Congressional Research Service

Report RS20350

OFF-BUDGET STATUS OF FEDERAL ENTITIES: BACKGROUND AND CURRENT PROPOSALS

William Heniff, Government and Finance Division

Updated October 5, 1999

Abstract. During the 106th Congress, several proposals have been introduced to provide off-budget status to certain trust funds and other special funds, in which revenues are collected for specified purposes. These proposals would prohibit the receipts and disbursements of the funds from being counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the President's budget, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

Order Code RS20350
October 5, 1999

CRS Report for Congress

Received through the CRS Web

Off-Budget Status of Federal Entities: Background and Current Proposals

Bill Heniff Jr.
Analyst in American National Government
Government and Finance Division

Summary

During the 106th Congress, several proposals have been introduced to provide off-budget status to certain trust funds and other special funds, in which revenues are collected for specified purposes. These proposals would prohibit the receipts and disbursements of the funds from being counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the President's budget, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985. Proponents argue that taking a fund off budget provides an assurance that the federal government is fulfilling its contract with taxpayers by ensuring the collected receipts will be used for the dedicated purpose rather than for general government activities. Opponents argue that removing a fund from the unified budget would free its transactions from statutory and congressional budget enforcement procedures, thereby weakening budget controls and limiting the ability of the President and Congress to make trade-offs between all possible government priorities.

Background

Prior to 1968, the federal budget was represented by three competing measures of federal financial activities: the administrative budget; the national income accounts budget; and the consolidated cash budget. The federal government did not have a single presentation of its annual budget, and the most frequently used one, the administrative budget, did not encompass the full range of federal financial activities. Only the revenues and expenditures from federal fund transactions were included; all trust-fund transactions were excluded from the administrative budget.

As trust-fund activities increased, the existing budget presentations were seen as inadequate in representing the full impact of federal government financial activities on the national economy. The 1967 *Report of the President's Commission on Budget Concepts* stated that "the budget should, as a general rule, be comprehensive of the full range of federal activities."[1] The commission recommended a *unified budget*, consolidating the revenues and expenditures from both federal and trust funds. In 1968, President Lyndon B. Johnson adopted the unified budget for his FY1969 budget submission to Congress, and every President since then has used the unified budget.

Initially, the unified budget excluded only the Board of Governors of the Federal Reserve System, the Exchange Stabilization Fund, and government-sponsored enterprises, which are privately owned. By the early 1980s, however, several additional government entities had received off-budget status, usually by statute.[2] In 1984, for example, seven federal entities were off budget: Federal Financing Bank; Rural Electrification Administration and Rural Telephone Bank; Strategic Petroleum Reserve Account; United States Synthetic Fuels Corporation; United States Railway Association; Board of Governors of the Federal Reserve System; and U.S. Postal Service. In addition, the Social Security and Hospital Insurance (*i.e.*, Medicare, Part A) trust funds were scheduled to go off budget beginning with FY1993. This increase in off-budget entities prompted a review of the budgetary treatment of these federal activities by the Task Force on the Budget Process of the House Committee on Rules, the so-called Beilenson task force, named after its chair, Representative Anthony Beilenson. The task force recommended that all off-budget entities, and those entities scheduled to go off budget, be placed back on budget. The Board of Governors of the Federal Reserve System and the U.S. Postal Service were to be partially excluded, because of their independent status.

Although the proposed legislation resulting from the work of the task force was not enacted into law, several of its recommendations were incorporated into the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177; 99 *Stat.* 1038-1101). In particular, the 1985 Balanced Budget Act required that the existing off-budget entities be included in the President's budget and the congressional budget. The Board of Governors of the Federal Reserve System and government-sponsored enterprises remained off budget. In addition, the off-budget status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (commonly referred to as the Social Security trust funds) was accelerated, to begin with the FY1986 budget; the off-budget status of these trust funds is discussed below.

Current Off-Budget Federal Entities

Currently, there are two federal entities off budget: the Social Security trust funds and the Postal Service Fund. Both were initially included in the unified budget beginning in FY1969. Congress removed these entities from the budget generally to provide assurance that changes in the Social Security program and U.S. Postal Service operations were not made on the basis of budgetary considerations.

Social Security Trust Funds. Like other trust funds, the Social Security trust funds were incorporated into the unified budget beginning in 1968 so as to present the full range

[1] *Report of the President's Commission on Budget Concepts* (Washington: GPO, October 1967), p. 25.

[2] The President may present the budget "in such form and detail" as he may determine, under the authority granted by the Budget and Accounting Act of 1921. However, excluding an entity from the congressional budget process and sequestration process requires a statute.

of federal activities in a single budget. The Social Security Amendments of 1983 (P.L. 98-21; 97 *Stat.* 65, specifically 97 *Stat.* 137-138) set forth a process gradually to take the Social Security and Medicare (except Part B) trust funds off budget by FY1993. The trust funds first were to be treated as a separate major functional category in the budget, and then they would be removed from the budget totals beginning in FY1993.

The 1985 Balanced Budget Act (see 99 *Stat.* 1093-1094) accelerated this process by providing that the receipts and expenditures from the Social Security trust funds be removed from the President's budget and congressional budget resolutions, beginning in FY1986. Under the enforcement mechanism established by the 1985 Balanced Budget Act, the trust funds transactions were included in calculating the surplus or deficit totals for the purposes of determining if a sequestration—the across-the-board cancellation of budgetary resources—was required. However, Social Security program benefits were exempt from any sequestration.

The 1990 Budget Enforcement Act (Title XIII of P.L. 101-508; 104 *Stat.* 1388-573 through 630, specifically 104 *Stat.* 1388-623) reaffirmed the off-budget status of the Social Security trust funds by excluding the receipts and expenditures of the Social Security trust funds from the surplus or deficit totals in the President's budget and the congressional budget resolution, and from the surplus or deficit calculations in the sequestration process. (For further information on the off-budget status of Social Security, see CRS Report 98-422 EPW, *Social Security and the Federal Budget: What Does Social Security's Being "Off Budget" Mean?*)

Partial Text of Social Security Off-Budget Provision of the Budget Enforcement Act of 1990

Sec. 13301. Off-Budget Status of OASDI Trust Funds.

(a) Exclusion of Social Security From All Budgets.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Deficit Control Act of 1985.

Postal Service Fund. The U.S. Postal Service was established by the Postal Reorganization Act of 1970 (P.L. 91-375; 84 *Stat.* 719-787) as an independent entity, replacing the Cabinet-level Post Office Department, to allow it to operate on a business-like basis. The act also created the Postal Service Fund, which consisted of the receipts associated with the operations of the U.S. Postal Service, such as revenues from services it provided. In its first year of existence, FY1973, the U.S. Postal Service was included in the unified budget, as was the Post Office Department it replaced. The Postal Service Fund was taken off budget by administrative action the following year, to reflect the independent status of the U.S. Postal Service. It remained off budget until FY1986, when the Balanced Budget Act of 1985 provided that all off-budget entities be placed back on budget. Citing its independent status and need to operate free from budget pressures unrelated to its operation, Congress took the transactions of the Postal Service Fund off budget in 1989 (Omnibus Budget Reconciliation Act of 1989; P.L. 101-239; 103 *Stat.* 2106-2491, specifically 103 *Stat.* 2133).[3]

Arguments For and Against Off-Budget Status

The current proposals to provide off-budget status to additional funds generally follow the 1990 Budget Enforcement Act language that reaffirmed the off-budget status of the Social Security trust funds. All the off-budget proposals would prohibit a fund's receipts and disbursements from being counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the President's budget, the congressional budget, or the Balanced Budget Act of 1985. Under these terms, off-budget status would effectively free the receipts and expenditures of a fund from point-of-order controls under the Congressional Budget Act of 1974, and the discretionary spending limits and pay-as-you-go rules under the 1985 Balanced Budget Act. In addition, most of the current proposals would exempt a fund's expenditures from any general budget limitation imposed by statute on budget outlays. This latter provision would protect the fund's expenditures from any other spending limitations the President and Congress may adopt in the future.

Proponents argue that a dedicated fund in the budget, particularly a trust fund, represents a contract with taxpayers that the money will be spent on its intended purpose and not on other government activities. Taking a fund off budget provides an assurance that the President and Congress will fulfill that contract by removing any incentive to spend less on the fund's intended purpose in order to spend more on other government activities. Moreover, citing the 1967 *Report of the President's Commission on Budget Concepts*, proponents argue that providing off-budget status "allows the identity and integrity of trust fund transactions and balances to be preserved."[4]

Because actual spending for some trust funds usually does not match revenues during a fiscal year, proponents further argue that including these trust fund balances in the unified budget either understates the true size of the budget deficit, or overstates the true size of the budget surplus. Excluding a fund's transactions from the budget totals would provide an incentive to match more closely a fund's income and spending.

While off-budget status frees the revenues and disbursements of these funds from statutory and congressional controls under the 1974 Congressional Budget Act and the 1985 Balanced Budget Act, supporters argue that a more appropriate control on fund spending is the amount of revenue dedicated to the fund. As long as spending does not exceed the dedicated revenues, they argue that a fund's transactions do not contribute to any budget deficit.

Opponents of off-budget proposals, on the other hand, reaffirm the argument made for a unified budget by the President's Commission on Budget Concepts in 1967. They argue that the federal budget should include the full range of government activities, regardless of whether any certain activity is financed through a trust fund or the general fund.

[3]The appropriated subsidy provided to the U.S. Postal Service for reimbursements of reduced-rate and free mail remains on budget.

[4]*Report on the President's Commission on Budget Concepts,* p. 26.

Opponents further argue that off-budget status provides these funds with preferential treatment in the budget process. Off-budget programs would be protected from the statutory and congressional budget enforcement procedures, while on-budget programs would remain constrained by the existing fiscally tight controls. This unequal treatment effectively weakens budget enforcement and restricts the flexibility of decision makers to make trade-offs between all government activities when deciding priorities.

Finally, opponents have noted that the federal budget consists of numerous trust and special funds.[5] If off-budget status is provided to certain funds, then the incentive will exist to provide it to the remaining funds that have a dedicated purpose. Opponents argue that, if this were to occur, Congress would further reduce its ability to control the size of the budget and the deficit or surplus, and ultimately the size of the federal government.

Proposals Providing Off-Budget Status in the 106th Congress

Several measures have been introduced in the 106th Congress to provide off-budget status to certain trust funds and special funds, including the Airport and Airway Trust Fund, the Nuclear Waste Fund, the Inland Waterways Trust Fund, the Harbor Maintenance Trust Fund, and several new and existing special funds for conservation activities. So far during the 106th Congress, one proposal, taking the Airport and Airway Trust Fund off budget, has been passed by the House, and another, taking the Nuclear Waste Fund off budget, has been reported by a House committee.

Airport and Airway Trust Fund. Off-budget status has been proposed for the aviation trust fund in order to provide an assurance that tax revenues deposited in the trust fund will actually be spent on aviation infrastructure needs.[6] The Aviation Investment and Reform Act for the 21st Century, commonly referred to as AIR-21 or the Federal Aviation Administration (FAA) reauthorization bill, H.R. 1000, includes a provision providing off-budget status to the Airport and Airway Trust Fund (Title IX). On May 28, 1999, the bill was reported by the House Committee on Transportation and Infrastructure (H.Rept. 106-167), and it was considered by the full House on June 15. During consideration of AIR-21, an amendment eliminating the off-budget provision offered by Representatives C. W. "Bill" Young and John Kasich failed by a vote of 179-248. The House subsequently adopted the AIR-21 bill by a vote of 316-110. The Senate version of the FAA reauthorization bill, S. 82, the Air Transportation Improvement Act (S.Rept. 106-9), does not include an off-budget provision.

[5] In FY1997, there were over 100 trust funds. For more information on the number and balances of trust fund accounts, see: (1)CRS Report 96-686, *Federal Trust Funds: How Many, How Big, and What Are They For?*, by David Koitz, Philip Winters, and Dawn Nuschler, and (2) U.S. Office of Management and Budget, *Budget of the United States Government, FY2000, Analytical Perspectives*, (Washington: GPO, February 1999), pp. 335-350.

[6] The argument to take the aviation trust fund off budget is similar to those put forward for other transportation trust funds. For further discussion on the budgetary treatment of transportation trust funds, see CRS Report 98-63, *Transportation Trust Funds: Budgetary Treatment*, by John W. Fischer. For more specific information on the aviation trust fund, see CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106th Congress*, by John W. Fischer.

Nuclear Waste Fund. Taking the Nuclear Waste Fund off budget has been proposed in order to insulate the program from competition with other federal programs for funding, and to ensure that all revenues collected will be devoted to the fund's intended purpose. On May 20, the House Committee on Commerce reported favorably H.R. 45, the Nuclear Waste Policy Act of 1999 (H.Rept. 106-155), which included a provision taking the transactions of the Nuclear Waste Fund off budget (Section 301(f)). Unlike the general off-budget language described above, H.R. 45 does not include a provision to exempt the Nuclear Waste Fund expenditures from any general statutory limitation on budget outlays. The bill has not been considered on the House floor. The Senate version, S. 1287, the Nuclear Waste Policy Amendments of 1999 (S.Rept. 106-98), does not include an off-budget provision. The Senate Committee on Energy and Natural Resources reported S. 1287 favorably on June 24.

Inland Waterways Trust Fund and Harbor Maintenance Trust Fund. Off-budget status for the other transportation trust funds has been proposed for the purpose of ensuring that taxes that are paid by transportation users are spent on the intended purposes. Representative Bud Shuster and others introduced H.R. 111, the Truth in Budgeting Act, to provide for off-budget treatment for the Airport and Airways Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund. The bill was referred to the Committees on Transportation and Infrastructure and on the Budget on January 6, 1999.

Land and Water Conservation Fund and Other Conservation Activities Funds. Taking several federal conservation activities off budget is intended to ensure that the revenues raised from outer continental shelf oil and gas activities will be dedicated to the preservation and conservation of other natural resources.[7] Senator Barbara Boxer and Representative George Miller have sponsored identical legislation in the Senate and House, respectively, providing off-budget status to two existing and six new special funds for conservation activities.[8] S. 446 was referred to the Senate Committee on Energy and Natural Resources on February 23, 1999, and H.R. 798 was referred to the House Committees on Resources and on Agriculture on February 23, 1999. These bills or other legislation authorizing conservation programs, H.R. 701 and S. 25, may be marked up and reported by their respective committees before the end of the year. Also, Representative Tom Campbell introduced H.R. 452 to provide off-budget treatment for the receipts and disbursements of the Land and Water Conservation Fund. The bill was referred to the Committees on the Budget and on Resources on February 2, 1999.

---

[7]For more information on conservation activity proposals, see CRS Report RL30133, *Resource Protection and Recreation: A Comparison of Bills to Increase Funding*, by Jeffrey Zinn, Coordinator.

[8]The two existing funds are the Land and Water Conservation Fund and the Historic Preservation Fund. The six new funds include the Farmland, Ranchland, Open Space, and Forestland Protection Fund, the Federal and Indian Lands Restoration Fund, the Living Marine Resources Conservation Fund, the Native Fish and Wildlife Conservation and Restoration Trust Fund, the Endangered and Threatened Species Recovery Fund, and the Urban Park and Recreation Recovery Fund.