

ISSUE BRIEF

CONGRESSIONAL BUDGET ACTION FOR FISCAL YEAR 2011 AND ITS IMPACT ON EDUCATION FUNDING

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Typically, Congress puts forward a budget resolution each year that defines a spending and revenue plan for the next five to 10 years for the entire federal budget. The budget resolution and the ensuing budget process itself can have either significant or more subtle and indirect effects on education funding. The arcane procedures Congress uses to produce and act upon the budget resolution are often confusing to the media and education advocates alike. This confusion is made worse by political rhetoric and partisan spin.

This year has been particularly confusing as Congress has opted not to debate or vote on a fiscal year 2011 budget resolution, marking the fourth time in 10 years that Congress has failed to adopt an annual budget resolution. Instead, the House passed a "deeming resolution" in July 2010 as a substitute for a fiscal year 2011 budget resolution. The Senate has taken no action to date to set enforceable fiscal year 2011 spending limits. This brief by the New America Foundation's Federal Education Budget Project sheds light on how this process affects education funding, with special emphasis on the unique circumstances of the fiscal year 2011 budget process.

The Congressional Budget and Impoundment Control Act of 1974, which established the modern congressional

budget process, requires Congress to adopt a budget resolution each year, although Congress can ignore this requirement without penalty as is the case this year. The annual budget resolution is an agreement between the two legislative chambers establishing discretionary and mandatory spending and revenue levels for the five or 10 upcoming fiscal years, as well as various rules and procedures governing the budget process in the U.S. House of Representatives and Senate. The budget resolution, however, is not legislation and does not become law, nor is it presented to the President for his signature or veto. Instead it serves as a set of self-imposed rules and guidelines that Congress uses to shape spending and revenue legislation considered later in the year – or subsequent years if a new budget resolution is not adopted each year. The budget resolution is drafted by the House and Senate Budget Committees and is subsequently voted on by the full House and Senate. Most importantly, it cannot be filibustered in the Senate. It needs only a simple majority vote to pass.

When Congress drafts a budget resolution, it uses 20 categories called "budget functions" to make spending recommendations for all federal programs and agencies for the next five fiscal years. Each function encompasses a general purpose, such as national defense or transportation.

"Function 500" determines funding for the Department of Education and all education and training programs administered by other agencies. The budget resolution and its accompanying documents only allocate overall funding to each of the 20 functions; they do not detail funding levels for individual programs. In other words, the funding level for function 500 includes assumed spending for programs like the Pell Grant program, Individuals with Disabilities Education Act grants, and student loan subsidies, but not a specific dollar amount for any one program.^[1] The function 500 funding total serves only as a notional aggregate limit on spending for all education programs and is never referenced in the legislative process after the budget resolution has been adopted.

After the House of Representatives and the Senate agree on a budget resolution, the agreed-upon spending levels contained in the budget functions are detailed in documents sent to each congressional committee with jurisdiction over the related programs. The spending levels are assigned to each committee in a 302(a) allocation, named after the relevant section of the Congressional Budget Impoundment Control Act of 1974. The House and Senate Appropriations Committees receive a 302(a) allocation for all discretionary spending programs. Authorizing committees like the House Education and Labor Committee each receive a 302(a) allocation for mandatory spending programs under their jurisdiction. The allocations set the spending limits that will govern legislation drafted throughout the year by each congressional committee for the years covered by the budget resolution.

Congress usually adopts a budget resolution in April, May, or June each year, after the President submits his budget proposal to the Congress in February but before Congress begins work on appropriations bills for the upcoming fiscal year, which starts October 1st. For example, Congress adopted the fiscal year 2010 budget resolution on April 29th, 2009, and the House began work on education appropriations for fiscal year 2010 in July 2009.

While the 302(a) allocations to authorizing committees are rarely the source of much controversy, the Appropriations Committee's 302(a) allocation is always subject to intense debate. Even though Congress did not adopt a budget resolution this year, the allocation for fiscal year 2011 has been no exception. It has caused much disagreement within Congress and between Congress and the President, with vocal coalitions of lawmakers demanding a significantly lower allocation than the President requested.

The Debate Over 2011 Discretionary Spending Limits

Following the President's fiscal year 2011 budget proposal to Congress in February 2010, it seemed unlikely that Democratic leaders in the House and Senate would be able to win a majority of votes to adopt a fiscal year 2011 budget resolution before the start of the annual appropriations process in the summer. Ultimately, Democratic leaders in both the House and Senate opted not to bring a budget resolution to the floor.

The budget resolution's key function involves establishing a limit on appropriations for the upcoming fiscal year that is enforceable by parliamentary procedures. This appropriations limit is also known as a 302(a) allocation. The fiscal year 2010 budget resolution that both the House and Senate adopted last year set a limit of \$1.086 trillion, (which includes \$3.6 billion in allowable adjustments for non-war related funding, but excludes adjustments for war-related funding). This year, however, Democrats in both the House and the Senate have been locked in a disagreement over the appropriations limit for fiscal year 2011 and the notional levels for the four subsequent years that would be specified in a fiscal year 2011 budget resolution.

Disagreement among Democrats is mainly due to historically large deficits in the prior year and current fiscal year. The Congressional Budget Office estimates that the federal deficit for fiscal year 2010, which ends September 30, 2010, will exceed \$1.3 trillion (9 percent of Gross

Domestic Product), the second year in a row that the deficit will reach such levels.[2] By comparison, the deficit for fiscal year 2008 was \$455 billion, or 3 percent of Gross Domestic Product.[3]

Disagreement within the Democratic caucus over appropriations limits and the deficit has been marked by several key developments beginning with the President's fiscal year 2011 budget request. The President's February 2010 proposal called for reductions in non-security appropriations funding from the level he requested for fiscal year 2010, resulting in a total request of \$1.11 trillion.[4] Shortly after the President submitted his 2011 request, however, Congress rejected the President's proposal to exclude the Pell Grant program from the appropriations process (i.e. make it an entitlement and include it in mandatory spending) when it passed the Health Care and Education Reconciliation Act in March 2010.[5] That law did not create a new entitlement funding stream for the program as the President requested and instead left most annual funding for the program under the appropriations process. Therefore, the President's discretionary spending proposal was rendered almost immediately incomparable to any budget limit that would be proposed by Congress because it did not include Pell Grant funding for fiscal year 2011.[6] After adding the \$23 billion appropriation needed to support the Pell Grant program at the level the President requested, the comparable figure for Congress' consideration of a fiscal year 2011 budget resolution is \$1.134 trillion.

In March 2010, a coalition of anti-deficit Democratic House members – called the Blue Dog Coalition – publicly called for a limit on appropriations to reduce fiscal year 2011 funding for non-security programs by 2 percent overall from fiscal year 2010 levels.[7] Although the Blue Dog Coalition press release and talking points include few specifics from which to discern an absolute number, Coalition member Representative Frank Kratovil (D-MD) introduced H.R. 4871, the Spending Reduction Act of 2010, that would put the Coalition's desired funding limits into

law and reinstate binding procedures to enforce those limits.[8] The Blue Dog proposal helped fuel disagreement with other Democratic House members over the discretionary spending limits that would have been set in a fiscal year 2011 budget resolution.

The Senate Budget Committee estimated that the Blue Dog Coalition's proposed fiscal year 2011 appropriations level totaled \$1.124 trillion, \$10 billion below the President's request.[9] To compare the President's request with the Blue Dog Coalition's proposal in the House, the Senate Budget Committee analysis combined the non-security spending outlined in Kratovil's proposed legislation with the President's request for security spending.

Comparing Proposed FY 2011 Appropriations Limits*

Proposal	\$ trillions
FY 2010 Budget Resolution for FY 2010	1.086
FY 2010 Budget Resolution for FY 2011	1.108
FY 2011 President's Request	1.134
House Blue Dog Coalition	1.124
House Deeming Resolution	1.121
Senate Budget Committee Passed	1.124
Senate Appropriations Committee Guidance	1.114
Sessions-McCaskill Senate Amendment	1.108
Senate Republicans	1.108

** Includes contingent upward adjustments provided for in the proposal, except those for military operations in Iraq and Afghanistan.*

Senate Democrats are also divided over fiscal year 2011 discretionary spending limits. Several times this year, Senators Jeff Sessions (R-AL) and Claire McCaskill (D-MO) offered a bill similar to the Blue Dog legislation as an amendment to other budget and spending bills. The proposal would set binding limits on defense and non-defense discretionary spending for five fiscal years with a total fiscal year 2011 discretionary spending limit of \$1.108 trillion (which includes \$14.5 billion in allowable adjustments for non-war related funding).[10] The proposal split the Democratic majority in the Senate, exposing a

divide within the party over what the total limit on appropriations for fiscal year 2011 should be. The amendment failed to win the necessary 60 votes to override a budget act point of order (explained later in this brief) each time that it was considered. Sixteen Democrats supported the amendment and 44 opposed it in a vote taken in January.[11] The tally was nearly identical when the amendment was offered subsequent times this year.[12]

Republican leaders in the Senate have also endorsed a fiscal year 2011 discretionary spending limit of \$1.108 separate from the Sessions-McCaskill amendment.[13] This level matches the fiscal year 2011 limit outlined in the fiscal year 2010 budget resolution adopted last year. However, that limit cannot be enforced because a budget resolution can only set an appropriations limit for the upcoming fiscal year. Appropriations limits for later years are only notional. Republicans do not hold a majority in the Senate, but the vote tally in the Senate suggests that a simple majority of Republicans and Democrats supports the Sessions-McCaskill fiscal year 2011 funding level. A simple majority is all that is needed in the Senate to pass a budget resolution. A budget resolution cannot be filibustered, meaning that it does not need a supermajority of 60 votes to pass.

Congress Moves Forward on Discretionary Spending Limits Without a Budget Resolution

Given the disagreement among House Democrats over fiscal year 2011 spending limits, the House Budget Committee never released a draft or held committee proceedings on a fiscal year 2011 budget resolution. On June 22nd, the House Budget Committee Democratic Majority Leader announced that he would not bring a fiscal year 2011 budget resolution before the full House for debate or a vote. Instead, the House Democrats would support a "budget enforcement resolution," usually called a deeming resolution, which is not a technical term mentioned in any budget rules or laws.[14] Congress has used a deeming

resolution instead of adopting a budget resolution a number of times in the past. On June 30th, the House Budget Committee released the text of its proposed deeming resolution setting a discretionary spending limit for fiscal year 2011 of \$1.121 trillion. The resolution passed the House on July 1st as part of a procedural vote on a supplemental appropriations bill for fiscal year 2010 that provides funding for military operations in Iraq and Afghanistan.[15] It should be noted that this figure is lower than both the comparable figure under the President's request and the estimate of the Blue Dog proposal.

The deeming resolution that the House adopted in July instead of a fiscal year 2011 budget resolution sets the limit for the fiscal year 2011 appropriations bills that the House will consider over the summer and fall, but it does not completely substitute for a budget resolution in other enforcement areas. Nor does it explicitly repeal the entire fiscal year 2010 budget resolution that Congress passed in 2009, which includes revenue and spending levels through fiscal year 2014. This means that the House has left much of the 2010 budget resolution still in place.

What is a Deeming Resolution?

"Deeming resolution" is a term that refers to legislation that establishes enforceable budget levels for spending and revenue bills that would otherwise be set in a budget resolution. While a deeming resolution can take any form – it is not part of the official congressional budget process outlined in the 1974 Budget Act – at a minimum it usually sets a limit on appropriations funding for the upcoming fiscal year. If Congress does not pass a budget resolution each year, there is no enforceable limit on appropriations funding when the House and Senate consider appropriations bills for the upcoming fiscal year. Therefore, a deeming resolution allows Congress to enforce spending limits when no budget resolution has been adopted.

In the Senate, a Democratic majority on the Budget Committee passed a fiscal year 2011 budget resolution on April 26th that would limit fiscal year 2011 discretionary spending to \$1.124 trillion, \$10 billion below the President's comparable request and the same as the Blue Dog proposal in the House.[16] The limit, however, is \$16 billion higher than the Sessions-McCaskill proposal that has won majority support. (The Senate Budget Committee resolution allows for adjustments to appropriations limits later in the year for non-war related programs, which would bring the limit to \$1.124 trillion from the \$1.122 trillion stated in the text of the resolution.) Despite passage in committee, Senate Democratic leaders delayed bringing the committee-passed budget resolution before the full Senate for debate or a vote, and ultimately chose to abandon the process all together. Senate Democrats do not plan to bring to the floor a deeming resolution that would set an enforceable limit on discretionary spending for fiscal year 2011. However, in mid-July, the Senate Appropriations Committee approved a 302(a) allocation of \$1.114 trillion that will not be voted on in the full Senate.[17] This limit is unenforceable because it was not set through a deeming or budget resolution.

The Appropriations Process and the Budget Resolution

The House and Senate Appropriations Committees fund all domestic discretionary federal programs in areas ranging from education to transportation to defense with their 302(a) allocations. Because the 302(a) allocation to the House and Senate Appropriations Committees establishes the size of the pie from which all discretionary spending for the upcoming year will be carved, a smaller pie can mean lower suballocations to each of the 12 appropriations subcommittees. This can pressure the Appropriations Committee and the Labor, Health and Human Services (HHS), and Education Appropriations subcommittee to limit funding for specific education programs or even force spending reductions and program terminations.

In mid-July, the full Appropriations Committees in the House and Senate divided up \$1.121 trillion and \$1.114 trillion, respectively, in spending authority for fiscal year 2011 among the 12 appropriations subcommittees. These suballocations are called 302(b) suballocations after the relevant section of the Congressional Budget Act. The Appropriations Committees allocated \$176.4 billion to the Labor-HHS-Education Appropriations Subcommittee in the House and \$169.6 billion to the Subcommittee in the Senate.[18] These suballocations establish an appropriations limit on each individual appropriations bill as it is considered in the House and Senate. Each appropriations bill must stay within its 302(b) suballocation to comply with the overall 302(a) allocation. However, for fiscal year 2011, only the House suballocations are enforceable because the House adopted a deeming resolution and the Senate did not. While the Senate Appropriations Committee approved 302(b) allocations in July, the amounts are not subject to any budget rules and are purely notional.

Appropriations Committee 302(a) Allocation and Labor-HHS-Education 302(b) Suballocation (\$ billions)

Fiscal Year	302(a)*	House 302(b)	Senate 302(b)
2005	814.3	142.5	142.3
2006	843.0	142.5	142.5
2007	873.0	144.8	144.8
2008	953.1	151.7	150.8
2009	1011.7	152.6	152.3
2010	1082.3	163.4	163.6
2011**	1121.0	176.4	169.6

** Excludes contingent upward adjustments listed in the budget resolution.*

***No budget resolution was adopted; Figure reflects House 302(a) allocation; The Senate did not set an enforceable allocation.*

Source: FY 2005-2011 Budget Resolutions; Congressional Budget Office

It is important to note that the specific amount of this sub-allocation is not discussed when the budget resolution is debated by Congress as a whole – nor is it discussed when a deeming resolution is adopted instead of a budget

resolution, as happened for fiscal year 2011. The suballocations are set by the Appropriations Committees by a majority vote *after* the 302(a) allocation is set. In other words, only the larger 302(a) allocation to the Appropriations Committees is debated as part of the budget resolution or deeming resolution. Further, the budget resolution does not define how the appropriations subcommittees divide the 302(a) allocations among the 12 appropriations subcommittees with different jurisdictions (i.e. the Labor-HHS-Education Appropriations subcommittee or the Commerce, Justice, Science appropriations subcommittee). The only aspect of appropriations funding enforced by the budget resolution is total appropriations funding. The Appropriations Committees and its subcommittees have the sole authority to set program funding levels once total funding has been established by the budget resolution.

This year, the twelve Appropriations subcommittees in the House began work on their respective bills for fiscal year 2011 earlier this summer *before* the House had passed the 302(a) allocation through a deeming resolution and subcommittees continued to pass bills through July even though the full Appropriations committee had not yet determined the 302(b) suballocations. By mid-July, the subcommittees had passed six bills including the Labor-HHS-Education Appropriations bill for fiscal year 2011. On July 20th, the House Appropriations Committee finally approved the 302(b) allocations for fiscal year 2011 which allowed the full Committee to begin approving each appropriations bill and bring them before the full House.[19] Fiscal year 2011 begins October 1st, 2010.

The Senate Appropriations Subcommittees also began work on fiscal year 2011 bills in July even though no allocations or suballocations had yet been adopted. Then on July 15th the full committee adopted "spending guidance" for the 12 subcommittees that would guide the subcommittees in drafting the fiscal year 2011 appropriations bills.[20] However, no enforceable 302(a) or 302(b) allocations are in place.

Authorizing Committees, Mandatory Funding, and the Budget Resolution

Spending totals for programs not funded through the annual appropriations process – mandatory spending programs – are also assumed in the budget resolution. Student loan programs and a portion of Pell Grants are the main education programs that receive mandatory funds. These spending totals may have a more direct impact on education policies considered by Congress.

Like the Appropriations Committees, authorizing committees – such as the House Committee on Education and Labor, which has jurisdiction over mandatory education spending programs – also receive 302(a) allocations when Congress adopts a budget resolution. While the 302(a) allocation made to the Appropriations Committee governs discretionary spending, the 302(a) allocations provided to other committees govern mandatory spending. Each authorizing committee receives a 302(a) allocation under the budget resolution based on assumed funding levels for all mandatory spending programs under the committee's jurisdiction.

Usually, the budget resolution simply provides an authorizing committee with a 302(a) allocation that reflects mandatory spending at a "baseline" level over the upcoming five or 10 years within the programs under its jurisdiction. The baseline level is the amount of funding that would be provided absent any legislative change in an ongoing program. If, for example, the budget resolution assumed that no changes would be made to student loan policies for the next five years, the authorizing committee's 302(a) allocation would reflect funding levels set by current law and would allow no room above the baseline for an increase in spending on student loans.

On the other hand, if Congress wished to enact legislation later in the year that would lower the interest rate charged on federal student loans, then Congress would include the necessary increase in funding above what is already provided under current law to account for this change in

total spending for function 500 and in the House Committee on Education and Labor's 302(a) allocation. Thus, the budget resolution can "make room" in a 302(a) allocation to an authorizing committee for future legislation that would increase spending.

Absent a budget resolution for fiscal year 2011, the fiscal year 2010 budget resolution's 302(a) levels for authorizing committees still stand. Under the fiscal year 2010 budget resolution, there is currently no room within the 302(a) allocation for House and Senate education committees for legislation that would increase mandatory spending above current law in fiscal years 2010 through 2014. The deeming resolution does nothing to change or repeal these limits. They are still in effect until a new budget resolution is adopted.

Points of Order and Budget Enforcement

Decisions regarding spending, revenue, and budget processes established in the budget resolution – and a deeming resolution – are enforced in the House and Senate mainly through parliamentary hurdles called "points of order." These points of order may be raised by a House or Senate member against proposed bills or amendments if they violate the spending limits established by the most recent budget resolution – such as the 302(a) and 302(b) allocations – or other budget laws and rules.[21]

A point of order, if raised and sustained, removes a bill, amendment, or offending provision from legislative consideration. In short, it kills the proposal. In the House, points of order can be waived by a simple majority vote and therefore rarely affect the legislative process. If a majority of Representatives supports the underlying bill or amendment, then the same majority would likely vote to waive a point of order raised against the bill or amendment. In the Senate, some points of order can be waived with a simple majority, but most budget points of order require a higher threshold to be waived, usually 60 votes. Because a

simple majority is typically needed to pass bills and amendments, the budget point of order in the Senate can be used to enforce budget rules and limits more effectively than in the House.

For example, suppose a simple majority of 51 Senators supports an amendment to the Labor, Health and Human Services, and Education Appropriations bill to increase funding for Title I grants to low income school districts even though the additional funding would cause the bill to exceed its budget allocation – the 302(b) allocation in the budget resolution. If a Senator were to raise a budget point of order against the amendment, then the amendment would be defeated because only the 51 Senators in favor of the amendment would vote to waive the point of order. In other words, the amendment's supporters would need to gather votes from at least nine more Senators to reach the 60 vote minimum and pass the amendment.

A member of the House or Senate must first raise a point of order to strike an offending provision or prevent the consideration of legislation or an amendment that violates a budget rule. Often, a point of order applies to a bill or an amendment, but no member will raise it. In such cases, there are few if any additional enforcement consequences if the bill or amendment is ultimately passed and enacted.

Reserve Funds and Discretionary Cap Adjustments

Budget resolutions typically include "reserve funds" and "cap adjustments" for specific programs. For example, the fiscal year 2008 budget resolution included a reserve fund for higher education programs.[22] Members of Congress frequently speak about reserve funds and cap adjustments as if they were equivalent to legislation to enact a particular policy.[23] In fact, they often have very little impact on federal programs, including education programs. Because the budget resolution does not include information about funding levels for any individual programs, reserve funds and cap adjustments are usually included so that Members

of Congress can claim that the budget resolution addresses a particular policy issue.

However, reserve funds and cap adjustments do serve a procedural purpose. When Congress wants to give itself the flexibility to adjust a committee's 302(a) allocation upward after the budget resolution has been adopted, it can include a reserve fund or a cap adjustment in the budget resolution.[24] For example, in 2007, when the Senate was considering the College Cost Reduction and Access Act, Senate Democrats used a reserve fund in the fiscal year 2008 budget resolution to increase the 302(a) allocation to the Senate Health, Education, Labor, and Pensions Committee above what had originally been provided in the budget resolution. This made room for the mandatory spending increases in student aid enacted by the bill for those years that were not included in the committee's 302(a) allocation when the fiscal year 2008 budget resolution was adopted. A similar scenario occurred under the fiscal year 2009 budget resolution that allowed the Senate Health, Education, Labor, and Pensions Committee to reauthorize the Higher Education Act with policy changes and remain within its 302(a) allocation set forth in the budget resolution. [25]

Discretionary cap adjustments have not historically been used for education programs and the fiscal year 2010 budget resolution did not include any for education programs. The fiscal year 2011 deeming resolution in the House does not include any cap adjustments or new reserve funds for education programs.

A Special Note: Advance Appropriations for Education

To get around the budget resolution's overall appropriations spending caps, Congress regularly provides partial funding for four K-12 education programs through a little-understood budgeting technique called "advance appropriations." [26] The approach takes advantage of a timing quirk whereby the academic year (July 1 to June 31)

spans two federal fiscal years (which run from October 1 to September 30). It allows Congress to partially fund education programs above the budget resolution's 302(a) allocation for the Appropriations Committee without affecting the receipt of funds by schools. Advance appropriations spend some of the following fiscal year's budget early. A special point of order included in a budget resolution limits the amount of advance appropriations that can be provided each year.

Advance appropriations can have a significant impact on education funding. For fiscal year 2008, Congress increased the advance appropriations limit for the first time in several years, and that increase provided much of the total increase in funding for key K-12 education programs over the previous year.[27] The fiscal year 2009 budget resolution again provided an increase in the advance appropriations limit, raising it by \$3.7 billion to \$28.9 billion for fiscal year 2009 appropriations.[28] This increase allowed Congress to shift an even greater share of education funding into advance appropriations.

The fiscal year 2010 budget resolution also limited advance appropriations to \$28.9 billion for fiscal year 2010 and 2011 appropriations bills.[29] In fiscal year, \$21.9 billion from this pot went to advance appropriations for education programs.[30] The fiscal year 2011 deeming resolution that passed in the House extends the 2010 limits for one additional year so that advance appropriations made on the fiscal year 2012 appropriations bills are covered.[31] In the Senate, the limits under the fiscal year 2010 budget resolution still apply, though they are largely irrelevant because the Senate has no enforceable limit for regular fiscal year 2011 appropriations.

Budget Reconciliation

Congress may choose to include special "reconciliation" instructions in the budget resolution. The original purpose of the reconciliation process as enacted in the Congressional Budget and Impoundment Control Act of

1974 was to allow Congress at the end of a fiscal year to expeditiously enact legislation that would make minor adjustments to both spending and revenue levels.[32] Historically, however, Congressional majorities have used the reconciliation process to pass large-scale spending and revenue policies, mainly because reconciliation allows Congress to expedite legislation under a more limited set of procedural rules. Like the budget resolution itself, the reconciliation bill requires only a simple majority vote to pass and debate is limited to a specified amount of time. Reconciliation is therefore an extremely powerful procedural vehicle in the budget process because it enables a Congressional majority to circumvent a filibuster (which requires a three-fifths majority to block) in the Senate. The reconciliation process has been used seven times since 1990 to enact major changes in education policy, most recently in 2010. (See text box below.)

Education Policy Changes Adopted in Budget Reconciliation

1990

- Penalties for schools with high student loan defaults

1993

- Direct student loan program created

1997

- Changes to student loan guaranty agencies
- New education tax benefits

2001

- New higher education tax deduction
- Increased higher education tax benefits

2005

- Reduced subsidies for student loan companies
- Academic Competitiveness and SMART grants created

2007

- Reduced subsidies for student loan companies
- New supplemental funding for Pell Grants
- Lower interest rates on student loans
- Auction program for student loan subsidies created

2010

- Elimination of FFEL student loan program
- New Pell Grant entitlement funding

Because Congress did not adopt a budget resolution for fiscal year 2011, there is no opportunity this year for the majority to use the reconciliation process to pass legislation. Reconciliation instructions cannot be included in a deeming resolution and cannot be made until a new budget resolution is adopted next year, at the earliest. Moreover, reconciliation instructions included in the fiscal year 2010 budget resolution – which is still enforceable – were used to enact the Health Care and Education Reconciliation Act of 2010 and have therefore been satisfied and cannot be used to pass additional bills.

Conclusion

Each component of the congressional budget process can affect federal education funding in a different way. Budget functions, reserve funds, points of order, and reconciliation all play a role in shaping education policy. Unfortunately, partisan spin and political rhetoric often lead observers and stakeholders astray in their efforts to understand the various aspects of the budget process. This year's process has been particularly complicated because neither chamber passed a budget resolution. Instead, the House passed a deeming resolution that sets discretionary spending levels for fiscal year 2011 while the full Senate has not considered or passed any enforceable resolution to set fiscal year 2011 spending limits. Instead, the Senate Committee on Appropriations has approved an unenforceable set of limits for each subcommittee. While the fiscal year 2011 budget process is far from over, the lack of an agreed-upon 302(a) allocation for discretionary spending is likely to cause problems during the appropriations process. In spite of this, both the House and Senate have already begun consideration of each appropriations bill, and the House Labor-HHS-Education appropriations subcommittee has just approved the fiscal year 2011 funding level for all Department of Education discretionary spending. The appropriations process is supposed to be complete by the start of fiscal year 2011 on October 1st, 2010, but it looks as if the process may drag on well into December.

Notes

- [1] The House and Senate Budget Committees maintain spreadsheets that contain itemized spending and revenue assumptions for all federal programs and policies that make up a function total. This information, however, is not disclosed. Budget resolution report language provides only a breakdown between mandatory and discretionary spending within each function.
- [2] Congressional Budget Office, "The Budget and Economic Outlook: Fiscal Years 2010 to 2020," January 2010.
<http://www.cbo.gov/ftpdocs/108xx/doc10871/01-26-Outlook.pdf>
- [3] Congressional Budget Office, "The Budget and Economic Outlook: Fiscal Years 2009 to 2019," January 2009.
<http://www.cbo.gov/ftpdocs/99xx/doc9957/01-07-Outlook.pdf>
- [4] Congressional Budget Office, "An Analysis of the President's Budgetary Proposals for Fiscal Year 2011," March 2010, page 11.
<http://www.cbo.gov/ftpdocs/112xx/doc11280/03-24-APB.pdf>
- [5] *Health Care and Education Reconciliation Act of 2010*. P.L. 111-152, 111th Cong., 2nd sess.
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872enr.txt.pdf
- [6] U.S. Department of Education, Fiscal Year 2011 Budget Summary
<http://www2.ed.gov/about/overview/budget/budget11/summary/edlite-section1.html>;
Congressional Budget Office Supplemental Data on Mandatory Spending, March 2010, Student Loans and Pell Grant Programs, Updated April 2010 <http://www.cbo.gov/budget/factsheets/2010b/studentloans.pdf>
- [7] Press Release, Blue Dog Coalition, "Blue Dogs to Call for Spending Cuts" March 11, 2010.
<http://www.house.gov/melancon/BlueDogs/Press%20Releases/2010%20-%20DSC%20Release.pdf>
- [8] *Spending Reduction Act of 2010*, H.R. 4871, 111th Cong., 2nd sess.
<http://www.govtrack.us/congress/billtext.xpd?bill=111-4871>
- [9] U.S. Senate Budget Committee, Republican Staff, May 26, 2010. "2011 Budget Resolution: Turning Blue But Not Yet Dead."
<http://budget.senate.gov/republican/analysis/2010/bbo2-2010.pdf>
- [10] January 28, 2010. S. Amdt 3308 to S. Amdt 3229 to H.J. Res. 45.
- [11] U.S. Senate Roll Call Vote 11, 111th Cong., 2nd sess., S. Amdt 3308 to S. Amdt 3229 to H.J. Res. 45. January 28, 2010.
http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00011#position
- [12] U.S. Senate Roll Call Vote 42, 111th Cong., 2nd sess., S.Amdt. 3337 to S.Amdt. 3336 to H.R. 4213. March 4, 2010
http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00042;
U.S. Senate Roll Call Vote 57, 111th Cong., 2nd sess. S.Amdt. 3337 to S.Amdt. 3336 to H.R. 4213, March 18, 2010.
http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00057;
U.S. Senate Roll Call Vote 181, 111th Cong., 2nd sess., S.Amdt. 3337 to S.Amdt. 3336 to H.R. 4213, June 9, 2010.
http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00181
- [13] July 13th, 2010, Press Release, Senator Cochran. "Cochran & Republican Appropriators to Withhold Support for FY2011 Bills Unless Committee Accepts Spending Constraints." <http://cochran.senate.gov/press/pro71310.html>
- [14] Congressman Steny Hoyer, "Speech on Deficit Reduction." (speech at the Brookings Institution, March 1, 2010).
http://hoyer.house.gov/index.php?option=com_content&view=article&id=2533:congressman-hoyer-delivers-major-speech-on-deficit-reduction&catid=16:speeches
- [15] *Providing for Budget Enforcement for Fiscal Year 2011* H. Res. 1493, 111th Cong., 2nd sess.
<http://www.govtrack.us/congress/billtext.xpd?bill=111-1493>
- [16] S. Con. Res. 60, 111th Cong., 2nd sess. <http://www.opencongress.org/bill/111-sc60/text>
- [17] U.S. Senate Committee on Appropriations, "FY 2011 Subcommittee Spending Guidance,"
<http://appropriations.senate.gov/news.cfm?method=news.view&id=0753bbc3-1b0d-4115-a277-63b041c69e12>

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- [20] U.S. Senate Committee on Appropriations, "FY 2011 Subcommittee Spending Guidance,"
- [21] U.S. Senate Committee on the Budget, "The Congressional Budget Process: An Explanation," S. Prt. 105-67, 2003, 16-17. <http://www.rules.house.gov/archives/RS20368.pdf>
- [22] U.S. Congress, Concurrent Resolution on the Budget for Fiscal Year 2008 Conference Report, Report 110-153, May 16, 2007, 30. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_reports&docid=f:hr153.110.pdf
- [23] For example, see remarks by Sen. Robert Casey Jr. (D-PA) on the 2008 budget resolution. Congressional Record, 110th cong., 1st sess., 2007, S3 601-02.
- [24] Many reserve funds are "deficit-neutral reserve funds." Such reserve funds require that tax revenue increases accompany any spending increases so that the additional spending does not increase the federal deficit.
- [25] U.S. Senate, Senator Conrad speaking on the College Cost Reduction and Access Act, Congressional Record, 110th cong., 1st sess., 2007, (6 September 2007): S11207; U.S. Congress, *Concurrent Resolution on the Budget for Fiscal Year 2009 Conference Report*, Report 110-659, (May 20, 2008), 15. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_reports&docid=f:hr659.110.pdf;
- Congressional Budget Office, "Cost Estimate: H.R. 4137: Higher Education Opportunity Act." (July 31, 2008) <http://www.cbo.gov/ftpdocs/96xx/doc9692/hr4137.pdf>.
- [26] Education programs receiving advances include No Child Left Behind Title I grants, Special Education state grants, Improving Teacher Quality grants, and Perkins Vocational Education grants.
- [27] In fiscal year 2008, \$17 billion in advance appropriations were provided for education programs. In each of the prior six years, \$15 billion was provided.
- [28] U.S. Congress, *Concurrent Resolution on the Budget for Fiscal Year 2009 Conference Report*, 36-37. http://www.rules.house.gov/110/text/110_sconres_cr.pdf
- [29] U.S. Congress, *Concurrent Resolution on the Budget for Fiscal Year 2010 Conference Report*, 31.
- [30] *Omnibus Appropriations Act*, 2009. Pub. L. no. 111-8. 111th Cong., 1st sess. http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1105enr.txt.pdf
- [31] *Providing for Budget Enforcement for Fiscal Year*, H. Res. 1493 2011, 111th Cong., 2nd sess. <http://www.govtrack.us/congress/billtext.xpd?bill=hr111-1493>
- [32] U.S. Senate, Committee on the Budget, "The Congressional Budget Process: An Explanation," Committee Print 105-67, (December 1998).



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