



UC DAVIS FEDERAL RELATIONS UPDATE March 28, 2012

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Executive Summary

This week the House will pass their **FY2013 Budget Resolution**, which would reduce federal spending by \$5.3 trillion over 10 years—more than \$2 trillion from discretionary programs, including research and education (Pages 2-3).

Senator Durbin held a hearing on legislation that would allow **private student loan debt to be discharged in bankruptcy** (Page 3).

There have been several developments with President Obama's **Affordable Care Act**, including the case before the Supreme Court and House actions to repeal several sections of the law (Page 4).

The issue of **open access to published research** has been hotly debated in Congress with two bills that either expand or restrict access (Page 5).

The Highway Authorization bill has hit several roadblocks in the House. At stake for UC Davis are **University Transportation Centers**. We currently operate a Tier II Center and are a member of UC Berkeley's Regional Transportation Center (Page 5).

Planning and outreach for this summer's **Smithsonian Folklife Festival** are underway (Page 6).

Congressman Garamendi and staff from Senator Feinstein and Congressman Lungren visited campus this month (Page 6).

FY2013 Budget Update

In a 19-18 vote on March 21, the House Budget Committee passed its FY 2013 budget resolution which is the Republican plan to reduce deficits, overhaul Medicare and Medicaid entitlement programs, and propose tax code changes. Budget Committee Chairman Paul Ryan said that the resolution would reduce federal spending by \$5.3 trillion more over ten years as compared to the President's budget proposal. More than \$2 trillion of these cuts would come from discretionary programs, including research and education.

By 2050, the House Budget Resolution would reduce discretionary spending from its 2011 level of roughly 12% of gross domestic product (GDP) to less than 4%, the lowest level since 1950. Defense, education, research and development, infrastructure and social programs, such as food stamps, fall into this category.

A key aspect of the proposal is that the FY 2013 discretionary spending cap would be set at \$1.028 trillion – the same as the FY 2012 House Budget Resolution and \$19 billion below the \$1.047 trillion cap established in the Budget Control Act (BCA) debt limit agreement last August. Further, the resolution proposes to increase FY 2013 defense discretionary spending by \$8 billion over the level established in the BCA.

As a result, the non-defense discretionary cap for the coming fiscal year would be \$27 billion lower than the BCA. Federal research and education funding would be deeply impacted by this reduction. If imposed across the board, the effect next year would be a 5 percent cut, and in 2014, the cut would be 19 percent– more than double the level of cuts that would occur to discretionary spending under sequestration. While the proposal does not specify how these reductions would be made, the projected impact for medical and scientific research and technology programs is an \$11 billion cut by 2014.

Education in the House Budget Resolution

If the discretionary spending reduction in the House budget resolution were distributed across the budget, the U.S. Department of Education would be cut by more than \$115 billion over a decade. More than 9.5 million students would see their Pell Grants fall by more than \$1,000 in 2014, and, over the next decade, over one million students would lose all their federal financial aid.

With regard to the Pell Grant Program, the House budget resolution offers a “sustainable path,” which would limit growth in federal aid and focus it on those most in financial need. Congressional staff has explained that the budget plan assumes elimination of the Income Based Repayment expansion provisions and eliminates the automatic increase in the Pell Grant maximum proposed in President Obama's FY 2013 Budget Request.

More problematic, however, is that the budget resolution would eliminate the mandatory funding for Pell Grants, shifting all the funding to the discretionary side of the budget. While details are not clear, this could mean significant cuts in Pell and place a greater squeeze on discretionary funds to offset this transfer of mandatory money.

Healthcare in the House Budget Resolution

While the health care premium support model included in the proposal is based on Chairman Ryan's collaboration with Senator Ron Wyden (D-OR), the version in the House budget resolution includes a modification of the cap on the Medicare growth rate. The resolution echoes many of the themes from last year's proposal, including:

- Rescinding the individual subsidies and Medicaid expansions included in the Affordable Care Act (ACA)
- Converting the federal share of Medicaid spending into a block grant indexed for inflation and population growth, while constraining the program's cost trajectory by \$810 billion over 10 years
- Repealing the Independent Payment Advisory Board

- Enacting medical liability reform
- Allowing purchase of health insurance across state lines
- Revising the tax code related to deductions for employer-sponsored insurance

As for the future of the Medicare program, the House budget resolution would transition Medicare to a premium support program starting in 2023, with workers currently under age 55 choosing between private plans and a traditional fee-for-service option through a newly created Medicare exchange. An annual competitive bidding process would determine the amount of federal contribution, with per capita cost of the program capped at GDP growth plus 0.5 percent. Additionally, the budget resolution would change the tax code by consolidating tax brackets and lowering tax rates for individuals and corporations.

The House budget resolution is now expected to be brought to the House floor today and passed on a party-line vote.

In the Senate, the Budget Committee last week filed a “deeming resolution” to set discretionary spending for FY 2013 at \$1.047 trillion, the level established in the Budget Control Act last year. The Senate Appropriations Committee is expected to begin to produce FY 2013 appropriations bills within this cap.

As a result of the different budget amounts passed by the House and Senate, the House and Senate appropriations bills will have a \$19 billion gap. The House and Senate will draft and pass their appropriations bills, and the significant differences would have to be worked out in a conference committee. My analysis is that Congress is more likely to pass a continuing resolution (essentially funding the government at the FY2013) rather than negotiate such a significant difference in funding. Congress will pass their funding measures (whether it is a continuing resolution or regular appropriations bills) during the lame duck session after the November election.

Student Loan Legislation

The Senate Judiciary Subcommittee on Administrative Oversight and the Courts held a hearing last week, entitled “The Looming Student Debt Crisis: Providing Fairness for Struggling Students.” Senator Durbin (D-IL) presided at the hearing and outlined legislation he has sponsored to allow private student-loan debt to be discharged in bankruptcy. Senator Durbin highlighted the fact that private student loans “...are a far riskier way to pay for an education than federal loans,” and that “too many students have been steered into loans that they will not be able to repay.” These borrowers face decades of ongoing economic problems and cannot discharge their student debts even if they file for bankruptcy.

Consumers would still be responsible for paying federal student loans, but those loans have more repayment options for borrowers who have difficulties in meeting their financial obligations, including income-based repayment.

The University of California supports the Durbin legislation, but would argue that all student loans, like all other types of consumer credit, should be able to be discharged for borrowers who have made good-faith efforts to repay their student loans and still experience severe financial difficulty. Senator Durbin will look for legislative vehicles to advance his bill.

One possible measure could be a bill sponsored by Sen. Jack Reed (D-RI) and Rep. Joe Courtney (D-CT) that would keep the interest rate on subsidized student loans at its current 3.4%, instead of otherwise allowing it to automatically rise to 6.8% on July 1, 2012. The lawmakers estimate that letting the interest rise could cost students as much as \$5,000 over 10 years. In his FY 2013 budget request, President Obama has proposed extending the lower rate through 2013 as well.

Affordable Care Act Developments

Supreme Court hears arguments for the Affordable Care law

On Monday, Tuesday and Wednesday of this week, the Supreme Court heard arguments on the constitutionality of President Obama's health care law. The justices have broken the case into four issues:

1. *Is it too early to consider this case?*

A 19th Century law, the Anti-Injunction Act, forbids challenges to tax assessments until they are due. The question the justices will consider is whether the individual mandate should be considered a tax.

2. *Is the individual mandate constitutional?*

The federal government argues that Congress was authorized to enact the individual mandate under the Commerce Clause. Opponents of the law say that the requirement to buy a product or service is unprecedented, regulates inactivity rather than activity and would allow Congress unlimited power to intrude on individual freedom.

3. *Can the individual mandate be separated from the rest of the Affordable Care Act?*

Should the Supreme Court strike down the individual mandate, it must decide whether or not to strike down some or all of the rest of the law.

4. *Is the law's expansion of Medicaid constitutional?*

Opponents say that Congress exceeded its constitutional authority by expanding eligibility and coverage thresholds that states must adopt to remain eligible in the joint state-federal program that provides health care to poor and disabled people. The federal government will argue that such shifting conditions are routine in all sorts of federal programs, including Medicaid.

The decision in the case will have enormous practical consequences for how health care is delivered in the United States, including at the UC Davis Medical Center. The opinion is likely to be issued in June with potentially large repercussions for President Obama and his Republican challenger as they hold their nominating conventions shortly thereafter.

House Subcommittee Votes to Repeal IPAB

On March 22, by a vote of 223-181 the House voted to repeal the healthcare reform law's Independent Payment Advisory Board (IPAB). While opposition to the board generally originated from Republican ranks, a bipartisan group of lawmakers is now sympathetic to doing away with the panel that is tasked with recommending Medicare payment changes if spending exceeds targeted growth rates. In the subcommittee, Ranking Member Frank Pallone (D-NJ) and Rep. Edolphus Towns (D-NY) joined Republicans in supporting the repeal bill, the Medicare Decisions Accountability Act (H.R. 452). However, after House Republicans added a provision to the IPAB bill that limited the amounts of damages awarded in medical malpractice lawsuits to \$250,000, Democratic support appeared to disappear.

Republican Study Committee Introduces Legislation to Repeal Affordable Care Act, Block Grant Medicaid

The Republican Study Committee (RSC) introduced the State Health Flexibility Act on March 7. This bill would combine funding for Medicaid and the Children's Health Insurance Program (CHIP) into a single block grant to states. It aims to give states more freedom in how they run their Medicaid and CHIP programs, but also proposes to keep federal funding levels for these programs at their current levels for the next 10 years. This legislation would also repeal the Affordable Care Act. The State Health Flexibility Act is sponsored by RSC Chairman Rep. Jim Jordan (R-OH) and Reps. Todd Rokita (R-IN), Tim Huelskamp (R-KS) and Paul Broun, MD (R-GA), who noted the need to make Medicaid more affordable, accountable and provide better care for those who need it the most.

Access to Research Legislation

The Federal Research Public Access Act of 2012 (FRPAA)

In February, identical House and Senate bills entitled the “Federal Research Public Access Act of 2012” (FRPAA) were introduced. This “open access” legislation would require federal agencies with research budgets over \$100 million to adopt policies to provide free online access to articles developed using federal funding, no later than six months after the article has been published in a peer reviewed journal.

The Senate bill, S. 2096, is now pending in the Senate Committee on Homeland Security and Governmental Affairs while the House companion, H.R. 4004, was referred to the House Committee on Oversight and Government Reform. It is not clear whether additional action will occur on these bills this year.

UC has been supportive of federal open access and public access activities, including the development of the National Institutes of Health’s (NIH) PubMed Central Public Access program, which mandates that free online access be provided to the final manuscripts accepted for publication in peer reviewed journals, within 12 months after a journal article has been published, if it was written using NIH funds. The NIH public access policy took effect in 2008.

The NIH’s PubMed Central policy would be superseded by the FRPAA legislation’s provisions. A key difference between the FRPAA bills and the existing NIH PubMed Central, is that the NIH policy specifies that a final peer-reviewed manuscript should be made available on PubMed Central after a 12 month embargo period, while the FRPAA legislation specifies that an electronic copy of the final manuscript that has been accepted for publication in a peer-reviewed journal should be made available no later than six months after the article has been published.

The Research Works Act

The Research Works Act, which UC has opposed, has been withdrawn from further consideration this year in the House of Representatives by Representatives Darrell Issa (R-CA) and Carolyn Maloney (D-NY), the bill’s sponsors. This legislation would roll back federal public access activities, such as the NIH’s Pub Med Central, and would prohibit federal agencies from adopting or implementing any activity that authorizes the dissemination of any private sector research work without consent.

Highway Authorization bill

On March 14, the Senate passed a two-year highway authorization bill, which included language authorizing regional University Transportation Centers (UTCs). Currently, six UC campuses –Berkeley, Davis, Irvine, UCLA, Riverside, and Santa Barbara – collaborate with four CSU campuses in the UC Transportation Center, a regional UTC managed by UC Berkeley. The original Senate bill excluded authorization of the current regional UTC program; but Chairman Boxer’s (D-CA) Environment and Public Works Committee ultimately accepted an amendment to reinsert the regional center authorization. The Senate bill authorizes the UTC program to distribute two-year competitively awarded contracts for five National Centers at \$3.25 million each; 10 Regional Centers at \$2.75 million each; and, 20 Tier 1 Centers at \$1.5 million each, two of which must be focused on transit issues.

Meanwhile, the House leadership has not decided how it will proceed with its version of the transportation bill. The House Transportation and Infrastructure Committee wants to advance a five-year authorization bill, but internal House Republican opposition to the overall cost of a five-year bill may not allow that to happen. Speaker John Boehner is currently working with Republican Conference leaders to decide whether to push the House five-year bill, an 18-month version of the five-year bill, pursue a new yet to be undetermined option, take up the Senate bill, or negotiate an extension of the current authorization until the next Congress. Speaker

Boehner has tried twice to pass a short-term (several weeks) extension of current law, but has been unable to gather enough votes as a result of opposition from all Democrats and some Republicans in the House. Reports indicate that an increasing number of House Republicans are beginning to back taking up the Senate bill.

Smithsonian Folklife Festival

While I was in DC, I met with Phillip LoPiccolo, government affairs director for the Smithsonian, to discuss the official events for the Folklife Festival this summer. As you may recall, UC Davis is one of approximately 20 land-grant universities that will participate in the festival to mark the 150th anniversary of the Morrill Act.

I am working with Mr. LoPiccolo to invite our members of Congress and their staff to the Opening Ceremony of the festival. The Smithsonian may also host a welcome reception for VIPs, members of Congress, Congressional staff and others right after the ceremony, which will be a good opportunity for Members and staff to engage with university officials.

Campus Visits

Congressman Garamendi

On March 23, Congressman Garamendi and his wife Patti met with Chancellor Katehi and a few others. He discussed the importance of funding for research and development and student aid. Garamendi also requested the latest research from our campus on tax policy, poverty and water issues. He often makes floor statements about these issues and asked us to share information for those speeches.

Congressman Lungren's staff

On March 26, Marilyn Erbes and Bob Ehlert from Congressman Lungren's office received a briefing at the Veterinary Medicine School. They heard about One Health, the Western Institute for Food Safety and Security and the California Animal Health and Food Safety Lab System.

Senator Feinstein's staff

On April 2, Devin Rhinerson and Lilia McFarland will visit campus to learn more about our latest research on food safety and sustainable agriculture.

UC Davis faculty and leadership in Washington, DC

During the week of March 12, several campus members were in DC for meetings: Chancellor Katehi, Associate Chancellor Engelbach, Dean Van Alfen, DeeDee Kitterman and Susan Williams.

If you have upcoming meetings in Washington, DC, please let me know how I and/or the UCDC staff can be of assistance.

Questions or need assistance

If you have questions, need additional information about any of the above items, or would like assistance in connecting with senior federal officials, please let me know. I can be reached at gabanks@ucdavis.edu or at 530-752-9795.