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The Social Security "Lock Box"

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Summary

With the President's urging that the Social Security portion of newly emerging federal budget surpluses be set aside until the system's problems are resolved, and his various proposals to use the budget surpluses to shore up the system, Social Security's treatment in the budget has become a major policy issue. Congressional views about what to do with the overall budget surpluses are diverse — ranging from "buying down" the federal government's outstanding debt to cutting taxes to increasing spending. However, despite the different views, support for setting Social Security surpluses aside is substantial and to a large extent has made Social Security reform a place holder in much of the current debate. This policy is reflected in H.Con.Res. 68, the FY2000 budget resolution, passed by Congress last year, which incorporated budget totals setting aside the Social Security portion of the next 10 years' budget surpluses. A similar policy is reflected in the FY2001 budget resolution, H.Con.Res. 290, which was passed by Congress on April 13, 2000.

The 106th Congress has also been considering so-called "lock box" measures that would create procedural obstacles for bills attempting to use the Social Security surpluses for purposes other than Social Security or Medicare reform. Support for such a measure is bipartisan, however, controversy over the form it should take has stalled action in the Senate. A pending amendment to S. 557, supported by the Senate Republican leadership, would require creation of a new limit on publicly-held federal debt that would decline by the amount of each year's Social Security surplus. Absent enactment of a Social Security reform measure, the money would go towards debt reduction. Five attempts to move the measure failed, as did an attempt to consider a Democratic alternative that would have "locked up" an even larger share of the budget surpluses. A related measure passed by the House, H.R. 1259, considered to be less stringent, also failed. President Clinton has also pressed for creation of a strong Social Security "lock box." No final agreement was reached on these measures by the close of the first session.

Legislation in 1999

As a first step in addressing Social Security issues, the 106th Congress passed a concurrent budget resolution for FY2000 establishing budget goals for the next 10 years that set aside the Social Security portion of projected federal budget surpluses pending consideration of Social Security and/or Medicare reforms (H.Con.Res. 68, passed by the House and Senate in April 1999). It went on to consider so-called "lock box" measures that would attempt to protect these Social Security surpluses with procedural and other process constraints that would apply to subsequent bills. These measures were still pending as the first session of the 106th Congress came to a close.

Congressional Budget Resolution for FY2000. The House-passed budget resolution had included a new "point of order," under a provision entitled *"Safe Deposit Box for Social Security Surpluses,"* allowing a floor objection to be raised against any budget bill that would permit a budget deficit. The term "budget deficit" meant one reflecting federal receipts and expenditures excluding Social Security and the Postal Service, what is referred to as an "on-budget" deficit. In the House, such an objection could be waived by a simple majority; in the Senate, however, it would require approval by 60% of the Members. It also called for creation of a *"Reserve Fund For Retirement Security And, As Needed, Medicare"* permitting the chairman of the Budget Committee to increase expenditures or reduce revenues during the 10-year period covered by the budget resolution, FY2000-2009, if the House Committee on Ways and Means reported a bill to reform Social Security or Medicare. Specifically, it would have permitted an on-budget deficit for legislation to enhance "retirement security" or to extend the solvency or reform "the benefit or payment structure of Medicare." The amount of the on-budget deficit (or increase thereof) could not exceed the projected Social Security trust fund surplus. It further contained a "sense of the Congress" statement that (1) legislation be considered precluding the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), or any other federal government entity from publishing federal budget totals in official documents that include the operations of the Social Security system, and (2) that Congress should consider legislation to establish either safeguards of the next 10 years' Social Security surpluses, or a new limit on federal debt *held by the public* that would decline each year by the amount of the Social Security surplus. The intent of the latter would be to require a reduction in federal debt equal to the Social Security surpluses, and by so doing, free up resources in the financial markets that could add to national savings pending action to reform Social Security or Medicare.

The Senate-passed resolution assumed that the next 10 years' Social Security surpluses would be used exclusively to retire publicly-held federal debt and contained corresponding declining debt levels. These levels, however, were not to be binding. The resolution called for a subsequent statute to: reaffirm that Social Security is not to be counted in the budgets proposed by the President or Congress, and that violations of such would be "out of order" in the Senate; mandate that Social Security surpluses be used only for paying Social Security benefits, Social Security reform or to reduce publicly-held debt, and not spent on non-Social Security programs or used to offset tax cuts (subject to a Senate super-majority point of order); and ensure that all Social Security benefits are paid on time. It allowed the Chairman of the Budget Committee to alter the budget totals to accommodate Senate consideration of certain legislation, including tax cuts, Medicare reform, Medicare coverage of prescription drugs (if part of legislation that extends the solvency of Medicare), and changes in Medicare managed plans. It also extended the duration of the Senate "pay-as-you-go" budget rules until there is an "on-budget" surplus, precluding expenditure of Social Security surpluses but allowing "on-budget" surpluses to be used for tax cuts and spending increases.

The conference agreement on the resolution reflected a blending of the House- and Senate-passed measures. It included a modified version of the House *"Safe Deposit Box"* provision permitting an objection to be raised against any revision of the FY2000 resolution or consideration of a FY2001 resolution that would envision an "on-budget" deficit. It then permitted the Budget Committee chairmen to alter the budget totals to increase expenditures or reduce revenues, if the House Ways and Means or Senate Finance Committees reported a bill that enhances "retirement security through structural programmatic reform." Under a separate provision, it permitted a similar adjustment to be made for a bill "that implements structural medicare reform and significantly extends the solvency of the Medicare Hospital Insurance Trust Fund without the use of transfers of new subsidies from the general fund (...)." This latter adjustment could not cause an "on-budget" deficit. It also included language stating that it is the sense of the Congress that additional measures be passed to enforce the separation of Social Security from the budget, the setting aside of Social Security surpluses pending consideration of reform legislation, and the possible creation of a super-majority point of order against measures that would violate limits on publicly-held debt designed to ensure that Social Security surpluses are used only for "the payment of social security benefits, social security reform, retirement security, or the reduction" of publicly-held debt.

Discussion. Through these mechanisms, the FY2000 budget resolution established a congressional goal of protecting the Social Security portion of the next 10 years' budget surpluses pending consideration of reform measures. In the absence of such legislation, publicly-held federal debt would fall as surplus tax receipts are used to buy up outstanding federal securities (which would be the natural consequence of current law). Under the House-passed resolution, the principal enforcement mechanisms were to be existing budget act rules that would allow objections, i.e., points of order, to be lodged against bills that would create an "on-budget" deficit for something other than reforming Social Security or Medicare" and passage of subsequent process constraints. Under rules already in the Budget Enforcement Act of 1990, with passage of the FY2000 budget resolution points of order could be raised against bills brought up in the coming year that would violate the budget resolution totals or instructions. Subsequent legislation, called for by the resolution, was to create additional points of order applicable for the following 10-year period or mandate use of Social Security surpluses for debt reduction.

Under the Senate-passed resolution and in the sense of the Congress statement in the subsequent conference agreement, the implicit enforcement mechanism was to be the creation of a new statutory ceiling (or target ceiling) on the portion of the federal debt held by the public. The current statutory debt ceiling pertains to aggregate federal debt (or nearly so), including the portion held in the government's own accounts. The new ceiling on the portion held by the public was to be set so that it would decline annually by the amount of the yearly Social Security surplus, thereby precluding the use of those surpluses for other spending increases or tax cuts pending consideration of reform legislation. The final resolution itself did not contain language creating the declining debt ceilings, but suggested their creation as a possible "lock box" measure.

Since a point of order can be waived by a sufficient majority and legislation enacted today can be superseded later, the implicit enforcement mechanism under either approach is the potential political hurdle against using Social Security surpluses for purposes other than to enhance retirement security, reform Medicare, or reduce publicly-held federal debt. Whether such a hurdle provides a binding impediment is problematic; its forcefulness is not the result of a constitutional directive; it depends heavily on the President's and Congress' general perspective about the overall needs of the Nation as time passes.

Subsequent Action in 1999. The concept of creating a "lock box" to protect Social Security surpluses or altering the system's budget treatment in some similar way can be found in more than 40 bills thus far introduced in the 106th Congress. However, despite its obvious popularity, there is considerable controversy over the form it should take. A pending Senate amendment to S. 557 (a bill to reform the budget process), supported by the Senate Republican leadership, would attempt to protect the next 10 years' Social Security surpluses by requiring a new limit on publicly-held debt (as suggested in the FY2000 budget resolution) that would decline by the amount of each year's Social Security surplus. Motions to set a time limit on debate so that the Senate could consider the amendment were defeated on April 22 and 30, and again on June 15, 1999. An agreement appeared to be at hand on July 1, 1999, but when raised a fourth time on July 16, 1999, the Senate again failed to set a time limit. Proponents argued that the measure would discourage bills that would use the Social Security portion of budget surpluses for tax cuts or spending increases since doing so could cause the new debt ceiling to be exceeded, thereby threatening a government shut down. Opponents, including the Administration, argued that the measure is too extreme. They contended that the public wants Social Security surpluses protected, but not by threatening the very institution whose existence the program needs to function.

An alternative measure, H.R. 1259, passed by the House on May 26, 1999 (by a vote of 416 to 12) would create new points of order against bills causing or increasing an "on-budget" deficit (i.e., that dip into Social Security surpluses). Again, 3/5ths approval in the Senate would be necessary to waive them. It also would preclude official publication of budget totals that include Social Security's income and outgo (currently, budget documents prepared by OMB and CBO show budget totals both with and without Social Security). Supporters of the measure argued that it would make it harder to pass bills that would use Social Security funds for other government spending or to offset revenue losses from tax cuts. Critics contended that it offered no truly binding constraint and as such was mostly a symbolic political measure. Although H.R. 1259 is considered to be less stringent than the pending amendment to S. 557, in a vote on June 16, 1999, it too failed to garner Senate support.

A Senate Democratic alternative, raised on July 29, 1999 in consideration of a major tax cut bill supported by the Republican leadership (S. 1429), also was defeated on a procedural motion. It would have required the Finance Committee to report out a measure similar to the House-passed bill, H.R. 1259, and, in addition, would have reduced the aggregate 10-year tax cuts such that one-third of the projected "on-budget" surpluses would have been earmarked for Medicare reform.

S. 557 and H.R. 1259 were still pending at the close of the first session of the 106th Congress.

Legislation in 2000

Congressional Budget Resolution for FY2001. The "lock box" issue has re-emerged in the current session. On March 24, 2000, the House passed its version of the FY2001 concurrent budget resolution (by a vote of 211-207), and included another Social Security "lock box" measure. The provision closely follows the provision in last year's House-passed budget resolution by providing for a point of order against any bill that would result in an "on- budget" deficit in the period covered by the resolution and states that it is the sense of the Congress that subsequent legislation should be enacted that "would enforce the reduction in debt held by the public assumed in this resolution by the imposition of a statutory limit on such debt or other appropriate means."

The Senate passed its version of the resolution, S.Con.Res. 101, on April 7, 2000 (by a vote of 51-45), and included a similar but more detailed provision. It too provides for a point of order against any bill that would result in an "on-budget" deficit in the period covered, and calls for Congress to consider enactment of subsequent legislation to reduce publicly-held debt by the amount of annual Social Security surpluses. It further specifies that such legislation should (1) call for suspension of the prescribed debt reduction if economic growth is less than 1% and (2) provide that if any prior-year Social Security surplus "is used to finance general operations of the Federal Government, an amount equal to the amount used shall be deducted from the available amount of discretionary spending for the following fiscal year for purposes of any concurrent resolution on the budget." In debate on the resolution on April 5, 2000, the Senate set aside an enforcement measure (offered as part of a broader amendment by Senator Allard, et.al.), which would have required that Social Security surpluses be used for debt reduction until "major" reform measures were enacted. Also set aside on April 7, 2000 was (1) a "lock box" alternative (offered by Senators Conrad and Baucus), similar to the Democratic measure proposed in July 1999 that would have allowed points of order to be raised against measures using the Social Security portion of the budget surpluses and 1/3 of the "on-budget" surplus, which would have been reserved for Medicare reforms including the enactment of a prescription drug benefit; and (2) a measure (offered by Senator Ashcroft, et.al.) that would have taken Medicare HI trust fund surpluses off budget, precluded any subsequent "on budget" deficit, and called for sequestration of discretionary spending if the portion of the budget surplus attributable to HI were used for some other purpose.

A conference agreement on the resolution was approved by both Houses on April 13, 2000, including a blended version of their respective lock box provisions. It made it out of order to consider changes to the resolution that would result in an "on budget" deficit with exceptions for a declaration of war or if economic growth is less than 1%. It further provided that if any part of the Social Security surplus for FY 2001 is used to finance general operations of the Federal Government, an equivalent amount would deducted from the available level of overall discretionary spending in FY 2002. In addition, it included a sense of the Congress resolution calling for enactment of subsequent legislation to reduce publicly-held debt by the amount of annual Social Security surpluses.

The President's Social Security Proposals

In his State of the Union address on January 19, 1999, the President outlined a *framework* for dealing with Social Security's funding problems, which the Administration estimated would eliminate 2/3rds of the system's long-range (75-year) deficit. He proposed reserving 62% of an estimated $4.9 trillion in "unified" federal budget surpluses for the next 15 years — some $2.8 trillion — for Social Security ("unified" refers to the budget counting all governmental functions including Social Security.) The proposal envisioned crediting this amount to the Social Security trust funds as a general fund infusion, with 79% being used to buy down outstanding publicly-held federal debt and 21% being used to buy stock.

He revised the plan on June 28, 1999, when raising his 15-year surplus projections from $4.9 trillion to $5.9 trillion. The new plan called for creation of a budget "lock box" to protect the Social Security portion of the surpluses, similar in concept to approaches pending in Congress, and general fund infusions to the Social Security trust funds of $543 billion in the FY2011-2014 period, followed by an indefinite $189 billion annually thereafter. These amounts were estimated to equal the interest savings to the Treasury from using Social Security surpluses to reduce outstanding publicly-held federal debt. The infusions were to be invested in stocks until the stock portion of the overall trust fund holdings reached 15%. The Social Security Administration's (SSA's) actuaries projected that these infusions would delay the trust funds' insolvency from 2034 (as the trustees had projected in their 1999 report) to 2053.

On October 26, 1999, the President transmitted draft legislation to Congress reflecting another plan. It resembled the June plan, but omitted calling for investments in stock. It called, instead, for crediting the trust funds with $735.2 billion in federal securities (as are now credited to the funds) in the FY2011-2015 period, followed by $215.5 billion annually until 2044. These amounts represented revised estimates of the interest savings from using Social Security surpluses to reduce outstanding federal debt. The plan was projected to extend the life of the system until 2050. It also called for earmarking 1/3 of "on-budget" surpluses for Medicare reform, and budget process changes similar to those being considered in Congress to discourage use of Social Security surpluses for other purposes. The plan was introduced as H.R. 3165 (Gephardt), S. 1828 (Moynihan), and S. 1831 (Daschle).

In his State of the Union address on January 27, 2000, the President renewed his call for crediting the trust funds with the interest savings from using Social Security surpluses to reduce outstanding federal debt. Unlike his previous proposal submitted in October 1999, this one again calls for investment of part of these new infusions in stock. Some 50% of the infusions would be invested in stocks until the stock portion of the overall trust fund holdings reached 15%. In effect, his latest proposal is close to the one he recommended in June 1999. The new trust fund infusions would begin in FY2011. The SSA actuaries estimate that they would range from $98.7 billion in FY2011 to $204.9 billion in 2016 and thereafter (with all such infusions ending in 2050), and that plan would extend the life of the system until 2054.

Related CRS products: CRS Report 95-206, *Social Security's Treatment Under the Federal Budget: A Summary*; CRS Report 98-422, *Social Security and the Federal Budget: What Does Social Security's Being "Off-budget" Mean?* and CRS Issue Brief IB98048, *Social Security Reform*.