
Executive Order 12858 of August 4, 1993¹⁹⁷⁰**Deficit Reduction Fund**

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of

¹⁹⁸(...continued)

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 936, 964-66 (1993), *reprinted in* 139 CONG. REC. H6036, H6044 (daily ed. Aug. 4, 1993).

For an excellent analysis of the House-passed language, see ROBERT KEITH & EDWARD DAVIS, BUDGET PROCESS CHANGES IN THE HOUSE-PASSED RECONCILIATION ACT OF 1993 18-23 (June 14, 1993) (Cong. Res. Serv. rep. no. 93-583 GOV), *reprinted in* 139 CONG. REC. H6115-16 (daily ed. Aug. 5, 1993) (debate on H. Res. 240). For a similar treatment of the language that failed in the Senate, see EDWARD DAVIS & ROBERT KEITH, BUDGET PROCESS CHANGES CONSIDERED BY THE SENATE: THE RECONCILIATION ACT OF 1993 10-13 (June 30, 1993) (Cong. Res. Serv. rep. no. 93-625 GOV). For a history and criticism of entitlement caps generally, see William G. Dauster, *Budget Process Issues for 1993*, 9 J.L. & POL. 9, 25-35 (1992). For a discussion of entitlements generally, see KENNETH R. CAHILL, ENTITLEMENTS AND OTHER MANDATORY SPENDING (Apr. 6, 1993) (Cong. Res. Serv. rep. no. 93-391 EPW).

For legislative history of entitlement caps, see LEON E. PANETTA, CHAIRMAN, HOUSE COMM. ON THE BUDGET, 102D CONG., 1ST SESS., RESTORING AMERICA'S FUTURE: PREPARING THE NATION FOR THE 21ST CENTURY 20-21 (Comm. Print 1991) (serial no. CP-5); OFFICE OF MANAGEMENT AND BUDGET, BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 1993, pt. 1, at 9, 16-17 (1992); OFFICE OF MANAGEMENT AND BUDGET, MID-SESSION REVIEW: THE PRESIDENT'S BUDGET AND ECONOMIC GROWTH AGENDA 407 (1992); H.R. 4150, 102d Cong., 2d Sess. tit. XLVI (1992); S. 2217, 102d Cong., 2d Sess. tit. XLVI, 138 CONG. REC. S1475 (daily ed. Feb. 7, 1992) (President Bush's legislation); 138 CONG. REC. S5414-62, S5531-35 (daily ed. Apr. 10, 1992) (debate on and text of the Domenici amendment, which Senator Domenici withdrew after the Senate voted 66-28 to except Veterans' Compensation from the cap); 139 CONG. REC. S3609-21, S3675-79 (daily ed. Mar. 24, 1993) (debate on and text of the Nunn-Domenici amendment, which the Senate tabled by a vote of 51-47); *id.* at S7703-21, S7769, S7807-08 (daily ed. June 23, 1993) (debate on and text of the Dole-Domenici amendment, which failed by a vote of 43-55 on a motion to waive the Congressional Budget Act).

¹⁹⁷⁰ This order appears at 58 Fed. Reg. 42,185 (1993). For history of the order, see *infra* note 1984.

America, including sections 1104¹⁹⁷¹ and 1105¹⁹⁷² of title 31, United States Code, it is hereby ordered as follows:

§ 1 **Section 1. Purpose.** It is essential to guarantee that the net deficit reduction achieved by the Omnibus Budget Reconciliation Act of 1993¹⁹⁷³ is dedicated exclusively to reducing the deficit.¹⁹⁷⁴

§ 2 **Sec. 2. Deficit Reduction Fund.**

§ 2(a) (a).¹⁹⁷⁵ *Establishment of the Fund.* There is established a separate account in the Treasury, known as the Deficit Reduction Fund, which shall receive the net deficit reduction achieved by the Omnibus Budget Reconciliation Act of 1993¹⁹⁷⁶ as called for in subsection (b) of this order.

§ 2(b) (b) *Amounts in Fund.* Beginning upon enactment of the Omnibus Budget Reconciliation Act of 1993,¹⁹⁷⁷ the Deficit Reduction Fund shall receive any increases in total revenues resulting from enactment of such Act on a daily basis. In addition, on a daily basis, the Secretary of the Treasury shall enter into such account an amount equivalent to the net deficit reduction achieved as a result of all spending reductions resulting from such Act. The cumulative fiscal year amounts for the combination of all such revenue increases and spending

¹⁹⁷¹ See *supra* pp. 786-787.

¹⁹⁷² See *supra* pp. 788-798.

¹⁹⁷³ Pub. L. No. 103-66, 107 Stat. 312 (1993).

¹⁹⁷⁴ Section 3(6) of the Congressional Budget Act defines "deficit" to mean "with respect to a fiscal year, the amount by which outlays exceeds receipts during that year." See *supra* p. 16.

¹⁹⁷⁵ This superfluous period appears in the original.

¹⁹⁷⁶ Pub. L. No. 103-66, 107 Stat. 312 (1993).

¹⁹⁷⁷ Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993.

reductions shall be equal to:

- § 2(b)(1) (1) for fiscal year 1994, \$ 60,292,000,000;
- § 2(b)(2) (2) for fiscal year 1995, \$ 70,437,000,000;
- § 2(b)(3) (3) for fiscal year 1996, \$ 92,061,000,000;
- § 2(b)(4) (4) for fiscal year 1997, \$ 125,881,000,000;
- § 2(b)(5) (5) for fiscal year 1998, \$ 146,939,000,000.

Within 30 days of enactment of the Omnibus Budget Reconciliation Act of 1993,¹⁹⁷⁸ the foregoing amounts may be adjusted by the Director of the Office of Management and Budget to reflect the final scoring of such Act.

§ 2(c)(i) (c) *Status of Amounts in Fund.* (i) The amounts in the Deficit Reduction Fund shall be used exclusively to redeem maturing debt obligations of the Treasury of the United States held by foreign governments in the amounts specified in subsection (b).

§ 2(c)(ii) (ii) The amounts in the Deficit Reduction Fund as set forth in subsection (b) that result from increases in total revenues and spending reductions shall not be available for new spending or to finance measures that increase the deficit for purposes of budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901-922).¹⁹⁷⁹

§ 2(d) (d) *Effect on Other Funds.* Establishment of and transfers

¹⁹⁷⁸ Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993. The Order thus required action not later than September 9, 1993.

¹⁹⁷⁹ The order cites sections 251-274 of Gramm-Rudman-Hollings, as codified in the United States Code. See *supra* pp. 475-689.

to the Deficit Reduction Fund shall not affect trust fund transfers that may be authorized or required by provisions of the Omnibus Reconciliation Act of 1993¹⁹⁸⁰ or any other provision of law.

13 **Sec. 3. Requirement for the President To Report Annually on the Status of the Fund.** The Director of the Office of Management and Budget shall include in the President's Budget transmitted under section 1105 of title 31, United States Code,¹⁹⁸¹ information about the Deficit Reduction Fund, including a separate statement of amounts in and Federal debt redeemed by that Fund.

14 **Sec. 4. Implementation.** The Secretary of the Treasury and the Director of the Office of Management and Budget shall each take such actions as may be necessary, within their respective authorities, promptly to carry out this order.

15 **Sec. 5. Effective Date.** This order shall take effect upon enactment of the Omnibus Budget Reconciliation Act of 1993.¹⁹⁸²

*William J. Clinton*¹⁹⁸³

THE WHITE HOUSE,
*August 4, 1993.*¹⁹⁸⁴

¹⁹⁸⁰ The President meant the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993).

¹⁹⁸¹ See *supra* pp. 788-798.

¹⁹⁸² Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993.

¹⁹⁸³ Signed.

¹⁹⁸⁴ For the President's remarks on signing this Executive order, see issue 31 of the *Weekly Compilation of Presidential Documents*.

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The Federal Register notes the following information in the margin: "[FR Doc. 93-19101 Filed 8-5-93; 10:30 am] Billing code 3195-01-P."

This order draws heavily on the language of an amendment on the same subject offered by Senator Dennis DeConcini that failed to achieve the 60 votes it needed to overcome a point of order. See 139 CONG. REC. S7915-17, S7923 (daily ed. June 24, 1993). For legislative history of the deficit reduction trust fund, see S. Con. Res. 48, 100th Cong., 1st Sess. § 5 (1987) (as reported by the Senate Budget Committee); S. REP. NO. 100-40, 100th Cong., 1st Sess. LVI-LVII, 17, 288-89 (1987); 133 CONG. REC. S5561, S5566, S5568, S5573, S5574, S5579-80 (daily ed. Apr. 28, 1987) (motion to recommit and amendments incorporating the language of S. Con. Res. 48); H. Con. Res. 93, 100th Cong., 1st Sess. § 7, 133 CONG. REC. S6069, S6075 (daily ed. May 6, 1987) (as amended in the Senate); Concurrent Resolution on the Budget — Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess. § 6, 101 Stat. 1986, 2000-01 (1987); H.R. CONF. REP. NO. 100-76, 100th Cong., 1st Sess. 36 (1987) (joint statement of managers); S. 101, 101st Cong., 1st Sess. § 301, 135 CONG. REC. S170, S425-29 (daily ed. Jan. 25, 1989) (Sen. Terry Sanford's bill incorporating a fund); S. REP. NO. 101-427, 101st Cong., 1st Sess. 4-5, 11 (1990) (on Sen. Sanford's bill); S. 101, 102d Cong., 1st Sess., 137 CONG. REC. S437 (daily ed. Jan. 14, 1991) (same); 139 CONG. REC. S3582-84 (daily ed. Mar. 24, 1993) (Sen. DeConcini's budget resolution amendment calling for a fund); Concurrent Resolution Setting Forth the Congressional Budget for the United States Government for the Fiscal Years 1994, 1995, 1996, 1997, and 1998, H. Con. Res. 64, 103d Cong., 1st Sess. § 13(c), 139 CONG. REC. H1747, H1754 (daily ed. Mar. 31, 1993) (adopted); H. Res. 186, 103d Cong., 1st Sess., 139 CONG. REC. H2952 (daily ed. May 27, 1993) (House rule providing for inclusion of language in H.R. 2264); H.R. REP. NO. 103-112, 103d Cong., 1st Sess. 3, 49-50 (1993) (the report to accompany H. Res. 186, publishing the language); 139 CONG. REC. H2952-70 (daily ed. May 27, 1993) (House debate on H. Res. 186); H.R. 2264, 103d Cong., 1st Sess. § 15301, 139 CONG. REC. H3029, H3199 (daily ed. May 27, 1993) (as passed by the House of Representatives); H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 936, 963-64 (1993) (joint statement of managers accompanying H.R. 2264, discussing the fund), *reprinted in* 139 CONG. REC. H6036, H6044 (daily ed. Aug. 4, 1993).

The joint statement of managers accompanying H.R. 2264, 103d Cong., 1st Sess. § 15301, 139 CONG. REC. H5792 (daily ed. Aug. 4, 1993), discusses the trust fund as follows:

Title XIV — Budget Process Provisions

Note that the House recedes to the Senate on all material related to the executive and congressional budget process. The House conferees agreed to recede based on their understanding that inclusion of that material would make the entire conference report subject to a point of order in the Senate under section 306 of the Congressional Budget Act of 1974 and thereby endanger final enactment of the reconciliation bill. Therefore, the conferees' decision should not be considered as necessarily judging the relative merits of the Senate and House positions.

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DEFICIT REDUCTION TRUST FUND PROVISION

Current Law

Current law includes no analogous provision.

The House Bill

The House bill creates the Deficit Reduction Trust Fund, an account to identify the reduced outlays and increased receipts achieved through reconciliation. Under the requirements of reconciliation and the terms of the Trust Fund, the legislative savings could not be spent and are solely reserved for deficit reduction. The Deficit Reduction Trust Fund would provide a quantitative display of the level of deficit reduction achieved through the adoption of the President's policies in reconciliation.

The Trust Fund would operate in the following manner: 1) an amount equal to the net deficit reduction estimated to result from reconciliation is transferred to the Trust Fund within 10 days of enactment; 2) amounts in the Trust Fund are unavailable for appropriation, obligation, transfer or expenditure, and may only be used to pay off maturing public debt obligations; 3) amounts in the Trust Fund are excluded from Pay-As-You-Go budget enforcement and cannot finance new spending or tax reductions; and 4) the President's budget request is required to include a separate statement of funds held by the Trust Fund.

The Senate Bill

The Senate adopted no analogous provisions.

The Conference Agreement

The conference agreement does not include the House provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the Deficit Reduction Trust Fund would make the entire conference report subject to a point of order in the Senate and thereby endanger final enactment of the reconciliation bill, and based on their further understanding that President Clinton has agreed to establish a Deficit Reduction Trust Fund by Executive Order.

H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 936, 963-64 (1993), reprinted in 139 CONG. REC. H6036, H6044 (daily ed. Aug. 4, 1993).

For an analysis of the deficit reduction trust fund idea, see PHILIP D. WINTERS, A DEFICIT REDUCTION TRUST FUND (May 27, 1993) (Cong. Res. Serv. rep. no. 93-532 E).