

BUDGET CONTROL
Executive Orders
House Rule

Executive Order 12857 of August 4, 1993¹⁸⁵⁶

Budget Control

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 1105 of title 31, United States Code,¹⁸⁵⁷ it is hereby ordered as follows:

- § 1 **Section 1. Purpose.** The purpose of this order is to create a mechanism to monitor total costs of direct spending¹⁸⁵⁸ programs, and, in the event that actual or projected costs exceed targeted¹⁸⁵⁹ levels, to require that the budget¹⁸⁶⁰ address adjustments in direct spending.
- § 2 **Sec. 2. Establishment of Direct Spending Targets.**
- § 2(a) **(a) In General.** The initial direct spending targets for each of fiscal years 1994 through 1997 shall equal total outlays¹⁸⁶¹

¹⁸⁵⁶ This order appears at 58 Fed. Reg. 42,181 (1993). For history of the order, see *infra* note 1969.

¹⁸⁵⁷ See *supra* pp. 788-798.

¹⁸⁵⁸ For a discussion of the meaning of "direct spending" for the purposes of this order, see *infra* note 1862.

¹⁸⁵⁹ Section 2 of this order establishes the "direct spending targets" (see *infra* pp. 819-821) and section 6 of this order provides for their annual adjustment (see *infra* pp. 827-831).

¹⁸⁶⁰ That is, the President's budget submission under 31 U.S.C. § 1105 (1988 & Supp. III 1991). See *supra* pp. 788-798.

¹⁸⁶¹ Section 3(1) of the Congressional Budget Act provides that "[t]he terms 'budget outlays' and 'outlays' mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year." See *supra* p. 11.

for all direct spending¹⁸⁶² except net interest and deposit insurance¹⁸⁶³ as determined by the Director of the Office of Management and Budget (Director) under subsection (b).

§ 2(b)(1) (b) *Initial Report by Director.* (1) Not later than 30 days after the date of enactment of the Omnibus Budget Reconciliation Act of 1993 (OBRA),¹⁸⁶⁴ the Director¹⁸⁶⁵ shall submit

¹⁸⁶² Section 250(c)(8) of Gramm-Rudman-Hollings defines "direct spending" to mean:

- (A) budget authority provided by law other than appropriation Acts;
- (B) entitlement authority; and
- (C) the food stamp program.

See supra pp. 444-445. Sections 3(9) and 401(c)(2)(C) of the Congressional Budget Act, in turn, define "entitlement authority" similarly to mean authority:

to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriations Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law

See supra pp. 18 & 252-253.

Section 13301 of the Budget Enforcement Act excluded the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from this definition of "direct spending." *See supra* pp. 745-746. By omitting the Social Security trust funds from the list of items excluded from direct spending, the executive order opens the question of whether the President intended to include Social Security in the order's entitlement review, in contravention of the plain intent of section 13301 of the Budget Enforcement Act. The principal drafter of the House-passed legislation on which the President based the order, Congressman Charles Stenholm, certainly intended this result.

¹⁸⁶³ Section 250(c)(19) of Gramm-Rudman-Hollings defines "deposit insurance." *See supra* p. 447. Compare the similar exclusion of deposit insurance funding from the pay-as-you-go enforcement in section 252(b)(1)(A) of Gramm-Rudman-Hollings. *See supra* p. 510.

¹⁸⁶⁴ Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993. The Order thus required action not later than September 9, 1993.

a report to the Congress setting forth projected direct spending targets for each of fiscal years 1994 through 1997.

§ 2(b)(2) (2) The Director's¹⁸⁶⁶ projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). To the extent feasible, the Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1994 (H.Con.Res. 64).¹⁸⁶⁷

§ 2(o) (c) *Adjustments.* Direct spending targets shall be subsequently adjusted by the Director¹⁸⁶⁸ under Section 6.¹⁸⁶⁹

§ 3 **Sec. 3. Annual Review of Direct Spending and Receipts by President.** As part of each budget submitted under section 1105(a) of title 31, United States Code,¹⁸⁷⁰ the Director¹⁸⁷¹ shall provide an annual review of direct spending¹⁸⁷² and receipts, which shall include

¹⁸⁶⁵ (...continued)

¹⁸⁶⁵ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. See *supra* p. 820.

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¹⁸⁶⁷ H. Con. Res. 64, 103d Cong., 1st Sess., 139 CONG. REC. H1747 (daily ed. Mar. 31, 1993) (adopted). For the economic assumptions, see H.R. CONF. REP. NO. 103-48, 103d Cong., 1st Sess. 46 (1993), reprinted in 139 CONG. REC. H1747, H1760 (daily ed. Mar. 31, 1993).

¹⁸⁶⁸ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. See *supra* p. 820.

¹⁸⁶⁹ See *infra* pp. 827-831.

¹⁸⁷⁰ See *supra* p. 788.

¹⁸⁷¹ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. See *supra* p. 820.

¹⁸⁷² For a discussion of the meaning of "direct spending" for the purposes of this order, see *supra* note 1862.

- § 3(1) (1) information supporting the adjustment of direct spending targets¹⁸⁷³ pursuant to Section 6,¹⁸⁷⁴
- § 3(2) (2) information on total outlays¹⁸⁷⁵ for programs covered by the direct spending targets,¹⁸⁷⁶ including actual outlays for the prior fiscal year and projected outlays for the current fiscal year¹⁸⁷⁷ and the 5 succeeding fiscal years, and
- § 3(3) (3) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of OBRA.¹⁸⁷⁸
- § 4(a) **Sec. 4. *Special Direct Spending Message by President.* (a) *Trigger.***
In the event that the information submitted under Section 3 indicates —
- § 4(a)(1) (1) that actual outlays¹⁸⁷⁹ for direct spending¹⁸⁸⁰
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¹⁸⁷³ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see infra* pp. 827-831).

¹⁸⁷⁴ *See infra* pp. 827-831.

¹⁸⁷⁵ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁸⁷⁶ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see infra* pp. 827-831).

¹⁸⁷⁷ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

¹⁸⁷⁸ The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993.

¹⁸⁷⁹ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁸⁸⁰ For a discussion of the meaning of "direct spending" for the purposes of this order, *see supra* note 1862.

in the prior fiscal year exceeded the applicable direct spending target,¹⁸⁸¹ or

§ 4(a)(2) (2) that outlays¹⁸⁸² for direct spending¹⁸⁸³ for the current¹⁸⁸⁴ or budget year¹⁸⁸⁵ are projected to exceed the applicable direct spending targets,¹⁸⁸⁶ the Director¹⁸⁸⁷ shall include in the budget¹⁸⁸⁸ a special direct spending message meeting the requirements of subsection (b) of this Section.

§ 4(b)(1) (b) *Contents.* (1) The special direct spending message shall include:

§ 4(b)(1)(A) (A) An explanation of any adjustments to the direct spending targets¹⁸⁸⁹ pursuant to Section 6.¹⁸⁹⁰

¹⁸⁸¹ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see infra* pp. 827-831).

¹⁸⁸² Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁸⁸³ For a discussion of the meaning of "direct spending" for the purposes of this order, *see supra* note 1862.

¹⁸⁸⁴ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

¹⁸⁸⁵ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

¹⁸⁸⁶ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see infra* pp. 827-831).

¹⁸⁸⁷ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁸⁸⁸ That is, the President's budget submission under 31 U.S.C. § 1105 (1988 & Supp. III 1991). *See supra* pp. 788-798.

¹⁸⁸⁹ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see infra* pp. 827-831).

- § 4(b)(1)(B) (B) An analysis of the variance in direct spending¹⁸⁹¹ over the adjusted direct spending targets.¹⁸⁹²
- § 4(b)(1)(C) (C) The President's recommendations for addressing the direct spending overages,¹⁸⁹³ if any, in the prior, current,¹⁸⁹⁴ or budget year.¹⁸⁹⁵
- § 4(b)(2) (2) The recommendations may consist of any of the following:
- § 4(b)(2)(A) (A) Proposed legislative changes to reduce outlays,¹⁸⁹⁶ increase revenues, or both, in order to recoup or eliminate the overage¹⁸⁹⁷ for the prior, current,¹⁸⁹⁸ and budget years¹⁸⁹⁹ in the current year, the budget year, and

¹⁸⁹⁰ (...continued)

¹⁸⁹⁰ See *infra* pp. 827-831.

¹⁸⁹¹ For a discussion of the meaning of "direct spending" for the purposes of this order, see *supra* note 1862.

¹⁸⁹² Section 2 of this order establishes the "direct spending targets" (see *supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (see *infra* pp. 827-831).

¹⁸⁹³ Section 4(a) implicitly defines "overage." See *supra* pp. 822-823.

¹⁸⁹⁴ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." See *supra* p. 446.

¹⁸⁹⁵ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." See *supra* p. 446.

¹⁸⁹⁶ Section 3(1) of the Congressional Budget Act defines "outlays." See *supra* p. 11.

¹⁸⁹⁷ Section 4(a) implicitly defines "overage." See *supra* pp. 822-823.

¹⁸⁹⁸ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." See *supra* p. 446.

¹⁸⁹⁹ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." See *supra* p. 446.

the 4 out-years.¹⁹⁰⁰

§ 4(b)(2)(B)

(B) Proposed legislative changes to reduce outlays,¹⁹⁰¹ increase revenues, or both, in order to recoup or eliminate part of the overage¹⁹⁰² for the prior, current,¹⁹⁰³ and budget year¹⁹⁰⁴ in the current year, the budget year, and the 4 out-years,¹⁹⁰⁵ accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

§ 4(b)(2)(C)

(C) A proposal to make no legislative changes to recoup or eliminate any overage,¹⁹⁰⁶ accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

§ 4(b)(3)

(3) Any proposed legislative change under paragraph (2) to reduce outlays¹⁹⁰⁷ may include reductions in direct spend-

¹⁹⁰⁰ Section 250(c)(14) of Gramm-Rudman-Hollings defines "outyear." *See supra* p. 446.

¹⁹⁰¹ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁹⁰² Section 4(a) implicitly defines "overage." *See supra* pp. 822-823.

¹⁹⁰³ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

¹⁹⁰⁴ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

¹⁹⁰⁵ Section 250(c)(14) of Gramm-Rudman-Hollings defines "outyear." *See supra* p. 446.

¹⁹⁰⁶ Section 4(a) implicitly defines "overage." *See supra* pp. 822-823.

¹⁹⁰⁷ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

ing¹⁹⁰⁸ or in the discretionary spending limits¹⁹⁰⁹ under section 601 of the Congressional Budget Act of 1974.¹⁹¹⁰

- 15 **Sec. 5. Proposed Special Direct Spending Resolution.**¹⁹¹¹ If the President recommends reductions consistent with subsection 4 (b)(2)(A)¹⁹¹² or (B),¹⁹¹³ the special direct spending message¹⁹¹⁴ shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives¹⁹¹⁵ instructing the appropri-

¹⁹⁰⁸ For a discussion of the meaning of "direct spending" for the purposes of this order, see *supra* note 1862.

¹⁹⁰⁹ Section 601(a)(2) defines "discretionary spending limit." See *supra* pp. 301-303.

¹⁹¹⁰ See *supra* pp. 299-306.

¹⁹¹¹ For the response that House rules require, see *infra* pp. 843-850 (those portions of H.R. 2264, 103d Cong., 1st Sess., 139 CONG. REC. H3029, H3199-201 (daily ed. May 27, 1993) (as passed by the House of Representatives), applied to the House by H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993)). Note that the Senate has no comparable rules.

¹⁹¹² That is, a recommendation to eliminate all of the overage. See *supra* p. 824.

¹⁹¹³ That is, a recommendation to eliminate part of the overage. See *supra* p. 825.

¹⁹¹⁴ Section 4 of this order defines "direct spending message." See *supra* pp. 822-826.

¹⁹¹⁵ Congressional Budget Act section 310 sets forth the reconciliation process in the context of Congress's annual cycle of concurrent resolutions on the budget. See *supra* pp. 158-177. For other budget process legislation dealing with reconciliation, see Congressional Budget Act section 300, *supra* p. 47 (budget timetable, including that for reconciliation); section 301(b)(2) & (3), *supra* pp. 58-60 (empowering budget resolutions to include reconciliation instructions, as well as a provision providing for delayed enrollment of legislation pending completion of reconciliation); section 305, *supra* pp. 120-142 (procedures for budget resolutions and reconciliation bills); section 313, *supra* pp. 198-228 (the Byrd Rule prohibiting extraneous matter in reconciliation); section 604, *supra* pp. 325-327 (providing an optional reconciliation process in the House of Representatives to make up the net losses created by tax-cutting legislation); section 904(c) & (d), *supra* pp. 361-368 (supermajority requirements for points of order and appeals, including those for reconciliation); Gramm-Rudman-Hollings section 258C, *supra* pp. 658-662 (providing a special Gramm-Rudman-Hollings reconciliation process to achieve savings in lieu of an impending sequester); and section 16005 of H.R. 2264, 103d Cong., 1st Sess., 139 CONG. REC. H3029, H3199-201 (daily ed. May 27, 1993) (as passed by the House of Representa-
(continued...)

ate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays¹⁹¹⁶ or increase revenues by specified amounts. If the President recommends no reductions pursuant to Section 4 (b)(2)(C),¹⁹¹⁷ the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

§ 6 **Sec 6. *Adjustments to Direct Spending Targets.***¹⁹¹⁸

§ 6(a) (a) ***Required Annual Adjustments.*** Prior to the submission of the President's budget¹⁹¹⁹ for each of fiscal years 1995 through 1997, the Director¹⁹²⁰ shall adjust the direct spending targets¹⁹²¹ in accordance with this Section. Any such adjustments shall be reflected in the targets used in the report under Section 3¹⁹²² and message (if any) under Section 4.¹⁹²³

¹⁹¹⁵(...continued)
tives), as applied to the House by H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993)), *infra* pp. 844-848 (reconciliation procedures in response to special direct spending message).

¹⁹¹⁶ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁹¹⁷ *See supra* p. 825.

¹⁹¹⁸ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹¹⁹ That is, under 31 U.S.C. § 1105 (1988 & Supp. III 1991). *See supra* pp. 788-798.

¹⁹²⁰ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁹²¹ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹²² *See supra* pp. 821-822.

¹⁹²³ *See supra* pp. 822-826.

§ 6(b)(1) (b) *Adjustment for Increases in Beneficiaries.* (1) The Director¹⁹²⁴ shall adjust the direct spending targets¹⁹²⁵ for increases (if any) in actual or projected numbers of beneficiaries under direct spending¹⁹²⁶ programs for which the number of beneficiaries is a variable in determining costs.

§ 6(b)(2) (2) The adjustment shall be made by —

§ 6(b)(2)(A) (A) computing, for each program under paragraph (1), the percentage change between

§ 6(b)(2)(A)(i) (i) the annual average number of beneficiaries under that program (including actual numbers of beneficiaries for the prior fiscal year and projections for the budget¹⁹²⁷ and subsequent fiscal years) to be used in the President's budget¹⁹²⁸ with which the adjustments will be submitted, and

§ 6(b)(2)(A)(ii) (ii) the annual average number of beneficiaries used in the adjustments made by the Director¹⁹²⁹ in the previous year (or, in the case of adjustments made in 1994, the annual average number of benefi-

¹⁹²⁴ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁹²⁵ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹²⁶ For a discussion of the meaning of "direct spending" for the purposes of this order, *see supra* note 1862.

¹⁹²⁷ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

¹⁹²⁸ That is, under 31 U.S.C. § 1105 (1988 & Supp. III 1991). *See supra* pp. 788-798.

¹⁹²⁹ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

claries used in the Director's¹⁹³⁰ initial report under Section 2(b)¹⁹³¹;

§ 6(b)(2)(B) (B) applying the percentages computed under subparagraph (A) to the projected levels of outlays¹⁹³² for each program consistent with the direct spending targets¹⁹³³ in effect immediately prior to the adjustment; and

§ 6(b)(2)(C) (C) adding the results of the calculations required by subparagraph (B) to the direct spending targets¹⁹³⁴ in effect immediately prior to the adjustment.

§ 6(b)(3) (3) No adjustment shall be made for any program for a fiscal year in which the percentage increase computed under paragraph (2)(A) is less than or equal to zero.¹⁹³⁵

§ 6(c) (c) *Adjustments for Revenue Legislation.* The Director¹⁹³⁶ shall adjust the targets¹⁹³⁷ as follows:

§ 6(c)(1) (1) they shall be increased by the amount of any

¹⁹³⁰ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁹³¹ *See supra* p. 820.

¹⁹³² Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁹³³ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹³⁴ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹³⁵ That is, the adjustment cannot be a downward adjustment.

¹⁹³⁶ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁹³⁷ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

Increase in receipts; or

§ 6(c)(2) (2) they shall be decreased by the amount of any decrease in receipts, resulting from receipts legislation enacted after the date of enactment of OBRA,¹⁹³⁸ except legislation enacted in response to the message transmitted under Section 4.¹⁹³⁹

§ 6(d) (d) *Adjustments To Reflect Congressional Decisions.* Upon enactment of a reconciliation bill enacted in response to a message submitted under Section 4,¹⁹⁴⁰ the Director¹⁹⁴¹ shall adjust direct spending targets¹⁹⁴² for the current year,¹⁹⁴³ the budget year,¹⁹⁴⁴ and each outyear¹⁹⁴⁵ through 1997 by —

§ 6(d)(1) (1) increasing the target¹⁹⁴⁶ for the current

¹⁹³⁸ The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993.

¹⁹³⁹ See *supra* pp. 822-826.

¹⁹⁴⁰ See *supra* pp. 822-826.

¹⁹⁴¹ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. See *supra* p. 820.

¹⁹⁴² Section 2 of this order establishes the "direct spending targets." See *supra* pp. 819-821.

¹⁹⁴³ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." See *supra* p. 446.

¹⁹⁴⁴ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." See *supra* p. 446.

¹⁹⁴⁵ Section 250(c)(14) of Gramm-Rudman-Hollings defines "outyear." See *supra* p. 446.

¹⁹⁴⁶ Section 2 of this order establishes the "direct spending targets." See *supra* pp. 819-821.

year¹⁹⁴⁷ and the budget year¹⁹⁴⁸ by the amount stated for that year in that reconciliation bill (but if a separate vote was required by Congressional rules, only if that vote has occurred); and

§ 6(d)(2) (2) decreasing the target¹⁹⁴⁹ for the current,¹⁹⁵⁰ budget,¹⁹⁵¹ and outyears¹⁹⁵² through 1997 by the amount of reductions in direct spending¹⁹⁵³ enacted in that reconciliation bill.

§ 6(e) (e) *Designated Emergencies.* The Director¹⁹⁵⁴ shall adjust the targets¹⁹⁵⁵ to reflect the costs of legislation that is designated as an emergency by Congress and the President under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985.¹⁹⁵⁶

¹⁹⁴⁷ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

¹⁹⁴⁸ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

¹⁹⁴⁹ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹⁵⁰ Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

¹⁹⁵¹ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

¹⁹⁵² Section 250(c)(14) of Gramm-Rudman-Hollings defines "outyear." *See supra* p. 446.

¹⁹⁵³ For a discussion of the meaning of "direct spending" for the purposes of this order, *see supra* note 1862.

¹⁹⁵⁴ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. *See supra* p. 820.

¹⁹⁵⁵ Section 2 of this order establishes the "direct spending targets." *See supra* pp. 819-821.

¹⁹⁵⁶ *See supra* p. 517.

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- 17 **Sec. 7. Relationship to Balanced Budget and Emergency Deficit Control Act.**¹⁹⁵⁷ Recommendations pursuant to Section 4¹⁹⁵⁸ shall include a provision specifying that reductions in outlays¹⁹⁵⁹ or increases in receipts resulting from that legislation shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.¹⁹⁶⁰
- 18 **Sec. 8. Estimating Margin.** For any fiscal year for which the overage¹⁹⁶¹ is less than one-half of 1 percent of the direct spending target¹⁹⁶² for that year, the procedures set forth in Section 4¹⁹⁶³ shall not apply.
- 19 **Sec. 9. Means-Tested Programs.** In making recommendations under Section 4,¹⁹⁶⁴ the Director¹⁹⁶⁵ shall seriously consider all other alternatives before proposing reductions in means-tested programs.
- 20 **Sec. 10. Effective Date.** This order shall take effect upon

¹⁹⁵⁷ That is, Gramm-Rudman-Hollings. See *supra* pp. 405-692.

¹⁹⁵⁸ See *supra* pp. 822-826.

¹⁹⁵⁹ Section 3(1) of the Congressional Budget Act defines "outlays." See *supra* p. 11.

¹⁹⁶⁰ That is, sections 251-253 of Gramm-Rudman-Hollings. See *supra* pp. 475-533.

¹⁹⁶¹ Section 4(a) implicitly defines "overage." See *supra* pp. 822-823.

¹⁹⁶² Section 2 of this order establishes the "direct spending targets" (see *supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (see *supra* pp. 827-831).

¹⁹⁶³ See *supra* pp. 822-826.

¹⁹⁶⁴ See *supra* pp. 822-826.

¹⁹⁶⁵ Section 2(a) of this order defines "Director" to mean the Director of the Office of Management and Budget. See *supra* p. 820.

enactment of OBRA.¹⁹⁶⁶ This order shall apply to direct spending targets¹⁹⁶⁷ for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.

William J. Clinton¹⁹⁶⁸

THE WHITE HOUSE,
August 4, 1993.¹⁹⁶⁹

¹⁹⁶⁶ The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993), enacted August 10, 1993.

¹⁹⁶⁷ Section 2 of this order establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of this order provides for their annual adjustment (*see supra* pp. 827-831).

¹⁹⁶⁸ Signed.

¹⁹⁶⁹ For the President's remarks on signing this Executive order, see issue 31 of the *Weekly Compilation of Presidential Documents*.

The Federal Register notes the following information in the margin: "[FR Doc. 93-19098 Filed 8-5-93; 10:15 am] Billing code 3195-01-P."

This order repeats nearly verbatim House-passed language on the same subject that died in conference. *See* H.R. 2264, 103d Cong., 1st Sess., tit. XVI, 139 CONG. REC. H3029, H3199-201 (daily ed. May 27, 1993) (as passed by the House of Representatives). For the text of the House-passed language, see *infra* note 2024. For legislative history of this language, see H. Res. 186, 103d Cong., 1st Sess., 139 CONG. REC. H2952 (daily ed. May 27, 1993) (the House rule that provided for inclusion of the language in H.R. 2264); H.R. REP. NO. 103-112, 103d Cong., 1st Sess. 3, 50-55 (1993) (the report to accompany H. Res. 186, first publishing the language); 139 CONG. REC. H2952-70 (daily ed. May 27, 1993) (House debate on H. Res. 186); *id.* at S7821-30 (daily ed. June 24, 1993) (Senate debate on a Sasser amendment similar to the language); *id.* at S8122-25 (text of the Sasser amendment); H.R. CONF. REP. NO. 103-213, 103d Cong., 1st Sess. 936, 964-66 (1993) (joint statement of managers discussing the language), *reprinted in* 139 CONG. REC. H6036, H6044 (daily ed. Aug. 4, 1993); *cf.* H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993) (applying the House-passed procedures of H.R. 2264 to the House); H. Res. 240, 103d Cong., 1st Sess. § 2, 139 CONG. REC. H6110-11 (daily ed. Aug. 5, 1993) (providing for adoption of H. Res. 235); H.R. REP. NO. 103-217, 103d Cong., 1st Sess. (1993) (to accompany H. Res. 240); 139 CONG. REC. H6110-21 (daily ed. Aug. 5, 1993) (debate on H. Res. 240).

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

¹⁰⁰(...continued)
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' decisions should not be considered as necessarily judging the relative merits of the Senate and House positions.

....

ENTITLEMENT REVIEW

Current Law

Current law includes no analogous provision for monitoring and budgeting federal expenditures for entitlement and mandatory programs.

The House Bill

Federal spending for entitlements and other mandatory programs represent, along with interest on the national debt, the fastest growing area of federal spending. The Congressional Budget Office projects outlays for entitlement and mandatory programs to increase by 6.4% per year ([fiscal years] 1993-98). However, Congress is acutely aware that entitlement programs represent important commitments to the public in vital areas such as health, income security and economic stability.

Growth in entitlement spending has resulted in large part from the explosion in health care costs throughout society. National spending on health care currently represents more than 14% of the nation's total economic output and is projected to rise to 18% of Gross Domestic Product by the year 2000 if corrective action is not taken. Through its various programs, the federal government pays approximately 25% of the nation's health care costs, primarily through the medicare and medicaid entitlement programs. The social security, medicare and medicaid programs represent nearly 70% of all entitlement spending.

The House is concerned with our ability to project, monitor and pay for rising health care costs within the federal budget. Federal spending for entitlements and other mandatory programs is expected to total approximately \$770 billion in 1993, representing one-half of federal outlays and more than
(continued...)

¹⁰⁰ (...continued)

12% of our nation's Gross Domestic Product.

The House, acknowledging the acute budgetary pressure placed on the federal government through rising health care costs, created an entitlement review process requiring the following action on the part of the President:

(1) Following enactment of reconciliation, the Office of Management and Budget sets targets for the total level of entitlement spending, excluding interest and deposit insurance. These targets would be equal to the spending levels expected to result from enactment of reconciliation.

(2) The targets would be adjusted annually for:

(a) Increases in the number of beneficiaries for direct spending programs in which the number of beneficiaries is a variable in determining costs (e.g., Social Security, Medicare, Medicaid, Food Stamps, Unemployment Compensation, Federal Civilian/Military Retirement and Veterans' Pensions/Compensation).

(b) Subsequently enacted legislation increasing or decreasing revenues and legislation designated as an "emergency" measure under the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) The President's budget must include annual review of actual and projected costs for direct spending and revenues ([fiscal years] 1994-97). The report shall include: total outlays for direct spending programs and projections for the following five fiscal years; the basis of any variance from the targets, including permissible adjustments; and information regarding major categories of fiscal receipts, including any variance between projected and actual receipts.

(4) If actual outlays for direct spending programs for the prior fiscal year or projected outlays for the current fiscal year or budget year exceed the targets, the President is required to propose measures to address any overage, either through spending cuts, revenue increases or outlay target increases. However, no proposal is required if projected outlays exceed the targets by 1/2% estimating margin of error or less.

(5) The President and Congress should "seriously consider" all other proposals (outlay target/revenue increases, discretionary cuts or non-means tested program cuts) prior to considering reductions
(continued...)

¹⁰⁰ (...continued)

for means-tested programs.

The entitlement review also requires the following action on the part of Congress:

(1) If the President identifies an overage and recommends legislation to recoup or eliminate it, the budget resolution must incorporate a title to address the overage through reconciliation. The reconciliation directive can reflect any combination of spending cuts or revenue increases, but must achieve legislative savings equal to or greater than the amount recommended by the President (up to the amount of the overage).

(2) If the budget resolution recommends recouping less than the full overage, the House Budget Committee must report a House resolution directing that the outlay target shall be increased by the amount which is not offset.

(3) If the House resolution requires raising the outlay targets, the House must vote directly on the issue by a separate vote on the House resolution. If the House rejects raising the target, the budget resolution may not be considered as reported.

(4) Points of order are created: (a) The House cannot consider the budget resolution conference report unless the overage has been fully addressed, either by increasing the target or reporting reconciliation instructions to eliminate the overage or both; (b) No appropriations bills may be considered unless a budget resolution complying with this act has been adopted for the current fiscal year. However, this point of order may be waived by vote or resolution for all appropriations bills for the fiscal year.

The Senate Bill

The Senate bill adopts no analogous provisions.

The Conference Agreement

The conference agreement does not include the House entitlement review provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the entitlement review provisions 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 by Executive Order a mechanism for monitoring entitlement outlays and making recommendations to address overages.

(continued...)

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*.

(continued...)

¹⁹⁸⁸(...continued)

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.

(continued...)

1004 (...continued)

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).

TITLE XVI — BUDGET CONTROL¹⁹⁸⁵

§ 16004 **SEC. 16004. SPECIAL DIRECT SPENDING MESSAGE¹⁹⁸⁶ BY PRESIDENT.**

§ 16004(c) **(c)¹⁹⁸⁷ PROPOSED SPECIAL DIRECT SPENDING RESOLUTION. —**

§ 16004(c)(2) **(2)¹⁹⁸⁸ RESOLUTION TO BE INTRODUCED IN HOUSE. — Within 10 days after the President's special direct spending message¹⁹⁸⁹ is submitted, the text required by [section 5 of Executive Order 12857]¹⁹⁹⁰ shall be introduced as a concurrent resolution in the House of Representatives by the chairman of the Committee on the**

¹⁹⁸⁵ House Resolution 235, adopted by the House August 5, 1993, provides that these provisions shall apply in the House of Representatives to any special direct spending message that the President submits pursuant to Executive Order 12857. *See* H. Res. 235, 103d Cong., 1st Sess., para. (1), 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993). (For the complete text and legislative history of H. Res. 235, see *infra* note 2024.) The House adopted these provisions as rules of the House in an exercise of its constitutional rule-making authority. *See* U.S. CONST. art. I, § 5, cl. 2. House Resolution 235 does not by its terms adopt this title heading or the heading for section 16004 as a part of the rules of the House, but they are set forth here as aids to understanding.

¹⁹⁸⁶ Section 4 of Exec. Order No. 12857 defines "direct spending message." *See supra* pp. 822-826.

¹⁹⁸⁷ H. Res. 235 did not provide for adoption of subsections (a) and (b) as part of the House rules, nor did it provide for the redesignation of subsection (c) as subsection (a). *See infra* note 2024. Thus subsection (c) is the first subsection.

¹⁹⁸⁸ H. Res. 235 did not provide for adoption of paragraph (1) as part of the House rules, nor did it provide for the redesignation of paragraph (2) as paragraph (1). *See infra* note 2024. Thus paragraph (2) is the first paragraph.

¹⁹⁸⁹ Section 4 of Exec. Order No. 12857 defines "direct spending message." *See supra* pp. 822-826.

¹⁹⁹⁰ Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "paragraph (1)" of this section, shall be deemed to be a reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

Budget of the House of Representatives without substantive revision. If the chairman fails to do so, after the tenth day the resolution may be introduced by any Member of the House of Representatives. A concurrent resolution introduced under this paragraph shall be referred to the Committee on the Budget.

§ 16005 **SEC. 16005. REQUIRED RESPONSE BY CONGRESS.**

§ 16005(a) **(a) REQUIREMENT FOR SPECIAL DIRECT SPENDING RESOLUTION.**¹⁹⁹¹ — Whenever the President submits a special direct spending message¹⁹⁹² under [section 5 of Executive Order 12857],¹⁹⁹³ the Committee on the Budget of the House of Representatives shall report, not later than April 15,¹⁹⁹⁴ the concurrent resolution on the budget¹⁹⁹⁵ and include in it a separate title that meets the requirements of subsections (b) and (c).

§ 16005(b) **(b) CONTENTS OF SEPARATE TITLE. — The separate title**

¹⁹⁹¹ This subsection title misleads the reader, as this subsection addresses requirements for budget resolutions, not special direct spending resolutions. For the definition of "special direct spending resolution," see section 16004(c)(2) (*supra* pp. 843-844), which defines the term in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

¹⁹⁹² Section 4 of Exec. Order No. 12857 defines "direct spending message." *See supra* pp. 822-826.

¹⁹⁹³ Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "section 16004," shall be deemed to be a reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

¹⁹⁹⁴ Section 301(a) of the Congressional Budget Act already requires Congress to adopt a concurrent resolution on the budget by this deadline. *See supra* p. 50.

¹⁹⁹⁵ Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

of the concurrent resolution on the budget¹⁹⁹⁶ shall contain reconciliation directives¹⁹⁹⁷ to the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays¹⁹⁹⁸ or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage¹⁹⁹⁹). If this separate title recommends that no legislative changes be made to recoup or eliminate an overage, then a statement to that effect shall be set forth in that title.

§ 16005(c) **(c) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS. — If the separate title of a concurrent resolution on**

¹⁹⁹⁶ Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

¹⁹⁹⁷ Congressional Budget Act section 310 sets forth the reconciliation process in the context of Congress's annual cycle of concurrent resolutions on the budget. *See supra* pp. 158-177. For other budget process legislation dealing with reconciliation, *see* Congressional Budget Act section 300, *supra* p. 47 (budget timetable, including that for reconciliation); section 301(b)(2) & (3), *supra* pp. 58-60 (empowering budget resolutions to include reconciliation instructions, as well as a provision providing for delayed enrollment of legislation pending completion of reconciliation); section 305, *supra* pp. 120-142 (procedures for budget resolutions and reconciliation bills); section 313, *supra* pp. 198-228 (the Byrd Rule prohibiting extraneous matter in reconciliation); section 604, *supra* pp. 325-327 (providing an optional reconciliation process in the House of Representatives to make up the net losses created by tax-cutting legislation); section 904(c) & (d), *supra* pp. 361-368 (supermajority requirements for points of order and appeals, including those for reconciliation); Gramm-Rudman-Hollings section 258C, *supra* pp. 658-662 (providing a special Gramm-Rudman-Hollings reconciliation process to achieve savings in lieu of an impending sequester); and section 5 of Exec. Order No. 12857, *supra* pp. 826-827 (reconciliation recommendations in special direct spending message).

¹⁹⁹⁸ Section 3(1) of the Congressional Budget Act defines "outlays." *See supra* p. 11.

¹⁹⁹⁹ Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

the budget²⁰⁰⁰ proposes to recoup or eliminate less than the entire overage²⁰⁰¹ for the prior, current,²⁰⁰² and budget years,²⁰⁰³ then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets²⁰⁰⁴ for each applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

§ 16005(d) (d) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE. — It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget²⁰⁰⁵ unless that conference report fully addresses the entirety of any overage²⁰⁰⁶ contained in the

²⁰⁰⁰ Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

²⁰⁰¹ Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

²⁰⁰² Section 250(c)(13) of Gramm-Rudman-Hollings defines "current year." *See supra* p. 446.

²⁰⁰³ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

²⁰⁰⁴ Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

²⁰⁰⁵ Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

²⁰⁰⁶ Section 4(a) of Exec. Order No. 12857 implicitly defines "overage." *See supra* pp. 822-823.

applicable report of the President under [section 4 of Executive Order 12857]²⁰⁰⁷ through reconciliation directives requiring spending reductions, revenue increases, or changes in the direct spending targets.²⁰⁰⁸

§ 16005(e) **(e) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION. —**

§ 16005(e)(1) **(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE. —** If a special direct spending resolution²⁰⁰⁹ is required and the Committee on the Budget of the House of Representatives fails to report a resolution meeting the requirements of subsections (b) and (c) by April 15, then the committee shall be automatically discharged from further consideration of the concurrent resolution reflecting the President's recommendations introduced pursuant to section 16004(c)(2)²⁰¹⁰ and the concurrent resolution shall be placed on the appropriate calendar.

§ 16005(e)(2) **(2) CONSIDERATION BY HOUSE. —** Ten days after the Committee on the Budget of the House of Representatives has been discharged under paragraph (1), any Member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable.

²⁰⁰⁷ Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "section 16004," shall be deemed to be a reference to section 4 of Exec. Order No. 12857 (*see supra* pp. 822-826).

²⁰⁰⁸ Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

²⁰⁰⁹ Section 16004(c)(2) (*see supra* pp. 843-844) defines "special direct spending resolution" in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

²⁰¹⁰ *See supra* p. 843. That is, the special direct spending resolution.

§ 16005(f) (f) APPLICATION OF CONGRESSIONAL BUDGET ACT. — To the extent that they are relevant and not inconsistent with this title, the provisions of title III of the Congressional Budget Act of 1974²⁰¹¹ shall apply in the House of Representatives and the Senate²⁰¹² to special direct spending resolutions,²⁰¹³ resolutions increasing targets²⁰¹⁴ under subsection (c),²⁰¹⁵ and reconciliation legislation reported pursuant to directives contained in those resolutions.²⁰¹⁶

²⁰¹¹ See *supra* pp. 43-228.

²⁰¹² This provision, adopted pursuant to a House resolution, does not bind the Senate.

²⁰¹³ Section 16004(c)(2) (*see supra* pp. 843-844) defines "special direct spending resolution" in part by reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

²⁰¹⁴ Section 2 of Exec. Order No. 12857 establishes the "direct spending targets" (*see supra* pp. 819-821) and section 6 of that order provides for their annual adjustment (*see supra* pp. 827-831).

It is unclear how the provisions of title III of the Congressional Budget Act at all apply to such resolutions increasing the targets. Are the fast-track procedures of section 305 of the Congressional Budget Act (*see supra* pp. 120-142) intended to apply to such resolutions as if they were budget resolutions? Regardless of how the House of Representatives interprets this language, no authority exists to apply these fast-track procedures to such resolutions increasing targets in the Senate. Thus, should the House pass such a resolution increasing targets, the Senate would deal with it as it would with any other budget process legislation. Senators would thus have the right to debate it as fully as Rule XXII of the Standing Rules of the Senate allowed.

²⁰¹⁵ See *supra* p. 845.

²⁰¹⁶ This sentence implies that the drafters intended that the resolution increasing targets would generate reconciliation legislation. It would not be in order in the Senate, however, to consider such provisions increasing targets in reconciliation legislation, as they would violate section 313(b)(1)(A) of the Congressional Budget Act (part of the Byrd Rule on extraneous matter in reconciliation). See *supra* pp. 203-206. Compare the concerns that the Chairman and Ranking Republican Member of the Budget Committee had with the House's special reconciliation process under section 604 of the Congressional Budget Act. See *supra* note 902.

§ 16009 **SEC. 16009.²⁰¹⁷ CONSIDERATION OF APPROPRIATION BILLS.**

— § 16009(a) **(a) POINT OF ORDER.** — It shall not be in order in the House of Representatives to consider any general appropriation bill if the President has submitted a direct spending message²⁰¹⁸ under [section 5 of Executive Order 12857]²⁰¹⁹ until Congress has adopted a concurrent resolution on the budget²⁰²⁰ for the budget year²⁰²¹ that meets the requirements of section 16005.²⁰²²

§ 16009(b) **(b) WAIVER.** — The point of order established by subsection (a) may only be waived for all general appropriation bills for that budget year²⁰²³ through the adoption of one resolution

²⁰¹⁷ H. Res. 235 did not provide for adoption of sections 16006-16008 as part of the House rules, nor did it provide for the redesignation of section 16009 as section 16006. *See infra* note 2024. Thus section 16009 follows immediately after section 16005.

²⁰¹⁸ Section 4 of Exec. Order No. 12857 defines "direct spending message." *See supra* pp. 822-826.

²⁰¹⁹ Paragraph (2) of H. Res. 235 (*see infra* note 2024) instructs that this reference, which originally was to "section 16004," shall be deemed to be a reference to section 5 of Exec. Order No. 12857 (*see supra* pp. 826-827).

²⁰²⁰ Section 3(4) of the Congressional Budget Act (*see supra* pp. 14-15) defines "concurrent resolution on the budget" in part by reference to section 301 of the Congressional Budget Act (*see supra* pp. 50-87).

²⁰²¹ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

²⁰²² *See supra* pp. 844-848.

If the House enforces this subsection, it would punish appropriated spending for the actions Congress takes with regard to non-appropriated spending.

²⁰²³ Section 250(c)(12) of Gramm-Rudman-Hollings defines "budget year." *See supra* p. 446.

waiving that point of order.²⁰²⁴

²⁰²⁴ The House of Representatives adopted this language as a rule of the House in connection with debate on the conference report to accompany the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (1993). Paragraph (2) of the rule for consideration of the conference report, H. Res. 240, 103d Cong., 1st Sess., 139 CONG. REC. H6110-11 (daily ed. Aug. 5, 1993), provides for automatic adoption of H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993). House Resolution 235, in turn, provides:

Resolved, That, for fiscal years 1994 through 1997 —

(1) the provisions of, and the procedures and points of order set forth in, sections 16004(c)(2), 16005, and 16009 of H.R. 2264, as passed the House (One Hundred Third Congress), shall, with respect to the House of Representatives, apply to any special direct spending message the President submits pursuant to a presidential order as if that message were submitted pursuant to section 16004(c)(1) of that bill; and

(2) for purposes of this application, any reference in section 16004(c)(2) to paragraph (1) or in section 16005 or 16009 to section 16004 shall be deemed to be to the appropriate provisions of that presidential order.

H. Res. 235, 103d Cong., 1st Sess., 139 CONG. REC. H6122 (daily ed. Aug. 3, 1993); see also H.R. REP. NO. 103-217, 103d Cong., 1st Sess. (1993) (to accompany H. Res. 240, displaying the effects of H. Res. 235); 139 CONG. REC. H6110-21 (daily ed. Aug. 5, 1993) (debate on H. Res. 240).

Here is the complete text of title XVI of H.R. 2264 (as passed by the House), marked to show which language H. Res. 235 deleted:

TITLE XVI — BUDGET CONTROL

~~SEC. 16001. SHORT TITLE, PURPOSE.~~

~~(a) SHORT TITLE.—This title may be cited as the "Budget Control Act of 1993".~~

~~(b) PURPOSE.—The purpose of this title is to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require the President and Congress to address adjustments in direct spending.~~

~~SEC. 16002. ESTABLISHMENT OF DIRECT SPENDING TARGETS.~~

~~(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1994 through 1997 shall equal total outlays for all direct spending except net interest and deposit insurance as determined by the Director of the~~

(continued...)

²⁰³⁴(...continued)

Office of Management and Budget (hereinafter referred to in this title as the "Director") under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—

(1) Not later than 30 days after the date of enactment of this Act, the Director shall submit a report to Congress setting forth projected direct spending targets for each of fiscal years 1994 through 1997.

(2) The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). To the extent feasible, the Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1994 (H.Con.Res. 64).

(c) ADJUSTMENTS.—Direct spending targets shall be subsequently adjusted by the Director under section 16006.

SEC. 16003. ANNUAL REVIEW OF DIRECT SPENDING AND RECEIPTS BY PRESIDENT.

As part of each budget submitted under section 1105(a) of title 31, United States Code, the President shall provide an annual review of direct spending and receipts, which shall include (1) information supporting the adjustment of direct spending targets pursuant to section 16006, (2) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years, and (3) information on the major categories of Federal receipts, including a comparison between the levels of these receipts and the levels projected as of the date of enactment of this Act.

SEC. 16004. SPECIAL DIRECT SPENDING MESSAGE BY PRESIDENT.

(a) TRIGGER.—In the event that the information submitted by the President under section 16003 indicates —

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target, or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets,

the President shall include in his budget a special direct spending message meeting the requirements of subsection (b).

(continued...)

²²⁴ (...continued)

~~(b) CONTENTS. —~~

~~(1) The special direct spending message shall include:~~

~~(A) An explanation of any adjustments to the direct spending targets pursuant to section 16006.~~

~~(B) An analysis of the variance in direct spending over the adjusted direct spending targets.~~

~~(C) The President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.~~

~~(2) The President's recommendations may consist of any of the following:~~

~~(A) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 outyears.~~

~~(B) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 outyears, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.~~

~~(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.~~

~~(3) Any proposed legislative change under paragraph (2) to reduce outlays may include reductions in direct spending or in the discretionary spending limits under section 601 of the Congressional Budget Act of 1974.~~

~~(c) PROPOSED SPECIAL DIRECT SPENDING RESOLUTION. —~~

~~(1) PRESIDENT'S RECOMMENDATIONS TO BE SUBMITTED AS DRAFT RESOLUTION. — If the President recommends reductions consistent with subsection (b)(2)(A) or (B), the special direct~~
(continued...)

²⁰⁰⁴ (...continued)

~~pending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts. If the President recommends no reductions pursuant to (b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.~~

(2) RESOLUTION TO BE INTRODUCED IN HOUSE. — Within 10 days after the President's special direct spending message is submitted, the text required by paragraph (1) shall be introduced as a concurrent resolution in the House of Representatives by the chairman of the Committee on the Budget of the House of Representatives without substantive revision. If the chairman fails to do so, after the tenth day the resolution may be introduced by any Member of the House of Representatives. A concurrent resolution introduced under this paragraph shall be referred to the Committee on the Budget.

SEC. 16005. REQUIRED RESPONSE BY CONGRESS.

(a) REQUIREMENT FOR SPECIAL DIRECT SPENDING RESOLUTION. — Whenever the President submits a special direct spending message under section 16004, the Committee on the Budget of the House of Representatives shall report, not later than April 15, the concurrent resolution on the budget and include in it a separate title that meets the requirements of subsections (b) and (c).

(b) CONTENTS OF SEPARATE TITLE. — The separate title of the concurrent resolution on the budget shall contain reconciliation directives to the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts (which in total equal or exceed the reductions recommended by the President, up to the amount of the overage). If this separate title recommends that no legislative changes be made to recoup or eliminate an overage, then a statement to that effect shall be set forth in that title.

(c) REQUIREMENT FOR SEPARATE VOTE TO INCREASE TARGETS. — If the separate title of a concurrent resolution on the budget proposes to recoup or eliminate less than the entire overage for the prior, current, and budget years, then the Committee on the Budget of the House of Representatives shall report a resolution directing the Committee on Government Operations to report legislation increasing the direct spending targets for each

(continued...)

²⁰²⁴ (...continued)

applicable year by the full amount of the overage not recouped or eliminated. It shall not be in order in the House of Representatives to consider that concurrent resolution on the budget until the House of Representatives has agreed to the resolution directing the increase in direct spending targets.

(d) CONFERENCE REPORTS MUST FULLY ADDRESS OVERAGE. — It shall not be in order in the House of Representatives to consider a conference report on a concurrent resolution on the budget unless that conference report fully addresses the entirety of any overage contained in the applicable report of the President under section 16004 through reconciliation directives requiring spending reductions, revenue increases, or changes in the direct spending targets.

(e) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION. —

(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE. — If a special direct spending resolution is required and the Committee on the Budget of the House of Representatives fails to report a resolution meeting the requirements of subsections (b) and (c) by April 15, then the committee shall be automatically discharged from further consideration of the concurrent resolution reflecting the President's recommendations introduced pursuant to section 16004(c)(2) and the concurrent resolution shall be placed on the appropriate calendar.

(2) CONSIDERATION BY HOUSE. — Ten days after the Committee on the Budget of the House of Representatives has been discharged under paragraph (1), any Member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable.

(f) APPLICATION OF CONGRESSIONAL BUDGET ACT. — To the extent that they are relevant and not inconsistent with this title, the provisions of title III of the Congressional Budget Act of 1974 shall apply in the House of Representatives and the Senate to special direct spending resolutions, resolutions increasing targets under subsection (c), and reconciliation legislation reported pursuant to directives contained in those resolutions.

SEC. 16006. ADJUSTMENTS TO DIRECT SPENDING TARGETS.

~~(a) REQUIRED ANNUAL ADJUSTMENTS. — Prior to the submission of the President's budget for each of fiscal years 1995 through 1997, the Director shall adjust the direct spending targets in accordance with this section. Any such adjustments shall be reflected in the targets used in the President's report under section 16003 and message (if any) under section 16004.~~

(continued...)

²²²(...continued)

(b) ADJUSTMENT FOR INCREASES IN BENEFICIARIES.—

(1) The Director shall adjust the direct spending targets for increases (if any) in actual or projected numbers of beneficiaries under direct spending programs for which the number of beneficiaries is a variable in determining costs.

(2) The adjustment shall be made by—

(A) computing, for each program under paragraph (1), the percentage change between (i) the annual average number of beneficiaries under that program (including actual numbers of beneficiaries for the prior fiscal year and projections for the budget and subsequent fiscal years) to be used in the President's budget with which the adjustments will be submitted, and (ii) the annual average number of beneficiaries used in the adjustments made by the Director in the previous year (or, in the case of adjustments made in 1994, the annual average number of beneficiaries used in the Director's initial report under section 16002(b));

(B) applying the percentages computed under subparagraph (A) to the projected levels of outlays for each program consistent with the direct spending targets in effect immediately prior to the adjustment; and

(C) adding the results of the calculations required by subparagraph (B) to the direct spending targets in effect immediately prior to the adjustment.

(3) No adjustment shall be made for any program for a fiscal year in which the percentage increase computed under paragraph (2)(A) is less than or equal to zero.

(c) ADJUSTMENTS FOR REVENUE LEGISLATION.—

(1) The Director shall adjust the targets as follows—

(A) they shall be increased by the amount of any increase in receipts; or

(B) they shall be decreased by the amount of any decrease in receipts;

resulting from receipts legislation enacted after the date of enactment

(continued...)

²⁰⁰⁴ (...continued)

~~of this title, except legislation enacted under section 16005,~~

~~(d) ADJUSTMENTS TO REFLECT CONGRESSIONAL DECISIONS. — Upon enactment of a reconciliation bill pursuant to instructions under section 16005, the Director shall adjust direct spending targets for the current year, the budget year, and each outyear through 1997 by —~~

~~(1) increasing the target for the current year and the budget year by the amount stated for that year in that reconciliation bill (but if a separate vote was required by section 16005(e), only if that vote has occurred); and~~

~~(2) decreasing the target for the current, budget, and outyears through 1997 by the amount of reductions in direct spending enacted in that reconciliation bill.~~

~~(e) DESIGNATED EMERGENCIES. — The Director shall adjust the targets to reflect the costs of legislation that is designated as an emergency by Congress and the President under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985,~~

~~SEC. 16007. RELATIONSHIP TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.~~

~~Reductions in outlays or increases in receipts resulting from legislation reported pursuant to section 16005 shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985,~~

~~SEC. 16008. ESTIMATING MARGIN.~~

~~For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in sections 16004 and 16005 shall not apply.~~

~~SEC. 16009. CONSIDERATION OF APPROPRIATION BILLS.~~

~~(a) POINT OF ORDER. — It shall not be in order in the House of Representatives to consider any general appropriation bill if the President has submitted a direct spending message under section 16004 until Congress has adopted a concurrent resolution on the budget for the budget year that meets the requirements of section 16005.~~

~~(b) WAIVER. — The point of order established by subsection (a) may only be waived for all general appropriation bills for that budget year through the adoption of one resolution waiving that point of order.~~

(continued...)

²⁰²⁴(...continued)

SEC. 16010. MEANS-TESTED PROGRAMS.

~~In making recommendations under sections 16004 and 16005, the President and the Congress should seriously consider all other alternatives before proposing reductions in means tested programs.~~

SEC. 16011. EFFECTIVE DATE.

~~This title shall apply to direct spending targets for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.~~

H.R. 2264, 103d Cong., 1st Sess., tit. XVI, 139 CONG. REC. H3029, H3199-201 (daily ed. May 27, 1993) (as passed by the House of Representatives) (strike-out added).

For excerpts from the joint statement of managers accompanying H.R. 2264, 103d Cong., 1st Sess. § 15301, 139 CONG. REC. H5792 (daily ed. Aug. 4, 1993), discussing this entitlement review language, as well as citations to other legislative history, see *supra* note 1969.

