

Such replenishments occur periodically, and one might be called for by fiscal year 1998.

In section 251(b)(4), the bill retains the current adjustment to the limits that occurs if appropriations for the IRS compliance initiative are above the levels in CBO's 1990 baseline. Under section 251(b)(2)(A) of current law and in the House and Senate bills, this provision applies through fiscal year 1995. The House bill simplifies the text by dropping portions relating to years already completed.

In section 251(b)(5), the bill provides a new adjustment for the net costs of the advance appropriations made in section 601 of Public Law 102-391. OMB has estimated those costs at zero, so the limits would not actually be adjusted under this provision. However, as described previously, Congress would be held harmless for CBO's higher estimate of the costs by the operation of section 602 of the Congressional Budget Act, as provided in subtitle B of the bill. The purpose of this approach is to minimize CBO-OMB scoring differences. While such estimating differences are inevitable, this is the only specific budget authority and outlay difference already on the books (because the advance appropriations were enacted last session); therefore, that estimating difference is resolved by this bill.

In section 251(b)(6), the bill provides a new adjustment to the extent that the costs of renewing expiring multiyear subsidized housing contracts or providing replacement contracts when units are lost due to "prepayments" differs from current estimates. This adjustment reflects the bitter experience Congress has had with estimates of expiring housing contracts. When such contracts expire or are prepaid, they must be renewed or the stock of subsidized housing decreases—renters are evicted. The existing baseline, the 1994 budget resolution, and the limits in the bill all include the currently estimated costs of those renewals in each fiscal year. But given the poor quality of past estimates, this bill provides an adjustment if the estimates prove wrong again.

A number of features should be noted. First, the adjustment might be up or down. Second, the adjustment is limited to changes in costs solely for renewals/prepayments. There would be no adjustment triggered by an increase or decrease in funding for subsidized housing generally, or for an appropriation that could be used for this or some other purpose. Likewise, if a later law transferred or reprogrammed any extra funding to another purpose, the limits would be adjusted down. In other words, the amount of expiring units, though quite hard to estimate in advance, is ultimately a matter of fact, not of Congressional policy—Congress cannot create extra costs simply by choosing to increase the appropriation.

In section 13560, (contained in title XIII of the house bill), a new adjustment for fiscal year 1994 and 1995 is created to cover appropriation increases for medicare administrative costs related to enforcement. The purpose is to reduce erroneous or fraudulent payments. This provision was also included last session in H.R. 11, a bill vetoed by President Bush. This provision is similar to the IRS adjustment in that it is made only if appropriations bills fund this activity above the existing baseline level, is limited to the

amount of the increase, and is further limited to not more than an amount specified in the provision.

In section 251(b)(7), current law is repeated; it provides that the limits are adjusted for any appropriation that is designated as an emergency by the President and Congress. Congress must designate by statute, and the President may independently designate some or all of the amount Congress designates. When funds are designated as an emergency, the limits are increased by the amount so designated; when funds previously designated as emergency are rescinded, the limits are decreased. Current law is modified only by dropping an obsolete provision relating to Operation Desert Shield, and by requiring presidential designations to be made in writing.

As discussed above, the bill deletes the current section 251(b)(2)(E)(i) and (ii), the "Special Budget Authority Allowance."

In section 251(b)(8)(A), which is akin to the current section 251(b)(2)(E)(iii), a budget authority estimating margin is provided, extending through fiscal year 1998. The estimating margin is set at no more than one-tenth of one percent of the amount of the budget authority limit for each fiscal year 1994-1998. The intent of the provision is to provide a margin if OMB's estimates of indefinite budget authority are higher than CBO's.

In section 251(b)(8)(B), which is akin to the current section 251(b)(2)(F), an outlay estimating margin is provided, extending through fiscal year 1998. Under current law, the outlay estimating margin for fiscal years 1994 and 1995 equals \$6.5 billion less the amount of outlays flowing from the "Special Budget Authority Allowance." In the bill, current law is extended through 1998; calculation of the subtraction associated with the "Special Budget Authority Allowance" is likewise extended through fiscal year 1998 (as though it had applied through that year and had not been repealed); and the total amount of the outlay estimating margin is further limited to no more than one percent of the outlay limit for each fiscal year 1994-1998. As with the budget authority margin, the intent of the provision is to provide a margin if OMB's estimates of outlays are higher than CBO's.

In section 251(c)(1), the bill establishes a "scorecard" for discretionary amounts, as discussed above. While this is a new provision in law, it confirms to OMB's existing practice. OMB is allowed to correct erroneous entries to the scorecard; as noted, this codifies current interpretations. The scorekeeping related to the scorecard is derived from the current section 251(a)(7), with the language simplified and clarified without any change in its effect.

In section 251(c)(2), the bill provides for "lookback" enforcement of supplemental appropriations enacted after June 30—so late in the fiscal year that a sequestration might be infeasible. The effect of this provision is the same as section 251(a)(5) of current law, which penalizes breaches caused by a post-June supplemental by lowering the next year's limits. The bill accomplishes the same result by putting the post-June costs on the next year's scorecard. It is easier to conform Congressional scorekeeping to the approach in the bill than to conform budget resolution

allocations to the current approach (since that could require reducing the allocations already made in a budget resolution). The bill also clarifies the treatment of any fiscal year 1993 "lookback breach"—current law requires the reduction of "that category" for the next year; the phrase is ambiguous in that the meaning of "category" changes between fiscal years 1993 and 1994.

In section 251(d) of the bill, sequestration is provided as the remedy in the event a discretionary limit is breached. This provision mirrors the current section 251(a)(1)-(4), except that a *de minimis* is provided—no sequestration is needed if a budget authority or outlay breach would otherwise require a budget authority sequestration of less than \$50 million.

In section 251(d)(2), which sets forth the calculation of the percentage sequestration, the bill clarifies the treatment of offsetting collections credited to discretionary appropriations; they are subject to discretionary sequestration, not pay-as-you-go sequestration. Current law is ambiguous.

In section 251(d)(3), which allows the President to exempt some or all military personnel from sequestration, the language is simplified with no change in effect.

In section 251(e), which is akin to the current section 251(a)(6), a "within session" sequestration is provided for if a pre-July supplemental causes a breach. The language is simplified with no change in effect.

Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides that "[t]he Senate declares that it is essential to . . . extend the system of discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974." H. Con. Res. 64, 103d Cong., 1st Sess. §12(a)(2), 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). Section 12(b) set forth those limits for fiscal years 1996 through 1998 and created a point of order in the Senate to enforce them. See *id.* §12(b).

In furtherance of the budget resolution, section 14002 of the Senate amendment continues the use of adjustable discretionary spending limits through fiscal year 1998. Unlike the House bill, the Senate amendment retains the current limits for fiscal years 1994 and 1995 without charge and establishes new limits for fiscal years 1996 through 1998. (See table below.) Section 14002 provides that the discretionary spending limits for fiscal years 1996 through 1998 are those set forth in section 12(b)(1) of the budget resolution, which the House also used. As is the case for fiscal years 1994 and 1995 under current law, the Senate amendment establishes separate limits each year for total discretionary budget authority and total discretionary outlays.

The Senate amendment retains, with minor technical and conforming changes, the current law's procedures for periodically adjusting the discretionary spending limits.

Conference Agreement

The conference agreement contains the Senate language.

The table below sets forth the proposed discretionary spending limits in the House bill, the Senate amendment, and the conference agreement.