



BUDGET BULLETIN



COMMITTEE ON THE BUDGET
Republican Staff

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INFORMED BUDGETEER:

2011 BUDGET RESOLUTION – TURNING BLUE BUT NOT DEAD YET

When asked on May 13 on the floor of the House about the majority's plans for considering a budget resolution, the House Majority Leader replied, "I am certainly hopeful that we will deal with the issue of spending levels by the time we bring appropriation bills to the floor. We are working on that."

Some seized on an apparent swap of "budget resolution" for "spending levels" and parsed those words to mean that the majority had officially abandoned efforts to write a 2011 budget resolution. No such "final" announcement has occurred, so budgeteers are left to ponder the twists and turns to date and what might lie ahead.

What Is the Current State of Play?

The Senate Budget Committee held a markup on April 21-22, 2010 and reported a 2011 budget resolution, [S. Con. Res. 60](#), accompanied by a [committee print](#). The Senate Majority Leader has not yet scheduled any floor time for consideration of that budget resolution.

Meanwhile, the House Budget Committee has not even scheduled a markup. When asked why the Senate was proceeding with a markup and the House was not, House Majority Leader Hoyer responded last month: "We're discussing it and we are looking to see how we can do this. My belief is we ought to do a budget." One news report elaborated further:

[Hoyer] said the House faces a tougher challenge [in doing a budget resolution] than in the Senate, thanks in part to differences in the rules between the two chambers. "We don't have the same challenge that [Senate Budget Committee Chairman] Conrad has on his side [of the Capitol]. The rules are different [in the Senate]. They have to essentially report out a budget out of their committee," he said. . . . [and] pointed out that under Senate rules, if the [Senate Budget C]ommittee does not report out a budget plan, any senator could put forward a plan on the floor. "They are in a little different position," than the House, Hoyer said. "They need to move something" to prevent other senators from pursuing other budget resolutions.

Not exactly. Let's review what is true about Senate rules.

Section 300 of the Congressional Budget Act lays out a schedule for the budget process over the course of a year and sets April 1 as the date by which the "Senate Budget Committee [SBC] reports concurrent resolution on the budget."

That's all the law actually says about what the process is in the Senate for dealing with budget resolutions. Riddick's ([Riddick's Senate Procedure](#), 1992, p. 599) summarizes the Senate's practices on this matter as follows: "If the Budget Committee has not reported a budget resolution by [April 1], the committee will be discharged from such a resolution if one had been referred to it."

Bill Dauster's [Budget Process Law Annotated 1993 Edition](#) (p. 45, footnote 122) elaborates further:

If the Senate Budget Committee has not completed action on the budget resolution by this date [April 1], then on that date, the Senate will discharge the Committee of any budget resolution that the presiding officer had referred to the Committee and place it on the calendar. . . . The Senate will also discharge and place on the calendar any budget resolution submitted after April 1 until the Budget Committee has reported a resolution.

Both Riddick's and Dauster's footnotes list examples of how and when the Senate has dealt with introduced budget resolutions at various times. The upshot is that any Senator can introduce a budget resolution at any time, and it will be placed on the Senate calendar after March 31 if the SBC has not reported a budget resolution.

The House Majority Leader's explanation of how the Senate is "different" would have made more sense if he had said it in March (instead of April) and if the Senate had marked up and reported a budget resolution before April 1. That would have pre-empted someone else from introducing a budget resolution, having it discharged from the Budget Committee, and getting it on the Senate calendar.

If any budget resolution(s) finds its way on to the Senate calendar after March 31 by these various means, then (as long as the Senate has not yet debated and voted on a budget resolution) any Senator may make a nondebatability motion to proceed to any budget resolution on the calendar. The Senate would then have to vote on that motion. But typically, the Senate leaves it to the Senate Majority Leader to decide when to schedule Senate consideration of a budget resolution.

What is the Real Reason the House Is Not Doing a Budget Resolution?

If the holdup to producing a budget resolution in the House involves discretionary spending levels, the House has at least two off-the-shelf choices available: it can write a budget at the levels proposed by the President, or it can write a budget at the lower levels in the Senate's committee-reported resolution.

Blue Dogs Want Only \$1 Billion Less Spending Than Senate Budget for 2011 ("Regular" Discretionary Budget Authority in \$ billions)

	CBO Baseline	Pres. Request (CBO Reest.) ^a	Senate Bud. Res.	Blue Dogs ^b	Sen. Bud. Res. More(+)/Less(-) Pres. Request	% Change	Blue Dogs More(+)/Less (-) Sen. Bud. Res.	% Change
DoD & NNSA	548	560	560	560	0		0	
Intl. Affairs	51	59	55	59	-4		4	
DHS	43	44	44	44	0		0	
<u>DVA</u>	<u>57</u>	<u>60</u>	<u>60</u>	<u>60</u>	<u>0</u>		<u>0</u>	
Total Security	700	723	719	723	-4	-0.6%	4	0.6%
Non-Security	412	411	406	401	-5	-1.3%	-5	-1.1%
Total	1111	1134	1124	1124	-9	-0.8%	-1	-0.1%

NOTE: Details may not add to totals because of rounding. Amounts exclude funding for wars, stimulus, or emergencies.

a. Pres. Request is adjusted for portion of Pell grants remaining discretionary.

b. This comparison assumes Blue Dogs accept President's request for discretionary security spending. Non-security level is amount in Blue Dogs' bill, HR 4871, to establish a statutory cap for non-security discretionary spending only.

The table on the previous page shows that the President's budget defined a subset of "regular" discretionary spending as "security" spending (not including war funding), which includes spending for the Department of Defense (DOD) and the National Nuclear Security Administration (NNSA), the international affairs budget function (150), the Department of Homeland Security (DHS), and the Department of Veterans Affairs (DVA).

For 2011, the President's budget (as re-estimated by CBO) requests \$723 billion for security activities. The President requested \$411 billion for all other "non-security" discretionary spending (this figure includes an adjustment to reflect Congress' decision to reject the President's proposal to turn discretionary Pell grants into mandatory spending, so now the 2011 appropriation bills will have to continue to fund that portion of Pell grants as discretionary).

The table also shows that the 2011 budget resolution reported out of the Senate Budget Committee not only provided \$4 billion less than the President requested for international affairs, but also provided \$5.5 billion less for non-security spending. In total, the Senate's committee-reported resolution provides 0.8 percent less than the amount requested by the President for 2011.

So what is the problem with doing a budget resolution in the House? One of the many articles on this topic over the past month summarized the issue as follows:

A group of fiscally conservative House Democrats [[the Blue Dog Coalition](#)] is holding firm to its position that sizable spending cuts should be included in this year's budget, making it increasingly unlikely that a budget resolution will advance this year in the House. . . . Coalition members said they want any budget resolution to contain domestic spending cuts that go beyond what President Obama proposed in his fiscal 2011 budget. "We're concerned about showing real cuts," said Jim Matheson of Utah, one of four Blue Dog leaders.

So the Blue Dogs in the House do not like either the President's budget or the Senate budget resolution. They are withholding support for a budget resolution until the House agrees to adopt a budget that reflects the amounts for "non-security" discretionary spending outlined in the bill, [H.R. 4871](#) that they introduced in March 2010.

The Blue Dogs' "[one-pager](#)" that describes their bill claims that the "proposal to cap federal discretionary spending would: Cut non-security discretionary spending by 2 percent for each of the next 3 years, and freeze spending levels for the subsequent 2 years." Unfortunately, neither the one-pager nor the bill itself bothers to explain **from what level** "non-security discretionary spending" would be reduced by 2 percent. One press account of the Blue Dogs' proposal suggests the following explanation: the "fiscally conservative Democrats want to go beyond Obama's proposed freeze [of non-security spending at 2010 levels] by cutting domestic discretionary [sic] spending by 2 percent in each of the next three fiscal years."

But the only thing that budgeteers can tell from the Blue Dogs' bill is that it would set the level of non-security spending at \$401 billion for 2011, suggesting they would like to see a reduction of about \$8 billion, or 2 percent, in 2011 from a higher level that must, by arithmetic, be about \$409 billion.

Assuming the Blue Dogs have no beef with the amount the President requested for security spending, the comparison of the

Blue Dogs' preferred levels to the Senate budget resolution is as follows: they would restore the \$4 billion the Senate would take away from the President's proposed level for security spending, but would spend \$5 billion (1.3 percent) less than the Senate on non-security activities. (And compared to the President's budget, the Blue Dogs want to spend 2.5 percent less on non-security spending.)

In total, the Blue Dogs are asking for a House budget resolution that provides a mere \$1 billion (0.1 percent) less for total discretionary spending in 2011 than the Senate budget resolution.

For discretionary spending (the kind of federal spending provided in the 12 annual appropriation bills), 2011 is the only year that matters in a budget resolution because, under the Budget Act, a budget resolution can only set a 302(a) allocation to the Appropriations Committees for the budget year (the 302(a) allocation is the amount that the budget resolution allows each committee to spend).

While budget resolutions do include *notional* appropriation levels for years after the budget year (that is the only way to figure out what the deficits will be in subsequent years), those levels are seldom binding. Absent a system of discretionary spending limits that supersede a 302(a) allocation, appropriation levels for years after the budget year are set only by subsequent budget resolutions. The notional appropriation levels assumed in a budget resolution for years after the budget year are nearly always gimmicked to look low, only to be exceeded by a wide margin by the next budget submitted by the President and the next budget resolution adopted by the Congress.

Take, for example, the appropriation level assumed for 2011 in the 2010 budget resolution currently enforced by the Congress (see table below). Last year, the Congressional budget pretended that deficits would go down because of lower appropriations in 2011 -- \$1.108 trillion for regular appropriations and \$50 billion only for the wars. But in February the President requested \$26 billion more for regular appropriations and \$109 billion more for the wars, for a total of \$135 billion more than assumed in the budget resolution adopted a year ago. While the 2011 budget resolution reported by the Senate Budget Committee last month took \$9.5 billion off of the amount the President requested, it is still \$126 billion, or 11 percent, more in 2011 spending than pretended in last year's Congressional budget.

	Levels for 2011 in 2010 Budget Res.	CBO Reest. of Pres. 2011 Budget	Senate- Reported 2011 Budget	Senate 2011 Budget Over(+) or Under(-) 2011 # in 2010 Budget
Regular Defense (w/o war)	564	574	574	9
Non-Defense				
State/Foreign Ops	55	59	55	--
Baseline Pell grants	18	a	18	--
Other Non-Defense	471	478	478	7
Total Non-Defense	544	537	551	7
Pell Grant Adjustment ^a		23		
<u>Apples-to-Apples Comparison</u>				
Non-Defense Only	544	560	551	7
Total Discretionary (w/o war)	1108	1134	1124	16
MEMO: War-Related Spending	50	159	159	109
Total w/ War	1158	1293	1284	126

NOTE: Details may not add to totals because of rounding.
a. Pres. Request is adjusted for portion of Pell grants remaining discretionary.

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BULLETIN IN ISSUE 2b**



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2011 BUDGET RESOLUTION – TURNING BLUE BUT NOT DEAD YET (CONTINUED)

So the Blue Dogs' preference for additional 2 percent reductions in years after 2011 is "posing for holy pictures" (to use a term frequented by the outgoing Chairman of the House Appropriations Committee), since the 2011 budget resolution would not set binding appropriation levels for years after 2011. The only reason that has been publicly stated as to why there is no budget resolution yet for 2011 is that the Blue Dogs want a lower non-security discretionary spending number. Hard to believe it comes down to a difference of \$1 billion between what the Blue Dogs want and what the Senate Budget Committee reported.

Why Do a 2011 Budget Resolution?	
What Budget Enforcement Do You Gain?	What Budget Enforcement Do You Lose if You Don't Do One?
Can say you did your job.	Ability to say that you budget, therefore you can govern.
A 302(a) allocation for 2011 to Appropriations Committees that will provide enforceable limits for each of 12 appropriation bills.	Enforceable limits on 2011 appropriation bills. Bills would be written to ad hoc levels; no points of order against spending more.
A 302(a) allocation to all other committees for 2010, 2011 and 2011-2015 (or longer if budget resolution covers more than five years).	A limit in 2011 on authorizing committee spending, and incorporating 2015 into 5-year limit on such spending.
Surplus on Senate Pay-go scorecard wiped clean to zero so that subsequent legislation that would increase deficits would require offsets to avoid a Pay-go point of order.	\$70 billion in potential deficit reduction. Enactment of health bills put a surplus on the Senate Pay-go scorecard, allowing legislation to increase the deficit by \$70 billion "for free" – without offsets and without facing a point of order.
Total spending limit (under section 311 of the Budget Act) for 2011.	A limit in 2011 on total spending.
Reconciliation instructions to authorizing committees for deficit reduction.	Ability to force authorizing committees to follow through with deficit reduction.

So What if There Is No Budget Resolution for 2011?

The 2010 budget resolution will continue to be enforceable and in effect until Congress passes a 2011 budget resolution (or a 2012 budget resolution, if never a 2011 budget resolution). If the Congress does not adopt a budget resolution for 2011, both the House and Senate have several options for adopting "stand-ins" for a budget resolution or for pieces of a budget resolution (such as a 302(a) allocation to the Appropriations Committees). The Congress can also decide to do nothing.

Mandatory Spending and Revenues. In the absence of a 2011 budget resolution, Congress will continue to enforce revenue aggregates and authorizing committee spending allocation levels established in the 2010 Budget Resolution for the 2010-2014 period. In the Senate, all but four authorizing committees have already used up all of their spending allocations. Those that still have room to spend within their allocations are the Committees on Commerce, Finance, Judiciary, and Rules. While there remains room in the revenue aggregate to reduce revenues by \$770 billion over the 2010-2014 period (because the 2010 budget resolution was written to accommodate an extension of some of the current tax policy that expires at the end of 2010), there is not a comparable amount of room on the Senate Pay-go scorecard because the 2010 budget resolution assumed extension of tax cuts would have to be offset for Pay-go purposes.

Pay-go. Without a 2011 budget resolution, the Senate Pay-go point of order will still be in effect for the 2010-2014 and 2010-2019 time periods. There is currently a surplus of approximately \$88 billion on the Senate Pay-go point of order scorecard for 2010-2014 and \$70 billion for 2010-2019, which reflects the net deficit impact of all non-emergency mandatory spending and revenue legislation enacted since the adoption of the 2010 budget resolution. This makes it easier to consider bills that would increase the deficit without offsets. (If Congress adopted a 2011 budget resolution, the conference report would most likely reset the Senate Pay-go scorecard to zero, meaning that offsets would again be needed.)

As for the House Pay-go rule, there is no cumulative scorecard, and the House enforces its point of order on a bill-by-bill basis. Absent a new budget resolution, the enforcement periods for the House Pay-go rule will match the Senate's.

Independent of whether there is a budget resolution or not, statutory pay-go will apply for any enacted legislation, with scorecards from 2011-2015 and 2011-2020. OMB maintains the statutory scorecard. There is no point of order for violating statutory Pay-go; a sequester at the end of the session is the way that statutory Pay-go is enforced.

Discretionary Spending. The 2010 Budget Resolution did not provide a 302(a) allocation to the Appropriations Committee for 2011 because budget resolutions cannot provide a 302(a) to the Appropriations Committee beyond the budget year. **Therefore, absent a 2011 budget resolution, the appropriators will not be able to set enforceable 302(b) allocations (which is the way the Appropriations Committee's total allocation is subdivided among the 12 subcommittees) for 2011 unless a 302(a) allocation is set through other means.**

Without a section 302(a) allocation for 2011, section 303(c) of the Budget Act could come into play. In the Senate, section 303(c) prohibits the consideration of appropriation bills until after a budget resolution has been adopted, but it only takes a simple majority to waive this point of order if it is raised.

In the House, Section 303(a) of the Congressional Budget Act prohibits the House from considering appropriation bills before May 15 if a budget resolution has not been agreed to (a waiver from the Rules Committee is needed otherwise). However, section 303(b)(2) permits appropriation bills to be considered in the House after May 15, even if no budget resolution has been adopted. That date has come and gone, so there is no impediment to consideration of appropriation bills in the House.

Alternative Approaches for Setting an Appropriations Allocation. If a 2011 budget resolution is not adopted, then history indicates that Congress has other ways of coping.

For the House, section 302(a)(5) of the Congressional Budget Act provides that if a budget resolution is not adopted by April 15, the Chairman of the House Budget Committee shall submit to the House a section 302(a) allocation for the Appropriations Committee that is "consistent with the discretionary spending levels in the most recently agreed to concurrent resolution on the budget for the appropriate fiscal year." **But the House has never employed this mechanism.** In the four instances when there has been no budget resolution, the House has set a 302(a) allocation for the Appropriations Committee by other means.

One option that is always available is to do nothing. This happened in the Senate in 2003 when there was no budget resolution and no

302(a) allocation provided by other means for the Senate Appropriations Committee. The House had proceeded with other arrangements (on May 22, 2002, the House included a deeming provision in a special rule that provided that the budget resolution passed in March by the House "shall have force and effect in the House as though Congress has adopted such concurrent resolution" and directed the Chairman of the House Budget Committee to print the committee spending allocations and other budgetary information in the *Congressional Record*, which occurred the same day).

But, absent a budget resolution for 2003, the Senate could not agree to any substitute approach that year. As a result, when the Senate considered most of the 2003 appropriation bills in February 2003 (after the election in November 2002 changed control of the Senate), there was no 302(f) point of order available to the managers of the appropriation bills to raise against amendments to those bills that would have increased spending above the committee-reported levels. So by and large, the Senate just tabled such amendments by simple majority vote.

However, if the majority thinks it will have a hard time mustering a simple majority (often 51) to fight off amendments to appropriation bills that would increase spending without offsets, then having a 302(a) allocation would make their job easier because they would need only 41 votes (assuming all 100 Senators vote) to defeat motions to waive the 302(f) point of order against exceeding the appropriation bill's allocation.

So the Senate more often has found other ways to set a 302(a) allocation so that a 302(f) point of order would be available for enforcing limits on appropriations. A 302(a) allocation may be set just for the Senate in a Senate resolution, or may be set for one or both bodies in a stand-alone bill or else as part of some other bill. But unlike a budget resolution, any other vehicle including a 302(a) allocation for 2011 would not be privileged in the Senate and could be filibustered and would have a 306 point of order against it.

Questions...

Deeming a 302(a) allocation appears to be the back-up plan for setting an appropriations allocation for 2011. This week, the Senate is considering a supplemental appropriations bill for 2010 providing funding for the wars, emergencies, and other items. A Senator could offer an amendment to that bill to set a 302(a) allocation for the Appropriations Committee for 2011 at the same level as, say, the reported Senate budget resolution.

Note that if the amendment (carrying a provision that "deems" a 302(a) allocation for 2011 appropriations) is not reported by the Senate Budget Committee, then that amendment would be subject to a 306 point of order because establishing allocation levels is within the jurisdiction of the Budget Committee. The amendment would fall if the motion to waive the point of order does not achieve 60 votes.

Even if such an amendment were to survive and is added to the Senate's supplemental that would then go over the House, budgeteers would be right to wonder – **why would the Blue Dogs vote for a supplemental that included the exact same appropriations level for 2011 that they have already objected to** in a budget resolution (because it is \$1 billion higher than their preferred level)?

Insightful budgeteers would probably ask further questions.

Besides force of habit, why do people feel the need to have a "deemer" as a back-up plan for a budget resolution this year?

What is it that they are trying to protect appropriations bills from, that they will be aided by an appropriations allocation and a 302(f) point of order?

Couldn't the majority that currently controls Congress simply decide how much it wanted to spend on appropriations for 2011, tell the two chairmen of Appropriations Committees (whose subcommittee chairmen would write bills that add up to that level), and then move those bills to the floor?

Do they expect that the minority is going to offer amendments to those bills to **increase** spending beyond the levels already in the bills? And in the unlikely event that happens, does the majority expect it would not be able to table those amendments by keeping its majority together?