

INTRODUCTION

On February 14, President Obama submitted to Congress his proposal to fund the federal government for the fiscal year (FY) that begins on October 1, 2011, FY12. Notably, the previous Congress was unable to pass a budget for FY11, and the federal government has been operating under a series of Continuing Resolutions (CRs) since October 1, 2010, when FY11 began. These stop-gap measures have largely maintained the funding levels set through the appropriations process for FY10.

The current funding mechanism (PL 111-322) is slated to expire on March 4, by which point lawmakers must reach an agreement and pass another CR, or risk a government-wide shut down. This looming deadline, in part, prompted Republican leaders in the House of Representatives to consider legislation (HR 1) to fund the government for the remainder of FY11. The comprehensive measure, introduced in the House on February 11, represents a departure from the previously approved, consistently-funded FY11 CRs, by recommending more than \$60 billion in discretionary spending reductions over the next seven months. On Saturday, February 19, the House passed HR1 by a vote of 235-198, sending its proposal to fund the federal government through FY11 to the Senate for consideration, beyond which it is not expected to advance. Although HR1 is unlikely to clear the Senate, or survive a presidential veto, its proposals are expected to remain relevant as Democrats and Republicans look to reduce spending in areas with the potential for bipartisan consensus; such as the overlapping recommendations contained in both President Obama's FY12 budget request and HR1.

Given the potential for these intersections to signal future reductions, NASUAD has analyzed the spending reductions contained in HR 1, comparing these initiatives, where possible, with the spending reductions proposed by the President in his FY12 budget request. Joint reductions from HR1 and President's FY12 request include: The Community Services Block Grant Program (CSBG); the Community Service Employment for Older Americans Program (SCSEP); HUD's Section 202 Supportive Housing For the Elderly Program; HUD's Section 811 Supportive Housing for Persons with Disabilities; the Commodity Assistance Program (CAP); and the Low-Income Heating, Energy and Assistance Program (LIHEAP). Though both proposals recommend funding reductions to these programs, the President's budget request is for the entirety of FY12, while HR1's proposals would impact federal spending for a significantly shorter period, the remaining seven months of FY11.

The purpose of this document is to both distribute recent developments relating to the ongoing FY11 federal budget process, and to highlight anticipated future congressional efforts to reduce spending through the FY11 and FY12 appropriations processes. In the pages that follow, please find supplementary information to [NASUAD's Preliminary Analysis of the President's FY12 Budget Request](#), including [NASUAD's FY12 Budget Table](#), which has been updated to incorporate the spending reductions contained in HR1, as published by the [House Appropriations Committee](#); as well as a brief outline of the impact of HR1 on the ACA; next steps for the 112th Congress; and a description of the variances between the President's budget request and subsequent spending legislation.

NASUAD will continue to monitor the FY11 and FY12 federal budget cycles, supplementing this analysis with more detail as additional information becomes available. In the interim, if you have any questions or concerns, or would like additional information, please contact NASUAD's Executive Director, Martha Roherty, at mroherty@nasuad.org, or NASUAD's Senior Director for State Services, Mike Cheek, at mcheek@nasuad.org.

HR1 and the AFFORDABLE CARE ACT

Of the 129 amendments to HR1 that were eventually considered, some of the successfully attached proposals would impede ACA implementation, largely by imposing spending restrictions on the funds appropriated to the various federal agencies and programs by the underlying measure. The adoption of these amendments is widely expected to make the spending bill even more objectionable to Democrats, setting up another major obstacle to any FY11 spending agreement with the Senate.

Among others, the House adopted an amendment brought by the Chairman of the Labor-HHS-Education Appropriations Subcommittee, Dennis Rehberg (R-Mont.), barring these Departments from using any funds to pay employees or contractors to implement the ACA for the remainder of FY11. The House adopted several other provisions designed to obstruct or delay the law, including two amendments from Rep. Steve King (R-Iowa) prohibiting appropriated funds from being used to implement the ACA, or from paying any federal employee to do so; as well as a proposal from Rep. Jo Ann Emerson (R-Mo.) barring the Internal Revenue Service (IRS) from using HR1 dollars to implement the ACA's individual mandate provision.

Notably, over the next seven months, both the Centers for Medicare and Medicaid Services (CMS) and the Administration on Aging (AoA) would see a decrease in their spending authority under HR1, due to "Program Efficiency Reduction(s) due to ACA." Compared to the FY10 enacted budget, CMS would see a decrease of \$340 million, a \$360.7 decrease compared to the President's FY11 budget request. AoA, meanwhile, would see a spending reduction of \$65 million, compared to both FY10 enacted and the FY11 budget request. The portions of the CMS and AoA budgets that would be impacted by these proposed reductions are not specified in the information released to date from the House Committee on Appropriations. NASUAD will continue to monitor HR1, and will update this analysis when more detail is available.

NEXT STEPS IN THE 112TH CONGRESS

On February 19, the House passed its CR by a vote of 235-198, sending its proposal to fund the federal government through FY11 to the Senate for consideration. Though the GOP-backed spending plan is unlikely to gain traction in the Democratically-controlled Senate, the passage of the legislation, and the debate surrounding its adoption, are likely harbingers of the battles expected throughout the 112th Congress, with Republicans and Democrats increasingly at odds in their strategies to reduce federal government spending.

The House-approved HR1 would impact spending across a variety of federal agencies and programs, with the reductions and recessions totaling roughly \$61.5 billion from FY10 levels. Though the CR would appropriate \$99.6 billion less than President Obama requested for FY11, some Republican lawmakers remain dissatisfied with the effort, contending that the reductions in the spending bill should have gone deeper. Democrats, meanwhile, have expressed strong opposition to the GOP's approach, instead favoring a discretionary spending freeze at current levels through the end of the fiscal year, a spending strategy which would provide the federal government with roughly \$41 billion less than the President requested for FY11. Significantly, the President's recently submitted request contains fiscal policy recommendations for the 12-month period of FY12, which begins on October 1, 2011. The House-passed CR, HR1, however, outlines spending for the remainder of the current fiscal year, the seven-month period ending on September 30, 2011.

With time running out before the current stopgap expires on March 4, Congress will face a potential government shutdown if Democrats and Republicans cannot reach a consensus over FY11 spending and pass a CR. On Tuesday, February 22, Senate Majority Leader Harry Reid (D-Nev.) announced that when the Senate reconvenes next week, he intends to push a one-month stopgap funding measure to continue FY11 spending at current levels, in order to give Republicans and Democrats time to negotiate a deal to fund the government through September 30. However, Reid's planned proposal faces challenges in the Senate, as it is at odds with the strategy favored by the Republican leadership. Specifically, both House Speaker John Boehner (R-Ohio) and Senate Minority Leader Mitch McConnell (R-Ky.), prefer an approach that would require any short-term CR to include spending cuts below existing levels. Given the expected procedural challenges and the Democrats' 53-47 majority in the Senate, Reid will need the support of all Senate Democrats, and several Senate Republicans, in order to reach the 60-vote threshold needed to clear the one-month, level-funded CR. In response to Reid's planned CR, on February 23, House leaders announced their intention to prepare their own short-term spending bill that includes GOP-supported cuts, making this measure unlikely to garner enough support to survive in the Senate.

Thus, in the coming weeks, a quick resolution of the delayed FY11 appropriations process is not expected, with House Republicans seeking to use HR1 to block implementation of the ACA, making this CR unlikely to pass the Senate or survive a presidential veto. Further complicating the remaining FY11 budget process is the looming debate over a FY12 budget resolution, as well as the likelihood that Congress will soon face a vote to raise the debt ceiling beyond its current \$14.3 trillion limit, in order to prevent the United States from defaulting on its legal obligations.

SPENDING BILLS AND THE PRESIDENT’S BUDGET REQUEST

In its budget resolution, Congress organizes spending according to function, such as National Defense, Health, or Income Security. In order for Congress to appropriate funds, these spending levels must be reassigned to the congressional committee with jurisdiction over the program or agency, by way of the broader House and Senate Appropriations Committees. Since the budget resolution is designed to guide Congress through the appropriations process, the resolution’s 302(a) table sets the aggregate spending levels for the Appropriations Committees in both chambers. Upon receiving this allocation, the larger Appropriations Committees then distribute this amount among their 12 subcommittees, in a 302(b) sub-allocation. Each subcommittee, in turn, begins to craft the appropriations bills for which it is responsible, working within this assigned 302(b) spending ceiling. The subcommittee-specific appropriations bills, designed to fund the government’s operations, are eventually sent to the larger Appropriations Committee, and then to the full chamber for a vote.

Given the process by which the spending bills are developed, the measures that emerge from Congress, including HR1, are typically organized by 302(b) sub-allocation, or subcommittee. By contrast, the President’s budget is developed based on the proposals submitted by federal and independent agencies, and the annual request submitted to Congress is therefore organized by federal agency, not by congressional subcommittee. Additionally, the role of the President’s budget is to provide Congress with the Administration’s recommendations for overall fiscal policy and programmatic priorities for the upcoming fiscal year, not to allocate the funding to do so, which is the goal of the appropriations process.

While the President’s budget request and the congressionally-approved spending bills have few structural or functional commonalities, the two proposals also differ in content. Through the annual budget request, the President is required to outline funding recommendations for each discretionary, or appropriated, program. As these are the programs that fall under the jurisdiction of the House and Senate Appropriations Committees and require annual funding legislation, Congress may consider, but is not bound by, the President’s request. Thus, since the President is required to set specific spending levels for all programs over which the Appropriations Committees have jurisdiction, the President’s budget request necessarily contains a high level of detail. The resulting spending legislation, however, such as HR 1, is generally less specific; a variance that can result in difficulties comparing recommendations across proposals.

Since the role of the President’s budget is to recommend specific spending proposals for discretionary programs for the upcoming fiscal year, and the roles of the congressional budget resolution and the subsequent appropriations bills are to actually fund the federal government over the applicable time period, the extractable recommendations contained in the President’s FY12 budget request may not have a counterpart with the same level of specificity in HR1. That is, due to the content and structural differences between the President’s annual budget request and legislation to fund the government, a direct comparison between the two proposals is not always feasible.

NASUAD's ANALYSIS OF HR1

The purpose of this analysis is to both distribute information relating to the ongoing FY11 federal budget process, specifically the House-passed CR to fund the government through the end of September; as well as to anticipate future congressional efforts to reduce spending through the FY12 appropriations process. That is, with the current stopgap funding mechanism set to expire on March 4, lawmakers must reach an agreement to continue funding the federal government, or risk a shut down in the interim. While HR1 is unlikely to be such a measure, the spending recommendations it contains are expected to increase in importance as Democrats and Republicans look beyond the current budget cycle and work to formulate a budget for FY12. With both parties increasingly at odds over how, and where, to reduce spending, areas of overlap between President Obama's FY12 budget request and GOP-backed legislation, such as HR1, are likely to gain bipartisan support as Congress navigates the appropriations process for both FY11 and FY12.

Accordingly, NASUAD has analyzed the spending reductions contained in HR 1, comparing these initiatives, where possible, with the spending reductions proposed by the President in his FY12 budget request. Joint reductions from HR1 and President's FY12 request include: The Community Services Block Grant Program (CSBG); the Community Service Employment for Older Americans Program (SCSEP); HUD Section 202's Supportive Housing For the Elderly Program; HUD's Section 811 Supportive Housing for Persons with Disabilities; the Commodity Assistance Program (CAP); and the Low-Income Heating, Energy and Assistance Program (LIHEAP). Though both proposals recommend funding reductions to these programs, the President's budget request is for the entirety of FY12, while HR1's proposals would impact federal spending for a significantly shorter period, the remaining seven months of FY11.

Attached, please find NASUAD's FY12 Budget Chart, which has been updated to reflect the spending reductions contained in the recently-passed HR1, as published by the House Appropriations Committee. Please note that given the variance in specificity between the President's FY12 request and HR1, NASUAD will update this analysis with additional details as they are released.