T-767

ANALYTICAL PERSPECTIVES

BUDGET OF THE
UNITED STATES GOVERNMENT

Fiscal Year 2000

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15. TRUST FUNDS AND FEDERAL FUNDS

The budget consists of two major groups of funds: Federal funds and trust funds. This section presents summary information about the transactions of each fund group and of the major trust funds. It also discusses recent legislative changes to the Highway Trust Fund and the reclassification of most Indian tribal trust funds as non-budgetary. Information is also provided about the income and outgo of four Federal funds that are financed by earmarked collections similar to trust funds. This section does not reflect the President's proposed reform of the Social Security system.

Federal Funds Group

The Federal funds group comprises the larger part of the budget. It includes all transactions not classified by law as being in trust funds.

The main financing component of the Federal funds group is the general fund, which is used to carry out the general purposes of Government rather than being restricted by law to a specific program. It consists of all collections not earmarked by law to finance other funds, including virtually all income taxes and many excise taxes, and all expenditures financed by these collections and by general Treasury borrowing.

The Federal funds group also includes special funds and revolving funds, which earmark collections for spending on specific purposes. Where the law requires that Federal fund collections from a specified source be earmarked to finance a particular program, such as a portion of the Outer Continental Shelf mineral leasing revenues deposited into the Land and Water Conservation Fund, the collections and associated disbursements are recorded in special fund receipt and expenditure accounts. The majority of special fund collections are derived from the Government's power to impose taxes, fines, and other compulsory payments, and they must be appropriated before they can be obligated and spent.

Revolving funds conduct continuing cycles of business-like activity. They charge for the sale of products or services and use the proceeds to finance their spending. Instead of being deposited in receipt accounts, their proceeds are recorded as offsets to outlays within the funds' expenditure accounts, so that outlays are reported net of collections. These collections generally are available automatically for obligation and making payments. There are two classes of revolving funds. Public enterprise funds, such as the Postal Service Fund, conduct business-like operations mainly with the public. Intragovernmental funds, such as the Federal Buildings Fund, conduct business-like operations mainly within and between Government agencies.

Trust Funds Group

The trust funds group consists of funds that are designated by law as trust funds. Like special funds and revolving funds, they earmark collections for spending on specific purposes. Many of the larger trust funds finance social insurance payments for individuals, such as Social Security, Medicare, and unemployment compensation. Other major trust funds finance military and Federal civilian employees' retirement, highway and transit construction, and airport and airway development. There are a few trust revolving funds that are credited with collections earmarked by law to carry out a cycle of business-type operations. Trust funds also include a few small funds established to carry out the terms of a conditional gift, bequest, or court settlement.

There is no substantive difference between trust funds and special funds or between revolving funds and trust revolving funds. Whether a particular fund is designated in law as a trust fund is, in many cases, arbitrary. For example, the National Service Life Insurance Fund is a trust fund, but the Servicemen's Group Life Insurance Fund is a Federal fund, even though both are financed by earmarked fees paid by veterans and both provide life insurance payments to veterans' beneficiaries.[1]

The Federal budget meaning of the term "trust" differs significantly from the private sector usage. The beneficiary of a private trust owns the trust's income and often its assets. A custodian manages the assets on behalf of the beneficiary according to the stipulations of the trust, which he cannot change unilaterally. In contrast, the Federal Government owns the assets and earnings of most Federal trust funds, and it can unilaterally raise or lower future trust fund collections and payments, or change the purpose for which the collections are used, by changing existing law. Only a few small Federal trust funds are managed pursuant to a trust agreement where the Government is the trustee, and the Government generally has some ability to determine the amount deposited into or paid out of these funds. Other amounts are held in deposit funds by the Government as a custodian on behalf of some entity outside the Government. The Government makes no decisions about the amount of these deposits or how they are spent. Therefore, they are considered to be non-budgetary instead of Federal trust funds and are excluded from the Federal budget.

A trust fund must use its income for the purposes designated by law. Some, such as the Federal Employees Health Benefits fund, spend their income almost

[1] Another example is the Violent Crime Reduction Trust Fund, established pursuant to the Violent Crime Control and Law Enforcement Act of 1994. Because the Fund is substantively a means of accounting for general fund appropriations, and does not consist of dedicated receipts, it is classified as a Federal fund rather than a trust fund.

as quickly as it is collected. Others, such as the Social Security and the Federal civilian employees retirement trust funds, currently spend considerably less than they collect each year. A surplus of income over outgo adds to the trust fund's balance, which is available to finance future expenditures. The balances are generally invested, by law, in Treasury debt securities. Any net cash inflow from the public to the trust funds decreases the Treasury's need to borrow from the public in order to finance a Federal funds deficit.

A trust fund normally consists of one or more receipt accounts (to record income) and an expenditure account (to record outgo). However, a few trust funds, such as the Veterans Special Life Insurance fund, are established by law as revolving funds. These funds are similar to revolving funds in the Federal funds group. They conduct a cycle of business-type operations, and their outlays are displayed net of collections in a single expenditure account.

Income and Outgo by Fund Group

Table 15–1 shows income, outgo, and surplus or deficit by fund group and adds them to derive the total unified budget receipts, outlays, and surplus or deficit. The estimates assume enactment of the President's budget proposals. Income consists mostly of governmental receipts (primarily income, payroll, and excise taxes). It also includes proprietary receipts (derived from business-like transactions with the public) and interfund collections (receipts by one fund of payments from a fund in the other fund group) that are deposited in receipt accounts. Outgo consists of payments made to the public and/or to a fund in the other fund group.

Two types of transactions are treated specially. First, income and outgo for a fund group exclude transactions between funds within the same fund group.[2] These intrafund transactions constitute outgo and income for the individual funds that make and collect the payments. However, because the totals for each fund group measure its transactions with the public and the other fund group, intrafund transactions must be subtracted from the sum of the income and outgo of all individual funds within the fund group to calculate the consolidated income and outgo for the fund group as a whole. Second, income excludes collections that, by law, are offset against outgo in expenditure accounts instead of being deposited in receipt accounts.[3] It would be conceptually appropriate to classify these collections as income, but at present the data are not tabulated centrally for both fund groups. Consequently, they are offset against outgo in Table 15–1 and are not shown separately.

Some funds in the Federal funds group and some trust funds are authorized to borrow from the general fund of the Treasury.[4] Borrowed funds are not recorded as receipts and are excluded from the income of the fund. The borrowed funds finance outlays by the fund in excess of available receipts. Subsequently, fund receipts are transferred from the fund to the general fund in repayment of the borrowing. The repayment is not recorded as an outlay of the fund or included in fund outgo.

In order to derive unified budget receipts and outlays, Table 15–1 adds Federal funds and trust funds income and outgo, respectively, and subtracts offsetting receipts from each. Offsetting receipts are income for the fund group that receives them, but instead of being part of receipts in the unified budget, they are deposited in receipt accounts and are offset against outgo to calculate unified budget outlays. The reason for subtracting offsetting receipts is twofold.

- *Offsetting receipts from the public.*—Unified budget receipts measure the amount of collections raised by the Government in its sovereign capacity, and unified budget outlays measure the amount of resources allocated by the Government in a non-market capacity. Voluntary business-like collections from the public need to be subtracted from the income and outgo of the fund groups, respectively, to derive these amounts.
- *Offsetting receipts from other fund groups.*—Unified budget receipts and outlays measure the Government's net transactions with the public. Interfund receipts need to be subtracted from the income and outgo of the fund groups, respectively, to derive these amounts.

Income, Outgo, and Balances of Trust Funds

Table 15–2 shows the trust funds balance at the start of each year, income and outgo during the year, and the end of year balance. Income and outgo are divided between transactions with the public and transactions with Federal funds. Receipts from Federal funds are divided between interest and other interfund receipts.

The definition of income and outgo in this table differs from those in Table 15–1 in one important way. Trust fund collections that are offset against outgo (as offsetting collections) within expenditure accounts instead of being deposited in separate receipt accounts are classified as income in this table but not in Table 15–1. This classification is consistent with the definitions of income and outgo for trust funds used elsewhere in the budget. It has the effect of increasing both income and outgo by the amount of the offsetting collections. The difference is approximately $25 billion in 1998. Table 15-2, therefore, provides a more complete summary of trust fund income and outgo.

The trust funds group is expected to have large and growing surpluses over the projection period. As a consequence, trust fund balances are estimated to grow substantially, as they have over the past two decades.

[2] For example, the railroad retirement trust funds pay the equivalent of social security benefits to railroad retirees, in addition to the regular railroad pension. These benefits are financed by a payment from the Federal Old-Age and Survivors Insurance trust fund to the railroad retirement trust funds. The payment and collection are deducted so that total trust fund income and outgo measure disbursements to the public and to Federal funds.

[3] For example, postage stamp fees are deposited as offsetting collections in the Postal Service fund. As a result, the Fund's outgo is disbursements net of collections.

[4] For example, the Bonneville Power Administration Fund, a revolving fund in the Department of Energy, is authorized to borrow from the general fund, and the Black Lung Disability Trust Fund in the Department of Labor is authorized to receive appropriations of repayable advances from the general fund (a form of borrowing).

Table 15–1. RECEIPTS, OUTLAYS, AND SURPLUS OR DEFICIT BY FUND GROUP

(In billions of dollars)

	1998 actual	Estimate 1999	2000	2001	2002	2003	2004
Receipts:							
Federal funds cash income:							
From the public	1,151.1	1,182.4	1,232.3	1,256.5	1,311.6	1,346.8	1,409.0
From trust funds	1.1	1.1	2.9	2.2	1.1	1.1	1.2
Total, Federal funds cash income	1,152.2	1,183.5	1,235.2	1,258.7	1,312.7	1,348.0	1,410.2
Trust funds cash income:							
From the public	645.9	700.2	722.0	748.2	777.7	805.2	834.8
From Federal funds:							
Interest	115.5	120.8	126.8	132.0	139.9	148.4	157.1
Other	146.0	152.9	161.2	172.6	182.9	193.5	203.8
Total, trust funds cash income	907.4	973.9	1,010.0	1,052.8	1,100.5	1,147.2	1,195.8
Offsetting receipts	–337.9	–351.1	–362.2	–378.1	–406.2	–420.1	–440.5
Total, unified budget receipts	1,721.8	1,806.3	1,883.0	1,933.3	2,007.1	2,075.0	2,165.5
Outlays:							
Federal funds cash outgo	1,244.2	1,294.0	1,302.7	1,311.3	1,330.0	1,371.9	1,414.2
Trust funds cash outgo	746.2	784.2	825.2	866.0	896.5	941.2	984.2
Offsetting receipts	–337.9	–351.1	–362.2	–378.1	–406.2	–420.1	–440.5
Total, unified budget outlays	1,652.6	1,727.1	1,765.7	1,799.2	1,820.3	1,893.0	1,957.9
Surplus or deficit (–):							
Federal funds	–92.0	–110.5	–67.5	–52.7	–17.3	–23.9	–4.0
Trust funds	161.2	189.8	184.8	186.8	204.0	205.9	211.6
Total, unified surplus/deficit (–)	69.2	79.3	117.3	134.1	186.7	182.0	207.6

Note: Receipts include governmental, interfund, and proprietary receipts. They exclude intrafund receipts, which are offset against intrafund payments so that cash income and cash outgo are not overstated.

The size of the anticipated balances is unprecedented, and it results mainly from relatively recent changes in the way some trust funds are financed.

Until the 1980s, most trust funds operated on a pay-as-you-go basis. Taxes and user fees were set at levels high enough to finance benefits and administrative expenses, and to maintain prudent reserves, generally defined as being equal to one year's expenditures. As a result, trust fund balances tended to grow at about the same rate as their annual expenditures.

Pay-as-you-go financing was replaced in the 1980s by full or partial accrual funding for some of the larger trust funds. In order to partially prefund the "baby-boomers" social security benefits, the Social Security Amendments of 1983 raised payroll taxes above the levels necessary to finance current expenditures. In 1984 a new system was set up to finance military retirement benefits on a full accrual basis. In 1986 full accrual funding of retirement benefits was mandated for Federal civilian employees hired after December 31, 1983. The latter two changes require Federal agencies and their employees to make annual payments to the Federal employees' retirement trust funds in an amount equal to the value of the retirement benefits earned by employees in that year. Since many years will pass before current employees are paid retirement benefits, the trust funds will accumulate substantial balances over time.

Primarily because of these changes, but also because of the impact of real growth and inflation, trust fund balances increased eightfold from 1982 to 1998, from $205 billion to $1.6 trillion. Under the proposals in the President's budget, the balances are estimated to increase by approximately 70 percent by the year 2004, rising to $2.8 trillion. Almost all of these balances are invested in Treasury securities and earn interest. Therefore, they effectively represent the value, in current dollars, of taxes and user fees that have been paid in advance for future benefits and services.

These balances are available to finance future benefit payments and other trust fund expenditures—but only in a bookkeeping sense. These funds are not set up to be pension funds, like the funds of private pension plans. They do not consist of real economic assets that can be drawn down in the future to fund benefits. Instead, they are claims on the Treasury that, when redeemed, will have to be financed by raising taxes, borrowing from the public, or reducing benefits or other expenditures. The existence of large trust fund balances, therefore, does not, by itself, have any impact on the Government's ability to pay benefits.

From an economic standpoint, the Government is able to prefund benefits only by increasing saving and investment in the economy as a whole. This can be fully accomplished only by simultaneously running trust fund surpluses equal to the actuarial present value of the accumulating benefits and not allowing the Federal fund deficit to increase, so that the trust fund surplus reduces a unified budget deficit or increases a unified budget surplus. This would reduce Federal borrowing

Table 15–2. INCOME, OUTGO, AND BALANCES OF TRUST FUNDS GROUP

(In billions of dollars)

	1998 actual	Estimate					
		1999	2000	2001	2002	2003	2004
Total Trust Funds [1]							
Balance, start of year	1,515.9	1,669.0	1,856.9	2,041.6	2,228.4	2,432.5	2,638.5
Income:							
Governmental receipts	609.5	660.8	685.2	709.5	736.9	763.7	792.2
Proprietary receipts	43.9	47.2	45.4	47.8	50.6	51.9	53.7
Receipts from Federal funds:							
Interest	115.7	120.9	126.9	133.8	141.6	150.1	158.8
Other	163.3	184.0	188.7	196.9	206.7	216.0	226.9
Subtotal, income	932.3	1,012.9	1,046.2	1,088.0	1,135.8	1,181.8	1,231.5
Outgo:							
To the public	769.9	822.1	858.4	899.0	930.5	974.6	1,018.6
Payments to Federal funds	1.1	1.1	2.9	2.2	1.1	1.2	1.2
Subtotal, outgo	771.0	823.2	861.4	901.2	931.7	975.8	1,019.8
Change in fund balance:							
Surplus or deficit (–):							
Excluding interest	45.6	68.8	57.9	53.0	62.5	55.9	53.0
Interest	115.7	120.9	126.9	133.8	141.6	150.1	158.8
Subtotal, surplus or deficit (–)	161.2	189.8	184.8	186.8	204.1	206.0	211.7
Adjustments:							
Transfers/lapses (net)	–8.2	–*	–*	....	....	....	....
Other adjustments	*	–*	–*	....	....	....	....
Total, change in fund balance	153.1	189.7	184.8	186.8	204.1	206.0	211.7
Balance, end of year	1,669.0	1,858.7	2,041.6	2,228.4	2,432.5	2,638.5	2,850.2

*Less than $50 million.

[1] The difference between 1999 end of year balance and 2000 start of year balance is due to the removal of most tribal trust funds from the budget totals. See the discussion regarding changes in the budget classification of tribal trust funds in this chapter for additional information.

by the amount of the trust funds surplus and increase the amount of national saving available to finance investment. Greater investment would increase future incomes and wealth, which would provide more real economic resources to support the benefits.

Table 15–5, which appears at the end of the chapter, shows estimates of income, outgo, and balances for 1998 through 2004 for the major trust funds. With the exception of transactions between trust funds, the data for the individual trust funds are conceptually the same as the data in Table 15–2 for the trust funds group. As explained previously, transactions between trust funds are shown as outgo of the fund that makes the payment and as income of the fund that collects it in the data for an individual trust fund, but the collections are offset against outgo in the data for the trust fund group. Additional information for these and other trust funds can be found in the Status of Funds tables in the Budget Appendix.

Table 15–6, which also appears at the end of this chapter, shows income, outgo, and balances of four Federal funds—a revolving fund and three special funds. These funds are similar to trust funds in that they are financed by earmarked receipts, excesses of income over outgo are invested, the interest earnings add to balances, and the balances remain available to finance future expenditures. The table is illustrative of the Federal funds group, which includes many other revolving funds and special funds in addition to the ones shown.

Modifications to the Highway Trust Fund

The Transportation Equity Act for the 21st Century (TEA–21), which became law June 9, 1998, made some important changes to the operation of the Highway Trust Fund. The Highway Trust Fund, which is composed of the highway account and the mass transit account, will continue to be financed by earmarked taxes on gasoline and other fuels. However, TEA–21 provided that the Highway Trust Fund no longer receive interest earnings on its balances as of September 30, 1998. The Act also provided that highway account cash balances in excess of $8 billion be transferred to the General fund as of October 1, 1998. The cash balances of the mass transit account are not affected by this change. As shown in Table 15–5, the Highway Trust Fund balances are expected to remain at approximately $30 billion from 1999 to 2004.

Other significant changes provided in TEA–21 that affect the Highway Trust Fund include the creation of separate budget categories for Federal highway and mass transit spending and the establishment of a linkage between Highway Trust Fund tax receipts and highway spending. TEA–21 also extends most highway-related taxes to 2005 and authorizes expenditures from the Highway Trust Fund for programs under the Act and previous authorization acts through 2003. Some of these changes are further discussed in Chapter 13, "Preview Report."

Changes in the Budget Classification of Tribal Trust Funds

Beginning in fiscal year 2000, the Federal budget totals exclude trust funds that are owned by Indian tribes and held and managed in a fiduciary capacity by the Government on the tribes' behalf.[5] These tribal trust funds, together with other trust funds, have been included in the budget totals since the adoption of the unified budget in 1969. The legal obligations of the Secretary of the Interior, such as distributing interest earnings on certain trust funds to the Indian tribes, will remain unchanged, and the tribal trust funds will continue to be managed by the Federal government according to present law. Ownership of the trust fund assets, whether by the Government or the tribe, will also remain unchanged. As shown in Table 15–3, the Department of the Interior estimates that approximately $2 billion of assets in approximately 1,500 tribal trust funds are being removed from budgetary accounts as of fiscal year 2000. These figures are based on preliminary estimates; the actual amount of tribal trust fund assets to be removed from the budget will not be determined until the classification process is complete.

The transactions of all tribal trust funds are included in the Federal budget through fiscal year 1999. The budget does not include the transactions of the reclassified tribal trust funds after their removal from the budget in fiscal year 2000. As explained in more detail below, the transactions are instead included in the deposit fund totals compiled by the Treasury Department. The one-time transfer of on-budget tribal trust fund assets to non-budgetary deposit funds is not recorded as a budget outlay. The historical data on the budget will not be revised, due to the relatively small amount of transactions to be excluded from the budget and the difficulty of retroactively revising the numerous accounts affected by the reclassification.

The Government currently holds $2.5 billion in approximately 1,600 trust funds for roughly 315 Indian tribes. Over one-third of these assets are held on behalf of six Indian tribes. These trust funds are included in the Federal budget even though, in most cases, the assets of the fund are owned by the Indian tribes. The Government also holds $430 million for individual Indians in about 300,000 accounts as of September 30, 1998. These individual Indian accounts are classified as deposit funds, which are non-budgetary, and their categorization will not be affected by the reclassification of the tribal trust funds.

The tribal trust funds are composed of funds belonging to Indian tribes, and in some cases the Federal Government, that are required or authorized by law to be deposited in the U.S. Treasury or managed "in trust" by the United States. Tribal trust fund assets are derived from various sources, including payments for land cessions by treaty; proceeds from sales of land under confiscatory acts of Congress; proceeds from sales and leases of tribal lands and other natural resources; judgement awards made by the Indian Claims Commission and the United States Court of Claims; monies appropriated to fund legislative settlements; and interest on trust fund investments. For the purposes of this discussion, tribal trust funds are divided into three general categories, which are described later in this chapter and appear in Table 15–3.

Consistency with the Unified Budget.—Reclassifying tribal trust funds as non-budgetary is consistent with the unified budget concepts developed by the President's Commission on Budget Concepts in 1967.[6] The Commission recommended that the budget include all the Federal Government's programs and all the fiscal transactions of these programs with the public. The Commission used several criteria in determining which entities or activities should be included in the Federal budget: the ownership of the entity or activity, the sources of its capital, the selection of its managers, and the degree of control the President and Congress

[5] Tribal funds classified as special funds in the Federal budget are also within the scope of this budgetary reclassification. For the purposes of this discussion, the term "trust fund" refers to special funds, as well as those accounts designated by law as trust funds.

[6] *Report of the President's Commission on Budget Concepts* (Washington, D.C.: U.S. Government Printing Office, October 1967), p. 25.

Table 15–3. TRIBAL TRUST FUND BALANCES AND PROPOSED BUDGETARY TREATMENT: PRELIMINARY ESTIMATES

(dollars in millions as of September 30, 1998)

Type of Tribal Trust Fund	Number	Amount
To remain on-budget:		
Funds derived from legislative acts and for Government obligations	30	401
Currently on-budget, to be reclassified as non-budgetary (deposit funds):		
Funds with assets derived from tribe-owned natural resources	550	475
Funds funded by judgments against the United States	900	1,025
Funds derived from legislative acts and for Government obligations	120	600
Subtotal, funds to be reclassified as non-budgetary	1,570	2,100
Grand Total	1,600	2,501

have over its program and budget. In discussing these criteria, the Commission stated that "no one of these . . . [criteria] is conclusive, and at the margin, where boundary questions arise, decisions have been made on the basis of a net weighing of as many relevant considerations as possible."[7] With this in mind, the Commission recommended a comprehensive budget with almost no exception. The Commission reasoned that entities or activities having characteristics consistent with other Federal entities or activities, such as Federal ownership or Presidential and Congressional control over its program or budget, should be included in the unified budget. Other entities and activities should be excluded.

The Commission's distinction between budgetary and non-budgetary activities is exemplified by the treatment of two Federal employee retirement funds: the Civil Service Retirement and Disability (CSRD) trust fund and the Thrift Savings Fund. The Civil Service Retirement and Disability trust fund, which pays annuities to retired Federal employees, is included in the budget because the Government owns the assets and can make decisions about the level and timing of future pension benefit payments. Individuals do not have separate accounts in the CSRD trust fund, and the fund assets do not represent the present value of future pensions earned to date under current law. Conversely, the Thrift Savings Fund, which holds assets for Federal employees who participate in the Thrift Savings Plan, is non-budgetary. This fund is managed by the Government in a fiduciary capacity on behalf of the participants. The Plan is a defined contribution plan; the assets are credited to individual employees' accounts; and the assets in an account are owned by the employee, who has a legal claim on the specific assets in that account and no more. Employee decisions determine most of the amounts contributed to the Thrift Savings Fund, either directly from the employee or from the Federal matching contribution, with only a relatively small part being contributed to the fund automatically. Employees make decisions about investments among the statutorily prescribed funds. An employee may borrow from his or her account for specified purposes, such as to purchase a house or finance educational expenses.[8]

The reclassification of the tribal trust funds as non-budgetary fits neatly with the ownership criterion of the Commission and the budgetary treatment of the Thrift Savings Fund and other deposit funds. Based on the Commission's recommendations, the budget generally does not include activities or agencies which are not owned by the Federal government. Deposit funds are non-budgetary accounts that record amounts held temporarily until ownership is determined (for example, earnest money paid by bidders for mineral leases) or held by the Government as agent for others (for example, state and local income taxes withheld from Federal employees' salaries and not yet paid to the states and localities). As will be described in more detail below, most tribal trust funds share the principal defining characteristics of deposit funds—private ownership—and therefore ought to be classified in the same way rather than included in the budget.[9]

The removal of most tribal trust funds from the budget is also consistent with the Commission's criteria regarding the source of capital and the extent of federal control. As will be discussed in more detail below, the assets of most tribal trust funds—whether derived from tribe-owned natural resources, judgement awards, or appropriated legislative settlements—are monies that, based on legal requirements, are owned by the tribes. The exceptions are those trust funds that are funded by appropriations to achieve some public policy goal, as opposed to resolve a legal claim, and that are established in a manner whereby ownership of the fund assets is not conveyed to the tribes. As discussed below, these funds are to remain on-budget. With regard to the extent of Executive and Congressional control, it is clear that the Government's control over most tribal trust funds is significantly limited. The Government acts as the fiduciary of the fund assets and, at most, has some influence over the tribally developed use plans for judgement awards. These considerations outweigh the fact that the Government selects who will manage the fund assets. Moreover, as will be described below, in certain circumstances the tribes can withdraw and manage the assets of the fund.

Analyzing the Tribal Trust Funds.—The Department of the Interior and OMB are using the following criteria to guide their analysis of the trust funds. Some criteria are applicable to all Federal government trust funds, while others relate specifically to the budgetary treatment of tribal trust funds.

- Are monies deposited voluntarily into the trust fund?
- Can the beneficiary of the trust fund withdraw the assets of the fund at will?
- Can the beneficiary of the trust fund pledge the assets of the trust as collateral?
- Does the amount to be paid to the beneficiary of the trust fund depend on the amount in the fund, or does the Government guarantee a certain benefit amount?
- Can the Government unilaterally decide to withdraw money from a tribal trust fund and use it to fund a non-tribal purpose, or would this constitute a Federal taking?
- Can the Government unilaterally change the terms of the trust or use the money in a tribal trust fund account for a purpose other than specified by the trust agreement, as long as the funds

[7] *Ibid.*

[8] A small number of trust funds (according to the private sector usage of this term) have been established with the Government as the beneficiary as well as the fiduciary. These funds have especially been established from gifts by the public to the Government, such as gifts and donations to the Architect of the Capitol, gifts and bequests to the Department of Agriculture, and gifts and contributions to the Corporation for National and Community Service. These funds are included in the budget totals because the Government owns the fund assets.

[9] Non-budgetary activities, including deposit funds, are discussed further in Chapter 19, "Off-Budget Federal Entities and Non-Budgetary Activities." Deposit funds are also discussed in a section of Chapter 23, "Budget Systems and Concepts and Glossary."

are used for the benefit of the tribe? (As opposed to the Government simply deciding whether a use is consistent with the terms of the trust.)

- Does tribal "ownership" of the money differ substantively from the individual Indians' ownership of the funds held in the individual Indian accounts, which are held in deposit funds outside of the budget?
- If the law establishes an endowment for a tribal trust fund and stipulates that the tribes can only spend the interest earnings on the endowment, do the tribes own the endowment?
- Do any of the existing balances of the trust fund result from appropriations for what are the equivalent of grants, such as for development or schools?
- Is the amount and timing of payments from the trust fund linked to federal payments to the beneficiary of the trust fund or vice-versa?

A preliminary review of the tribal trust funds by the Department of the Interior and OMB indicates that two general types of tribal trust funds should be reclassified as non-budgetary: those funded from revenues generated by tribe-owned natural resources and those funded by judgements against the United States government. The third general category of tribal trust funds, those derived from legislative acts and for fulfilling Government obligations to tribes, includes some funds to be reclassified as non-budgetary, and others that should remain on-budget. The Department of the Interior and OMB will continue to review these trust funds to determine their proper budgetary treatment beginning in fiscal year 2000. A description of the general categories of tribal trust funds and their proposed treatment follows.

Trust funds with assets derived from tribe-owned natural resources—Proposed treatment: Non-budgetary.

As shown in Table 15–3, an estimated $475 million in 550 trust funds with assets derived from tribe-owned natural resources is being removed from the budget totals. These privately owned trust funds are managed by the Government in a fiduciary capacity. Tribes hold beneficial title to the natural resources from which the income originates, and thus own the resulting income. Some leases require the royalties to be paid directly to one or more tribes or to individual Indians. These payments are from one private party to another and thus outside the budget. In other cases, royalties are deposited in tribal trust funds, which are currently included in the budget. Sometimes the lessee makes a single payment to a suspense account (a type of deposit fund) for all three types of payments, and the Department of the Interior subsequently determines what amount should be paid to individuals, tribes, or the tribal trust funds. Distributions from the suspense account to tribes or individuals are not recorded in the budget. Distributions to tribal trust funds are recorded in the budget as offsetting receipts. At their discretion, and subject to tribal law and the Secretary of Interior's fiduciary responsibilities, tribes can withdraw their money from the tribal trust fund (as an outlay) or leave it in the trust fund, where it is invested by the Government.

There does not appear to be a substantive reason to treat payments to the tribal trust funds differently from payments made directly to the beneficiaries or that only pass through suspense accounts. The Government's role as trustee is primarily to ensure that the funds are distributed and managed correctly. The Government cannot take money from these trust funds to use for other purposes.

Trust funds funded by judgements against the United States—Proposed treatment: Non-budgetary.

As shown in Table 15–3, approximately $1 billion in 900 trust funds funded by judgement awards is being removed from the budget totals. These funds are derived from Indian Claims Commission awards or U.S. Court of Claims awards, and are paid out of the Federal Claims, Judgements, and Relief Act fund. Court decisions specify that these funds are payments for property damages. As such, the Government could not withdraw the funds and use them for other purposes without resurrecting the claim against the Government. This also appears to be true in cases where the settlement provides an endowment for a tribe and stipulates that only the earnings can be spent. The tribe, not the Government, owns the endowment, and the tribe receives the full benefit of earnings on the endowment. Congress can revise the use plans that the tribe develops, but it cannot change the judgement amount.

The funds are deposited in the trust fund until a use plan is approved. The use plan could pay the money to individual Indian accounts or to the tribes, or the funds could be held in a tribal trust fund until paid out for tribal activities specified in the plan. Subject to approval by the Department of the Interior, the tribes can withdraw and manage the funds themselves.

Trust funds derived from legislative acts and for fulfilling Government obligations to tribes—Proposed treatment: Mixed—On-budget and Non-budgetary.

The funds in this category are diverse and the proposed budgetary treatment is mixed. Some funds were created as a result of legislative settlements, such as for water rights or land claims, and, like the previous category, should be considered non-budgetary. Others are composed of appropriated monies to make payments to tribes for public policy goals, such as infrastructure development. If these funds did not resolve a legal claim and were established in a manner that did not convey ownership of the trust to the tribe, they should be included in the budget. As shown in Table 15–3, the majority of funds in this category are being removed from the budget totals.

For some of the trust funds in this category, Federal legislation created a corpus and provided that only interest accruing on the corpus shall be available for obligation. Since tribes do not have access to the corpus, and the fund was not established to settle a valid legal claim against the Government, the question of ownership of the corpus is raised. The Department of the

Interior and OMB will review the legislation that established each of these trust funds to determine ownership of the corpus. If it is determined that the tribe owns the corpus, then the funds will be removed from the budget totals. Otherwise, the funds will remain on-budget.

Budgetary Effect of Reclassifying Tribal Trust Funds as Non-budgetary.—Excluding the transactions of most tribal trust funds from the budget will have little effect on Federal outlays. As shown in Table 15–4, removing the tribal trust funds from the budget is estimated to decrease net outlays, and increase the unified budget surplus, by approximately $10 million each fiscal year from 2000 to 2003. These preliminary estimates are based on the proposed budgetary treatment presented in Table 15–3. The difference between these estimates and the actual budget effect should be minimal in dollar terms. It should be noted that, as mentioned previously, the budget does not record outlays for the one time transfer of on-budget tribal trust fund assets to non-budgetary deposit funds.

The removal of tribal trust funds from the budget affects Federal outlays in a number of ways. First, interest payments on Treasury securities held by these tribal trust funds, which are recorded as intra-budgetary transactions through 1999, are recorded as disbursements to the public in subsequent years. Second, as shown in Table 15–4, removing tribal trust funds from the budget decreases offsetting receipts from the public for royalties and other income from tribe-owned natural resources. Third, the budget no longer records the disbursement of these royalties and income from the Government to the tribes. This reduces disbursements by the same amount as offsetting receipts, but not necessarily in the same years.

Removing the tribal trust funds from the budget also shifts the timing of disbursements to the public resulting from Federal payments to Indian tribes for judgements and settlements. In fiscal year 1999, these payments are not recorded as outlays until the funds are disbursed to the tribes. In subsequent years, the payments are recorded as disbursements to the public when the funds are transferred to the tribes' deposit funds.

Table 15–4. OUTLAY IMPACT OF RECLASSIFYING TRIBAL TRUST FUNDS AS NON-BUDGETARY[1]

(In millions of dollars)

	1999	2000	2001	2002	2003
Pre-reclassification treatment of tribal trust funds:					
Offsetting receipts from the public	338	338	339	342	342
Disbursements to the public	431	429	431	434	434
Net impact on outlays	93	91	92	92	92
Effect of reclassifying tribal trust funds as deposit funds (non-budgetary):					
Offsetting receipts from the public	....	–323	–322	–324	–323
Disbursements to the public	....	–333	–333	–335	–333
Net impact on outlays	....	–10	–11	–11	–10
Post-reclassification treatment of tribal trust funds:					
Offsetting receipts from the public	338	15	17	18	19
Disbursements to the public	431	96	98	99	101
Net impact on outlays	93	81	81	81	82

[1] Does not include intrabudgetary transactions.

DEPARTMENT OF THE INTERIOR—Continued

(In millions of dollars)

Account			1998 actual	estimate 1999	2000	2001	2002	2003	2004
Miscellaneous trust funds:									
Appropriation, permanent	303	BA	14	10	10	10	10	10	10
Outlays		O	15	10	10	10	10	10	10
Total Federal funds National Park Service		BA	1,877	1,997	2,311	2,375	2,367	2,373	2,375
		O	1,705	1,889	2,157	2,326	2,346	2,365	2,379
Total Trust funds National Park Service		BA	14	10	10	10	10	10	10
		O	20	15	15	11	10	10	10
Total Federal funds Fish and Wildlife and Parks		BA	2,929	3,109	3,566	3,636	3,635	3,651	3,664
		O	2,751	3,012	3,355	3,594	3,648	3,680	3,704
Total Trust funds Fish and Wildlife and Parks		BA	328	275	338	309	323	357	427
		O	275	305	317	323	312	330	361

Indian Affairs

Bureau of Indian Affairs

Federal funds

Account			1998 actual	1999	2000	2001	2002	2003	2004
General and Special Funds:									
Operation of Indian programs									
(Conservation and land management):									
(Appropriation, current)	302	BA	132	127	133	133	133	133	133
(Spending authority from offsetting collections)		BA	9	9	9	9	9	9	9
(Outlays)		O	142	136	140	142	142	142	142
Operation of Indian programs (gross)		BA	141	136	142	142	142	142	142
		O	142	136	140	142	142	142	142
Total, offsetting collections			–9	–9	–9	–9	–9	–9	–9
Total (Conservation and land management) (net)		BA	132	127	133	133	133	133	133
		O	133	127	131	133	133	133	133
(Area and regional development):									
(Appropriation, current)	452	BA	840	883	952	952	952	952	952
(Spending authority from offsetting collections)		BA	6	16	6	6	6	6	6
(Outlays)		O	843	858	931	956	958	958	958
Operation of Indian programs (gross)		BA	978	1,026	1,091	1,091	1,091	1,091	1,091
		O	976	985	1,062	1,089	1,091	1,091	1,091
Total, offsetting collections			–6	–16	–6	–6	–6	–6	–6
Total (Area and regional development) (net)		BA	840	883	952	952	952	952	952
		O	837	842	925	950	952	952	952
(Elementary, secondary, and vocational education):									
(Appropriation, current)	501	BA	558	574	609	609	609	609	609
(Spending authority from offsetting collections)		BA	95	105	115	115	115	115	115
(Outlays)		O	657	655	711	723	724	724	724
Operation of Indian programs (gross)		BA	1,625	1,689	1,809	1,809	1,809	1,809	1,809
		O	1,627	1,624	1,767	1,806	1,809	1,809	1,809
Total, offsetting collections			–95	–105	–115	–115	–115	–115	–115
Total (Elementary, secondary, and vocational education) (net)		BA	558	574	609	609	609	609	609
		O	562	550	596	608	609	609	609
Total Operation of Indian programs		BA	1,530	1,584	1,694	1,694	1,694	1,694	1,694
		O	1,532	1,519	1,652	1,691	1,694	1,694	1,694
Construction:									
Appropriation, current	452	BA	125	123	174	174	174	174	174
Spending authority from offsetting collections		BA	12	10	10	10	10	10	10
Outlays		O	151	128	142	159	297	308	308
Construction (gross)		BA	137	133	184	184	184	184	184
		O	151	128	142	159	297	308	308

DEPARTMENT OF THE INTERIOR—Continued

(In millions of dollars)

Account			1998 actual	estimate 1999	2000	2001	2002	2003	2004
Total, offsetting collections			−12	−10	−10	−10	−10	−10	−10
Total Construction (net)		BA	125	123	174	174	174	174	174
		O	139	118	132	149	287	298	298
White Earth settlement fund:									
Appropriation, permanent	452	BA	2	5	5	2	1	1	1
Outlays		O	2	5	5	2	1	1	1
Indian land and water claim settlements and miscellaneous payments to Indians:									
Appropriation, current	452	BA	43	29	28	28	28	28	28
Outlays		O	43	30	28	28	28	28	28
Operation and maintenance of quarters:									
Appropriation, permanent	452	BA	5	6	6	6	6	6	6
Outlays		O	5	6	6	6	6	6	6
Miscellaneous permanent appropriations:									
Appropriation, permanent	452	BA	77	79	79	81	81	82	83
Outlays		O	69	78	79	79	80	81	82
Credit Accounts:									
Indian direct loan program account:									
Appropriation, permanent	452	BA	....	18	....	....	....	....	....
Outlays		O	....	18	....	....	....	....	....
Revolving fund for loans liquidating account:									
Spending authority from offsetting collections	452	BA	8	3	3	3	3	1	1
Revolving fund for loans liquidating account (gross)		BA	8	3	3	3	3	1	1
Total, offsetting collections			−8	−3	−3	−3	−3	−1	−1
Total Revolving fund for loans liquidating account (net)		BA	....	....	....	....	....	....	....
		O	−8	−3	−3	−3	−3	−1	−1
Indian guaranteed loan program account:									
Appropriation, current	452	BA	5	5	5	5	5	5	5
Outlays		O	3	5	5	5	5	5	5
Limitation on loan guarantee commitments			(35)	(60)	(69)	(69)	(69)	(69)	(69)
Indian loan guaranty and insurance fund liquidating account:									
Appropriation, permanent	452	BA	11	1	1	1	1	1	1
Spending authority from offsetting collections		BA	5	....	....	....	....	....	....
Outlays		O	....	1	1	1	1	1	1
Indian loan guaranty and insurance fund liquidating account (gross)		BA	16	1	1	1	1	1	1
		O	....	1	1	1	1	1	1
Total, offsetting collections			−5	....	....	....	....	....	....
Total Indian loan guaranty and insurance fund liquidating account (net)		BA	11	1	1	1	1	1	1
		O	−5	1	1	1	1	1	1
Total Federal funds Bureau of Indian Affairs		BA	1,798	1,850	1,992	1,991	1,990	1,991	1,992
		O	1,780	1,777	1,905	1,958	2,099	2,113	2,114

Departmental Offices

Departmental Management

Federal funds

Account			1998 actual	1999	2000	2001	2002	2003	2004
General and Special Funds:									
Salaries and expenses:									
Appropriation, current	306	BA	58	65	63	63	63	63	63
Spending authority from offsetting collections		BA	119	121	121	121	121	121	121
Outlays		O	171	184	185	184	184	184	184
Salaries and expenses (gross)		BA	177	186	184	184	184	184	184
		O	171	184	185	184	184	184	184
Change in orders on hand from Federal sources		BA	−10	....	....	....	....	....	....
Total, offsetting collections			−109	−121	−121	−121	−121	−121	−121
Total Salaries and expenses (net)		BA	58	65	63	63	63	63	63
		O	62	63	64	63	63	63	63

DEPARTMENT OF THE INTERIOR—Continued

(In millions of dollars)

Account			1998 actual	1999 estimate	2000 estimate	2001 estimate	2002 estimate	2003 estimate	2004 estimate
King Cove road and airstrip:									
Appropriation, current	451	BA		35					
Outlays		O		35					
Management of Federal lands for subsistence uses:									
Appropriation, current	302	BA		8					
Outlays		O		1	7				
Everglades watershed protection:									
Outlays	303	O	4	160					
Everglades restoration account:									
Appropriation, permanent	303	BA		1	1	1	1	1	2
Outlays		O		1	1	1	1	1	2
Priority Federal land aquisitions and exchanges:									
Appropriation, current	303	BA	532						
Outlays		O		532					
Intragovernmental Funds:									
Working capital fund:									
Appropriation, current	306	BA		51					
Spending authority from offsetting collections		BA	94	143	188	197	180	180	180
Outlays		O	97	198	190	197	180	180	180
Working capital fund (gross)		BA	94	194	188	197	180	180	180
		O	97	198	190	197	180	180	180
Total, offsetting collections			−94	−143	−188	−197	−180	−180	−180
Total Working capital fund (net)		BA		51					
		O	3	55	2				
Interior Franchise Fund:									
Spending authority from offsetting collections	306	BA	20	67	75	100	100	100	100
Outlays		O	20	67	75	100	100	100	100
Interior Franchise Fund (gross)		BA	20	67	75	100	100	100	100
		O	20	67	75	100	100	100	100
Total, offsetting collections			−20	−67	−75	−100	−100	−100	−100
Total Interior Franchise Fund (net)		BA							
		O							
Total Federal funds Departmental Management		BA	590	160	64	64	64	64	65
		O	69	847	74	64	64	64	65

Insular Affairs

Federal funds

Account			1998 actual	1999 estimate	2000 estimate	2001 estimate	2002 estimate	2003 estimate	2004 estimate
General and Special Funds:									
Assistance to territories:									
Appropriation, current	808	BA	68	66	68	68	68	68	68
Spending authority from offsetting collections		BA		3	1	1	1	1	1
Outlays		O	69	126	127	101	69	69	69
Assistance to territories (gross)		BA	68	69	69	69	69	69	69
		O	69	126	127	101	69	69	69
Total, offsetting collections				−3	−1	−1	−1	−1	−1
Total Assistance to territories (net)		BA	68	66	68	68	68	68	68
		O	69	123	126	100	68	68	68
Trust Territory of the Pacific Islands:									
Outlays	808	O	3	9	7	6			
Compact of free association:									
Appropriation, current	808	BA	21	21	21	21	21	21	21
Appropriation, permanent		BA	127	122	124	126	152	154	154
Outlays		O	152	175	195	197	175	178	178
Total Compact of free association		BA	148	143	145	147	173	175	175
		O	152	175	195	197	175	178	178

DEPARTMENT OF THE INTERIOR—Continued

(In millions of dollars)

Account			1998 actual	1999 estimate	2000 estimate	2001 estimate	2002 estimate	2003 estimate	2004 estimate
Payments to the United States territories, fiscal assistance:									
Appropriation, permanent	806	BA	80	77	77 B 12	77 B 12	77 B 12	77 B 12	77 B 12
Outlays		O	80	77	77 B 12	77 B 12	77 B 12	77 B 12	77 B 12
Total Payments to the United States territories, fiscal assistance		BA	80	77	89	89	89	89	89
		O	80	77	89	89	89	89	89
Total Federal funds Insular Affairs		BA	296	286	302	304	330	332	332
		O	304	384	417	392	332	335	335
Office of the Solicitor									
Federal funds									
General and Special Funds:									
Office of the Solicitor:									
Appropriation, current	306	BA	35	37	42	42	42	42	42
Spending authority from offsetting collections		BA	3	3	2	2	2	2	2
Outlays		O	37	40	44	44	44	44	44
Office of the Solicitor (gross)		BA	38	40	44	44	44	44	44
		O	37	40	44	44	44	44	44
Total, offsetting collections			−3	−3	−2	−2	−2	−2	−2
Total Office of the Solicitor (net)		BA	35	37	42	42	42	42	42
		O	34	37	42	42	42	42	42
Office of Inspector General									
Federal funds									
General and Special Funds:									
Office of Inspector General:									
Appropriation, current	306	BA	25	25	28	28	28	28	28
Spending authority from offsetting collections		BA	3	3	3	3	3	3	3
Outlays		O	27	28	31	31	31	31	31
Office of Inspector General (gross)		BA	28	28	31	31	31	31	31
		O	27	28	31	31	31	31	31
Total, offsetting collections			−3	−3	−3	−3	−3	−3	−3
Total Office of Inspector General (net)		BA	25	25	28	28	28	28	28
		O	24	25	28	28	28	28	28
Natural Resources Damage Assessment and Restoration									
Federal funds									
General and Special Funds:									
Natural resource damage assessment fund:									
Appropriation, current	303	BA	4	4	8	8	8	8	8
Appropriation, permanent		BA	26	79	79	77	18	18	18
Outlays		O	39	37	62	74	72	58	44
Total Natural resource damage assessment fund		BA	30	83	87	85	26	26	26
		O	39	37	62	74	72	58	44
Office of Special Trustee for American Indians									
Federal funds									
General and Special Funds:									
Office of the Special Trustee for American Indians:									
Appropriation, current	306	BA	39	39 A 7	90	90	90	90	90
Outlays		O	25	56 A 5	80 A 2	90	90	90	90
Total Office of the Special Trustee for American Indians		BA	39	46	90	90	90	90	90
		O	25	61	82	90	90	90	90

DEPARTMENT OF THE INTERIOR—Continued

(In millions of dollars)

Account			1998 actual	estimate 1999	2000	2001	2002	2003	2004
Payment to tribe, Lower Brule Sioux Trust Fund:									
Appropriation, permanent	452	BA	39	......	......	......	......	......	......
Outlays		O	39	......	......	......	......	......	......
Indian land consolidation pilot:									
Appropriation, current	452	BA	......	5	10	10	10	10	10
Outlays		O	......	5	10	10	10	10	10
Tribal special fund:									
Appropriation, permanent	452	BA	......	......	2	3	3	3	3
Outlays		O	......	......	2	3	3	3	3
Miscellaneous permanent appropriations:									
Appropriation, permanent	452	BA	20	23	......	......	......	......	......
Outlays		O	9	10	......	......	......	......	......
	Trust funds								
Tribal trust fund:									
Appropriation, permanent	452	BA	......	......	19	21	22	24	25
Outlays		O	......	......	19	21	22	24	25
Cooperative fund (papago):									
Appropriation, permanent	452	BA	5	1	......	......	......	......	......
Outlays		O	......	5	......	......	......	......	......
Miscellaneous trust funds:									
Appropriation, permanent	452	BA	448	349	......	......	......	......	......
Outlays		O	403	350	......	......	......	......	......
Total Federal funds Office of Special Trustee for American Indians		BA	98	74	102	103	103	103	103
		O	73	76	94	103	103	103	103
Total Trust funds Office of Special Trustee for American Indians		BA	453	350	19	21	22	24	25
		O	403	355	19	21	22	24	25

National Indian Gaming Commission

Federal funds

Account			1998 actual	1999	2000	2001	2002	2003	2004
General and Special Funds:									
Salaries and expenses:									
Appropriation, current	806	BA	1	......	......	......	......	......	......
Spending authority from offsetting collections		BA	6	......	......	......	......	......	......
Outlays		O	4	8	......	......	......	......	......
Salaries and expenses (gross)		BA	7	......	......	......	......	......	......
		O	4	8	......	......	......	......	......
Total, offsetting collections			–6	......	......	......	......	......	......
Total Salaries and expenses (net)		BA	1	......	......	......	......	......	......
		O	–2	8	......	......	......	......	......
National Indian Gaming Commission, activity fees:									
Appropriation, permanent	806	BA	......	6	7	7	7	7	7
Outlays		O	......	8	7	7	7	7	7
Total Federal funds National Indian Gaming Commission		BA	1	6	7	7	7	7	7
		O	–2	16	7	7	7	7	7
Total Federal funds Departmental Offices		BA	1,075	671	632	633	600	602	603
		O	541	1,422	724	710	648	637	624
Total Trust funds Departmental Offices		BA	453	350	19	21	22	24	25
		O	403	355	19	21	22	24	25

Summary

Account			1998 actual	1999	2000	2001	2002	2003	2004
Federal funds:									
(As shown in detail above)		BA	9,732	9,624	10,507	10,524	10,504	10,539	10,557
		O	8,879	10,346	10,375	10,572	10,514	10,725	10,735
Deductions for offsetting receipts:									
Intrafund transactions	301	BA/O	*–11*	*–10*	*–10*	*–10*	*–5*	*–5*	*–6*
	303	BA/O	*–30*	*–29*	*–33*	*–32*	*–33*	*–35*	*–36*
	452	BA/O	*–19*	*–23*	......	......	......	......	......
	908	BA/O	*–105*	*–126*	*–99*	*–114*	*–120*	*–127*	*–134*