

Please Vote Nov. 4!

This update continues our efforts to educate members on the way our government works and how it directly affects our efforts to advance legislation and research to help MPS families. In this edition we focus on the appropriations process.

As of this writing the appropriations process for FY2009 is stagnant. Congress is on summer recess and hasn't passed any bills.

The Congressional Appropriations Process: An Introduction (from a Congressional Research Service Report)

Congress annually considers several appropriations measures which provide funding for numerous activities, for example, national defense, education, homeland security and crime. These measures also fund general government operations such as the administration of federal agencies. Congress has developed certain rules and practices for the consideration of appropriations measures, referred to as the congressional appropriations process.

Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees. These committees control only about 40 percent of total federal spending provided for a fiscal year. The House and Senate legislative committees control the rest.

There are three types of appropriations measures. Regular appropriations bills provide most of the funding that is provided in all appropriations measures for a fiscal year, and must be enacted by Oct. 1 of each year. If regular bills are not enacted

by the deadline, congress adopts continuing resolutions to continue funding generally until regular bills are enacted. Supplemental bills are considered later and provide additional appropriations.

Each year congress considers a budget resolution that, in part, sets spending ceilings for the upcoming fiscal year. Both the House and Senate have established parliamentary rules that may be used to enforce certain spending ceilings associated with the annual budget resolution during congressional consideration of appropriations measures.

Congress also has established an authorization appropriation process that provides two separate types of measures—authorization bills and appropriation bills. These measures perform different functions and are to be considered in sequence. First, authorization bills establish, continue, or modify agencies or programs. Second, appropriations measures may provide spending for the agencies and programs previously authorized.

When considering appropriations measures, congress is exercising the power granted to it under the constitution, which states, "No money shall be drawn from the treasury, but in consequence of appropriations made by law." The power to appropriate is a legislative power. The executive branch may not spend more than the amount appropriated, and it may use available funds only for the purposes established by Congress.



Annual Appropriations Cycle—President Submits Budget

The president initiates the appropriations process by submitting his annual budget for the upcoming fiscal year to congress. The president is required to submit his annual budget on or before the first Monday in February. The president recommends spending levels for the various programs and agencies of the federal government in the form of budget authority since congress provides budget authority instead of cash to agencies.



Congress Adopts Budget Resolution

The Congressional Budget Act requires congress to adopt an annual budget resolution. The budget resolution is congress's response to the president's budget. The budget resolution must cover at least five fiscal years: the upcoming fiscal year plus the four subsequent fiscal years. The budget resolution, in part, sets total new budget authority and outlay levels for each fiscal year covered by the resolution. It also distributes federal spending among 20 functional categories (such as national defense, agriculture and transportation) and sets similar levels for each function. Once the House and Senate Committees on Appropriations receive their spending ceilings, they separately distribute the funding among their respective subcommittees, providing a spending ceiling for each subcommittee.

The Congressional Budget Act provides an April 15 deadline for final congressional adoption of the budget resolution. However, during the 31 fiscal years congress has considered budget resolutions (FY1976–FY2006), congress has frequently not met this deadline. For three of those years (FY1999, FY2003 and FY2005), congress never completed a budget resolution.

Timetable for Consideration of Appropriations Measures

Traditionally, the House of Representatives has initiated consideration of appropriations measures. In recent years, the Senate Committee on Appropriations has reported regular appropriations bills and, sometimes, the full Senate has passed such measures before the House Committee on Appropriations has acted. However, the traditional practice was resumed for FY2006 and FY2007 regular appropriations bills.

The House Committee on Appropriations reports the 11 regular appropriations bills separately to the full House. The committee begins reporting the bills in May or June, completing all or almost all of them by July or the annual August recess. Generally, the full House begins consideration of the regular appropriations bills in May or June as well, passing most by July or the recess.

The Senate appropriations committee, generally, begins reporting its 12 regular appropriations bills to the full Senate in May or June. Measures are

generally reported before the August recess or in September. The Senate begins passing the bills in June or July and continues in the fall.

Over the past 10 years (FY1997–FY2006), neither chamber has passed all the regular appropriations bills each year. For four of the past 10 years, the House did not pass all the bills and, for seven of the past 10 years, the Senate did not pass all of them. For FY2006, both chambers passed all the bills. During the fall, the appropriations committees usually are heavily involved in conferences to resolve differences between the two chambers. Relatively little or no time is left before the fiscal year begins to resolve what may be wide disparities between the House and Senate, to say nothing of those between congress and the president. Congress is usually faced with the need to enact one or more temporary continuing resolutions pending the final disposition of the regular appropriations bills.

Work of the Appropriations Committees

After the president submits his budget, the House and Senate appropriations subcommittees hold hearings on the segments of the budget under their jurisdiction. They focus on the details of the agencies' justifications, primarily obtaining testimony from agency officials.

After the hearings have been completed and the House and Senate appropriations committees have received their spending ceilings, they may begin to mark up the regular bills under their jurisdiction and report them to their respective full committees. Both appropriations committees consider each of their subcommittee's recommendations separately.

by
Sissi Langford,
 chair, Committee on
 Federal Legislation
and
Kym Wigglesworth,
 co-chair, Committee on
 Federal Legislation

House and Senate Floor Action

After the House or Senate appropriations committee reports an appropriations bill to the House or Senate, respectively, the bill is brought to the floor. At this point, representatives or senators are generally provided an opportunity to propose floor amendments to the bill.

House and Senate Conference Action

Generally, members of the House and Senate appropriations subcommittees having jurisdiction over a particular regular appropriations bill, and the chair and ranking minority members of the full committees meet to negotiate differences between the House- and Senate-passed bills.

Under House and Senate rules, the negotiators (or conferees or managers) are generally required to remain within the scope of the differences between the positions of the two chambers. Their agreement must be within the range established by the House- and Senate-passed versions. For example, if the House-passed bill appropriates \$3 million for a program and a separate Senate amendment provides \$5 million, the conferees must reach an agreement that is within the \$3-\$5 million range. However, these rules are not always followed.

Conference reports cannot be amended in either the House or Senate. If the conference report is rejected, or is recommitted by the first house, the conferees negotiate further over the matters in dispute between the two houses. The measure cannot be sent to the president until both houses have agreed to the entire text of the bill.

Presidential Action

After congress sends the bill to the president, he has 10 days to sign or veto the measure. If he takes no action, the bill automatically becomes law at the end of the 10-day period. Conversely, if he takes no action when congress has adjourned, he may pocket veto the bill. If the president vetoes the bill, he sends it back to congress. Congress may override the veto by a 2/3 vote in both houses. If congress successfully overrides the veto, the bill becomes law. If congress is unsuccessful, the bill dies. Learn more at: www.senate.gov/reference/resources/pdf/97-684.pdf.

Following are some examples of how this process affects funding for the National Institutes of Health (NIH), the U.S. Food and Drug Administration (FDA) and other government agencies that impact our families.

Senate Panel Clears \$325 Million Increase for FDA

The Senate Appropriations Committee voted July 17, 2008, to give the FDA a \$325 million budget increase next year, matching some of the most ambitious requests for agency funding. What makes the vote especially important is that the panel didn't adjust its 2009 package to account for this year's supplemental spending bill, as some Republicans have proposed.

The panel's \$325 million increase is only slightly higher than President Bush's final request for the FDA, and a House appropriations subcommittee has signed on to a similar figure. But Health and Human Services and House Republicans have said they want to subtract from those proposals the \$150 million that the FDA received under the supplemental.

"The FDA, as an agency, must not be allowed to fail," said Sen. Herb Kohl (D-WI), who chairs the appropriations subcommittee that funds the FDA.

The Alliance for a Stronger FDA, a coalition of stakeholders that lobbies exclusively for increased agency appropriations, has been urging lawmakers not to count the supplemental against their 2009 bills. So July 17 was "an excellent day," the Alliance's Steven Grossman said.

If the Senate panel's bill becomes law, it would be the first time that congress' share of the FDA's budget topped \$2 billion. Total congressional spending on the FDA would have risen by nearly 30 percent in just two years, Grossman said.

Legislative Committee

Sissi Langford
sissi@mpssociety.org

Kym Wigglesworth
kym@mpssociety.org

Denise Dengel
denise@mpssociety.org

Alice Martin
alice@mpssociety.org

Senate Report 110-410

Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill, 2009

The Committee has sounded the alarm for more federal biomedical research funding for several years, and the situation is now at a crisis point. Since the end of the five-year doubling effort, in fiscal year 2003, funding for the NIH has declined, in real terms, by 12.3 percent. The average researcher now has a less than one in five chance of getting an NIH grant application approved, and the average age at which researchers receive their first RO1 grant has risen to 42. It is little wonder that many young scientists are balking at a career in biomedical research, putting our nation at risk of losing a generation of talented investigators who could pursue treatments and cures. Meanwhile, several other countries are ramping up their investments in biomedical research and threatening the leadership of the United States in this field.

Regrettably, the administration's budget ignores these warning signs and proposes to freeze NIH funding at the fiscal year 2008 level of \$29,229,524,000. Under this plan, the success rate for research project grants would fall to 18 percent, the lowest level on record. In real terms, NIH funding would be reduced by more than \$1 billion. The Bush budget also proposes eliminating all

funding for the National Children's Study, for which congress has already appropriated approximately \$212,300,000 since fiscal year 2004.

The Committee rejects the administration's approach and instead recommends an overall NIH funding increase of \$1,025,000,000, for a total of \$30,254,524,000. That amount would allow NIH funding to keep up with the biomedical inflation rate (3.5 percent) for the first time in six years. It would also increase the estimated number of new, competing research project grants to 10,471—the most ever at NIH. The recommended level includes \$192,300,000, an increase of \$81,400,000 over the fiscal year 2008 appropriation of \$110,900,000, for the National Children's Study, to ensure that the study's implementation stays on track.

The Committee intends that much of the increase will be used to support new investigators and high risk/high reward research, as described later in this report under the section on the Office of the Director. Learn more at: http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp110&sid=cp110Mpm2E&refer=&r_n=sr410.110&item=&sel=TOC_398215&.

PL. 110-204 — The Newborn Screening Saves Lives Act of 2007

On April 24, 2008, the president signed into law S. 1858, the Newborn Screening Saves Lives Act of 2007, as Public Law 110-204. The bill would authorize new programs through Health Resources and Services Administration (HRSA) for education and outreach regarding the importance and availability of newborn screening. The bill also would establish an Interagency Coordinating Committee on Newborn and Child Screening with representation from NIH, Centers for Disease Control, HRSA, and the Agency for Healthcare Research and Quality. The "Hunter Kelly Research Program" will be established to provide that the secretary, in conjunction with NIH, and taking into consideration the recommendations of the Advisory Committee, may "continue carrying out, coordinating, and expanding research in newborn screening."

Administration News

President Bush Signs War Supplemental Spending Bill That Blocks Six New Medicaid Rules

President Bush on July 1, 2008, signed into law a supplemental war appropriations bill (HR 2642) with a provision that will delay for one year six new Medicaid regulations proposed by his administration, CongressDaily reports (Sanchez, CongressDaily, 6/30). The six regulations could take effect as early as April 2009 without future congressional action.

Centers for Medicare & Medicaid Services spokesperson Jeff Nelligan said that the regulations "were about accountability and the honest delivery of health care services to our beneficiaries," adding that they "would have saved an estimated \$17 billion over five years out of total five-year federal Medicaid spending of \$1.2 trillion." Nelligan said, "This amounts to about one-and-a-half percent of total spending, hardly the catastrophic cut about which some observers complained."

Amy Weitz, a spokesperson for the California Association of Public Hospitals and Health Systems, said, "We're very relieved" about the delay of the regulations, adding, "Had these cuts gone through, our hospitals would have been faced with making some very difficult choices in how to maintain services to the patients they serve." In addition, Weitz said, "These cuts represent a very significant amount when we already have public hospitals that are facing deficits, increasing costs and a worsening economy with more people who are uninsured or underinsured." (Bohan, Bay Area News/Contra Costa Times, 6/30).