICATION OF REDUCTIONS. —

§ 256(d)(2)(A)

(A) IN GENERAL. — Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration¹⁵⁶⁴ order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

§ 256(d)(2)(B)

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS. — In the case in which payment for services of a provider of services is made under title XVIII¹⁵⁶⁵ of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment

¹⁵⁶² Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

¹⁵⁶³ 42 U.S.C. §§ 1395-1395ccc (1988 & Supp. III 1991).

¹⁵⁶⁴ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁵⁶⁵ 42 U.S.C. §§ 1395-1395ccc (1988 & Supp. III 1991).

amounts pursuant to a sequestration¹⁵⁶⁶ order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.¹⁵⁶⁷

§ 256(d)(3)

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES. — If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B¹⁵⁶⁸ of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration¹⁵⁶⁹ order, as payment in full.

§ 256(d)(4)

(4) NO EFFECT ON COMPUTATION OF AAPCC.¹⁵⁷⁰ —

¹⁵⁶⁶ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁵⁶⁷ Section 13101(d)(6) of the Budget Enforcement Act repealed paragraph (d)(2)(C). *See infra* p. 705. Before the enactment of the Budget Enforcement Act, paragraph (d)(2)(C) read as follows:

(C) EFFECTIVE PERIOD OF ORDER FOR FISCAL YEAR 1986. — For purposes of this paragraph, the effective period of a sequestration order for fiscal year 1986 is the period beginning on March 1, 1986, and ending on September 30, 1986.

¹⁵⁶⁸ 42 U.S.C. §§ 1395j-1395w (1988 & Supp. III 1991).

¹⁵⁶⁹ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁵⁷⁰ "AAPCC" stands for "adjusted average per capita cost."

In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

§ 256(e) (e)¹⁵⁷¹ COMMUNITY AND MIGRANT HEALTH CENTERS, INDIAN HEALTH SERVICES AND FACILITIES, AND VETERANS' MEDICAL CARE. —

§ 256(e)(1) (1) The maximum permissible reduction in budget authority¹⁵⁷² for any account¹⁵⁷³ listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 254,¹⁵⁷⁴ shall be —

§ 256(e)(1)(A) (A) 1 percent in the case of the fiscal year 1986, and

§ 256(e)(1)(B) (B) 2 percent in the case of any subsequent fiscal year.

§ 256(e)(2) (2) The accounts¹⁵⁷⁵ referred to in paragraph (1) are as follows:

¹⁵⁷¹ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (k) to be what is now subsection (e) (and moved what used to be subsection (c) to what is now subsection (f)). *See infra* p. 704.

¹⁵⁷² Section 250(c)(1) (*see supra* p. 440) defines "budget authority" at least in part by reference to the definition of section 3(2) of the Congressional Budget Act. *See supra* pp. 11-13.

¹⁵⁷³ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁷⁴ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁵⁷⁵ Section 250(c)(11) defines "account." *See supra* p. 445.

§ 256(e)(2)(A)

(A) Community health centers (75-0350-0-1-550).

§ 256(e)(2)(B)

(B) Migrant health centers (75-0350-0-1-550).

§ 256(e)(2)(C)

(C) Indian health facilities (75-0391-0-1-551).

§ 256(e)(2)(D)

(D) Indian health services (75-0390-0-1-551).

§ 256(e)(2)(E)

(E) Veterans' medical care (36-0160-0-1-703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account¹⁵⁷⁶ identification code numbers set forth in the Budget of the United States Government — Appendix.

§ 256(f)

(f)¹⁵⁷⁷ TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM. — Notwithstanding any change in the display of budget accounts,¹⁵⁷⁸ any order issued by the President under section 254¹⁵⁷⁹ shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

¹⁵⁷⁶ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁷⁷ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (e) to be what is now subsection (f) (and moved what used to be subsection (f) to what is now subsection (c)). *See infra* p. 704.

¹⁵⁷⁸ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁷⁹ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

§ 256(g) **(g) FEDERAL PAY. —**

§ 256(g)(1) **(1) IN GENERAL. — For purposes of any order issued under section 254¹⁵⁸⁰ —**

§ 256(g)(1)(A) **(A) Federal pay under a statutory pay system, and**

§ 256(g)(1)(B) **(B) elements of military pay,**

shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5305 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

§ 256(g)(2) **(2) DEFINITIONS. — For purposes of this subsection:**

§ 256(g)(2)(A) **(A) The term "statutory pay system" shall have the meaning given that term in section 5301(c) of title 5, United States Code.**

§ 256(g)(2)(B) **(B) The term "elements of military pay" means —**

§ 256(g)(2)(B)(i) **(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,**

¹⁵⁸⁰ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. See *infra* p. 704.

§ 256(g)(2)(B)(ii)

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

§ 256(g)(2)(B)(iii)

(iii) cadet pay and midshipman pay under section 203(c) of such title.

§ 256(g)(2)(C)

(C) The term "uniformed services" shall have the meaning given that term in section 101(3) of title 37, United States Code.

§ 256(h)

(h)¹⁵⁸¹ TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES. —

§ 256(h)(1)

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account¹⁵⁸² shall be subject to reduction pursuant to an order issued under section 254,¹⁵⁸³ without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

§ 256(h)(2)

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account¹⁵⁸⁴ which is self-supporting and does not

¹⁵⁸¹ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (b) to be what is now subsection (h) (and moved what used to be subsection (h) to be what is now subsection (i)). *See infra* p. 704.

¹⁵⁸² Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁸³ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁵⁸⁴ Section 250(c)(11) defines "account." *See supra* p. 445.

receive appropriations shall be subject to reduction under a sequester¹⁵⁸⁵ order, unless specifically exempted in this joint resolution.

§ 256(h)(3)

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account¹⁵⁸⁶ shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration¹⁵⁸⁷ under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

§ 256(h)(4)

(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

§ 256(h)(4)(A)

(A) Comptroller of the Currency.

§ 256(h)(4)(B)

(B) Federal Deposit Insurance Corporation.

¹⁵⁸⁵ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹⁵⁸⁶ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁸⁷ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

§ 256(h)(4)(C) (C) Office of Thrift Supervision.¹⁵⁸⁸

§ 256(h)(4)(D) (D) Office of Thrift Supervision.¹⁵⁸⁹

§ 256(h)(4)(E) (E) National Credit Union Administration.

§ 256(h)(4)(F) (F) National Credit Union Administration, central liquidity facility.

§ 256(h)(4)(G) (G) Federal Retirement Thrift Investment Board.

§ 256(h)(4)(H) (H) Resolution Funding Corporation.¹⁵⁹⁰

§ 256(h)(4)(I) (I) Resolution Trust Corporation.

§ 256(l) (I)¹⁵⁹¹ TREATMENT OF PAYMENTS AND ADVANCES MADE

¹⁵⁸⁸ Section 743(b)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 struck "Federal Home Loan Bank Board." at this point and inserted "Office of Thrift Supervision." Pub. L. No. 101-73, § 743(b)(1), 103 Stat. 183, 437 (1989).

¹⁵⁸⁹ Section 743(b)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 struck "Federal Savings and Loan Insurance Corporation." at this point and inserted "Office of Thrift Supervision." a second time. Pub. L. No. 101-73, § 743(b)(2), 103 Stat. 183, 437 (1989).

¹⁵⁹⁰ Section 743(b)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added at this point:

(H) Resolution Funding Corporation.

(I) Resolution Trust Corporation.

Pub. L. No. 101-73, § 743(b)(3), 103 Stat. 183, 437 (1989).

¹⁵⁹¹ So as to put the subsections of section 255 in the order that they take would effect, section 13101(d)(2) of the Budget Enforcement Act moved what used to be subsection (h) to be what is now subsection (i), and repealed what used to be subsection (i). See *infra* p. 704. Prior to enactment of the Budget Enforcement Act, subsection (i) read as follows:

(i) TREATMENT OF MINE WORKER DISABILITY COMPENSATION
(continued...)

WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS. —

§ 256(l)(1) (1) For purposes of section 254¹⁹⁹² —

§ 256(l)(1)(A) (A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

§ 256(l)(1)(B) (B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

§ 256(l)(1)(C) (C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall not be subject to reduction.

§ 256(l)(2)(A) (2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unem-

¹⁹⁹¹(...continued)

INCREASES AS AUTOMATIC SPENDING INCREASES. — An order issued by the President under section 252 may not result in eliminating or reducing an increase in disability benefits under the Federal Mine Safety and Health Act except in the manner provided for automatic spending increases under section 252(a)(1)(A), and no such increase may, pursuant to such section, be reduced below zero.

¹⁹⁹² Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. See *infra* p. 704.

ployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254¹⁵⁹³ by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

§ 256(l)(2)(B)

(B) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

§ 256(l)

(j) COMMODITY CREDIT CORPORATION. —

§ 256(l)(1)

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION. — This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

§ 256(l)(2)

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS. —

§ 256(l)(2)(A)

(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254¹⁵⁹⁴ shall not be

¹⁵⁹³ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁵⁹⁴ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation —

§ 256(j)(2)(A)(i)

(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

§ 256(j)(2)(A)(ii)

(ii) out of an entitlement¹⁵⁹⁵ account,¹⁵⁹⁶

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

§ 256(j)(2)(B)

(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254,¹⁵⁹⁷ the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in

¹⁵⁹⁵ Section 3(9) of the Congressional Budget Act (*see supra* p. 18) defines "entitlement authority" to mean (at least for purposes of that Act) the authority described in section 401(c)(2)(C) of that Act (*see supra* p. 252). Section 250(c)(18) of Gramm-Rudman-Hollings (*see supra* p. 447) provides that all references to entitlement authority shall include the mandatory appropriations accounts listed *supra* note 1245.

¹⁵⁹⁶ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁵⁹⁷ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

paragraph (3).

§ 2560)(3)

(3) DELAYED REDUCTION IN OUTLAYS¹⁵⁹⁸ PERMISSIBLE. — Notwithstanding any other provision of this joint resolution, if an order under section 254¹⁵⁹⁹ is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account¹⁶⁰⁰ involved to occur in the fiscal year following the fiscal year to which the order applies. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

§ 2560)(4)

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS. — All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 254¹⁶⁰¹ with respect to a fiscal year —

§ 2560)(4)(A)

(A) shall be made so as to ensure that outlays¹⁶⁰² for each program, project, activity, or account¹⁶⁰³ involved are reduced by a percentage

¹⁵⁹⁸ 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.

¹⁵⁹⁹ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁶⁰⁰ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁶⁰¹ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

¹⁶⁰² 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.

¹⁶⁰³ Section 250(c)(11) defines "account." *See supra* p. 445.

rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

§ 2560(4)(B) **(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that —**

§ 2560(4)(B)(i) **(i) uncertainty as to the scope of benefits under any such program is minimized;**

§ 2560(4)(B)(ii) **(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and**

§ 2560(4)(B)(iii) **(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.**

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

§ 2560(5) **(5) NO DOUBLE REDUCTION.—No agricultural price support or income protection program that is subject to reduction under an order issued under section 254¹⁶⁰⁴ for**

¹⁶⁰⁴ Section 13101(d)(3) of the Budget Enforcement Act changed this reference from one to section 252 to one to section 254, so that it would continue to refer to the section dealing with orders. *See infra* p. 704.

a fiscal year may be subject, as well, to modification or suspension under such order as an automatic spending increase.

§ 256(j)(6) (6) CERTAIN AUTHORITY NOT TO BE LIMITED. — Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority¹⁶⁰³ to cover the Corporation's net realized losses.

§ 256(k) (k)¹⁶⁰⁶ SPECIAL RULES FOR THE JOBS¹⁶⁰⁷ PORTION OF AFDC.¹⁶⁰⁸ —

§ 256(k)(1) (1) FULL AMOUNT OF SEQUESTRATION¹⁶⁰⁹ REQUIRED. — Any order issued by the President under section 254 shall accomplish the full amount of any required sequestration of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

§ 256(k)(2) (2) NEW ALLOTMENT FORMULA. —

¹⁶⁰³ Section 250(c)(1) (*see supra* p. 440) defines "budget authority" at least in part by reference to the definition of section 3(2) of the Congressional Budget Act. *See supra* pp. 11-13.

¹⁶⁰⁴ Section 13101(d)(2) of the Budget Enforcement Act added what is now subsection (k) (and, so as to put the subsections of section 255 in the order that they take would effect, moved what used to be subsection (k) to be what is now subsection (e)). *See infra* p. 704.

¹⁶⁰⁷ "JOBS" stands for the "Job Opportunities and Basic Skills" Training Program established at 42 U.S.C. §§ 681-687 (1988).

¹⁶⁰⁸ "AFDC" stands for "Aid to Families with Dependent Children." *See* 42 U.S.C. §§ 601-617 (1988 & Supp. III 1991).

¹⁶⁰⁹ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

§ 256(k)(2)(A)

(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration¹⁶¹⁰ for direct spending¹⁶¹¹ pursuant to section 403(l) of such Act for the fiscal year to which the sequestration applies shall be equal to —

§ 256(k)(2)(A)(i)

(i) the lesser of —

§ 256(k)(2)(A)(i)(I)

(I) that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year; or

§ 256(k)(2)(A)(i)(II)

(II) the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration¹⁶¹² not been in effect.

§ 256(k)(2)(B)

(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration¹⁶¹³ for direct spending¹⁶¹⁴ pursuant to section 403(l) of the Social Security Act for the fiscal year to which the sequestration applies that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in

¹⁶¹⁰ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶¹¹ Section 250(c)(8) defines "direct spending." *See supra* p. 444.

¹⁶¹² Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶¹³ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶¹⁴ Section 250(c)(8) defines "direct spending." *See supra* p. 444.

proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

§ 256(l) (l)¹⁶¹⁵ EFFECTS OF SEQUESTRATION.¹⁶¹⁶ — The effects of sequestration shall be as follows:

§ 256(l)(1) (1) Budgetary resources¹⁶¹⁷ sequestered¹⁶¹⁸ from any account¹⁶¹⁹ other than a trust or special fund account shall be permanently cancelled.

§ 256(l)(2) (2) Except as otherwise provided, the same percentage sequestration¹⁶²⁰ shall apply to all programs, projects, and activities within a budget account¹⁶²¹ (with

¹⁶¹⁵ Section 13101(d)(2) of the Budget Enforcement Act added what is now subsection (l) and repealed what used to be subsection (l). *See infra* p. 704. Before the enactment of the Budget Enforcement Act, subsection (l) read as follows:

(l) TREATMENT OF OBLIGATED BALANCES. — Obligated balances shall not be subject to reduction under an order issued under section 252.

¹⁶¹⁶ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶¹⁷ Section 250(c)(6) defines "budgetary resources." *See supra* p. 443.

¹⁶¹⁸ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹⁶¹⁹ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁶²⁰ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶²¹ Section 250(c)(11) defines "account." *See supra* p. 445.

programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

§ 256(l)(3) **(3) Administrative regulations or similar actions implementing a sequestration¹⁶²² shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources¹⁶²³ within an account,¹⁶²⁴ program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.**

§ 256(l)(4) **(4) Except as otherwise provided, obligations in sequestered¹⁶²⁵ accounts¹⁶²⁶ shall be reduced only in the fiscal year in which a sequester occurs.**

§ 256(l)(5) **(5) If an automatic spending increase is sequestered,¹⁶²⁷ the increase (in the applicable index) that was disregarded as a result of that sequestration¹⁶²⁸ shall not be taken into account¹⁶²⁹ in any subsequent fiscal year.**

¹⁶²² Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶²³ Section 250(c)(6) defines "budgetary resources." *See supra* p. 443.

¹⁶²⁴ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁶²⁵ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹⁶²⁶ Section 250(c)(11) defines "account." *See supra* p. 445.

¹⁶²⁷ Section 250(c)(2) defines "sequester." *See supra* p. 440.

¹⁶²⁸ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶²⁹ Section 250(c)(11) defines "account." *See supra* p. 445.

^{§ 256(f)(5)}

(6) Except as otherwise provided, sequestration¹⁶³⁰ in trust and special fund accounts¹⁶³¹ for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

¹⁶³⁰ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁶³¹ Section 250(c)(11) defines "account." *See supra* p. 445.