

## ISSUE BRIEF

# A PRIMER ON THE 2009 BUDGET RESOLUTION'S IMPACT ON EDUCATION FUNDING

Updated for 2009

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The budget resolution put forward by Congress each year sets out a budget plan for the next five to ten years. The budget resolution and the ensuing budget process itself can have significant effects on education funding. The arcane procedures Congress uses to produce and act upon the budget resolution, however, are often confusing to the media and education advocates alike. This confusion is made worse by political rhetoric and partisan spin. This brief by the New America Foundation's Federal Education Budget Project is meant to shed light on how the budget resolution affects education funding.

## The Congressional Budget Resolution

The annual budget resolution is an agreement between the two legislative chambers establishing both spending and revenue levels for the five or ten upcoming fiscal years, as well as various rules and procedures governing the budget process in the House and Senate. The budget resolution, however, is not legislation and does not become law. 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. The budget resolution is drafted by the House and Senate Budget

Committees each year and is subsequently voted on by the full House and Senate in an expedited manner. Most importantly, it cannot be filibustered in the Senate. It needs only a simple majority vote to pass.

## Budget Functions and Committee Allocations

Spending recommendations for all federal programs and agencies are established under the budget resolution in 20 categories known as "budget functions," each of which encompasses a general purpose, such as national defense or transportation. "Function 500" determines funding for the Department of Education and the education programs of other agencies. During consideration of the budget resolution, a Member of Congress wishing to increase education funding might, for example, offer an amendment to cut total spending slated for function 400 (which governs transportation) and add the amount cut to function 500.

The budget resolution and its accompanying documents only allocate overall funding to each of the 20 functions; they do not detail assumed funding levels for individual

programs. In other words, the funding level for function 500 includes assumed spending for the Pell Grant program, but not a specific dollar amount for that program.[1] The function 500 total amount is specified, but it serves only as an aggregate limit on spending for all education programs.

After the House of Representatives and the Senate agree on a budget resolution, the agreed-upon spending levels are detailed in documents sent to the congressional committees with jurisdiction over the programs that fall under the various budget functions. These so-called "302(a) committee allocations" set the spending limits of each congressional committee for the years covered by the budget resolution.

The House and Senate Appropriations Committees fund all domestic discretionary federal programs in areas ranging from education to transportation to defense. The Appropriations Committee's 302(a) allocation is usually a source of much debate and disagreement within Congress and between Congress and the president. (Whenever a government shutdown has occurred in the past, it has been because Congress and the president could not agree on the Appropriations Committee's 302(a) allocation, which effectively stalled legislation for funding general government operations.)[2]

## How the Appropriations Committee Allocation Affects Education Funding

Supporters of particular education programs typically offer amendments to increase spending for their favored programs during consideration of the budget resolution in the House and the Senate. These requests either come at the expense of programs in other functions, or require an increase in the total allocation for the Appropriations Committee.[3] It is at such time that members make speeches urging the passage of amendments to provide more funding for specific programs, such as grants to

school districts under the No Child Left Behind Act or the Individuals with Disabilities Education Act.

These speeches are mostly rhetorical. The budget resolution does not specify funding levels for individual programs. Such maneuvering, therefore, rarely affects funding levels for specific education programs. For example, during consideration of the fiscal year 2009 budget resolution, a Senator offered an amendment that would increase function 500 by \$670,000 for the English Literacy/Civics Education State Grant Program and reduce function 750 (Department of Justice programs) by the same amount.[4] While the stated purpose of the amendment was to increase funding for a specific education program, the budget resolution text and the amendment do not specify any funding level for the program at all. An excerpt of the relevant text of the budget resolution and amendment appears below.

### Fiscal Year 2009 Budget Resolution

#### Senate Version Text (Excerpt)

Education, Training, Employment, and Social Services (500):

Fiscal year 2009:

Page 18, Line 15: New budget authority,  
Page 18, Line 16: \$94,141,000,000.

Administration of Justice (750):

Fiscal year 2009:

Page 24, line 15: New budget authority,  
Page 24, line 16: \$47,498,000,000.

#### Senate Amendment Text (Excerpt)

On page 18, line 16, increase the amount by \$670,000.  
On page 24, line 16, decrease the amount by \$670,000.

In other words, it is nearly impossible to influence funding for individual education programs through changes to the function 500 total under the budget resolution, because the budget resolution governs only total spending for all federal programs. When a budget resolution provides for a

significant increase in the total spending appropriation over the preceding year's limit, it simply enables Congress later in the year, via appropriations legislation, to provide funding increases for various programs without having to reduce funding for others.

### Why the Appropriations Process Matters More than the Budget Resolution

Once Congress establishes a total allocation for the budget functions that fall under the jurisdiction of the House and Senate Appropriations Committees, the committees are free to divide it up (into so-called "302(b) sub-allocations") among subcommittees according to a majority vote of the full committee members.

For the upcoming fiscal year 2010 (which begins October 1st, 2009) and in a closed-door session, the full Appropriations Committees in the House and Senate will divide among subcommittees with general areas of jurisdiction over \$1 trillion in spending authority. For fiscal year 2009, the Appropriations Committees allocated in mid-June 2008 approximately \$153 billion to the House and Senate Labor, Health and Human Services, and Education Appropriations Subcommittees, which have jurisdiction over education programs.

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. Only the larger 302(a) allocation to the Appropriations Committee is debated as part of the budget resolution. Further, the appropriations subcommittees in the House and Senate have jurisdiction over a number of unrelated agencies and programs -- those administered by the Departments of Labor, Health and Human Services, and Education -- and the budget resolution is silent as to how the subcommittees divide their allocations among those agencies and specific programs.

In sum, efforts by Members of Congress to shift funding to or from specific education programs within the budget resolution are largely ineffective, because the only aspect of appropriations funding enforced by the budget resolution is total funding. The Appropriations Committee and its subcommittees have the sole authority to set program funding levels once total funding has been established by the budget resolution.

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

Fiscal Year	302(a)	House 302(b)	Senate 302(b)
2004	784.5	138.0	137.6
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

Source: U.S. Department of Education

### Mandatory Funding Allocation Matters for Education

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

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 to other committees govern mandatory spending. Each authorizing committee's 302(a) allocation is determined in the budget resolution by the assumed

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funding levels within the budget functions for each mandatory spending program under its jurisdiction.

Usually, an authorizing committee's 302(a) allocation reflects mandatory spending at a "baseline" level over the upcoming five or ten years; that is, at the level of funding that would be provided absent any legislative change in an ongoing program. If, for example, no changes in student loan policies were assumed in the budget resolution 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 increase funding for student loans by \$5 billion over the next five years above what is provided under current law, the funding increase would be reflected in the total for function 500 and in the Committee on Education and Labor's 302(a) allocation. Thus, the budget resolution can "make room" in a 302(a) allocation for future legislation that will increase spending.

## 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.[5] Members of Congress often speak about reserve funds and cap adjustments as if they were equivalent to legislation to enact a particular policy.[6] They are not, and 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 wishes to adjust a

committee's 302(a) allocation upward after the budget resolution has been adopted, it can do so using a reserve fund for authorizing committees and a cap adjustment for the Appropriations Committee.[7] For example, in 2007, when the College Cost Reduction and Access Act was considered by the Senate, a reserve fund established under the budget resolution was used to increase the 302(a) allocation to the Senate Health, Education, Labor, and Pensions Committee. 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 budget resolution was adopted.[8] A similar scenario occurred under the fiscal year 2009 budget resolution with respect to legislation adopted in the Senate in 2008 that reauthorized the Higher Education Act.[9] The use of the reserve funds in each case allowed the committee to remain within its 302(a) allocation and thus avoid having to confront such procedural hurdles as a Budget Act "point of order."

## Points of Order and Budget Enforcement

Decisions regarding spending, revenue, and budget processes established in the budget resolution are enforced in the House and Senate mainly through legislative hurdles. 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 or other budget laws and rules.[10]

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. In the Senate, some points of order can be waived with a simple majority, but most require a higher threshold to be waived, usually 60 votes. 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.

## 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."<sup>[11]</sup> 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. Essentially, advance appropriations spend some of next year's budget early. A special point of order included in the budget resolution limits the amount of advance appropriations. The limit is \$28.9 billion for fiscal year 2009.<sup>[12]</sup> Recently enacted fiscal year 2009 appropriations provide \$21.9 billion in advance appropriations for education programs.<sup>[13]</sup>

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 for much of the total increase in funding for key K-12 education programs over the previous year.<sup>[14]</sup> These increases were achieved largely because President George W. Bush did not seek reductions in advance appropriations when he wrung concessions from Congress to reduce total appropriations for fiscal year 2008.<sup>[15]</sup> The fiscal year 2009 budget resolution again provided for an increase in the advance appropriations limit, raising it by \$3.7 billion. This increase allowed Congress to shift an even greater share of education funding into advance 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.<sup>[16]</sup> 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 (i.e. filibuster-proof) set of procedural rules.

If Congress chooses to use the reconciliation process, a special set of procedures are followed. First, Congress includes reconciliation instructions in the annual budget resolution. The instructions require legislative committees in Congress to draft legislation that would change federal mandatory spending or revenue policies by a specified amount -- although the instructions do not necessarily include actual changes to federal laws and programs. Consider the reconciliation instructions to the House Committee on Education and the Workforce in the fiscal year 2006 budget resolution as an example:

### Reconciliation Instructions

#### COMMITTEE ON EDUCATION AND THE WORKFORCE-

The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by \$992,000,000 in outlays for fiscal years 2005 and 2006 and \$12,651,000,000 in outlays for the period of fiscal years 2005 through 2010.<sup>[17]</sup>

Congressional committees that receive reconciliation instructions must draft and adopt legislation that accomplishes the specified spending and revenue changes by a date set in the budget resolution. The legislation is then reported to the House and Senate Budget Committees which then take all of the committee reports and combine them into an omnibus reconciliation bill, after which they are considered by the full House and Senate.

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. After both Houses pass reconciliation bills, a conference committee meets to resolve any differences. After a favorable majority vote in both Houses on the final omnibus reconciliation bill, it is sent to the president for his signature or veto. The reconciliation process has been used seven times since 1990 to enact major changes in education policy. (See text box at right.)

A reconciliation bill is subject to strict rules in the Senate because of its filibuster-proof status. These rules -- enforced mainly by points of order -- limit the scope of a reconciliation bill so that only certain types of legislative provisions may be considered under the expedited process.

For example, legislation considered as a reconciliation bill must meet the spending and revenue instructions in the budget resolution, it may not increase the deficit in any year beyond the scope of the budget resolution, and it may only contain provisions that are directly related to spending and revenue policies. When the Senate considered a reconciliation bill in 2007 that made legislative changes to federal higher education aid programs, points of order were

used a dozen times to successfully block amendments that violated these rules.<sup>[18]</sup>

## Education Policy Changes Adopted in Reconciliation

### 1990

- Penalties for schools with high student loan cohort default rates

### 1993

- Direct Loan Program created
- Variable student loan interest rates

### 1997

- Changes to guaranty agencies
- New education tax benefits

### 2001

- New higher education tax deduction
- Increased education tax benefits

### 2005

- Reduced lender subsidies
- Academic Competitiveness and SMART grants created

### 2007

- Reduced lender subsidies
- Higher Pell Grants
- Lower borrower interest rates
- Pilot auction program

## 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 resolution. This primer is intended to serve as a helpful, nonpartisan guide to the budget resolution's impact on federal education policy.

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## 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] Kevin Kosar, "Shutdown of the Federal Government: Causes, Effects, and Process," *Congressional Research Service*, Order Code 98-844, September 20, 2004.
- [3] If spending increases in one budget function are proposed and not offset by a spending reduction in another budget function, the total appropriations limit must be increased.
- [4] Sen. Lamar Alexander, S. Amdt. 4222 to S. Con. Res. 70. Congressional Record (March 12, 2008) S 1953 [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2008\\_record&p...](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2008_record&p...)
- [5] U.S. Congress, Concurrent Resolution on the Budget for Fiscal Year 2008 Conference Report, Report 110-153, May 16, 2007, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_repor..., 30](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_repor..., 30).
- [6] 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.
- [7] 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.
- [8] 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.
- [9] U.S. Congress, Concurrent Resolution on the Budget for Fiscal Year 2009 Conference Report, Report 110-659, (May 20, 2008). [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_repor..., 15](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_repor..., 15); Congressional Budget Office, Cost Estimate: H.R. 4137: Higher Education Opportunity Act. (July 31, 2008) <http://www.cbo.gov/ftpdocs/96xx/doc9692/hr4137.pdf>.
- [10] U.S. Senate Committee on the Budget, "The Congressional Budget Process: An Explanation," S. Prt. 105-67, 2003, 16-17.
- [11] 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.
- [12] U.S. Congress, Concurrent Resolution on the Budget for Fiscal Year 2009 Conference Report, 36-37.
- [13] 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...](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills...)
- [14] 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.
- [15] Peter Cohn and Martin Vaughan, "Outlook - Much Left to Do, Little Time to Do it as CR Expiration, Christmas Approach, CongressDaily AM, December 10, 2007, <http://nationaljournal.com/cgi-bin/iffetch4?ENG+CONGRESS+7-cro199+1227744....>
- [16] U.S. Senate, Committee on the Budget, The Congressional Budget Process: An Explanation, Committee Print 105-67, (December 1998).
- [17] Concurrent Resolution on the Budget for Fiscal Year 2006. H. Con. Res. 95. 109th Cong., 1st sess. [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:hc95enr.txt.pdf 11](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:hc95enr.txt.pdf 11).
- [18] U.S. Senate, Consideration of H.R. 2669, The College Cost Reduction and Access Act of 2007, Congressional Record. (July 19, 2007) S 9577-9597. [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2007\\_record&page=S9557&position=all](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2007_record&page=S9557&position=all).





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