

§ 258A **SEC. 258A.¹⁷⁰⁶ MODIFICATION OF PRESIDENTIAL ORDER.**

§ 258A(a) (a) **INTRODUCTION OF JOINT RESOLUTION.** — At any time after the Director of OMB¹⁷⁰⁷ issues a final sequestration¹⁷⁰⁸ report under section 254 for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254 or provide an alternative to reduce the deficit¹⁷⁰⁹ for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

§ 258A(b) (b) **PROCEDURES FOR CONSIDERATION OF JOINT**

¹⁷⁰⁶ Section 258A is codified at 2 U.S.C. 907b (Supp. IV 1992). Section 13101(f) of the Budget Enforcement Act added section 258A. *See infra* p. 705. In a drafting error, however, section 13101(f) of the Budget Enforcement Act failed to repeal the section 258 of Gramm-Rudman-Hollings that existed before the enactment of the Budget Enforcement Act. *See id.* That Congress intended to repeal the old section 258 is evident from the subject matter of that section — modification of the President's sequester order. Compare the language of the new section 258A with the language of the old section 258. *See infra* note 1710 (at the end of this section). To the extent that provisions of the new section 258A conflict with those of the old section 258, the provisions of the later-enacted section 258A would control. Consequently, to avoid confusion, this volume sets forth the old section 258 in a footnote below (*see infra* note 1710), even though Congress has not explicitly repealed it.

¹⁷⁰⁷ Section 250(c)(15) defines "OMB" to mean "the Director of the Office of Management and Budget." *See supra* p. 446.

¹⁷⁰⁸ Section 250(c)(2) defines "sequestration." *See supra* p. 440.

¹⁷⁰⁹ Section 250(c)(1) (*see supra* p. 440) defines "deficit" by adopting the definition of section 3(6) of the Congressional Budget Act. *See supra* p. 16.

RESOLUTIONS. —

§ 258A(b)(1)

(1) REFERRAL TO COMMITTEE. — A joint resolution introduced in the Senate under subsection (a) shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

§ 258A(b)(2)

(2) CONSIDERATION IN THE SENATE. — On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

§ 258A(b)(3)

(3) DEBATE IN THE SENATE. —

§ 258A(b)(3)(A)

(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally be-

tween the majority leader and the minority leader (or their designees).

§ 258A(b)(3)(B)

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

§ 258A(b)(3)(C)(i)

(C)(i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

§ 258A(b)(3)(C)(ii)

(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

§ 258A(b)(4)

(4) VOTE ON FINAL PASSAGE. — Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the

conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

§ 258A(b)(5) **(5) APPEALS. — Appeals from the decisions of the Chair shall be decided without debate.**

§ 258A(b)(6) **(6) CONFERENCE REPORTS. — In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.**

§ 258A(b)(7) **(7) RESOLUTION FROM OTHER HOUSE. — If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:**

§ 258A(b)(7)(A) **(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.**

§ 258A(b)(7)(B) **(B) With respect to a joint resolution introduced under subsection (a) in the Senate —**

§ 258A(b)(7)(B)(i) **(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but**

§ 258A(b)(7)(B)(ii)(I) **(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or**

§ 258A(b)(7)(B)(ii)(II)

(II) If the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

§ 258A(b)(7)(C)

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

§ 258A(b)(8)

(8) **SENATE ACTION ON HOUSE RESOLUTION.** — If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.¹⁷¹⁰

¹⁷¹⁰ Section 13101(f) of the Budget Enforcement Act added section 258A. *See infra* p. 705. In a drafting error, however, section 13101(f) of the Budget Enforcement Act failed to repeal the section 258 of Gramm-Rudman-Hollings that existed before the enactment of the Budget Enforcement Act. *See id.* That Congress intended to repeal the old section 258 is evident from the subject matter of that section — modification of the President's sequester order. Compare the language of the new section 258A with the language of the old section 258, below. To the extent that provisions of the new section 258A conflict with those of the old section 258, the provisions of the later-enacted section 258A would control. Consequently, to avoid confusion, this volume sets forth the old section 258 in a footnote below, even though Congress has not explicitly repealed it.

SEC. 258. MODIFICATION OF PRESIDENTIAL ORDER

(a) **INTRODUCTION OF JOINT RESOLUTION.** — At any time after the
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¹⁷¹⁰(...continued)

Director of OMB issues a report under section 251(c)(2) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 252 for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS. —

(1) NO REFERRAL TO COMMITTEE. — A joint resolution introduced in the Senate or the House of Representatives under subsection (a) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

(2) IMMEDIATE CONSIDERATION. — On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III or IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE. —

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¹⁷⁰(...continued)

(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) shall be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) **VOTE ON FINAL PASSAGE.** — Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House,

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and the disposition of any amendments under paragraph (3) (except for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

(5) **APPEALS.** — Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

(6) **CONFERENCE REPORTS.** — In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) **RESOLUTION FROM OTHER HOUSE.** — If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a joint resolution introduced under subsection (a) in the Senate —

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider
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§ 258B **SEC. 258B.¹⁷¹¹ FLEXIBILITY AMONG
DEFENSE PROGRAMS, PROJECTS, AND
ACTIVITIES.**

§ 258B(a) **(a)** Subject to subsections (b), (c), and (d), new budget authority¹⁷¹² and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account¹⁷¹³) may be further reduced beyond the amount specified in an order issued by the President under section 254 for such fiscal year. To the extent such additional reductions are made and result in additional outlay¹⁷¹⁴ reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major func-

¹⁷¹⁰(...continued)

the resolution originated in the Senate.

(8) SENATE ACTION ON HOUSE RESOLUTION. — If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

¹⁷¹¹ Section 258B is codified at 2 U.S.C. § 907c (Supp. IV 1992). Section 13101(g) of the Budget Enforcement Act added section 258B. See *infra* p. 706. For legislative history of section 258B, see *infra* note 1729 (at the end of this section).

¹⁷¹² 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.

¹⁷¹³ Section 250(c)(11) defines "account." See *supra* p. 445.

¹⁷¹⁴ 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.