

discretionary spending limits under section 901(c) of this title for fiscal years 2013 through 2021.

Par. (3). Pub. L. 113–67, §101(d)(2)(C), (E), redesignated par. (5) as (3) and substituted “paragraph (2)” for “paragraph (4)” in two places. Former par. (3) redesignated (1).

Par. (3)(E). Pub. L. 112–240, §901(a), added subpar. (E).

Par. (4). Pub. L. 113–67, §101(d)(2)(C), (F), redesignated par. (6) as (4) and substituted “paragraph (2)” for “paragraph (4)” in two places. Former par. (4) redesignated (2).

Pub. L. 112–240, §901(c)(1), substituted “March 1, 2013” for “January 2, 2013”.

Par. (5). Pub. L. 113–67, §101(d)(2)(C), (G), redesignated par. (7) as (5) and substituted “paragraph (3)” for “paragraph (5)” in two places and “paragraph (4)” for “paragraph (6)” in two places. Former par. (5) redesignated (3).

Par. (5)(B). Pub. L. 113–67, §101(b)(2), substituted “Except as provided by paragraph (10), on” for “On” in introductory provisions.

Par. (6). Pub. L. 113–67, §101(d)(2)(C), (H), redesignated par. (8) as (6) and, in subpar. (A), substituted “paragraph (2)” for “paragraph (4)” and “paragraphs (3) and (4)” for “paragraphs (5) and (6)”. Former par. (6) redesignated (4).

Pub. L. 113–67, §101(c), designated existing provisions as subpar. (A) and added subpar. (B).

Par. (6)(C). Pub. L. 113–67, §1205, added subpar. (C).

Par. (7). Pub. L. 113–67, §101(d)(2)(C), (I), redesignated par. (9) as (7), substituted “paragraph (6)” for “paragraph (8)”, and substituted “paragraph (4)” for “paragraph (6)” in two places. Former par. (7) redesignated (5).

Par. (7)(A). Pub. L. 112–240, §901(c)(2), substituted “March 1, 2013” for “January 2, 2013” in introductory provisions.

Par. (8). Pub. L. 113–67, §101(d)(2)(C), redesignated par. (10) as (8). Former par. (8) redesignated (6).

Par. (9). Pub. L. 113–67, §101(d)(2)(C), (J), redesignated par. (11) as (9) and substituted “paragraph (2)” for “paragraph (4)”. Former par. (9) redesignated (7).

Par. (10). Pub. L. 113–67, §101(b)(1), added par. (10). Former par. (10) redesignated (8).

Par. (11). Pub. L. 113–67, §101(d)(2)(C), redesignated par. (11) as (9).

Statutory Notes and Related Subsidiaries

TEMPORARY SUSPENSION AND ADJUSTMENT OF MEDICARE SEQUESTRATION

Pub. L. 116–136, div. A, title III, §3709(a), Mar. 27, 2020, 134 Stat. 421, as amended by Pub. L. 116–260, div. N, title I, §102(a), Dec. 27, 2020, 134 Stat. 1950; Pub. L. 117–7, §1(a)(1), Apr. 14, 2021, 135 Stat. 251; Pub. L. 117–71, §2(a)(1), Dec. 10, 2021, 135 Stat. 1506, provided that: “During the period beginning on May 1, 2020 and ending on March 31, 2022, the Medicare programs under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall be exempt from reduction under any sequestration order issued before, on, or after the date of enactment of this Act [Mar. 27, 2020].”

[Pub. L. 117–71, §2(a)(2), Dec. 10, 2021, 135 Stat. 1506, provided that: “The amendments made by paragraph (1) [amending section 3709(a) of Pub. L. 116–136, set out above] shall take effect as if enacted as part of the CARES Act (Public Law 116–136).”]

[Pub. L. 117–7, §1(a)(2), Apr. 14, 2021, 135 Stat. 251, provided that: “The amendment made by paragraph (1) [amending section 3709(a) of Pub. L. 116–136, set out above] shall take effect as if enacted as part of the CARES Act (Public Law 116–136).”]

[Pub. L. 116–260, div. N, title I, §102(b), Dec. 27, 2020, 134 Stat. 1950, provided that: “The amendment made by subsection (a) [amending section 3709(a) of Pub. L. 116–136, set out above] shall take effect as if enacted as part of the CARES Act (Public Law 116–136).”]

2013 SEQUESTER

Pub. L. 112–240, title IX, §901(e), Jan. 2, 2013, 126 Stat. 2370, provided that: “On March 1, 2013, the President

shall order a sequestration for fiscal year 2013 pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 901a], as amended by this section, pursuant to which, only for the purposes of the calculation in sections 251A(5)(A), 251A(6)(A), and 251A(7)(A), section 251(c)(2) [former 2 U.S.C. 901(c)(2)] shall be applied as if it read as follows:

“(2) For fiscal year 2013—

“(A) for the security category, \$544,000,000,000 in budget authority; and

“(B) for the nonsecurity category, \$499,000,000,000 in budget authority;.”

Executive Documents

SEQUESTRATION ORDER FOR FISCAL YEAR 2022 PURSUANT TO SECTION 251A OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT, AS AMENDED

Order of President of the United States, dated May 28, 2021, 86 F.R. 29927, provided:

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act (the “Act”), as amended, 2 U.S.C. 901a, I hereby order that, on October 1, 2021, direct spending budgetary resources for fiscal year 2022 in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of May 28, 2021.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget’s report of May 28, 2021, prepared pursuant to section 251A(9) of the Act.

J.R. BIDEN, JR.

Sequestration orders pursuant to this section for prior fiscal years were contained in the following:

2021—Order of President of the United States, dated Feb. 10, 2020, 85 F.R. 8129.

2020—Order of President of the United States, dated Mar. 18, 2019, 84 F.R. 10401.

2019—Order of President of the United States, dated Feb. 12, 2018, 83 F.R. 6789.

2018—Order of President of the United States, dated May 23, 2017, 82 F.R. 24209.

2017—Order of President of the United States, dated Feb. 9, 2016, 81 F.R. 7693.

2016—Order of President of the United States, dated Feb. 2, 2015, 80 F.R. 6645.

2015—Order of President of the United States, dated Mar. 10, 2014, 79 F.R. 14365.

2014—Order of President of the United States, dated Apr. 10, 2013, 78 F.R. 22409.

2013—Order of President of the United States, dated Mar. 1, 2013, 78 F.R. 14633.

§ 902. Enforcing pay-as-you-go

(a) Purpose

The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

(b) Sequestration

(1) Timing

Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 901 or 903 of this title, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

(2) Calculation of deficit increase

OMB shall calculate the amount of deficit increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d);

(B) the estimated amount of savings in direct spending programs applicable to the budget year resulting from the prior year's sequestration under this section or section 903 of this title, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration report for the current year.

(c) Eliminating a deficit increase

(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) First

All reductions in automatic spending increases specified in section 906(a)¹ of this title shall be made.

(B) Second

If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 906(b) of this title (guaranteed and direct student loans) and 906(c)¹ of this title (foster care and adoption assistance) shall be made.

(C) Third

(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by subsection (b); except that the medicare programs specified in section 906(d) of this title shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

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

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) Estimates

(1) CBO estimates

As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB estimates

Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) Significant differences

If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) Scope of estimates

The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each outyear excluding any amounts resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

(B) emergency provisions as designated under subsection (e).

(5) Scorekeeping guidelines

OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

(A) determine common scorekeeping guidelines; and

(B) in conformance with such guidelines, prepare estimates under this section.

(e) Emergency legislation

If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d). This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.

(Pub. L. 99-177, title II, §252, Dec. 12, 1985, 99 Stat. 1072; Pub. L. 100-119, title I, §102(a), Sept. 29, 1987, 101 Stat. 764; Pub. L. 100-203, title VIII, §8003(e), Dec. 22, 1987, 101 Stat. 1330-282; Pub. L. 101-508, title XIII, §13101(a), Nov. 5, 1990, 104 Stat. 1388-581; Pub. L. 103-66, title XIV, §14003(a), Aug. 10, 1993, 107 Stat. 684; Pub. L. 103-354, title I, §119(d)(2), Oct. 13, 1994, 108 Stat. 3208; Pub. L. 105-33, title X, §10205, Aug. 5, 1997, 111 Stat. 702; Pub. L. 113-67, div. A, title I, §121(1), (2), Dec. 26, 2013, 127 Stat. 1174, 1175.)

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 906(a) of this title, referred to in subsec. (c)(1)(A), was repealed by Pub. L. 111-139, title I, §10(a), Feb. 12, 2010, 124 Stat. 21.

Section 906(c) of this title, referred to in subsec. (c)(1)(B), was repealed by Pub. L. 111-139, title I, §10(c), Feb. 12, 2010, 124 Stat. 22.

AMENDMENTS

2013—Subsec. (b)(2)(B). Pub. L. 113-67, §121(1), substituted “applicable to the budget year” for “applicable to budget year”.

Subsec. (c)(1)(C)(i). Pub. L. 113-67, §121(2), substituted “subsection (b)” for “paragraph (1)”.

1997—Subsec. (a). Pub. L. 105-33, §10205(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The purpose of this section is to assure that any legislation (enacted after November 5, 1990) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.”

Subsec. (b). Pub. L. 105-33, §10205(1), added subsec. (b) and struck out heading and text of former subsec. (b) which required sequestrations at the end of a session of Congress to offset amount of any net deficit increase in that fiscal year and prior fiscal year caused by all direct spending and receipts legislation enacted after Nov. 5, 1990.

Subsec. (c)(1)(B). Pub. L. 105-33, §10205(2), inserted “and direct” after “guaranteed”.

Subsec. (d). Pub. L. 105-33, §10205(3), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “As soon as practicable after Congress completes action on any direct spending or receipts legislation enacted after November 5, 1990, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO shall provide OMB with an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after November 5, 1990, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from that legislation, and an explanation of any difference between the two estimates. Those OMB estimates shall be made using current economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.”

Subsec. (e). Pub. L. 105-33, §10205(4), struck out “, for any fiscal year from 1991 through 1998,” after “If” and “through 1995” after “receipts in all fiscal years”.

1994—Subsec. (e). Pub. L. 103-354 inserted at end “This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.”

1993—Subsec. (a). Pub. L. 103-66, §14003(a)(1), which directed the substitution of “Fiscal year 1992-1998 enforcement” for “Fiscal year 1992-1995 enforcement” in heading, was executed by substituting “Fiscal years 1992-1998 enforcement” for “Fiscal years 1992-1995 enforcement”, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 103-66, §14003(a)(2), substituted “through fiscal year 1998” for “through fiscal year 1995” in two places.

Subsec. (e). Pub. L. 103-66, §14003(a)(3), substituted “for any fiscal year from 1991 through 1998” for “for fiscal year 1991, 1992, 1993, 1994, or 1995”.

1990—Pub. L. 101-508 amended section generally, substituting subsecs. (a) to (e) relating to enforcement of pay-as-you-go for former subsecs. (a) to (g) relating to Presidential order.

1987—Pub. L. 100-119 amended section generally to reflect substitution of Director of OMB for Comptroller General as official submitting reports under section 901 of this title and to revise provisions relating to content of Presidential orders issued in accordance with those reports.

Subsec. (c)(2)(F)(ii). Pub. L. 100-203, §8003(e), substituted “proposed” for “made”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-354, title I, §119(d)(2), Oct. 13, 1994, 108 Stat. 3208, provided that the amendment made by that section is effective Jan. 1, 1995.

CONGRESSIONAL BUDGET OFFICE EXCEPTED FROM CERTAIN REQUIREMENTS

Pub. L. 112-25, title I, §104(b), Aug. 2, 2011, 125 Stat. 246, provided that: “Sections 252(d)(1), 254(c), 254(f)(3), and 254(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902(d)(1), 904(c), (f)(3), (i)] shall not apply to the Congressional Budget Office.”

REDUCTION OF PREEXISTING PAYGO BALANCES

Pub. L. 107-312, §1, Dec. 2, 2002, 116 Stat. 2456, provided that: “Upon enactment of this Act [Dec. 2, 2002], the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for all fiscal years under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902] to zero.”

PAY-AS-YOU-GO ADJUSTMENT

Pub. L. 107-117, div. C, §102, Jan. 10, 2002, 115 Stat. 2342, provided that in preparing the final sequestration report for fiscal year 2002 required by section 904(f)(3) of this title, the Director of the Office of Management and Budget should change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under this section to zero.

CONFORMING PAYGO SCORECARD WITH TRANSPORTATION EQUITY ACT FOR 21ST CENTURY

Pub. L. 105-178, title VIII, §8102, June 9, 1998, 112 Stat. 492, as amended by Pub. L. 105-206, title IX, §9013(c), July 22, 1998, 112 Stat. 865, provided that: “Upon the enactment of this Act [June 9, 1998], the Director of the Office of Management and Budget shall not make any estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902(d)] of changes in direct spending outlays and receipts for any fiscal year resulting from this title [see Tables for classification] or from section 1102 of this Act [former 23 U.S.C. 104 note].”

REDUCTION OF PREEXISTING BALANCES AND EXCLUSION OF EFFECTS OF PUB. L. 105-33 FROM PAYGO SCORECARD

Pub. L. 105-33, title X, §10213, Aug. 5, 1997, 111 Stat. 712, provided that: “Upon the enactment of this Act [Aug. 5, 1997], the Director of the Office of Management and Budget shall—

“(1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902] to zero; and

“(2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of that section for any fiscal year resulting from the enactment of this Act [see Tables for classification] or of the Taxpayer Relief Act of 1997 [Pub. L. 105-34, see Tables for classification].”

REDUCTION OF DIRECT SPENDING AND RECEIPTS LEGISLATION BALANCES

Pub. L. 103-66, title XIV, §14003(c), Aug. 10, 1993, 107 Stat. 685, provided that: “Upon enactment of this Act [Aug. 10, 1993], the director of the Office of Management

and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902] by an amount equal to the net deficit reduction achieved through the enactment in this Act [see Tables for classification] of direct spending and receipts legislation for that year.”

§ 903. Enforcing deficit targets

(a) Sequestration

Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 901 of this title and section 902 of this title, but after any sequestration required by section 901 of this title (enforcing discretionary spending limits) or section 902 of this title (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

(b) Excess deficit; margin

The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

- (1) the maximum deficit amount for that year;
- (2) the amounts for that year designated as emergency direct spending or receipts legislation under section 902(e) of this title; and
- (3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reestimate for that year, if any, calculated under subsection (h).

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

(c) Dividing sequestration

To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President’s fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

(d) Defense

Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c), except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 901(a)(3) of this title.

(e) Non-defense

Actions to reduce non-defense accounts shall be taken in the following order:

(1) First

All reductions in automatic spending increases under section 906(a)¹ of this title shall be made.

(2) Second

If additional reductions in non-defense accounts are required to be made, the maximum

reduction permissible under sections 906(b) of this title (guaranteed student loans) and 906(c)¹ of this title (foster care and adoption assistance) shall be made.

(3) Third

(A) If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c), except that—

(i) the medicare program specified in section 906(d) of this title shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 902 of this title or, if it has been reduced by 2 percent or more under section 902 of this title, it may not be further reduced under this section; and

(ii) the health programs set forth in section 906(e) of this title shall not be reduced by more than 2 percent in total (including any reduction made under section 901 of this title),

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

(B) For purposes of determining reductions under subparagraph (A), outlay reduction (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(f) Baseline assumptions; part-year appropriations

(1) Budget assumptions

For purposes of subsections (b), (c), (d), and (e), accounts shall be assumed to be at the level in the baseline minus any reductions required to be made under sections 901 and 902 of this title.

(2) Part-year appropriations

If, on the date specified in subsection (a), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

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

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

(g) Adjustments to maximum deficit amounts

(1) Adjustments

(A) When the President submits the budget for fiscal year 1992, the maximum deficit

¹ See References in Text note below.