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Reserve Funds in the Congressional Budget Process: Frequently Asked Questions

October 12, 2022

Congressional Research Service

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R47277



The House of Representatives and Senate Explained

Congressional Procedure

A Practical Guide to the Legislative Process in the U.S. Congress

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 **TheCapitolNet**

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What is a reserve fund?

The Congressional Budget Act of 1974 (the Budget Act) directs Congress to adopt a budget resolution each spring establishing an agreement between the House and Senate on a budgetary plan.¹ The budget resolution does not become law; therefore no money is spent or collected as a result of its adoption. Instead, the budget resolution includes certain spending and revenue levels that become enforceable through points of order once both chambers have adopted the resolution.² (While not discussed in this report, the budget resolution may also trigger the budget reconciliation process,³ which provides fast-track procedures in the Senate for certain mandatory spending, tax, and debt limit legislation.) Budget resolutions are under the jurisdiction of the House and Senate Budget Committees, which are directed to report a budget resolution in the spring of each year.⁴

In addition to budgetary levels, Congress frequently includes “reserve funds” in the annual budget resolution. These provisions may be included in the budget resolution as reported from the Budget Committee or added as an amendment during floor consideration. Reserve funds authorize the specified chair of the Budget Committee to subsequently revise the budgetary levels agreed to in the budget resolution in order to accommodate certain policies or legislation. A reserve fund provision may therefore change the initial levels provided in the resolution, allowing certain policies to be considered on the House or Senate floor, without triggering a point of order for violating levels in the budget resolution. The authority granted by a reserve fund may be exercised only under the circumstances specified in the reserve fund and within any specified budgetary limits.

How does a reserve fund work?

A reserve fund is included in a budget resolution. Once that budget resolution has been adopted by both the House and Senate, the reserve fund may subsequently be used by the specified chair of the Budget Committee to revise levels in the budget resolution. An example of a reserve fund, and the manner in which it triggers a subsequent revision to the budget resolution, is shown below. First, the budget resolution for FY2021 was adopted by both the House and Senate in February 2021 and included this reserve fund:

¹ Titles I-IX of P.L. 93-344, as amended; 2 U.S.C. §§601-688. The budget resolution is to provide budgetary levels for the relevant fiscal year and at least four outyears.

² For example, in the House, the Budget Act prohibits consideration of legislation that would cause new budget authority or outlays for the first fiscal year in the budget resolution to be exceeded (§§311(a)(2) and 311(a)(1)). It also prohibits consideration in the House and Senate of legislation that would cause revenues to fall below the levels set forth in the budget resolution for the first fiscal year or for the total of all fiscal years covered in the budget resolution (§§311(a)(1) and 311(a)(2)). Points of order are not self-enforcing, meaning that if no Member raises a point of order, a chamber may consider and pass legislation that would violate levels established in the budget resolution. In addition, either chamber may waive the point of order—in the House by a simple majority of Members and in the Senate by three-fifths of all Senators.

³ For more information on the budget reconciliation process, see CRS Report R44058, *The Budget Reconciliation Process: Stages of Consideration*, by Megan S. Lynch and James V. Saturno.

⁴ Section 300 of the Budget Act of 1974 includes a timetable specifying dates by which Congress is to complete certain budgetary actions. Under this timetable, the Senate Budget Committee is directed to report a budget resolution (pertaining to the upcoming fiscal year beginning October 1) by April 1, and Congress is directed to complete action on a budget resolution by April 15.

Section 3001. Reserve Fund for Reconciliation Legislation

In the Senate, the Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for any bill or joint resolution considered pursuant to section 2002 containing the recommendations of one or more committees, or for one or more amendments to, a conference report on, or an amendment between the Houses in relation to such a bill or joint resolution, by the amounts necessary to accommodate the budgetary effects of the legislation, if the budgetary effects of the legislation comply with the reconciliation instructions under this concurrent resolution.⁵

Subsequently, in March 2021, while the Senate was considering the reconciliation legislation referenced in the reserve fund above, the chair of the Senate Budget Committee revised the levels in the previously adopted budget resolution in a statement given on the Senate floor:

Mr. SANDERS. Mr. President, section 3001 of S. Con. Res. 5, the fiscal year 2021 congressional budget resolution, allows the chairman of the Senate Budget Committee to revise the allocations, aggregates, and levels in the budget resolution for legislation considered under the resolution's reconciliation instructions. I find that Senate Amendment No. 1378 fulfills the conditions found in section 3001 of S. Con. Res. 5. Accordingly, I am revising the allocations for the reconciled committees and other enforceable budgetary levels to account for the budgetary effects of the amendment.⁶

Do reserve funds provide funding?

While a reserve fund may demonstrate congressional support for subsequent legislative action on a specific policy, reserve funds themselves do not provide funding for that policy. Reserve funds provide for a subsequent procedural effect: They authorize the chair of the Budget Committee to subsequently revise the budgetary levels agreed to in the budget resolution in order to accommodate certain policies or legislation.

Do reserve funds require Congress to act on a certain policy?

While reserve funds provide for a subsequent procedural effect, and may demonstrate support for a specific policy, they do not require that Congress subsequently act on any type of policy, nor do they prohibit Congress from taking action on any policy.

Do reserve funds change voting thresholds for the passage of legislation?

Reserve funds do not change the voting threshold for passage of legislation. Because a reserve fund allows the Budget Committee chair to revise budgetary levels, it may prevent a budgetary point of order from being raised against the legislation—a point of order that would otherwise

⁵ S.Con.Res. 5, (117th Congress), Section 3001.

⁶ “AMERICAN RESCUE PLAN ACT OF 2021—BUDGETARY REVISIONS,” *Congressional Record*, March 16, 2021, p. S1566.

have required a vote of three-fifths of the Senate to waive.⁷ Such a reserve fund, however, would affect only whether a budgetary point of order could be made. It would not affect the Senate's other rules and procedural requirements, such as the cloture process. Therefore, a reserve fund would not affect whether a measure would require three-fifths of the Senate to agree to end debate on a legislative question, such as final passage.⁸

Are reserve funds nonbinding policy statements?

Reserve funds authorize the chair of the Budget Committee to subsequently revise the budgetary levels agreed to in the budget resolution to accommodate certain policies. In addition, they have sometimes been characterized as a way for Senators to receive a nonbinding vote on a certain policy or to signal support (or lack of support) for a certain policy in the same manner as a "sense of the Senate" provision.⁹

In recent years, a majority of included reserve funds have been added to the resolution during Senate floor consideration. For example, S.Con.Res. 14, the budget resolution for FY2022, included 31 reserve funds, three of which were included in the version of the budget resolution placed on the Senate Calendar. The rest were added through Senate floor amendments. Likewise, S.Con.Res. 5, the budget resolution for FY2021, included 28 reserve funds, three of which were included in the version of the budget resolution placed on the Senate Calendar. The rest were added through Senate floor amendments.

Policies specified in reserve funds that were added as Senate amendments have varied broadly. For example, in the most recently agreed-to budget resolution,¹⁰ the reserve funds related to the following policy language:

not raising taxes on people making less than \$400,000; prohibiting the Green New Deal; addressing the crisis of climate change; supporting privately held businesses, farms, and ranches; promoting U.S. competitiveness and innovation by supporting research and development; protecting taxpayer privacy while ensuring those evading the tax system pay what they owe; prohibiting the Council on Environmental Quality and the Environmental Protection Agency from promulgating rules or guidance that bans fracking in the United States; facilitating improved internet service for Cuban citizens; adjusting federal funding for local jurisdictions; honoring the Capitol Police, the District of Columbia Metropolitan Police, and first responders; supporting or expediting the deployment of carbon capture, utilization, and sequestration technologies; prohibiting the Department of Agriculture from making fossil-fuel-burning plants ineligible for financing; relating to the provisions of the American Rescue Plan; relating to means-testing electric vehicle tax credits; prohibiting, or limiting the issuance of costly Clean Air Act permit requirements on framers and ranchers in the United States or the imposition of new federal requirements on livestock; funding the Office of Foreign Assets Control; relating to abortion funding; ensuring robust, secure, and humane supply chains sourced by the United States and its allies for renewable energy materials, technology, and critical minerals; prohibiting funding to purchase

⁷ See CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno

⁸ A colloquy on this subject occurred on the Senate floor. Senators Portman and Murray, "BUDGET ACT SECTION 114(c)," *Congressional Record*, daily edition, vol. 160, part 2 (January 7, 2014), p. S67. For more information on the cloture process, see CRS Report 98-425, *Invoking Cloture in the Senate*, by Christopher M. Davis.

⁹ For example, see Paul M. Krawzak, "Biden Coronavirus Relief Plan Clears Senate Budget Hurdle After 'Vote-a-Rama,'" *Roll Call*, February 5, 2021; and Dylan Matthews, "Senators Are Proposing Hundreds of 'Deficit-Neutral Reserve Funds.' What Gives?," *Washington Post*, March 22, 2013.

¹⁰ S.Con.Res. 14 (117th Congress).

materials, technology, and critical minerals produced, manufactured, or mined with forced labor; Great Lakes ice-breaking operational improvements; immigration enforcement and addressing the humanitarian crisis at the southern border; quality education for children; hiring 100,000 new police officers; preventing electricity blackouts and improve electricity reliability; protecting migrant and local communities against COVID-19; studying and providing for tax equivalency under the payments-in-lieu-of-taxes program; preventing tax increases on small businesses; providing sufficient resources to detain and deport a higher number of aliens who have been convicted of crimes; and maintaining the current law tax treatment of like kind exchanges.¹¹

In what ways do reserve funds vary?

Reserve funds include language providing authority to revise budgetary levels to the chair of the House Budget Committee or Senate Budget Committee (or both). In addition to granting this authority, the provision states the circumstances under which the budgetary levels may be revised. These circumstances typically describe a policy or type of legislation with varying levels of specificity. For example, in the reserve fund shown below, a range of policies might qualify as “national security or domestic discretionary programs.”

Deficit-neutral reserve fund to strengthen America’s priorities.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to enhanced funding for national security or domestic discretionary programs by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over the period of the total of fiscal years 2016 through 2025.¹²

In contrast, the reserve fund below specifies a narrower set of policies that might qualify:

Deficit-neutral reserve fund for the State Children’s Health Insurance Program.

In the House of Representatives, the Chairman of the Committee on the Budget may revise the allocations, aggregates, and other budgetary levels in this concurrent resolution for any bill or joint resolution, or amendment thereto or conference report thereon, if such measure extends the State Children’s Health Insurance Program, but only if such measure would not increase the deficit over the period of fiscal years 2016 through 2025.¹³

Reserve funds may include a requirement that the policy be deficit-neutral, spending-neutral, or revenue-neutral. Deficit-neutral reserve funds, often referred to as “DNRFs,” allow the Budget Committee chair to revise the budgetary levels in the budget resolution but require that any provisions that would increase the deficit be “offset” by equivalent decreases in the deficit (made by spending reductions or revenue increases). An example of a deficit-neutral reserve fund is below:

Deficit-neutral reserve fund for college access, affordability, and completion.

The chairman of the House Committee on the Budget may revise the allocations, aggregates, and other appropriate levels in this resolution for any bill, joint resolution, amendment, or conference report that makes college more affordable or accessible or that increases college enrollment and completion through reforms to the Higher Education Act

¹¹ S.Con.Res. 14 (117th Congress), Title III.

¹² S.Con.Res. 11 (114th Congress), §4301.

¹³ S.Con.Res. 11 (114th Congress), §4504.

of 1965 or other legislation, including increasing the maximum Pell grant award annually by an amount equal to one percentage point more than the Consumer Price Index, or student loan reform, by the amounts provided in such measure if such measure would not increase the deficit or decrease the surplus for either time period provided in clause 10 of rule XXI of the Rules of the House of Representatives, and minimize disruption to schools, students, and the employees of the student loan originating and servicing industry.¹⁴

Spending-neutral reserve funds allow the Budget Committee chair to revise the budgetary levels in the budget resolution but require that any provisions that would increase spending be “offset” by equivalent decreases in spending made elsewhere. An example of a spending-neutral reserve fund is below:

Spending-neutral reserve fund to reform the abandoned mine lands program.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) without raising new revenue, by the amounts provided in such legislation for that purpose, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2016 through 2020 or the period of the total of fiscal years 2016 through 2025.¹⁵

Revenue-neutral reserve funds allow the Budget Committee chair to revise the budgetary levels in the budget resolution but require that any provisions affecting revenues be “offset” by changes in revenue. An example of a revenue-neutral reserve fund is below:

Revenue-neutral reserve fund to reform the American tax system.

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for one or more bills, joint resolutions, amendments, amendments between the Houses, motions, or conference reports relating to reforming the Internal Revenue Code of 1986, which may include—

- (1) tax relief for middle-income working Americans;
- (2) lowering taxes on families with children; or
- (3) incentivizing companies to invest domestically and create jobs in the United States,

by the amounts provided in such legislation for those purposes, provided that such legislation is revenue neutral and would not increase the deficit over the period of the total of fiscal years 2018 through 2027.¹⁶

Reserve funds are not required to be deficit-neutral, spending-neutral, or revenue-neutral, however. They may, instead, allow the levels of spending or revenue initially set forth in the budget resolution to be breached so long as the policy legislation meets the requirements specified in the reserve fund, as shown below:

Reserve fund for reconciliation legislation. (a) In general.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution, and make adjustments to the pay-as-you-go ledger, for any bill or joint resolution considered pursuant

¹⁴ S.Con.Res. 13 (111th Congress), §322.

¹⁵ S.Con.Res. 11 (114th Congress), §4318.

¹⁶ H.Con.Res. 71 (115th Congress), §3002.

to section 2001 containing the recommendations of one or more committees, or for one or more amendments to, a conference report on, or an amendment between the Houses in relation to such a bill or joint resolution, by the amounts necessary to accommodate the budgetary effects of the legislation, if the budgetary effects of the legislation comply with the reconciliation instructions under this concurrent resolution.¹⁷

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¹⁷ H.Con.Res. 71 (115th Congress), §3003.

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