107th Congress, 1st Session: No. 2 January 29, 2001

Informed Budgeteer

LEGISLATING THE ORDER OF THE DAY

- On January 12th, CBO submitted its annual report to the Congress on "Unauthorized Appropriations and Expiring Legislation," as required by the Budget Act, as amended.

- CBO has again highlighted that a sizable portion (one-sixth) of federal discretionary spending is approved without current authorizing legislation in place. CBO has identified $112.35 billion in federal spending for FY 2001 that was provided to programs whose authorizations had expired.

- In the Senate, the largest portion – $35 billion – is under the jurisdiction of the Health, Education, Labor, and Pensions Committee, including the National Institutes of Health ($20.3 billion). The Judiciary Committee comes in second with $22 billion. Together these two committees account for 51% of this funding ($57 billion).

- Adding the Veterans Affairs Committee with $20.3 billion accounts for nearly 70% of this unauthorized funding. This amount is solely for the veterans medical care program, which the authorizing committee indicates was capped for spending in 1997 and 1998 – not specifically authorized and therefore expiring.

- Other major program areas needing congressional authorization include housing and community development programs (Banking Committee/$9 billion); the Coast Guard, NOAA, and other Department of Commerce programs (Commerce Committee /$8 billion); various civilian energy programs (Energy Committee/$7 billion).

- CBO also identifies authorizations of appropriations totaling $309.6 billion that will expire in the current fiscal year (by September 30, 2001). Nearly the entire amount (97%) is associated with the programs included in the annual Defense Authorization bill, which is regularly enacted.

- Another $5.7 billion is under the jurisdiction of the Foreign Relations Committee for State Department programs last authorized in the FY 2000 Omnibus Consolidated Appropriations Act.

FY 2001 Appropriations with Expired Authorizations
By Senate Committee, $ in Millions

Senate Committee	Number of Laws	Appropriation Amounts[A]
Agriculture	5	548
Armed Services	0	0
Banking	7	8,996
Commerce	22	7,988
Energy	10	7,046
Environment	18	3,414
Finance	1	2,075
Foreign Relations	6	4,832
Governmental Affairs	1	10
HELP	22	35,035
Indian Affairs	3	23
Intelligence	1	7
Judiciary	14	22,050
Rules	1	41
Small Business	0	0
Veteran's Affairs	3	20,282
TOTAL	112[B]	112,347

SOURCE: CBO. [A]Amounts specified in statue or legislative history or available from executive branch agencies. Amounts do not include across the board cut in P.L. 106-554. [B]The total is less than the sum becuas of public laws containing authorizations under the jurisdiction of more than one committee are counted only once in the total.

SPECTRUM SAGA ENDS

- A long-running spectrum auction saga that the *Bulletin* has informed budgeteers about before has come to a close.

- On January 26, the FCC closed auction 35, in which telecom companies offered net high bids of nearly $17 billion for the rights to use spectrum for wireless applications such as PCS phone services.

- Besides the stunning amount bid in this one auction – which surpasses the cumulative amount of receipts generated by all previous FCC auctions since their inception in 1994 (before that, spectrum licenses were given away) – the most interesting thing about auction 35 is that *it almost never happened*.

- A brief review. To comply with a requirement in the spectrum auction law, the FCC in 1996 conducted an auction solely for small businesses that met certain criteria. That auction–called C block–yielded $10.2 billion in high bids, but not cash to the Treasury (except for $1 billion from 10% downpayments). The terms of the auction allowed winning bidders to repay the FCC the 90% remaining from their bid over 10 years, including interest.

- After making the initial downpayment, several winning bidders encountered difficulty raising capital and sought new repayment terms from the FCC, which offered a variety of options in several steps. Although some bidders employed these options, others declared bankruptcy. The largest of these was NextWave, which accounted for $4.7 billion, or nearly half, of the original high bids. The FCC canceled the licenses of bankrupt bidders for nonpayment and proceeded to prepare to reauction them.

- NextWave convinced a bankruptcy judge to lower its net obligation to the federal government to about $1 billion, but the FCC appealed, and the 2nd Circuit Court of Appeals ruled that the FCC could revoke and reauction the licenses NextWave sought to hold onto.

- After the appeals court ruling in November 1999, NextWave offered to pay the full amount owed, and followed with subsequent offers to pay interest and other inducements for a total of around $6 billion. The FCC turned down such offers and continued with reauction plans. Meanwhile, NextWave sought by legislative means what it couldn't accomplish through the courts or with the FCC. During the appropriations cycles for 2000 and 2001, NextWave lobbied to include language to overturn the FCC's cancellation, force the FCC to accept NextWave's payment offer, and delay or prohibit the reauction.

- Two things prevented any of these efforts from being successful in stopping the reauction. One is that the Supreme Court twice denied NextWave's petitions to take up its lawsuits. The other is the vigilance of key members of the appropriations committee, Sens. Stevens, Gregg, and Domenici to name a few, who continually turned back efforts to include pro-NextWave language in appropriation bills, as well as Senator Grassley who objected to such language being included in the bankruptcy reform conference report.

- Postscript. Even though the auction is concluded, the saga is not quite over. NextWave and the FCC have a date in the DC Circuit court in early March on NextWave's case to overturn the auction. Given the history, even if there is a quick decision, subsequent appeals seem inevitable. Not out of the question, either, is the possibility of further lobbying for legislative language this session to undo the auction and return the licenses to NextWave.

- But after the FCC's determined enforcement of the auction rules and the success of auction 35, federal taxpayers are better off by about $10 billion, as opposed to a sweetheart deal that would have allowed those benefits to accrue to a narrow beneficiary. Continued vigilance will make sure that taxpayers do not lose it.

EDUCATION FUNDING: A PRIMER

- With education at the front of the agenda for President Bush's Administration, it may be useful for *Bulletin* readers to quickly review some basic facts about federal funding for education.

- According to the Department of Education (ED), federal spending on education across all agencies was $91 billion in FY2000, of which 48% was spent on elementary and secondary (ESE) education, 22% on postsecondary education, and the remaining 30% on research and other activities. In addition, the government funded an estimated $39.5 billion in tax expenditures for education in the same year.

- ED is responsible for roughly half of education spending through its administration of 175 programs. The three largest discretionary programs, in order are: Pell Grants, Title I Education for the Disadvantaged grants, and IDEA Special Education grants to states. These three programs together comprise well over half of ED's discretionary budget.

- Many other federal agencies administer hundreds of education programs of some sort, prominently the Department of Agriculture (child nutrition), HHS (Head Start), and the Department of Labor (job training).

- Federal funding for education compromises less than 9% of total nationwide education spending–about 6% for ESE and 12% for higher ed, even though federal spending for education is at an all-time high in constant dollars. Any relative "decline" in the federal share has been more than made up for by other funding sources.

- On either a total basis or a per-pupil basis, real spending for education in the U.S. has never been higher. As a percentage of GDP, higher education spending is at an all-time high, while ESE spending is just slightly below the peak levels of the early 1970s.

- ED's FY 2001 funding equals $44.8 billion, including $39.9 billion in discretionary funds. Note that ED's appropriation for the academic year 2001-2002 is $47 billion, including $42.1 billion in discretionary funds, since ED's budget now includes a higher amount of advanced appropriations. This funding level resulted from a record 18% discretionary increase for ED over the 2000-2001 academic year.

ECONOMICS

CALIFORNIA DEALS SUPPLY AND DEMAND

- In 1996 California began restructuring its electricity industry in an effort to provide reliable energy at an affordable price. Now as Californians are dealing with rolling blackouts and electric companies on the brink of bankruptcy, it is clear that their attempt at deregulation has failed. So what went wrong?

- California required the utility companies to sell their power plants and buy power on the spot market while utility companies were required to stay below a fixed price per unit when selling electricity to their customers. This combination of free markets and regulation set California's electricity restructuring up for failure since it assumed a continuous supply of power.

- During California's economic expansion during the mid to late 1990's, demand for electricity surged by 23%. At the same time, no new power plants were built during the decade because investors saw little chance to recover their investments due to rates fixed by the state and difficult environmental regulations.

- Now as California deals with a shortage of electricity, prices on the wholesale market are fluctuating wildly causing Pacific Gas and Electric (PG&E) and Southern California Edison (SCE) to accumulate in excess of $10 billion worth of debt in an effort to cover the price differential between what they can charge the consumer and what they must pay the wholesalers.

- In the last two weeks rolling blackouts have occurred as the wholesale companies refuse to sell to the nearly bankrupt PG&E and SCE. Only the state's intervention and purchase of power has prevented large scale black outs from occurring. But to solve its longer term problems, California must address this imbalance of supply and demand by upping the supply or curbing the demand.

WHAT DID GREENSPAN SAY?

- On Thursday January 25 Federal Reserve Chairman Alan Greenspan testified before the Budget Committee on the topic of Evolving Fiscal Challenges.

- Chairman Greenspan attributed the upward revisions in surplus estimates in recent years to large increases in revenue caused by increases in the growth rate of labor productivity. Given the evidence available from the recent economic slowdown, Greenspan now believes more rapid productivity growth is likely to persist.

- The productivity assumptions of the CBO and the OMB in generating their most recent budget baselines (which showed large budget surpluses) are below the recent productivity trend, leading Greenspan to believe that there will be enough revenue to eliminate the federal debt held by the public by the end of the decade.

- Before we reach zero debt, however, the Treasury is likely to confront an irreducible minimum below which it is difficult to retire debt, due to the unwillingness of some Treasury holders to sell their bonds and the existence of savings bonds and state and local bonds.

- Once zero debt (or the irreducible minimum debt) is achieved, continuing to run budget surpluses implies an accumulation of private assets by the government which, Greenspan said, would risk undermining our capital markets, economic efficiency, and living standards - - and reduce productivity.

- To avoid the harmful effects of a government accumulation of private assets the government should embark on a budget path that <u>gradually</u> reaches the irreducible minimum debt level.

- Greenspan favored tax reductions over spending hikes as the way to smooth the path toward the minimum debt level, especially tax cuts that enhance incentives to save, invest, and work. He also noted that the creation of individual private accounts may be the only way to avoid government asset accumulation.

- Letting surpluses grow to the point where the minimum level of debt is reached abruptly could require, to avoid asset accumulation, sudden and drastic tax cuts or spending hikes at an unfavorable time for the economy.

Senate Budget Committee Hearing Schedule

All hearings will be held in Dirksen 608 at 10:00 a.m. Additional hearings and witnesses will be scheduled.

<u>January 30:</u> The Economy: Sector Analysis; Dr. Robert E. Young, Co-Director, Food and Agricultural Policy Research Institute, University of Missouri-Columbia; James Glassman, Senior Economic and Managing Director, US Economic and Policy Research, JP Morgan Chase; Matthew R. Simmons, President Simmons & Company International; and Dr. Peter Fox-Penner, The Battle Group.

<u>January 31:</u> CBO Economic and Budget Outlook; Witness: CBO Deputy Director, Barry Anderson.

Budget Committee Staff Arrivals

❍ The *Bulletin* would like to extend it's warmest welcome to our new staffers: Jennifer Hilton, Staff Assistant., currently a part time student at the University of Maryland; and Robert Stein, Chief Economist, who comes to SBC from the Senate Banking Committee, where he was staff director for the Subcommittee on Economic Policy, and prior to that he was the Senior Economist for the JEC.