

Appendix A:

Resolutions, Reconciliation, and Other Basic Rules of the Budgetary Road

Congressional budgetary procedures play a key role in shaping health policy. They can be used to ease the way for approval of funding for certain favored programs and policy priorities. Alternatively, they can be used to create potholes and roadblocks for programs that are viewed as lower priorities by congressional leadership and other legislators.

For discretionary spending, annual funding decisions made by the Appropriations Committees impact the work of thousands of initiatives, projects and programs, such as those that comprise the National Institutes of Health. For entitlement programs such as Medicare and Medicaid, program change often comes as part of a budget process known as “reconciliation.”¹

What follows is a guide to some of the major stages and rules of the process. Generally speaking, budget procedures tend to be more closely scrutinized in the Senate than in the House. A simple majority of the House, on recommendation of its Rules Committee, has the ability to waive any rule,² whereas in the Senate, a 60-vote supermajority is needed.³

THE CONGRESSIONAL BUDGET PROCESS

The budget process is largely governed by the Congressional Budget and Impoundment Control Act of 1974, which requires the President to submit a budget request to Congress by the first Monday in February every year.⁴ This budget request is developed by the Office of Management and Budget (OMB) during weeks of consultation with other federal agencies.^{5,6}

Also during February, all congressional committees develop “views and estimates” of appropriate spending and revenue levels for programs under their jurisdiction, which are transmitted to the respective House and Senate Budget Committees.⁷

The Budget Committees in both chambers hold a series of public hearings to gather testimony,⁸ including information from OMB, from the independent, nonpartisan Congressional Budget Office (CBO), and from the Federal Reserve.⁹

The president’s request and the committees’ views and estimates form the basis for the Budget Committees’ resolutions.¹⁰ Essentially, a budget resolution establishes budget authority (the power to spend) and aggregate budget outlays (actual planned spending) for all programs.¹¹ These include mandatory, or direct, spending programs like Medicare and Medicaid, which are automatically funded at specified levels established in permanently authorized programs.

Budget resolutions also include a cap on overall discretionary spending, divided among relevant congressional committees in amounts called 302(a) allocations.¹² Another element is the federal government’s current estimated annual surplus or deficit and projected increases in the national debt ceiling. Budget resolutions can vary in length from five to 10 years. (For more information, see box, “Getting a Grip on Green Eyeshade Lingo.”)

Budget resolutions are voted on first in Committee, and then by the full House and Senate.¹³ Differences between the two versions are resolved during conference negotiations, after which the final conference report is approved by both chambers.¹⁴ If Congress is on schedule, approval of the conference report – which takes the form of a concurrent budget resolution – occurs by April 15.¹⁵ Once approved by the House and Senate, the concurrent budget resolution is binding on Congress, but it does not have the force of law, since it is not signed by the President.¹⁶ The resolution sets spending limits within which Congress operates when passing legislation.

Budget resolutions sometimes include special rules

Getting a Grip on Green Eyeshade Lingo

Budget Resolution: The resolution is both a guide and a series of instructions to committees on the spending targets they are required to meet for the coming fiscal year, which begins Oct. 1.^a This document sets targets for budget authority for existing programs, and for new budget authority, as well as outlays (estimated expenditures), revenues, annual deficit/surplus estimates, and total national debt. The resolution displays these targets in the aggregate, but also by budget function, and by committee allocation.^b Often, budget resolutions include reserve funds, which are amounts of money that are held back from allocations to the various committees (see below).

Function Totals: Function totals show how the spending totals are allocated across 20 broadly defined budget functions.^c They are not binding, but are a good guide to the Budget Committee's preferences and congressional intentions. For health, the most important functions are functions 550 and 570. Function 550 includes public health discretionary, Medicaid, the State Childrens Health Insurance Program (SCHIP) and the Federal Employees Health Benefit Program (FEHBP). Function 570 includes Medicare benefits and discretionary administrative costs. Other budget functions capture additional health spending, like Function 700, which includes TRICARE, the health benefits system for active military personnel, and Department of Veterans Affairs' health benefit programs.

Committee Allocations: These figures allocate funds across appropriations and authorizing committees with jurisdiction over various programs, and suggest how much money each has to spend for current programs, as well as for new initiatives. If there is no room in a committee's allocation to allow for new spending, a point of order can be raised against any proposed legislation that creates new spending.^d While a Budget Committee's allocation to a committee may stipulate an amount of funding that is sufficient to pay for a specific program, this is not binding on the committee with jurisdiction over the program, which is free to heed or ignore the allocation's funding suggestions within its ceiling. Discretionary spending policies are primarily enforced by the 302(a) process, whereas direct or mandatory spending policies are primarily enforced through the reconciliation process.

Reserve Funds: A mechanism that the Budget Committees can use to make their funding preferences harder for authorizing committees to ignore is the reserve fund. Reserve funds provide budgetary authority that the authorizing committee can use only to fund a specific policy. In this way, the Budget Committees can ensure that the authorizing committees will not take money identified for a desired policy and divert it to some less-favored policy. Reserve funds are also used to set spending parameters for a policy. In one well known example, for FY 2004, the Budget Committees set a figure of \$400 billion over 10 years in a reserve fund for an outpatient prescription drug benefit and other provisions.^{e,f} This helped to pave the way for enactment of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA). So-called "deficit neutral" reserve funds^g are occasionally used as a signal to indicate that while the Budget Committee supports a certain policy, funding has not been specifically identified to pay for it.

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that govern how the House and/or the Senate will operate in a particular budget cycle. For example, until Sept. 30, 2008, the Senate is operating under a modified version of a "PAYGO" (or pay-as-you-go) rule that was first adopted in 1993.¹⁷ In general terms, PAYGO rules require that increases in spending or reductions in revenues must be fully offset, or paid for, by changes elsewhere in the budget. If no offset is offered, a point of order may be raised that prevents consideration of the legislation on the Senate floor, unless the order is waived with the approval of 60 Senators.¹⁸ But under current PAYGO Senate rules, any bill that implements spending and revenue policy changes assumed in the most recently adopted budget resolution is exempt.¹⁹

Furthermore, some of the original PAYGO rules that were enacted as part of the 1990 Budget Enforcement Act (BEA) of 1990 expired on Sept. 30, 2002.²⁰ One such rule was a BEA provision that required Congress to provide budgetary offsets for tax measures. Thus, during the 108th and 109th Congresses, PAYGO rules for tax measures have not been in effect.²¹

During years when Congress has failed to adopt a budget resolution (e.g., FYs 1999, 2003, 2005), emergency enforceable spending ceilings can be created via a "deeming resolution" inserted into a non-controversial appropriations measure.²² If these deeming resolutions are not passed in identical form in the House and Senate, disagreements between the

MMA 45 Percent “Trigger”

In the future, a provision included in the Medicare Modernization Act may assume greater importance in revising this direct spending program. The so-called “45 percent trigger” provision requires the President to submit legislation to trim, or otherwise rebalance, program funding once the Medicare Trustees (a six-member body that reports annually) issue a finding of “excess general revenue” for two consecutive years. A finding of “excess general revenue” means that program funding derived from general revenue (as opposed to funding based on dedicated financing sources, such as premiums and payroll taxes) is projected to exceed 45 percent of total Medicare spending within the next six years. In 2006, the Trustees’ report issued its first finding that the 45 percent threshold would be reached by 2012. Should the Trustees issue a similar finding in 2007, this will trigger the MMA requirement for the President to submit legislation. Congress would then be required to consider the legislation on an “expedited” basis - but not necessarily as part of the regular budget process.^h

two chambers over spending limits may continue. Regardless, after May 15th, the House is free to vote on any appropriations bill.²³

THE RULES OF RECONCILIATION AND THE ROLE OF AUTHORIZING COMMITTEES

Changes in direct spending programs or revenue changes (a.k.a. tax cuts or tax increases) can be made through the budget process in the form of orders known as reconciliation instructions. Reconciliation requires opening up mandatory entitlement programs – such as Medicare and Medicaid – for changes in the statutory provisions that govern their funding levels.²⁴

Reconciliation is most often used to balance overall projected spending and revenue targets with outlays across all discretionary and mandatory spending programs (except Social Security), generally over a period of five years.²⁵ It is a powerful tool in the Senate, in part because it bypasses the requirement for a supermajority of 60 votes to end debate (the so-called “cloture” rule). Originally used as a device for easing passage of deficit reduction legislation, reconciliation may also be used to speed approval of legislation that calls for tax cuts or tax increases.

While reconciliation instructions in the concurrent budget resolution specify certain spending and revenue targets, development of legislative language to meet these targets is within the province of the authorizing committees.²⁶ (See “Authorizing Committees with Major Jurisdiction Over Health Legislation.”) For entitlement programs such as Medicare, policy changes to meet the resolution’s targets are informed by CBO’s baseline, or current-law, assumptions. In preparing their legislation, authorizing committees ask CBO for projections of how policy changes they are contemplating would affect projected spending over a period of five or 10 years.

Reconciliation directives that apply to only one committee, or which focus only on revenue changes, sometimes call for the resulting legislation to be brought directly to the floor for a vote following committee approval.²⁷ This recently occurred, for example, with the “Tax Relief Extension Reconciliation Act of 2005,” which extends capital gains and dividend tax cut legislation until 2010.²⁸ But more often, the work of several committees is involved, and their instructions require them to report their recommendations to the Budget Committee -- which then assembles an omnibus bill for consideration by the Senate or House.²⁹

In either circumstance, the Budget Committee cannot make “substantive” revisions to the legislation that is recommended by the authorizing committees – even if the proposed recommendations fall short of the changes that were called for in the resolution.³⁰ In practice, if an authorizing committee approves legislation that fails to meet the resolution’s targets, the Budget Committee works with the authorizing committee on possible amendments that can be offered on the floor.

Prior to floor consideration, a reconciliation package that combines the work of various authorizing committees is assembled by the House Rules Committee, which sets parameters for the length of floor debate and for any amendments that will be considered.³¹ In the Senate, overall debate time on reconciliation legislation is always limited to 20 hours; any Senator may propose amendments.³² A budgetary point of order for violating what is known as the “Byrd Rule” can be raised against any amendment considered in the Senate that proposes to change existing law if it cannot be shown to result in

Authorizing Committees with Major Jurisdiction Over Health Legislation

Senate Finance Committee: This committee has the broadest jurisdiction in Congress, including all programs authorized under the Social Security Act that are financed by a tax or trust fund. The panel also considers tax credit and tax deduction provisions dealing with health insurance premiums and health care costs, and matters concerning health plan benefits offered under ERISA. The panel considers legislation on Medicare, Medicaid, SCHIP, and maternal and child health, among many other programs.

House Ways and Means Committee: This committee broadly considers legislation for programs that provide payments for health care, e.g., Medicare, as well as health delivery systems. The panel also has jurisdiction over tax credit and tax deduction provisions dealing with health insurance premiums and health care costs. The panel considers all legislation under the Social Security Act except health care and facilities programs that are supported from general revenues as opposed to payroll deductions.

Senate Health, Education, Labor, and Pensions Committee: The panel's jurisdiction broadly includes programs focusing on poverty, individuals with disabilities, family and children's issues, low-income populations, public health, aging, biomedical research and development, occupational safety and health, among others.

House Energy and Commerce Committee: This committee has principal legislative oversight for consumer protection, food and drug safety, public health, environmental health, and interstate commerce. The panel considers legislation on Medicare (shared with Ways and Means), Medicaid, FDA, and SCHIP, among other programs.

Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Homeland Security: These panels review programs concerning bioterrorism preparedness and response, natural disaster preparedness and response, and biomedical research and broader public health issues related to those areas.

House and Senate Committees on Veterans Affairs: These committees consider legislation on veterans' hospitals, medical care, and treatment of veterans.

House and Senate Committees on Armed Services: These panels have jurisdiction over health benefits and programs for members of the Armed Forces, including the Dept. of Defense's TRICARE system of health plans.

Sources: Congressional Yellow Book, U.S. Government tutorial, Kaiseredu.org at <http://www.kaiseredu.org/research.asp?id=106>, and Indian Health Service, "An Agency Profile"

a change in outlays or revenues, as determined by CBO.³³ As with other points of order, a 60-vote supermajority is required to waive this rule.

A DISCRETIONARY SPENDING: THE APPROPRIATIONS PROCESS

The annual appropriations process always begins in the House, and funds discretionary programs and projects within the jurisdiction of federal departments and agencies.³⁴ The annual appropriations process is under the control of the House and Senate Appropriations Committees and Subcommittees (10 in the House, 12 in the Senate).³⁵

The budget resolution provides recommended spending totals known as the 302(a) allocations for all committees with jurisdiction over discretionary spending. But actual allocations by Appropriations Subcommittees are decided by the Chairs of the House and Senate Appropriations Committees.

Known as 302(b) allocations, these amounts may be distributed differently among the Subcommittees than what was envisioned in the 302(a) function totals.³⁶ Subcommittees take into account the funding levels (spending ceilings) already established by authorizing committees that have jurisdiction over specific programs.

Once the full House has approved an appropriations bill, the Senate takes up this measure. The Senate frequently chooses to amend the House bill, based on the version recommended by the relevant Senate Appropriations Subcommittee.³⁷ On the Senate floor, changes to a House appropriations bill are often made through a series of grouped *en bloc* amendments.

Once the Senate has approved its appropriations measure, a conference committee of House and Senate negotiators resolve differences in the two versions.³⁸ The resulting conference report is voted

on again by the House and Senate and sent to the President, who may sign it into law or veto it.³⁹

The appropriations process may be delayed beyond the end of the fiscal year (September 30th). In order to prevent a shutdown of government programs, Congress usually passes one or more continuing appropriations bills.⁴⁰ Referred to as continuing resolutions (CRs), these “stopgap” measures are typically effective only for short periods, in order to keep Congress’ feet to the fire. The precise scope and duration of CRs depends on which of the appropriations measures have not yet been signed

into law. In recent years, it has become more common for several unfinished appropriations measures to ultimately be combined into a large, end-of-the-year omnibus bill.^{41,42}

During the fiscal year, Congress also frequently considers one or more supplemental appropriations measures that are generally for unforeseen needs – such as emergency funds to help provide assistance for recovery from natural disasters such as Hurricane Katrina. Supplemental funds may also be provided through regular appropriations bills and CRs.

ENDNOTES

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