

sequestration order (section 258A); presidential authority to propose modifications in a sequester of defense programs, projects, and activities (section 258B); and a special reconciliation process (in the Senate only) for responding to an anticipated or actual sequester (section 258C).

Section 274 of the Gramm-Rudman-Hollings Act provides for expedited judicial review of cases involving the operation of the Act and establishes a "fallback procedure" for triggering sequestration through the legislative process.

Section 275 provides effective dates and expiration dates for sections of the Gramm-Rudman-Hollings Act.

House Bill

The House bill makes technical and conforming changes in the following sections of the Gramm-Rudman-Hollings Act: 255, 256, 257, 258, and 258A-C.

The list of exempt programs and activities in section 255 is recodified to bring it up to date. Specifically:

In section 255, the lists of accounts or activities exempt from sequestration are repeated with technical changes. Many accounts have had name changes and/or account number changes since 1990. Some accounts have expired. The bill also codifies exemptions that are freestanding provisions of law (conservation reserve; vaccine compensation). But there are no changes in what is exempt.¹

In section 255(g)(1)(A), the bill exempts credit liquidating and financing accounts: financing accounts because they are non-budgetary; liquidating accounts because they pay only for prior legal obligations of the government, which are exempt under the current section 255(g)(2). As a result of this single listing, credit accounts are no longer listed under section 255(g)(2).

The bill deletes as unnecessary the current section 255(f), exempting the base amounts of Automatic Spending Increase programs from sequestration. The base amounts of the ASI programs are still exempt, and only the increase is subject to sequestration.

In the new section 255(f) created by the bill, the current optional exemption for military personnel is set forth. This corrects an error of current law, which contains two subsection (h)'s. The language also removes an obsolete reference to a "snapshot date."

In section 5181 of the House bill (contained in title V), section 2161 of the Public Health Service Act contains an exemption from sequestration for the new National Childhood Immunization Trust Fund.

The bill also makes corrections or clarifications to section 256 of the Gramm-Rudman-Hollings Act, which provides special rules for sequestration. Specifically:

In section 256(a), "budget-year sequestration," the 1st sentence clarifies existing practice—that a sequestration shall start with the date of the presidential order and apply to a program for the remainder of the fiscal year, unless the Act specifies otherwise. This makes unnecessary the current section 256(1)(4).

The second sentence is a conforming amendment. It takes the idea of crediting outyear effects to the sequestration (as ex-

plained in the discussion of section 252) and (1) treats section 253 sequestration the same way for purpose of calculating sequestration percentages, and (2) credits section 252 sequestrations against the maximum deficit amount the same way to prevent inadvertent section 253 sequestrations when the maximum deficit amount has been fully adjusted.

The current section 256(b), relating to the sequestration of the guaranteed student loan program, is deleted, for the reasons explained above under section 252. A new section 252(1) sets forth the mechanism for providing across-the-board sequestration of the that program and the new direct student loan program. Sequestration is accomplished by raising the origination fees by an amount that reduces loan costs by the standard sequestration percentage applicable to all direct spending programs in the "across-the-board" category. This may be the most logical way to sequester from those programs even in the absence of a special rule.

In section 256(e), the bill deletes obsolete provision applicable to fiscal year 1986.

In section 256(h)(4), the bill deletes a double listing of Office of Thrift Supervision and the no longer extant REFCORP.

In section 256(j), the special rule for CCC sequestration, the bill deletes as redundant the current paragraph (5)—CCC is not an Automatic Spending Increase program (only those specifically listed under section 256(b) are), and so is not subject to a double reduction. The bill inserts a new paragraph (5), which simply incorporates existing sequestration rules for the dairy program, found in the Agricultural Act of 1949, into the text of the Budget Enforcement Act.

In section 256(k), the special rule for sequestration of the AFDC JOBS program, the bill makes a purely technical correction to the formula allocation by state of AFDC amounts that should apply after the program is cut by the full amount of a sequestration.

The bill clarifies existing rules relating to the computation of a baseline.

For discretionary programs, the baseline follows historical practice in assuming inflation adjustments until an appropriation for the fiscal year is enacted. There are three separate reasons for the baseline to reflect inflation rather than the discretionary limits imposed by section 251. (1) A "capped" baseline contains only a discretionary aggregate—it has no programmatic detail. There are a number of legal requirements in this Act (for example, the requirement to adjust the discretionary limits by the baseline amount of a program when there is a change in accounting classifications) that can only occur with a baseline that has account-level detail. (2) The lack of programmatic detail in a "capped" baseline makes it impossible to analyze discretionary policy except in aggregate; it is for this reason that CBO's annual listing of budget reduction options analyzes each option relative to the inflated baseline. (3) The spending limits imposed by section 251 require cutbacks in real (inflation-adjusted) resources. Such cutbacks might have many different results: project cancellations, reductions in Federal military or civilian personnel levels, base closings, reductions in the number of research grants, delays in maintenance schedules, etc. It is useful to the public to show the numerical extent of such cutbacks, and the individuals who are directly affected will certainly feel them as cutbacks.

The bill makes specific changes in the language of section 257:

In section 257(a) and (b)(1), the baseline modified to include the extension of "discre-

tionary regulations" without assumed change.² This has been CBO's baseline practice, and was also the Gramm-Rudman-Hollings requirement before the amendments made Budget Enforcement Act of 1990. By assuming that discretionary regulations continue unchanged (as opposed to OMB's current approach of assuming future changes consistent with administration policy), congressional prerogatives in establishing policy are not made subservient to those of the administration.

In section 257(b)(2)(A), the bill makes two changes. First, it switches from \$50 million in outlays to \$50 million in gross budget authority the threshold that a direct spending program must attain before the baseline should assume its continuation past its scheduled expiration date. Second, the bill clarifies how to project a direct spending program is that assumed to continue after its scheduled expiration: where the program is driven by substantive provisions of authorizing law, assume that the program continues as in effect just before its expiration.³ Expiring programs funded by backdoor definite budget authority have that budget authority inflated as though it were discretionary.

In section 257(b)(2)(A), the bill clarifies the intent of existing law: that the percent increase in veterans compensation is assumed to be the same percent as the automatic increase in veterans pensions. This does not mean that the veterans compensation baseline follows other aspects of pension law such as rounding down.

The current section 257(b)(3) relating to the treatment of Health Insurance Trust Fund, is deleted. See the discussion under section 250(b)(1) and (20).

In section 257(b)(3) the bill establishes a cutoff date after which the baseline will no longer assume the extension of certain expiring law. This codifies and makes explicit the existing implicit treatment if Congress allows a program or tax to expire.

In section 257(c), covering the projection of discretionary programs, the wording change recognizes that all spending is either direct spending or discretionary—there is no third type.

In section 257(c)(2), concerning the projection of expiring housing contracts, the bill that expiring contracts include prepayments as well (because prepayments are simply a form of expiration; the contracts expire because the budget authority runs out rather than because a time limit is reached.)

In section 257(c)(3), the bill includes OSADI administrative expenses in the special baseline rule that allows caseload changes to be taken into account; this inclusion reflects OMB's treatment of these costs as part of the Gramm-Rudman-Hollings system.

The bill deletes the current section 257(c)(4), providing for pay annualization and an offset to absorption. The reference to absorption is dropped since OMB and CBO agree it is not a meaningful concept in the absence of routine "pay supps." Annualization is covered automatically by the wording in the new section 257(c)(4) whereby inflation covers average rates of pay for a fiscal year.

²A "discretionary regulation" is issued pursuant to a law that grants the executive branch discretion in setting some rate, date, or other feature that would affect the amount of costs or savings under a plan.

³In case of CCC, which reverts to older, very general authority, existing practice is to assume that authority would be used in the same manner as the just expired law.

¹The thrift savings fund is not deleted from the list; rather, it is retained for redundancy even though the exemption is unnecessary because the Gramm-Rudman-Hollings Act does not apply to non-budgetary transactions. The bill also contains an erroneous deletion of interest payments to the Farm Credit System, Financial Assistance Corporation (FAC) from the list, and fails to include FAC, now an on-budget account, on the list.