INFORMED BUDGETEER

NO BUDGET, NO DRUGS

- Last week, the Senate wrapped up nearly three weeks of debate on prescription drugs. Although the underlying generic drug bill (S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2002) passed overwhelmingly 78-21, the real purpose of the debate - a Medicare prescription drug benefit - was not achieved. The Senate voted on four amendments to create such a benefit, and all four failed to achieve the 60 votes needed to overcome a budget act point of order.

- All four proposals fell because they violated Section 302(f) of the Budget Act. The underlying bill had been reported out of the Health, Education, Labor, and Pensions (HELP) Committee, which had no more spending room in its five- and ten-year budget allocations under the FY 2002 Budget Resolution.

- The underlying generic drug bill itself was not subject to a budget point of order because CBO estimates it will actually reduce outlays and increase revenues over 5 and 10 years (see table below). The bill is expected to speed the entry of generic drugs on to the market and, as a result, reduce the cost of drugs for both government and private purchasers by $60 billion over the next 10 years. (This savings represents 1.3 percent of the projected $4.7 trillion that will be spent on prescription drugs in the United States over the next decade.) The lowered cost of prescription drugs for government purchasers (such as Medicaid and the Departments of Defense and Veterans' Affairs) would reduce federal outlays by $1 billion over the next five years and by $5.9 billion over ten years.

S. 812 --Greater Access to Affordable Pharmaceuticals Act of 2002
($ in millions)

	2003-2007	2003-20012
Decrease in Federal Outlays for prescription drugs	-1,000	-5,930
Increase in income and HI payroll taxes (on-budget)	-240	-1,500
Increase in Social Security payroll taxes (off-budget)	-115	-695
Net savings effect on unified budget	-1,355	-8,125

Source: CBO

- Furthermore, by reducing the cost of drugs for private purchasers, the bill would make it less expensive for employers to provide current levels of health benefits to their employees. As a result, employers would provide more compensation in the form of taxable wages and less in the form of non-taxed health benefits. Thus, CBO estimates that federal revenues (from income and payroll taxes on wages) will increase by $0.4 billion over 2003-2007 and $2.2 billion over 2003-2012. In total, S. 812 would save $1.4 billion over five years and $8.1 billion over ten years.

- However, all of the prescription drug amendments to S. 812 would have increased outlays far in excess of the savings of the underlying bill. As a result, each one exceeded the HELP Committee's 302(a) allocation (which stands at zero) and triggered a 302(f) budget point of order.

- But budgeteers with elephantine memories may recall that last year, $300 billion was squirreled away in a reserve fund precisely to pay for a Medicare prescription drug benefit. Indeed, Section 211 of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002, provided $300 billion for Medicare reform and a prescription drug benefit over 2002-2011, as long as the bill creating that benefit was reported out of the Finance Committee.

- In order for the terms of the reserve fund to be met, the Finance Committee would have had to report out a Medicare reform and prescription drug bill. Because S. 812 was not reported out of Finance, the Budget Committee chairman could not release the reserve fund, and none of the prescription drug amendments could benefit from the $300 billion reserve.

- The four amendments differed in the total amount provided for the drug benefit, the monthly premium, the annual deductible, the catastrophic cap, and the delivery mechanism for the benefit. The following descriptions outline the standard coverage, but all proposals (except for Hagel-Ensign) included significant subsidies for low income beneficiaries.

- The Graham-Miller amendment set a $25 premium, no deductible, and coverage of 100 percent of beneficiary costs above $4,000. Costs for drugs were set at $10 for generics and $40 for preferred brand, with the latter limited to two in each therapeutic class. The plan used Pharmacy Benefit Managers (PBMs) to deliver the benefit, but the PBMs did not bear any of this risk for the costs of providing the benefit. Thus the Medicare program itself bore the full risk for the cost of delivering the drugs to seniors.

- The Tripartisan bill had an estimated premium of $24, a $250 deductible, and coverage of 100 percent of beneficiary costs above $3,700 in out-of-pocket spending. The plan also covered 50 percent of beneficiary costs between $250 and $3,450 in total drug spending. The Tripartisan plan used competing private sector prescription drug providers to deliver the benefit and achieve lower overall costs for prescription drugs.

- The Hagel-Ensign plan was designed to be solely a catastrophic benefit, with the spending cap set at different amounts for different levels of income. Beneficiaries would be charged only an annual premium of $25. Individuals with incomes below 200 percent of the federal poverty level would have 90 percent of their drug costs covered once they had spent $1,500 out of pocket, and the catastrophic cap increased with income.

- The Graham-Smith plan changed course from the first Graham plan by moving to a model that provided primarily catastrophic coverage. The plan charged no monthly premiums and covered all costs once a beneficiary had spent $3,300 out of pocket. The plan provided comprehensive drug coverage for beneficiaries with incomes below 200 percent of poverty.

- Even if any version of these amendments had been reported by the Finance Committee, the Graham-Miller plan, the Tri-Partisan plan, and the Graham-Smith plan would still have been subject to a 302(f) point of order because they exceeded the $300 billion limit. While Hagel-Ensign cost less than the $300 billion limit, it still needed 60 votes because neither it nor the underlying bill was reported out by the proper committee as required by the reserve fund. (See table below for 10-year cost of all four plans and House bill.)

Cost Estimates of Prescription Drug Plans
($ in billions)

Prescription Drug Plan (in the order the votes occurred)	Preliminary CBO Cost Estimate[a] 2003-2012
House Passed (H.R. 4954)[b]	320
Graham-Miller	594
Tripartisian[c]	340
Hagel-Ensign	295
Graham-Smith	390

a/ Cost estimate reflects only the prescription drug portion of the described bill and, in the case of the Senate amendments, does not reflect any interaction with the underlying legislation (S. 812).
b/The complete House bill, including Medicare provider givebacks, was estimated at $349 billion over 2003-2012.
c/The complete Tripartisan bill, including an option new Medicare benefits package which included a combined deductible for Parts A and B and catastrophic coverage for non-pharmaceutical medical expenses above $6000, was estimated at $370 billion over 2003-2012.

- Another memory check for budgeteers: why are we evaluating these plans based on an FY 2002 Budget Resolution that was developed more than a year ago? Because there is no FY 2003 Budget Resolution. The Senate Democratic leadership has been unable or unwilling to produce one.

- The fate of prescription drug proposals on the Senate floor is another illustration of why the budget process is important and why we need a budget resolution every year, not just in years when the majority feels like producing one. In the absence of a new budget, we are evaluating this year's prescription drug proposals against last year's spending guidelines.

- Yet the majority still shows little inclination towards producing an updated budget, or adhering to the time-honored practice of deferring to the committee of jurisdiction. As a result, seniors may have to continue to wait for a prescription drug benefit.

- This process has felt hauntingly familiar. Veteran budgeteers will remember the fate of the last major attempt at overhauling part of the health care system during the summer of 1994. Back then, a Democratic majority leader shunned the Finance Committee and attempted to force through floor consideration a far-reaching proposal that was crafted without the benefit of consideration by the committee of jurisdiction in the sunshine. Not surprisingly, that debate had the same outcome.

AN EXPANDING TRADE CONFERENCE

- Also last week, the Senate cleared for the President's signature H.R. 3009, the conference report on the Trade Act of 2002. Although a budget act point of order against the conference report has been raised and waived, the *Bulletin* would be remiss if it did not note why there was such a cost for a bill that once upon a time saved money.

- The Trade Act of 2002 will enable the President to negotiate trade agreements under expedited procedures: instead of amending a Presidentially-negotiated trade agreement before approving it, the Congress could only vote an entire agreement up or down. In addition, the bill reauthorizes the Generalized System of Preferences and Andean trade preferences that suspend U.S. duties on exports of Peru, Ecuador, Bolivia, and Colombia. But by far the most costly aspect of the bill, which increased in price at each stage, is an expansion of Trade Adjustment Assistance (TAA).

- CBO estimated that the bill the Senate passed on May 23 would have saved the government $2 billion over the next 10 years. CBO did not produce an estimate of the House-passed bill (June 26), but based on information from CBO staff, the *Bulletin* estimates that the bill would have cost about $7.7 billion over the next 10 years if enacted. In comparison, CBO estimates that the conference report on H.R. 3009 will cost $11.9 billion over the same period, significantly more than either the Senate or House-passed bills. What was the recipe for this fiscal largess?

- <u>Step 1 – Add New Entitlement Spending</u>. The most costly item in the bill, accounting for $9.5 billion, or 80% of the total, is the expansion of TAA (in comparison, the cost of TAA benefits in the Senate-passed bill totaled $7.3 billion). Under current law, TAA provides workers displaced by trade with up to 78 weeks of unemployment insurance and training. The conference report first extends TAA to new groups of workers (farmers, fisherman, some secondary workers, and most workers who lose their jobs when companies relocate abroad) and increases the duration of unemployment benefits from 18 to 24 months, costing $4.6 billion–just under half of the new TAA entitlements.

- Another new TAA benefit will provide health insurance assistance to TAA-certified workers. The Senate-passed bill would have provided TAA recipients with a refundable tax credit worth 70% of health insurance premiums (estimated to cost $2.7 billion over 10 years). The House passed a 60% credit. The conference split the difference, and TAA recipients will now be eligible for a 65% refundable tax credit for health insurance costs. The credit can be used to pay for COBRA premiums, to purchase coverage through a range of state-sponsored health insurance arrangements, or to pay for individual insurance if the beneficiary purchases such insurance at least one month before becoming eligible for TAA benefits.

- But the cost estimate for the conference version of this health insurance benefit is $4.8 billion over 10 years. How did the costs of health insurance go up so dramatically from the Senate-passed version, when the level of the tax credit was reduced? Because the conferees added a whole new group of beneficiaries eligible *that had not even been contemplated in earlier versions of the bill*. Besides providing this brand-new health insurance entitlement to individuals who are dislocated due to trade, the conferees also extended it to anyone receiving a pension through the Pension Benefit Guarantee Corporation (PBGC), regardless of whether their coverage under PBGC had anything to do with trade! (The PBGC, a wholly-owned government corporation, insures private pension plans and pays benefits to retirees who are covered by plans that fail.)

- Under the conference agreement, anyone drawing PBGC benefits who is 55 years old and has no other specified health coverage is also eligible for the new health benefit. According to estimates by the Joint Tax Committee, 55,000 of the 138,000 people who are expected to take advantage of this new health insurance tax credit will be PBGC beneficiaries. Costs for just the PBGC beneficiaries are estimated to be $2.1 billion over the next 10 years, nearly half of the costs of the entire health benefit.

- <u>Step 2 – Strip the Conference Report of Any Offsets</u>. How is it that the Senate-passed bill would have saved the government $2 billion over 10 years even though it included increased TAA costs and revenue losses from extending trade preferences, but the conference report costs $11.9 billion? The Senate-passed bill included a provision to extend expiring customs user fees that CBO estimates would bring in $11.5 billion over the next 10 years, more than offsetting the $9.5 billion cost of the other provisions. The customs user fees were dropped in conference.

- The *Bulletin* wonders whether customs user fees perhaps were dropped so they can continue being used as the all-purpose, zelig-like offset for bills considered by the Senate for the first time (only to be dropped later when conference reports have their own momentum and are less susceptible to points of order)? Customs user fees were also used as an offset last year to the Senate-passed Patients' Bill of Rights (S. 1052) and more recently to the welfare reform reauthorization bill (H.R. 4737) as reported by the Senate Finance Committee.

CALENDAR

August 20: Budget Committee Field Hearing, Fargo, ND. Natural Disaster Assistance for Farmers and Ranchers. Witnesses: Roger Johnson, North Dakota Commissioner of Agriculture. Additional witnesses to be determined.

August 27: CBO release of <u>The Budget and Economic Outlook: An Update</u>.