

CBO TESTIMONY

Statement of
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before the
Subcommittee on the Legislative Process
Committee on Rules
U.S. House of Representatives

September 26, 1991

NOTICE

This statement is not available for public release until it is delivered at 9:30 a.m. (EDT), Thursday, September 26, 1991.



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Mr. Chairman and Members of the Subcommittee, I am pleased to be able to present the views of the Congressional Budget Office (CBO) on the treatment of **Social Security's** administrative expenses under the Balanced Budget Act. I will begin by reviewing the provisions of the original 1985 legislation and the 1990 amendments. Then, I will describe CBO's interpretation of the amendments and contrast it with that of the Administration. I will conclude with some comments on H.R. 2898, the Social Security Protection Act of 1991, introduced by Mr. Conyers and 50 cosponsors.

Each year, the appropriation bill for the Departments of Labor and Health and Human Services places a limit on spending for the administrative expenses of the Social Security Administration (SSA). Not all of SSA's administrative expenses, however, are financed by the two Social Security trust funds. Only about three-fifths of the limitation on administrative expenses is chargeable to the Old-Age and Survivors Insurance and Disability Insurance trust funds. Most of the remainder is paid out of the appropriation for Supplemental Security Income (SSI), and a small portion is charged to the two Medicare trust funds. Everyone agrees that the portion of the limitation on administrative expenses charged to SSI and Medicare is included in the Balanced Budget Act calculations. But what about the portion paid out of the Social Security trust funds?

WHAT DOES THE BALANCED BUDGET ACT SAY?

The Balanced Budget and Emergency Deficit Control Act of 1985 removed the two Social Security trust funds from the budget totals, but it continued to include the trust funds in the most important budgetary calculations. First, Social Security was counted in assessing compliance with the Balanced Budget Act's deficit targets. Second, if automatic sequestration were needed to achieve the deficit target, Social Security's administrative expenses (but not the benefits) were subject to reduction.

From an economic perspective, the treatment of Social Security in the 1985 version of the Balanced Budget Act made sense. The best simple measure of the federal **budget's** effect on the economy is the deficit excluding deposit insurance. This comprehensive measure of the deficit, including the Social Security and other trust funds, determines the government's fiscal stance, its drain on credit markets, and the amount of private saving that it absorbs.

In the Budget Enforcement Act of 1990, however, the Congress took a different position. Both the House- and the Senate-passed versions of the bill included provisions removing Social Security from the Balanced Budget Act's deficit estimates and sequestration calculations. As enacted, the relevant provision is simple and brief. Section 13301(a) states, "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 Emergency Deficit Control Act of 1985."

The text of the law seems clear and appears to exclude all of Social Security--**both** benefits and administrative **expenses--from** all budgetary calculations, but the report accompanying the conference agreement adds a note of ambiguity. In revising the budget process, the Budget Enforcement Act established two new **requirements--a** pay-as-you-go rule for revenues and mandatory spending, and dollar limits or caps on discretionary spending. In an attempt to clarify the scope of these new provisions, the conference report contains lists of mandatory and discretionary appropriations. The list entitled "Appropriated Domestic Discretionary Accounts for Fiscal Year 1991" includes the appropriated portions of the two Social Security trust **funds--that** is, Social Security administrative expenses.

WHAT DOES THE BALANCED BUDGET ACT MEAN? _____

An inconsistency therefore arises. On the one hand, the Balanced Budget Act states that Social Security should not be counted for purposes of the Balanced Budget Act. On the other hand, the conference report appears to include Social Security's administrative expenses among the programs subject to the new discretionary spending limits.

The Congressional Budget Office's View

How should this inconsistency be resolved? CBO believes that the Budget Enforcement Act gives two **answers--one** for 1991 and another for 1992 and thereafter. From the start of the fiscal year 1991 budget process, Social Security's administrative expenses were counted as discretionary spending. The Congressional budget resolution for fiscal year 1991, adopted in the wake of the budget summit agreement, assumed that Social Security administrative expenses were included in the domestic discretionary spending category. And the conference report on the Budget Enforcement Act, as noted earlier, included Social Security's administrative expenses on the discretionary list for **1991**. Therefore, in our end-of-session sequestration report, CBO included the administrative expenses of Social Security as domestic discretionary spending subject to the statutory limit in fiscal year **1991**.

Fiscal year 1992 and later years, however, are another story. For these years, the law was clear, and the slate was clean. The Budget Enforcement Act requires that the discretionary spending limits be adjusted to reflect changes in budgetary concepts or definitions. In CBO's view, removing Social Security from the Balanced Budget Act calculations constitutes just such a change in budgetary concepts. In our sequestration preview report for fiscal year 1992, CBO therefore excluded all the revenues and outlays of the Social Security trust funds, including administrative expenses, from the maximum deficit amounts and discretionary spending totals for 1992 and thereafter. Correspondingly, CBO reduced the domestic discretionary spending limits for 1992 through 1995 by our baseline projection for Social Security's administrative expenses. This reduction in the caps assured that the appropriations committees were neither hurt nor helped by the change in budgetary **concepts**.

The Administration's View

The Administration, however, reached a different conclusion. In the President's budget for 1992, the Office of Management and Budget (OMB) continued to include Social Security's administrative expenses as domestic discretionary spending subject to the cap. CBO believes

that OMB's interpretation is inconsistent both with the letter of the law and also with Congressional intent.

To interpret a statute, one need look at the conference report or legislative history only when the law itself is unclear. But the Budget Enforcement Act is not unclear. It states that Social Security spending should not be counted as adding to outlays or the deficit. OMB's interpretation has the effect of treating Social Security's administrative expenses as part of on-budget spending and the on-budget **deficit--a** result clearly at odds with the law.

Congressional intent is equally clear. In the debate over the Budget Enforcement Act, there was never any suggestion that Social Security's administrative expenses should be treated differently from the benefit payments. The House-passed version of the bill would have kept Social Security's interest receipts on-budget, but the Senate explicitly rejected this stance when it adopted the **Moynihan-Hollings-Heinz** amendment. "The conference agreement incorporates the Senate position on the budgetary treatment of the Social Security trust funds," says the statement of managers, "reaffirming their off-budget status and removing all their transactions from the deficit estimates and the calculations made in the sequestration process."

While CBO disagrees with **OMB's** interpretation of the Balanced Budget Act, OMB is charged with administering the law, and OMB's view will stand unless overturned by law or judicial ruling. In order to make our estimates relevant and useful for the Congress, therefore, CBO's budget projections now follow OMB's approach. For the same reason, the Congressional budget resolution for fiscal year 1992 also assumes that Social Security's administrative expenses are included in the domestic discretionary spending totals.

THE EFFECTS OF H.R. 2898

The proposed Social Security Protection Act would amend the Balanced Budget Act and the Budget Enforcement Act to clarify the off-budget status of Social **Security's** administrative expenses, their exclusion from the discretionary spending limits, and their exemption from sequestration. In these respects, the bill is consistent with CBO's interpretation of the 1990 legislation, as I have outlined above. In addition, the bill specifies that no adjustment be made to the domestic discretionary spending limits as a result of excluding Social Security from the discretionary spending totals. This provision would free up \$2.5 billion in outlays for other domestic purposes in 1992 and could add as much as \$2.5 billion to non-Social Security outlays and the deficit. Changing the

treatment of the limitation on Social Security's administrative expenses, however, would not affect budget authority.

If the Congress continues to give this bill serious consideration, one technical issue merits some attention. As it now stands, H.R. 2898 does not alter the Senate's Social Security firewall, which is designed to protect the reserves in the Social Security trust funds. The Senate firewall provides that it is not in order to consider a budget resolution, as reported to the Senate, that would reduce the projected Social Security surpluses. Waiving this point of order, or exceeding a committee's allotted Social Security spending, requires the votes of three-fifths of the Senators. Even though enacting this bill would free Social Security's administrative expenses from the caps on domestic discretionary spending, the bill's goal of providing additional administrative resources for Social Security could still be thwarted by the supermajority requirements of the Senate firewall. This issue does not arise in the House of Representatives because the House's provisions to protect the Social Security trust funds apply only to changes in benefits and taxes, not to changes in administrative costs.

In summary, H.R. 2898 would not remove Social Security's administrative expenses from Congressional control, but it would give them favored treatment. The amount of trust fund dollars that could be spent on administrative expenses would still be limited by annual

appropriations. But additional resources could be devoted to improving the administration of Social Security retirement and disability benefits without taking resources away from other domestic programs.