

national service life insurance fund, service-disabled veterans insurance fund, United States Government life insurance fund, veterans insurance and indemnities, veterans reopened insurance fund, and veterans special life insurance fund.

Subsec. (h). Pub. L. 100–119, §104(a)(1), inserted item relating to commodity supplemental food program.

1986—Subsec. (d). Pub. L. 99–514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (g)(1). Pub. L. 99–509 inserted item relating to dual benefits payments account.

#### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. O, title IV, §403(b), Dec. 18, 2015, 129 Stat. 3007, provided that: “The amendments made by this section [amending this section] shall apply to any sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) on or after the date of enactment of this Act [Dec. 18, 2015].”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of Title 12, Banks and Banking.

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–572, title XI, §1101(a), Oct. 29, 1992, 106 Stat. 4524, provided that: “Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act [see Tables for classification] shall take effect on January 1, 1993.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–509, title VII, §7002(b), Oct. 21, 1986, 100 Stat. 1949, provided that: “The amendment made by subsection (a) [amending this section] shall apply to fiscal years beginning after September 30, 1986.”

#### SOLDIERS’ AND AIRMEN’S HOME

The Soldiers’ and Airmen’s Home, referred to in subsec. (g)(1)(A), was incorporated into the Armed Forces Retirement Home by section 411 of Title 24, Hospitals and Asylums.

### § 906. General and special sequestration rules

**(a) Repealed. Pub. L. 111–139, title I, § 10(a), Feb. 12, 2010, 124 Stat. 21**

#### **(b) Student loans**

For all student loans under part B or D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087a et seq.] made during the period when a sequestration order under section 904 of

this title is in effect as required by section 902 or 903 of this title, origination fees under sections 438(c)(2) and (6) and 455(c) [20 U.S.C. 1087–1(c)(2), (6), 1087e(c)] and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act [20 U.S.C. 1078(f)(1)(A)(ii)] shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act [20 U.S.C. 1087–1(b)] accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.

**(c) Repealed. Pub. L. 111–139, title I, § 10(c), Feb. 12, 2010, 124 Stat. 22**

#### **(d) Special rules for Medicare program**

##### **(1) Calculation of reduction in payment amounts**

To achieve the total percentage reduction in those programs required by section 902 or 903 of this title, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act [42 U.S.C. 911], OMB shall determine, and the applicable Presidential order under section 904 of this title shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.]—

(A) in the case of parts A and B of such title [42 U.S.C. 1395c et seq., 1395j et seq.], to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and

(B) in the case of parts C and D [42 U.S.C. 1395w–21 et seq., 1395w–101 et seq.], to monthly payments under contracts under such parts for the same one-year period;

such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.

##### **(2) Uniform reduction rate; maximum permissible reduction**

Reductions in payments for programs and activities under such title XVIII [42 U.S.C. 1395 et seq.] pursuant to a sequestration order under section 904 of this title shall be at a uniform rate, which shall not exceed 4 percent, across all such programs and activities subject to such order.

##### **(3) Timing of application of reductions**

###### **(A) In general**

Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration 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.

**(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 XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] 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 amounts pursuant to a sequestration 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.

**(4) Timing of subsequent sequestration order**

A sequestration order required by section 902 or 903 of this title with respect to programs under such title XVIII [42 U.S.C. 1395 et seq.] shall not take effect until the first month beginning after the end of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).

**(5) 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 B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.] is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) [42 U.S.C. 1395u(b)(3)(B)(ii)], in accordance with section 1842(b)(6)(B) [42 U.S.C. 1395u(b)(6)(B)], or under the procedure described in section 1870(f)(1) [42 U.S.C. 1395gg(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 sequestration order, as payment in full.

**(6) Sequestration disregarded in computing payment amounts**

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 subchapter, for purposes of computing any adjustments to payment rates under such title XVIII [42 U.S.C. 1395 et seq.], specifically including—

(A) the part C growth percentage under section 1853(c)(6) [42 U.S.C. 1395w-23(c)(6)];

(B) the part D annual growth rate under section 1860D-2(b)(6) [42 U.S.C. 1395w-102(b)(6)]; and

(C) application of risk corridors to part D payment rates under section 1860D-15(e) [42 U.S.C. 1395w-115(e)].

**(7) Exemptions from sequestration**

In addition to the programs and activities specified in section 905 of this title, the following shall be exempt from sequestration under this subchapter:

**(A) Part D low-income subsidies**

Premium and cost-sharing subsidies under section 1860D-14 of the Social Security Act [42 U.S.C. 1395w-114].

**(B) Part D catastrophic subsidy**

Payments under section 1860D-15(b) and (e)(2)(B) of the Social Security Act [42 U.S.C. 1395w-115(b), (e)(2)(B)].

**(C) Qualified individual (QI) premiums**

Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act [42 U.S.C. 1396u-3].

**(e) Community and migrant health centers, Indian health services and facilities, and veterans' medical care**

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 904 of this title, shall be 2 percent.

(2) The accounts referred to in paragraph (1) are as follows:

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

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

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

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

(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 account identification code numbers set forth in the Budget of the United States Government—Appendix.

**(f) Treatment of child support enforcement program**

Notwithstanding any change in the display of budget accounts, any order issued by the President under section 904 of this title shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act [42 U.S.C. 655, 658a] 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.

**(g) Federal pay**

**(1) In general**

For purposes of any order issued under section 904 of this title—

(A) Federal pay under a statutory pay system, and

(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 (as increased by any amount payable under section 5304 of title 5 or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, or any increase in rates of

pay which is scheduled to take effect under section 5303 of title 5, section 1009 of title 37, or any other provision of law.

**(2) Definitions**

For purposes of this subsection:

(A) The term “statutory pay system” shall have the meaning given that term in section 5302(1) of title 5.

(B) The term “elements of military pay” means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37,

(ii) allowances provided members of the uniformed services under sections 403a and 475 of such title, and

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

(C) The term “uniformed services” shall have the meaning given that term in section 101(3) of title 37.

**(h) Treatment of Federal administrative expenses**

(1) Notwithstanding any other provision of this title,<sup>1</sup> administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 904 of this title, 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 subchapter.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this subchapter.

(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 account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this subchapter 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)<sup>1</sup> shall be subject to reduction or sequestration under this subchapter notwithstanding the exemption otherwise granted to such programs under that subsection.

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

- (A) Comptroller of the Currency.
- (B) Federal Deposit Insurance Corporation.
- (C) National Credit Union Administration.
- (D) National Credit Union Administration, central liquidity facility.
- (E) Federal Retirement Thrift Investment Board.
- (F) Farm Credit Administration.

**(i) Treatment of payments and advances made with respect to unemployment compensation programs**

(1) For purposes of section 904 of this title—

(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 [42 U.S.C. 1104(a)]),

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act [42 U.S.C. 1104(g)]) under title XII of such Act [42 U.S.C. 1321 et seq.] and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act [42 U.S.C. 1323], and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act [42 U.S.C. 1109]) for the purpose of carrying out chapter 85 of title 5 and funds appropriated or transferred to or otherwise deposited in such Account,

shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment 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 904 of this title 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.

(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 title 26.

**(j) Commodity Credit Corporation**

**(1) Powers and authorities of the Commodity Credit Corporation**

This title<sup>1</sup> 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.

**(2) Reduction in payments made under contracts**

(A) 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 904 of this title shall not be 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 for loans or loan deficiencies made by the Commodity Credit Corporation shall be subject to reduction under the order.

<sup>1</sup> See References in Text note below.

(B) Each loan 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 904 of this title, 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 paragraph (3).

**(3) Delayed reduction in outlays permissible**

Notwithstanding any other provision of this title,<sup>1</sup> if an order under section 904 of this title 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 account involved to occur in the fiscal year following the fiscal year to which the order applies.

**(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 904 of this title with respect to a fiscal year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage 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.

**(5) Dairy program**

Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 1446(d)(2)(A) of title 7, shall begin on the day any sequestration order is issued under section 904 of this title, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.

**(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 authority to cover the Corporation's net realized losses.

**(k) Effects of sequestration**

The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (6).

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with 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).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, 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.

(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.

(Pub. L. 99-177, title II, §256, Dec. 12, 1985, 99 Stat. 1086; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-86, title V, §506(b), Aug. 10, 1987, 101 Stat. 634; Pub. L. 100-119, title I, §§102(b)(2), (3), (11), 104(a)(3), (4), Sept. 29, 1987, 101 Stat. 773, 775, 776; Pub. L. 101-73, title VII, §743(b), Aug. 9, 1989, 103 Stat. 437; Pub. L. 101-508, title XIII, §13101(d), Nov. 5, 1990, 104 Stat. 1388-589; Pub. L. 101-509, title V, §529 [title I, §101(b)(2)(A), (4)(H)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1440; Pub. L. 104-193, title I, §110(r)(2), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 105-33, title X, §10208(a)(1), (b)-(g), Aug. 5, 1997, 111 Stat. 708-710; Pub. L. 111-139, title I, §§9(b), 10, Feb. 12, 2010, 124 Stat. 21; Pub. L. 111-203, title III, §352, July 21, 2010, 124 Stat. 1546; Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Parts B and D of title IV of the Act are classified generally to parts B (§1071 et seq.) and D (§1087a et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Social Security Act, referred to in subsecs. (d) and (i)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620.

Titles XII and XVIII of the Social Security Act are classified generally to subchapters XII (§1321 et seq.) and XVIII (§1395 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Parts A to D of title XVIII of the Act are classified generally to parts A (§1395c et seq.), B (§1395j et seq.), C (§1395w–21 et seq.), and D (§1395w–101 et seq.), respectively, of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 302 of the Federal Employees Pay Comparability Act of 1990, referred to in subsec. (g)(1), is section 529 [title III, §302] of Pub. L. 101–509, which is set out as a note under section 5304 of Title 5, Government Organization and Employees.

This title, referred to in subsecs. (h)(1) and (j)(1), (3), means title II (§200 et seq.) of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, known as the Balanced Budget and Emergency Deficit Control Act of 1985. For complete classification of this Act to the Code, see Short Title note set out under section 900 of this title and Tables.

Subsec. (h)(1), referred to in subsec. (h)(3), was redesignated subsec. (i)(1) by Pub. L. 101–508, title XIII, §13101(d)(2), Nov. 5, 1990, 104 Stat. 1388–589.

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (i)(2)(A), is title II of Pub. L. 91–373, Aug. 10, 1970, 84 Stat. 708, which is classified generally as a note under section 3304 of Title 26, Internal Revenue Code. Section 204 of such Act is set out in the note under section 3304 of Title 26. For complete classification of this Act to the Code, see Tables.

This joint resolution, referred to in subsec. (j)(6), means Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1037, which enacted this chapter and sections 654 to 656 of this title, amended sections 602, 622, 631 to 642, and 651 to 653 of this title, sections 1104 to 1106, 1109, and 3101 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of this title, enacted provisions set out as notes under section 900 of this title and section 911 of Title 42, and amended provisions set out as a note under section 621 of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2013—Subsec. (g)(2)(B)(ii). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(B). See 2011 Amendment note below.

2011—Subsec. (g)(2)(B)(ii). Pub. L. 112–81, §631(f)(4)(B), as amended by Pub. L. 112–239, §1076(a)(9), substituted “475” for “405”.

2010—Subsec. (a). Pub. L. 111–139, §10(a), struck out subsec. (a). Text read as follows: “Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

“(1) Special milk program; and

“(2) 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 subchapter.”

Subsec. (b). Pub. L. 111–139, §10(b), substituted “origination fees under sections 438(c)(2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.” for “origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.”

Subsec. (c). Pub. L. 111–139, §10(c), struck out subsec. (c). Text read as follows: “Any order issued by the President under section 904 of this title 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 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 sequestration percentage. No State may, after December 12, 1985, 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.”

Subsec. (d)(1). Pub. L. 111–139, §10(d)(2), amended par. (1) generally. Prior to amendment, text read as follows: “To achieve the total percentage reduction in those programs required by sections 902 and 903 of this title, and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 904 of this title shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII 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.”

Subsec. (d)(2) to (6). Pub. L. 111–139, §10(d)(1), (3)–(5), added pars. (2) and (4), redesignated former pars. (2), (3), and (4) as (3), (5), and (6), respectively, and amended par. (6) generally. Prior to amendment, text of par. (6) read as follows: “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 subchapter.”

Subsec. (d)(7). Pub. L. 111–139, §10(d)(6), added par. (7).

Subsec. (h)(4)(C) to (H). Pub. L. 111–203 redesignated subpars. (D), (E), (F), and (H) as (C), (D), (E), and (F), respectively, and struck out former subpars. (C) and (G) which read as follows:

“(C) Office of Thrift Supervision.”

“(G) Resolution Trust Corporation.”

Subsec. (k)(1). Pub. L. 111–139, §9(b), substituted “in paragraph (6)” for “in paragraph (5)”.

1997—Pub. L. 105–33, §10208(a)(1), substituted “General and special sequestration rules” for “Exceptions, limitations, and special rules” as section catchline.

Subsec. (a). Pub. L. 105–33, §10208(b), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “National Wool Act;”

Subsec. (b). Pub. L. 105–33, §10208(c), amended subsec. (b) generally, substituting new heading and text for former text consisting of pars. (1) to (3) relating to reductions required to be achieved from student loan programs operated under part B of title IV of the Higher Education Act of 1965 as a consequence of a sequestration order. Amendment was executed to reflect the probable intent of Congress based on language directing the general amendment of subsec. (b), appearing in the conference report for H.R. 2015, H. Rept. No. 105–217, 105th Congress, as adopted by the House of Representatives and Senate.

Subsec. (e)(1). Pub. L. 105–33, §10208(d), substituted “shall be 2 percent.” for “shall be—” and struck out subpars. (A) and (B) which read as follows:

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

“(B) 2 percent in the case of any subsequent fiscal year.”

Subsec. (h)(2). Pub. L. 105-33, §10208(e)(1), substituted “this subchapter” for “this joint resolution”.

Subsec. (h)(4)(D). Pub. L. 105-33, §10208(e)(2), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “Office of Thrift Supervision.”

Subsec. (h)(4)(E) to (G). Pub. L. 105-33, §10208(e)(2), redesignated subpars. (F), (G), and (I) as (E), (F), and (G), respectively. Former subpar. (E) redesignated (D).

Subsec. (h)(4)(H). Pub. L. 105-33, §10208(e)(2), added subpar. (H) and struck out former subpar. (H) which read as follows: “Resolution Funding Corporation.”

Subsec. (h)(4)(I). Pub. L. 105-33, §10208(e)(2), redesignated subpar. (I) as (G).

Subsec. (j)(2) to (5). Pub. L. 105-33, §10208(f), added pars. (2) to (5) and struck out former pars. (2) to (5) which related to reduction in payments made under contracts, delayed reduction in outlays permissible, uniform percentage rate of reduction and other limitations, and no double reduction for agricultural price support and income protection programs.

Subsec. (k)(1). Pub. L. 105-33, §10208(g)(1), struck out “other than a trust or special fund account” after “from any account” and inserted “, except as provided in paragraph (5)” before period.

Subsec. (k)(6). Pub. L. 105-33, §10208(g)(2), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “Except as otherwise provided, sequestration in trust and special fund accounts 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.”

1996—Subsecs. (k), (l). Pub. L. 104-193 redesignated subsec. (l) as (k) and struck out former subsec. (k) which related to special rules for JOBS portion of AFDC, providing that any order under section 904 accomplish full amount of any required sequestration of job opportunities and basic skills training program, and setting forth new allotment formula.

1990—Subsec. (a). Pub. L. 101-508, §13101(d)(1), amended subsec. (a) generally, substituting provisions relating to automatic spending increases for provisions relating to effect of reductions and sequestrations.

Subsec. (b). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title” in pars. (1) to (3).

Pub. L. 101-508, §13101(d)(2), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (h).

Subsec. (c). Pub. L. 101-508, §13101(d)(4), inserted after first sentence “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 sequestration percentage.”

Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Pub. L. 101-508, §13101(d)(2), redesignated subsec. (f) as (c). Former subsec. (c) redesignated (b).

Subsec. (d)(1). Pub. L. 101-508, §13101(d)(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “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 902 of this title, 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 902(a)(4)(B)(ii) of this title) 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 subchapter.”

Subsec. (d)(2)(C). Pub. L. 101-508, §13101(d)(6), struck out subpar. (C) which read as follows: “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.”

Subsec. (e). Pub. L. 101-508, §13101(d)(2), redesignated subsec. (k) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Subsec. (f). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Pub. L. 101-508, §13101(d)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (c).

Subsec. (g)(1). Pub. L. 101-509, §529 [title I, §101(b)(4)(H)], in closing provisions, inserted “(as increased by any amount payable under section 5304 of title 5 or section 302 of the Federal Employees Pay Comparability Act of 1990)” after “pay system” and substituted “5303” for “5305”.

Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Subsec. (g)(2)(A). Pub. L. 101-509, §529 [title I, §101(b)(2)(A)], substituted “5302(1)” for “5301(c)”.

Subsec. (h). Pub. L. 101-508, §13101(d)(2), redesignated subsec. (b) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Subsec. (i). Pub. L. 101-508, §13101(d)(2), redesignated subsec. (h) as (i) and struck out former subsec. (i) which related to treatment of mine worker disability compensation increases as automatic spending increases.

Subsec. (i)(1), (2)(A). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title”.

Subsec. (j). Pub. L. 101-508, §13101(d)(3), substituted “section 904 of this title” for “section 902 of this title” wherever appearing in pars. (2) to (5).

Subsec. (k). Pub. L. 101-508, §13101(d)(2), added subsec. (k). Former subsec. (k) redesignated (e).

Subsec. (l). Pub. L. 101-508, §13101(d)(2), added subsec. (l) and struck out former subsec. (l) which related to treatment of obligated balances.

1989—Subsec. (b)(4)(C). Pub. L. 101-73, §743(b)(1), substituted “Office of Thrift Supervision” for “Federal Home Loan Bank Board”.

Subsec. (b)(4)(D). Pub. L. 101-73, §743(b)(2), substituted “Office of Thrift Supervision” for “Federal Savings and Loan Insurance Corporation”.

Subsec. (b)(4)(H), (I). Pub. L. 101-73, §743(b)(3), added subpars. (H) and (I).

1987—Subsec. (a)(2). Pub. L. 100-119, §102(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Any amount of new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority (as defined in section 651(c)(2) of this title), or obligation limitations which is sequestered or reduced pursuant to an order issued under section 902 of this title is permanently cancelled, with the exception of amounts sequestered 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.”

Subsec. (b)(4). Pub. L. 100-86 added par. (4).

Subsec. (b)(4)(G). Pub. L. 100-119, §104(a)(3), added subpar. (G).

Subsec. (d)(1)(B). Pub. L. 100-119, §102(b)(11), inserted “(or such higher percentage as may apply as determined in accordance with section 902(a)(4)(B)(ii) of this title)”.

Subsec. (e). Pub. L. 100-119, §104(a)(4), substituted “Notwithstanding any change in the display of budget accounts, any order” for “Any order”.

Subsec. (l). Pub. L. 100-119, §102(b)(3), amended subsec. (l) generally, striking out provisions which had created an “existing contract” exception to the rule of obligated balances not being subject to reduction under an order issued under section 902 of this title, under which existing contracts in major functional category 050 (other than (A) those contracts which included a specified penalty for cancellation or modification by the Government and which if so cancelled or modified would have resulted (due to such penalty) in a net loss to the Government for the fiscal year, and (B) those contracts the reduction of which would have violated the legal obligations of the Government) were subject to reduction, in accordance with section 901(d)(3) of this

title, under an order issued under section 902 of this title.

1986—Subsec. (h)(2)(B). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title III, §351, July 21, 2010, 124 Stat. 1546, provided that: “Except as provided in section 364(a) [amending section 1438 of Title 12, Banks and Banking, and enacting provisions set out as a note under section 1438 of Title 12], the amendments made by this subtitle [subtitle E (§§ 351-378) of title III of Pub. L. 111-203, see Tables for classification] shall take effect on the transfer date.”

[For definition of “transfer date” as used in section 351 of Pub. L. 111-203, set out above, see section 5301 of Title 12, Banks and Banking.]

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, set out as a note under section 601 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

### § 907. The baseline

#### (a) In general

For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

#### (b) Direct spending and receipts

For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

##### (1) In general

Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

##### (2) Exceptions

(A)(i) No program established by a law enacted on or before August 5, 1997, with estimated current year outlays greater than \$50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of

new programs with estimated outlays greater than \$50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are differences between CBO and OMB.

(ii) On the expiration of the suspension of a provision of law that is suspended under section 7301 of title 7 and that authorizes a program with estimated fiscal year outlays that are greater than \$50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.

(B) The increase for veterans’ compensation for a fiscal year is assumed to be the same as that required by law for veterans’ pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than \$50,000,000 that operates under that law shall be assumed to continue to operate under that law as in effect immediately before its expiration.

#### (3) Hospital Insurance Trust Fund

Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

#### (c) Discretionary appropriations

For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

##### (1) Inflation of current-year appropriations

Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

##### (2) Expiring housing contracts

New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.