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Reserve Funds in the FY2002 Budget Resolution

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Summary

The Congressional Budget Act of 1974, as amended, establishes a mechanism by which the substantive provisions of the annual budget resolution are enforced through points of order. Beginning in 1983, budget resolutions often have included “reserve funds” that provide some legislative flexibility within such constraints. Reserve fund provisions grant the chairs of the House and Senate Budget Committees the authority to revise the committee spending allocations and other budget levels, after a budget resolution has been adopted, if certain legislation is reported by the appropriate committee or other conditions are met.

The FY2002 budget resolution includes nine reserve funds. Six apply to both chambers; one applies only in the Senate; and two apply only in the House. Unlike most reserve funds in the past, the FY2002 reserve funds do not require that any spending increases be offset with other spending reductions, revenue increases, or a combination of the two. Instead, with the exception of the Medicare reform reserve fund, the FY2002 reserve funds require that the cost of any applicable legislation, when combined with previously-enacted legislation, not reduce the on-budget surplus below the amount of the Medicare Hospital Insurance Trust Fund surplus in any given year through FY2011.

This report will be updated as developments warrant.

Background

The annual budget resolution establishes the congressional budget for the upcoming fiscal year and at least four ensuing years, providing the framework for consideration of subsequent budget-related legislation, such as direct spending bills, appropriations bills, and revenue measures. It sets forth overall levels of spending and revenues, and spending amounts for each of the major functional categories, for each year. The overall spending amounts are allocated to the committees with jurisdiction over spending.¹ The House and

¹ The committee allocations usually are included in the joint explanatory statement accompanying
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Senate Appropriations Committees further subdivide their spending allocations among their subcommittees.²

Congress may enforce the substantive provisions of the budget resolution through the use of points of order.³ Generally, these points of order prohibit the consideration of any legislation, or amendment, that would cause a violation of the overall levels, the committee allocations, or the appropriations committees' subdivisions. For example, if the estimated cost of legislation, or an amendment, would cause a committee's allocation to be exceeded, a member may raise a point of order against its consideration. Thus, legislation not assumed in the budget resolution generally would be subject to a point of order.

Beginning in 1983, budget resolutions have often included "reserve funds" that provide some legislative flexibility within these constraints.⁴ Reserve fund provisions grant the chairs of the House and Senate Budget Committees the authority to revise the committee spending allocations and other budget levels, after a budget resolution has been adopted, if certain legislation is reported by the appropriate committee or other conditions are met.⁵

An example of a reserve fund provision from the FY2002 budget resolution is provided in the box below. Most often in the past, they have applied only in the Senate, and generally have been used to allow for the consideration of deficit-neutral legislation that otherwise would be subject to points of order. More recently, reserve fund provisions usually have applied in both chambers, and generally have been used to allow for the consideration of legislation that would use a portion of the on-budget surplus.

¹ (...continued)

the budget resolution conference report.

² Each appropriations committee must report the subcommittee allocations to its respective chamber before any appropriations bill may be considered on the floor. The committees may revise their subcommittee allocations at any time, as long as the sum of the subdivisions does not exceed the total amount allocated to them.

³ For more detailed information on these points of order and their application, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

⁴ Reserve fund provisions may be included in a budget resolution under the authority provided by Section 301(b)(4), the so-called "elastic clause," of the Congressional Budget Act of 1974. This section gives Congress the option to include in a budget resolution other matters and procedures consistent with the purposes of the Budget Act.

⁵ In some cases, the budget resolution overall spending or revenue levels, as well as the discretionary spending limits for enforcement purposes in the Senate, also may be adjusted.

**Example of a Reserve Fund Provision:
FY2002 Budget Resolution (H.Con.Res. 83 (107th Congress))**

SEC. 212. RESERVE FUND FOR FAMILY OPPORTUNITY ACT.

(a) IN GENERAL- Subject to subsection (b), if the Committee on Finance of the Senate or the Committee on Energy and Commerce of the House of Representatives reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides States with the opportunity to expand Medicaid coverage for children with special needs, allowing families of disabled children with the opportunity to purchase coverage under the Medicaid Program for such children (commonly referred to as the 'Family Opportunity Act of 200⁷'), the appropriate chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed \$227,000,000 in new budget authority and \$180,000,000 in outlays for fiscal year 2002, \$3,035,000,000 in new budget authority and \$2,724,000,000 in outlays for the period of fiscal years 2002 through 2006, and \$8,337,000,000 in new budget authority and \$7,867,000,000 in outlays for the period of fiscal years 2002 through 2011.

(b) SURPLUS- Legislation described in subsection (a) may not, when taken together with all other previously-enacted legislation (except for legislation enacted pursuant to section 211), reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any fiscal year covered by this resolution.

Although the reserve fund provisions provide the authority to revise the appropriate committee allocation and other budgetary levels if certain conditions are met, they do not require the chairs of the respective budget committees to make the revisions.⁶ The chairs have the discretion to use this authority or not. If a chair does not make any adjustments, then legislation or an amendment violating the existing overall, committee allocation, or appropriations committees' subdivision levels still may be considered on the House or Senate floor by waiving the applicable points of order. In the House, this may be done by a special rule reported by the House Rules Committee. In the Senate, this may be done by a waiver motion under Section 904 of the Congressional Budget Act of 1974, as amended, which would require the approval of 60 Senators.⁷

Since 1983, Congress has included one or more reserve funds in the budget resolution each year, except in 1984 for FY1985 and in 1985 for FY1986.⁸ Out of the 83 reserve

⁶ The only exception was the Internal Revenue Service (IRS) compliance initiative reserve fund in the FY1995 budget resolution. This reserve fund provision required the chairs of the respective budget committees to adjust budget levels to reflect additional spending for IRS compliance initiative activities in any fiscal year.

⁷ These are the methods most often used by Congress. Other ways of avoiding the points of order include designating legislation as an emergency requirement, or by suspending the budget enforcement procedures with the enactment of a declaration of war or a joint resolution declaring low economic growth.

⁸ This does not include the FY1999 budget resolution, which did not receive final approval by Congress in 1998. The Senate version of the FY1999 budget resolution included four reserve
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funds included in budget resolutions since 1983, 42 applied only in the Senate, six applied only in the House, and 35 applied in both chambers. The FY1995 budget resolution adopted in 1994 included the most reserve funds, 13, with 11 of them applied only in the Senate. About two-thirds, or 55, of the reserve funds since 1983 did not specify the amount of any revisions to the committee allocations. However, in most of these cases, the reserve fund provision required that the legislation not cause an increase in the deficit. Thus, for example, any increase in spending had to be offset by a reduction in other spending, an increase in revenues, or a combination of the two. The remaining 28 limited any revisions to a specific amount, as in the case of the example reserve fund presented in the box above.

Although the reserve funds have been available to revise the committee spending allocations and other budgetary levels, Congress seldom has used them. In the Senate, out of the 77 reserve funds available, only six were used. In the House, out of the 41 reserve funds available, only four were used.⁹

Reserve Funds in the FY2002 Budget Resolution

The FY2002 budget resolution includes nine reserve funds (see **Table 1**). Six apply to both chambers; one applies only in the Senate; and two apply only in the House. Most reserve funds are for a single purpose or specific legislation, but the two that apply only in the House provide for multiple purposes. Further, most reserve funds specify an amount which the adjustments may not exceed. Two out of the three reserve funds that do not specify an amount, however, are not open-ended. First, the Senate reserve fund for additional defense spending ties the adjustments to the recommendations of the President's National Defense Review.¹⁰ Second, the additional tax cuts and debt reduction reserve fund in the House ties the adjustments to any additional on-budget surplus estimated by the Congressional Budget Office (CBO) in its budget and economic outlook update that exceeds the on-budget surplus amount estimated in its January 2001 budget and economic outlook report.¹¹

Unlike most reserve funds in the past, the FY2002 reserve funds do not require that any spending increases be offset with other spending reductions, revenue increases, or a combination of the two. Instead, with the exception of the Medicare reform reserve fund, the FY2002 reserve funds require that the cost of any applicable legislation, when

⁸ (...continued)

funds, but the House version included none.

⁹ The number of adjustments related to reserve funds was based on a review of the *Congressional Record*. Reserve funds were used from the following budget resolutions: FY1984 (House and Senate); FY1989 (Senate); FY1993 (Senate); FY1995 (House and Senate); FY1998 (two in the Senate); and FY2001 (two in the House).

¹⁰ In connection to his National Defense Review, the President submitted a request for an additional \$18.5 billion in budget authority and \$11.4 billion in outlays for FY2002, on June 27, 2001.

¹¹ The CBO's update report estimated on-budget surpluses for all fiscal years during the period FY2002 through FY2011 substantially less than its estimates in January 2001. See CBO, *The Budget and Economic Outlook: An Update* (Washington: August 2001). Therefore, no adjustments are allowed under the provisions of this reserve fund.

combined with previously-enacted legislation, may not reduce the on-budget surplus below the amount of the Medicare Hospital Insurance Trust Fund surplus in any given year through FY2011.¹²

The updated estimates of the on-budget surplus by the Office of Management and Budget and CBO this summer have raised concerns about whether the on-budget surplus already has dipped below the amount of the Medicare Hospital Insurance surplus, effectively preventing any adjustments related to the reserve funds, with the exception of the Medicare reform reserve fund. However, the House and Senate Budget Committees historically have used the CBO baseline underlying the budget resolution to make these determinations, rather than CBO's updated baseline.¹³ The chairs of the respective budget committees, as well as Congress as a whole, will need to decide whether the updated on-budget surplus outlook warrants using the updated baseline in applying the Medicare Hospital Insurance surplus contingency provision.

On October 3, 2001, in accordance with the authority provided by the agriculture reserve fund provision in the FY2002 budget resolution, the chair of the House Budget Committee adjusted the House Agriculture Committee's spending allocation to accommodate the Farm Security Act of 2001, H.R. 2646.¹⁴ As of October 2001, the chair of the Senate Budget Committee has not made any revisions, and the chair of the House Budget Committee has not made any additional revisions, to committee spending allocations or other budget levels related to the FY2002 reserve funds.

¹² The revenues and outlays of the Social Security trust funds and the transactions of the U.S. Postal Service fund are off-budget, and thus are not included for purposes of calculating the on-budget surplus.

¹³ Usually, the budget resolution baseline would be CBO's revised baseline published in March of each year. Since the President's budget was not submitted until April 2001, CBO did not publish its revised baseline until May, after the budget resolution was adopted. Therefore, the FY2002 budget resolution was based on CBO's preliminary baseline published in January. However, the joint explanatory statement accompanying the conference report to the budget resolution states the conferees intention that the chairs will enforce the budget resolution with respect to appropriations measures consistent with CBO's revised baseline. See U.S. Congress, Committee on Conference, *Conference Report to Accompany H.Con.Res. 83*, H.Rept. 107-60, 107th Congress, 1st session (Washington: May 8, 2001), p. 86.

¹⁴ The adjustment increased the House Agriculture Committee's spending allocation by \$28.492 billion in additional budget authority and \$25.860 billion in additional outlays for the period of FY2002 through FY2006. See the House Budget Committee chair's remarks in the *Congressional Record*, daily edition, vol. 147, of October 3, 2001, at pp. H6175-H6176 and H6237.

Table 1. Reserve Funds in the FY2002 Budget Resolution
(dollars in billions)

Reserve Fund		FY2002	FY2002-06	FY2002-11
Medicare reform, including prescription drug benefit	BA	)	59.100	300.000
	O	)	59.100	300.000
Medicare-home health agencies	BA	)	4.000	13.700
	O	)	4.000	13.700
Family Opportunity Act	BA	0.227	3.035	8.337
	O	0.180	2.724	7.867
Agriculture ^a	BA	)	)	66.150
	O	)	)	66.150
Student loans ^b	BA	0.110	3.440	7.665
	O	0.100	2.840	6.590
Health insurance for uninsured ^c	BA	)	28.000)
	O	)	28.000)
Defense (Senate only)	BA)))
	O)))
Additional tax cuts and debt reduction (House only)	BA)))
	O)))
Strategic reserve fund, including defense (House only)	BA)))
	O)))

Key: "BA"=budget authority; "O"=outlays. Where no figures are provided, the FY2002 budget resolution did not specify any exact amount.

- a. In the Senate, adjustments may be made only for the period FY2003-11.
- b. Amount in FY2002 column represents adjustments allowed for the period FY2002-03, not just for FY2002.
- c. Adjustments may be made for the period FY2002-04, but may exceed this time frame. Also, adjustments may include revenues, or some combination of spending and revenues, as long as the sum of the changes does not exceed the amount specified.