FEDERAL EDUCATION BUDGET PROJECT

Advance Appropriations: a Needless and Confusing Education Budget Technique

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The Congressional Democratic majority has made increasing education funding a priority in its fiscal year 2008 spending plan. Their Labor, Health and Human Services, Education and Related Agencies (Labor-H) appropriations conference agreement proposes increases in education for fiscal year 2008 that, if enacted, would result in one of the largest year-over-year increases (in nominal terms) in Department of Education funding since the No Child Left Behind Act was passed in 2002.[1]

Congress would like for much of the proposed increase in education funding, however, not to occur in fiscal year 2008, the time period covered by the current funding cycle. Instead, Congress would provide much of their proposed education funding increases in the form of "advance appropriations," a rarely understood budgeting approach that shifts funding into the fiscal year following the year covered by the appropriations process. The pending Labor-H conference agreement includes $17.0 billion in advance appropriations for education programs, up from the $15.0 billion that has been provided in each of the past four years.[2]

Because advance appropriating takes funding out of the budget that is currently being debated, it aids Congress in arguing that proposed spending increases are only modestly above the President's request for the 2008 appropriations cycle, while simultaneously touting education funding increases. In fairness, Republicans used the same technique many times as well when their party controlled Congress from 1995 to 2006.

The Federal Education Budget Project recommends that Congress end advance appropriations for education pro-

SUMMARY

1) Fiscal year 2008 education funding increases proposed by Congress are financed mostly through the "advance appropriations" process. The advance appropriations process enables Congress to fund education programs for the next school year in part out of this year's budget and in part out of next year's budget. Pending is a Congressional proposal to increase education advance appropriations by $2 billion over the fiscal year 2007 level. If enacted, it will mark the first increase in advance appropriations for education programs since the 2003 appropriations cycle and bring the total advance appropriations level to $17 billion.

2) Advance appropriations add complexity to the education funding process and are of no practical benefit to recipients. Congress began using advances to get around budget rules enacted in the 1990s. Although these rules expired five years ago, Congress continues to employ the advance appropriations process to mask budget effects.

3) Congress should end advance appropriations for education programs by providing a one-time funding shift that moves advances back a fiscal year so that they align with the current funding cycle. A new scoring rule to prevent future advances should also be enacted. The combined effect will reduce complexity and increase transparency in the federal education budget process. Such a change does not increase or decrease education funding. But it does promote transparency, simplicity, and clear decision making in federal education budget matters.

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FEDERAL EDUCATION PROGRAMS FUNDED WITH ADVANCE APPROPRIATIONS

No Child Left Behind Title I Grants
Grants to school districts to improve the education of students from lower income families. They also aim to ensure greater school finance equity among school districts.

No Child Left Behind Title II Teacher Quality Grants
Grants to school district programs for teacher training, professional development, and class size reduction, among other activities.

IDEA Special Education Grants
Grants to fund a portion of the educational services schools provide to disabled students under the federal Individuals with Disabilities Education Act.

Perkins Vocational Education Grants
Grants to states and school districts to enhance educational opportunities for high school and postsecondary students pursuing vocational and technical training.

grams and provide all discretionary funds as part of each year's regular appropriations cycle. Advance appropriations serve no functional purpose for schools, but they create a loss of transparency, comparability, and simplicity in federal education budgeting. It allocates spending before future budgets have been established. The approach was originally used to skirt spending limits and budget procedures in place from 1991 to 2002. But these spending limits and procedures have expired, and Congress continues to advance appropriate education funding.

In order to provide a better understanding of why advance appropriations came to be, how they are used today, and what steps Congress can take to eliminate them, a full discussion of these matters is provided below.

The Government Accountability Office's Glossary of Terms Used in the Federal Budget Process defines an advance appropriation as "budget authority provided in an appropriation act that becomes available one or more fiscal years after the fiscal year for which the appropriation act was enacted."[3] For example, the appropriations law that provided education funding for fiscal year 2007 provided $5.5 billion for the No Child Left Behind Title I grants and another $7.[4] billion as an advance appropriation that became available at the start of fiscal year 2008.4 For this particular program, as is done with others, the regular appropriation of $5.5 billion needs to be added to the appropriation for the succeeding fiscal year (i.e. the advance appropriation) of $7.4 billion to reflect the full amount available to schools for an academic year, which spans two fiscal years. To determine the appropriation for an individual fiscal year, however, the advance appropriation from the previous year's appropriations bill must be added to the current year appropriation *(See Figure 1)*.

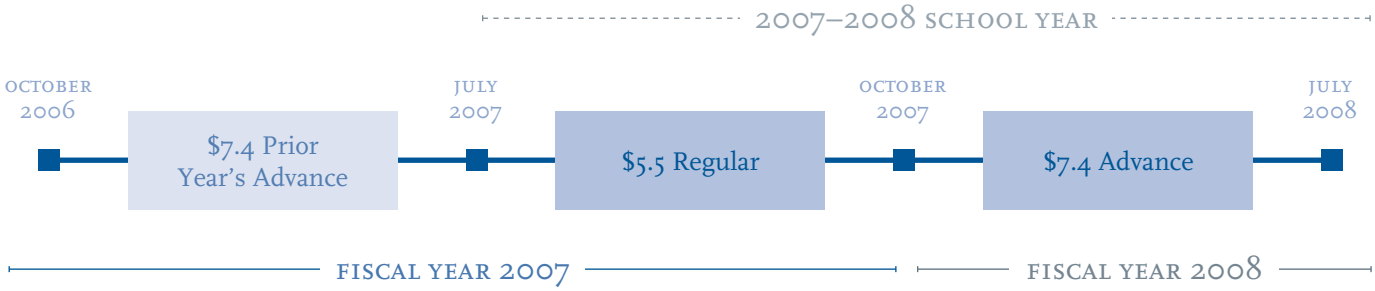
Only some education programs are funded with advance appropriations, and these programs receive only a portion of their funding through an advance. In the fiscal year 2007 appropriations bill, four education programs received advances: No Child Left Behind Title I grants, IDEA special education grants, Teacher Quality block grants, and Perkins Vocational Education state grants.[5]

Why Schools Are Indifferent

The two-step approach to providing funds for a subset of education programs through regular and advance appropriations does not matter in most cases to the schools receiving federal aid. Regular appropriations made for fiscal year 2008 and an advance for 2009 will both become available to schools in a single school year (2008-2009), albeit in two separate payments. Put another way, the appropriation takes place in two federal fiscal years (2008 and 2009), but covers only one school year. Advance appropriating works in this regard only if the regular appropriation is sufficient to "bridge" to the rest of the funding for the school year that is provided later in the advance. This dynamic creates a natural limit to advances. If Congress advanced all education funds, schools would not receive any grant aid until after October 1st of the school year. Hence, Congress needs to

FIGURE I

No Child Left Behind Title I Grant Funding
Fiscal Year 2007
($ in Billions, Budget Authority)



provide at least some funding through a regular appropriation if funding is to be available at the immediate beginning of the school year.

But Congress does not need to advance appropriate for education programs. Instead as it did until the 1990s, it could provide one regular appropriation, passed for the fiscal year that begins prior to the upcoming school year. Under either approach, schools theoretically can be provided with the same funding levels for a given school year.

Education Budget Becomes Confusing

Even though the grant recipients may be indifferent to the use of advance appropriations, the approach is by no means free of problems for others with an interest in federal education funding. For example, use of the advance appropriations technique makes it difficult to assess the actual level of funding for the subset of federal education programs that receive advances, primarily because the programs are funded in three pieces (the prior year advance, the current year appropriation, and the succeeding year advance). Consider the No Child Left Behind Title I funding levels reported by the U.S. Department of Education as an example. Funding levels are presented over multiple years as succeeding year advances, prior year advances, or regular appropriations, with a myriad of footnotes that attempt to make sense of all the possible combinations that could be derived from the information. In such cases, it takes considerable time and analysis to dissect what is reported, and it is not surprising that interpretations of education funding levels are subject to a confusing and at times misleading debate.[6]

Education advance appropriations also make it difficult to compare spending to the rest of the federal budget, because virtually all programs funded through appropriations receive only one regular appropriation. When Congress considers appropriations bills for the upcoming fiscal year, it effectively considers only part of the education budget for the upcoming year (the regular appropriation), and part of the budget for the year after that (the advance). But even before Congress considers appropriations for the upcoming year, a portion of the education budget already has been decided (the advance from the year before). Thus, the appropriations process involves three parts for some education programs but only one part for the rest of the budget.

Given that advance appropriating adds complexity to the education funding process and is of no practical benefit to recipients, it is fair to ask why Congress has used this approach for education programs for over a decade. The primary answer lies in budget rules enacted in the 1990s. A brief explanation of these rules and how they ushered in the use of advance appropriations follows.

WHY ADVANCE APPROPRIATIONS CAME TO BE

Spending Caps Become Law

A cornerstone of the federal budget process is that Congress act each year to establish spending levels for programs and agencies funded through a discretionary appropriations process. Limits on annual appropriations spending levels are not law; they are established per a budget resolution passed early in the year and are treated more or less as guidelines for the appropriations bills considered later in the year. Although procedural hurdles make it more difficult for Congress to exceed spending limits put forth in each year's budget resolution, Congress does not face any sanction should appropriations limits be breached.[7]

Large deficits in the 1980s spurred Congress to enact new budget laws aimed at imposing stricter spending guidelines.[8] The first such law (the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985) established a budget enforcement mechanism called "sequestration," a formula-based, broad reduction in federal spending to ensure deficit reduction targets were met in a given year.[9] In 1990, the budget enforcement process was modified and superseded by the Budget Enforcement Act (BEA). Instead of deficit targets, the BEA sought to discipline spending through limits, or caps, on total discretionary appropriations spending in each of the upcoming five fiscal years.[10]

The BEA enforced discretionary spending limits through a sequestration process borrowed from Gramm-Rudman. If Congress and the President enacted appropriations legislation that in the aggregate exceeded the spending caps in the BEA, sequestration would cut spending, as prescribed by a formula, to keep spending within the caps.[11] The caps were in place from 1991 through 2002.[12] With discretionary spending caps set in law and a sequestration process in place to enforce them, the stage was set for the use of advance appropriations.

Advance Appropriations: A Way Around the Caps for Education

Although the sequestration process provided an incentive for Congress and the President to enact appropriations bills within the BEA caps, political pressure and spending priorities provided an incentive to find creative ways to increase spending without violating budget caps. The fact that from 1992 through 2002 year-over-year spending growth was restricted to a rate less than inflation by the caps intensified the search for creative budgeting techniques.[13] Advance appropriations supplied one such technique. The timing difference in the federal fiscal year and the school year allowed Congress to shift funding out from under one year's spending cap and move it into the next year without affecting schools receiving the funds.

Fiscal year 1996 was the first time advance appropriations were used for education programs. A Republican-controlled Congress provided $5.4 billion for Title I grants plus an advance appropriation of $1.3 billion that became available in fiscal year 1997.[14] If only the regular appropriation is considered, Title I grant funding would have been cut from the prior year's level of $6.7 billion. But once the advance appropriation is counted, these funds bring Title I funding back up to $6.7 billion, the same level as the year before. Only the $5.4 billion regular appropriation counted toward the 1996 discretionary spending cap, while the other $1.3 billion provided to hold funding constant counted against the cap for the succeeding fiscal year *(See Figure 2)*. Since funds for all other programs had not yet been appropriated for the succeeding year, the advance did not have to compete with other spending priorities.

Realizing that advances worked well for skirting spending caps, Congress drastically expanded the practice in 1999 and has continued to use it since.[15] In fiscal year 1999, $6.2 billion of Title I grant funding was provided through an advance, compared to $1.3 billion the year before *(See Figure 3)*. The intent of the large advance appropriation was to achieve a one-year reduction in education spending that allowed for funds to be spent on other programs, while ensuring that the Labor-H appropriations bill would not cause total discretionary spending to exceed BEA spending caps and trigger the sequestration process.

As can be seen in Figure 2, total budget authority for Title I grants in fiscal year 1999 is only $3.0 billion, compared to $7.2 billion the previous year. Congress decided to expand advance appropriations to other education programs the next year, fiscal year 2000, to produce the same effect it had achieved with Title I grants the year before. In particular, special education spending was reduced to $2.0 billion in fiscal year 2000, but school year funding actually increased to $5.8 billion through an advance appropriation.

FIGURE 2

Appropriation for Title I Grants

($ in Billions, Budget Authority)

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
BY FEDERAL FISCAL YEAR	5.4	7.2	7.2	3.0	7.9	9.3	9.9	12.3	11.7	12.7	12.7	12.8
BY SCHOOL YEAR	6.7	7.2	7.4	7.7	7.9	9.8	10.4	11.7	12.3	12.7	12.7	12.8

Appropriation for Special Education Grants

($ in Billions, Budget Authority)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
BY FEDERAL FISCAL YEAR	4.5	5.1	2.0	5.8	8.3	9.1	11.2	11.4	11.4	11.6
BY SCHOOL YEAR	4.5	5.1	5.8	7.1	8.3	9.7	10.9	11.4	11.4	11.6

Source: U.S. Department of Education

Even though Congress reduced the appropriation for some education programs as per a fiscal year calculation, cuts were more than made up for when the advance became available in the succeeding fiscal year. Ultimately, the advances allowed for both an increase in education funding and a decrease in spending that counted against the cap.

Of course, using advances to skirt a spending limit only produces a one-time gain. When the succeeding fiscal year arrives, education funding has already been appropriated and the funding counts toward the spending cap for that year. In response to this complication, Congress has repeatedly provided another advance appropriation for the succeeding year. The effects of the one-time "free money"—a spending reduction in the fiscal year but a spending increase in the school year—ripple through to each succeeding fiscal year's spending cap. Congress has had to advance appropriate every year so that the one-time gain in room under the spending cap never displaced any funding for schools. This dynamic continues today. In fact, further increases in advance appropriations became an easy and popular method to boost education spending, until Congress limited the approach in fiscal year 2001—temporarily *(See Figure 3)*.

Congress Limits Advance Appropriations

In fiscal year 1999, total advance appropriations across all federal programs doubled from the year before, and then doubled again in the fiscal year 2000 bills.[16] Much of the increase was driven by education programs, though the addition of other new programs to those receiving advances, such as low-income housing and workforce training, contributed as well.[17] Eventually, Congress took action to limit advances in an effort to maintain integrity and order in the budget process. The fiscal year 2001 budget resolution limited advance appropriations made in that year's appropriations bills to $23.2 billion, the level of all advance appropriations provided the year before.[18] The programs for which advances could be provided were also restricted.[19]

To enforce the new limit, a point of order was established in the 2001 budget resolution that allows a Senator or

FIGURE 3

History of Advance Appropriations for Education Programs By Fiscal Year

($ in Billions, Budget Authority)

PROGRAM	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
READING EXCELLENCE/ READING FIRST	-	-	0.2	-	0.2	0.2	0.2	0.2	0.2	0.2	-	-
TITLE I GRANTS	1.3	1.3	1.4	6.2	6.2	6.8	7.2	6.6*	7.2	7.2	7.4	7.4
SPECIAL EDUCATION STATE GRANTS	-	-	-	-	3.7	5.1	5.1	5.7	5.4	5.4	5.4	5.4
PERKINS VOCATIONAL EDUCATION GRANTS	-	-	-	-	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
IMPROVING TEACHER QUALITY GRANTS	-	-	-	-	1.5	1.8	1.8	1.8	1.4	1.4	1.4	1.4
TOTAL ADVANCES FOR SUCCEEDING FISCAL YEAR	1.3	1.3	1.7	6.2	12.4	14.6	15.0	15.0	15.0	15.0	15.0	15.0

**Reflects a $2.2 billion rescission from the original $8.8 provided.*

Source: U.S. Department of Education

Representative to block consideration of any appropriations bill or amendment that would cause the $23.2 billion limit to be exceeded.[20] If an appropriations bill that exceeds the limit is enacted, because the point of order is not raised or it is waived (by an affirmative three-fifths majority vote in the Senate, or simple majority in the House), there are no penalties or sanctions such as sequestration in place to reduce the spending. In other words, Congress must enforce the advance appropriations limit on itself with effectively no penalty for failing to do so. Congress has renewed the limit so that it has applied each year since 2001, with one exception. Congress' failure to adopt a budget resolution for fiscal year 2003 left no limit for advance appropriations in the Senate *(See Figure 4)*.

Advance Appropriations Increase for 2008

As per the fiscal year 2008 Congressional budget resolution, passed in April 2007, advance appropriations are set to increase for the first time since the 2003 appropriations cycle. While Congress has prevented growth in advance appropriations through limits in past budget resolutions, there has been an effort nearly every year to increase the limit. In fact, some in Congress openly advocate increasing advances as a way to boost funding for certain programs.[21] Others have erroneously argued that Congress must advance appropriate because of the staggered nature of the federal fiscal year and the school year.[22] On the other hand, there has been no serious consideration of eliminating advances.[23]

With the new $25.2 billion advance appropriations limit (a $2.0 billion increase over the previous year) on fiscal year 2008 appropriations bills, it now appears that those in favor advance appropriations have gained the upper hand *(See Figure 4)*. The fiscal year 2008 Labor-H bill takes full advantage of the new spending room. The conference agreement provides all but a fraction of the increases for key K-12 programs through new advances *(See Figure 5)*.

RECOMMENDATIONS

Congress should end advance appropriations for education programs. Advances needlessly complicate the education budget, result in a loss of transparency, and distort federal spending. Moreover, advance appropriations do not provide any practical benefit to schools. The New America Foundation's Federal Education Budget Project proposes two approaches to addressing the problems endemic to advance appropriations.

Recommendation Option 1: Abolish Education Advance Appropriations

Congress should end advances by providing one-time funding to move advance appropriations into the regular appropriations cycle. At the same time, it should establish a new scoring rule that treats all advances as if they were regular appropriations.[24]

If Congress were to end advance appropriations, it would need to shift funds back into the regular appropriations cycle in order to provide the affected programs with the same level of funding they would otherwise have received. For example, if Congress ended advances for the No Child Left Behind Title I program in the proposed 2008 appropriation, it would have to provide the $8.1 billion advance as a regular appropriation. Because the 2008 funding level already includes an advance made in the prior year ($7.4 billion) and a proposed regular appropriation ($6.2 billion), moving the 2009 advance to 2008 adds another $8.1 billion, boosting No Child Left Behind Title I funding to $21.7 billion. While this might appear to be a significant increase in funding, it simply includes funding that would have been provided anyway, just one fiscal year later. Funds would be shifted out of fiscal year 2009 and back into 2008. When Congress considers the 2009 appropriations bill, there would not be an advance from the prior year already staking a claim on spending room. Thus, Congress could simply appropriate the full amount it wishes to provide for Title I grants without having to utilize another advance to make up for the prior advance.

Unfortunately, this timing shift would create the appearance of an increase in funding. For example, education funding for 2008 would be $17 billion higher if all advances for the succeeding year were shifted back one year. The rate and amount of money that would be spent as outlays would not change, however, because recipients of grant aid would spend the funds at the same rate. Ending advances in essence requires the appearance of a one-year increase in funding to take back the reductions that

FIGURE 4

Advance Appropriation Limits and Enacted Totals

Fiscal Year 1997-2008

($ in Billions, Budget Authority)

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009†
LIMIT	N/A	N/A	N/A	N/A	N/A	23.2	23.2	N/A*	23.2	23.2	23.2	23.2	25.2
ENACTED‡	2.1	3.7	4.8	10.6	23.2	23.2	23.2	25.4	23.2	23.2	23.2	23.2	25.2

* *No limit was agreed to in the Senate. The House imposed a limit of $23.2 billion on itself.*

† *Proposed House and Senate*

‡ *Excludes advance appropriation for the Corporation for Public Broadcasting and the Bioshield program, which are not subject to the limit.*

Source: New America Foundation, Congressional Budget Office

Congress gained over the years through the use of larger and larger advances.

Some in Congress might be opposed to taking action that would result in the appearance of a significant one-year funding increase. To help reflect that the funding is indeed intended to carry advances into the current appropriations year, and not intended to provide a spending increase, it could be classified as mandatory spending. This would keep the one-time funding separate and out of the appropriations process, helping to ensure that it is indeed used to support programs that would no longer receive an advance. When Congress adopts its budget resolution, it could include language that allows for spending legislation that ends advances to be treated as mandatory spending.[25]

Of course, Congress would have to follow through and prohibit the future use of advances once the succeeding year advance is moved back a fiscal year. The temptation to start the advance appropriations process all over again would be great. To ensure that future Congresses adhered to the prohibition on advances, a new scoring rule could be adopted in law. Under this new rule, any appropriations bill that provides funding outside of the fiscal year covered by the bill would be charged or "scored" as if the new spending were provided in the fiscal year covered by the bill.

A 2008 Labor-H appropriations bill that provides advance appropriations for education programs in 2009 would, according the proposed rule, provide all the funding in fiscal

FIGURE 5

Advance and Total Appropriations

Enacted 2007 vs. Proposed 2008

($ in Billions, Budget Authority)

PROGRAM	2007	President	Senate	House	Conference
TITLE I GRANTS	7.4	7.4	8.9	8.1	8.1
SPECIAL EDUCATION STATE GRANTS	5.4	6.2	5.9	6.6	6.7
PERKINS VOCATIONAL EDUCATION GRANTS	0.8	0.0	0.8	0.8	0.8
IMPROVING TEACHER QUALITY GRANTS	1.4	1.4	1.4	1.4	1.4
TOTAL ADVANCES FOR SUCCEEDING FISCAL YEAR	15.0	15.0	17.0	17.0	17.0

PROGRAM	2007	President	Senate	House	Conference
TITLE I GRANTS	12.8	13.9	13.9	14.4	14.3
SPECIAL EDUCATION STATE GRANTS	11.6	11.3	12.1	12.2	12.1
PERKINS VOCATIONAL EDUCATION GRANTS	1.2	0.6	1.2	1.2	1.2
IMPROVING TEACHER QUALITY GRANTS	2.9	2.8	2.9	3.2	3.0
TOTAL APPROPRIATION BY SCHOOL YEAR	28.5	28.6	30.1	30.9	30.7

Source: U.S. Department of Education

year 2008, the year covered by the bill. Congress would face a new budget rule that ensures a shift of education funding into an advance appropriation does not free up funding to be spent on other programs. The incentive to advance appropriate would be eliminated ensuring a more simple and transparent education budget[26]

Recommendation Option 2: Hold Education Advance Appropriations Constant

If Congress is unwilling to take on the task of ending advance appropriations for education programs, it could at least agree to reduce some of the complexity in the process. An agreement between the White House and both chambers of Congress to hold the level of advance appropriations constant from year to year would mitigate some, but not all of the confusion in the process. If, for example, the proposed advance of $6.7 billion for special education grants for fiscal year 2009 is made in each appropriations bill in the future, then any funding change in the program can be discerned by the change in the regular appropriation. In other words, there is only one moving piece from year to year in the appropriations. Such a policy would avert the complexity that surrounds the fiscal year 2008 proposals, where the House, Senate, conference agreement, and President's proposals all provide different advance and regular appropriations funding level *(See Figure 5)*.

Holding education advance appropriations constant from year to year among the President's proposal and those in each House would require a strong commitment on the part of Congress and the President. That commitment could be ensured through the modification of existing budget procedures. Congress already includes a list of appropriations accounts for which advance appropriations are permissible, but the list does not specify an amount for each account or programs within the accounts, only a limit for the sum of all accounts is provided.[27] Congress could adopt a more detailed list in its budget resolutions that specified exactly how much each education program could receive through an advance appropriation. Amounts in excess of this limit would trigger the point of order that is currently used to enforce the existing limit on advances. While this recommendation is considerably weaker than an outright elimination of education advances, both in its goal and its likely enforcement, it provides a partial solution that would restore some transparency to the federal education budget.

CONCLUSION

When Congress began providing advance appropriations, it bought itself a way around annual budget spending caps. The price for this gain is now being paid through the complex, multiple year appropriations process that exists for a subset of education programs—a process that clouds the debate about federal education funding. Given that advance appropriations provide no practical benefit to schools over regular appropriations, and spending caps are no longer in place, the practice should be abolished.

Congress and the Administration should take the responsible step of eliminating advance appropriations in the next budget cycle. They could do so by instituting a one-time appropriation to move the advances back to the fiscal year covered by the appropriations bill. Future advances could effectively be prevented through the adoption in law of a new scoring rule that treats all appropriations as if they were made for the year covered by the appropriations bill. Advance appropriations run counter to the interests of transparency and clarity in education budgeting.

ENDNOTES

[1] Heather Rieman, "Budget Showdown 2007: The Facts Behind Education Funding," *New America Foundation*, October 4, 2007, http://www.newamerica.net/files/Budget%20Showdown%20Issue%20Brief%20Final%2010-12-07.pdf, 3.

[2] H.R. 3043 *Conference Report*, 110th Cong., 1st sess., http://www.rules.house.gov/110/text/110_hr3043cr.pdf, 86,88,94,96.

[3] U.S. Government Accountability Office, *Glossary of Terms Used in the Federal Budget Process*, September 2005, http://www.gao.gov/new.items/d05734sp.pdf, 8.

[4] U.S. Department of Education, "FY 2008 Congressional Action," November 6, 2007, http://www.ed.gov/about/overview/budget/budget08/08action.xls.

[5] Ibid.

[6] See e.g. Richard Kogan "Under President's Budget, Education Funding Would Grow 5.3 Percent," *Center on Budget and Policy Priorities*, April 25, 2001, http://www.cbpp.org/4-13-01bud.pdf, 5.

[7] The rules and procedures surrounding the congressional budget process are governed largely by the Congressional Budget and Impoundment Control Act of 1974. U.S. Congress, *Congressional Budget and Impoundment Control Act of 1974*, Public Law 93-344, July 12, 1974, http://www.ssa.gov/OP_Home/comp2/F093-344.html.

[8] Dan Crippen, "CBO Testimony Extending the Budget Enforcement Act," *Testimony before the U.S. House Committee on the Budget*, June 27, 2001, http://www.cbo.gov/ftpdoc.cfm?index=2896&type=0.

[9] U.S. Congress, *Balanced Budget and Emergency Deficit Control Act of 1985*, Public Law 99-177, December 12, 1984, http://www.ssa.gov/OP_Home/comp2/F099-177.html.

[10] U.S. Congress, *Omnibus Budget Reconciliation Act of 1990*, Public Law 101-508, November 15, 1990, http://assembler.law.cornell.edu/usc-cgi/get_external.cgi?type=pubL&target=101-508.

[11] Only one sequester of discretionary spending occurred while spending caps were in law. It occurred in April of 1991 for an amount of $2.4 million. U.S. Senate Committee on the Budget, *The Congressional Budget Process: An Explanation*, 105th Cong., 2nd sess., Senate Report 105-67, 2003, 18.

[12] Office of Management and Budget, *OMB Sequestration Update Report to the President and Congress for Fiscal Year 2003*, August 19, 2002.

[13] Crippen.

[14] U.S. Department of Education, *FY 1998Budget Summary*, January 24, 1997, http://www.ed.gov/offices/OUS/Budget98/BudgetSum/index.html, Appendix 2.

[15] Senate Committee on the Budget.

[16] U.S. Department of Education, *FY1999 Budget Summary*, http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/25/de.pdf, Appendix 2; U.S. Department of Education, *FY2000 Budget Summary*, January 26, 1999, http://www.ed.gov/offices/OUS/Budget00/BudgetSumm/budapp00.pdf, Appendix 2.

[17] U.S. Congressional Budget Office, *Discretionary Advance Appropriations (Enacted) FY1995-2008*.

[18] Ibid; *Concurrent Resolution on the Budget for Fiscal Year 2001* H. Con. Res. 290, 106th Cong., 2nd sess. (April 13, 2000), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_bills&docid=f:hc290enr.txt.pdf, 13.

[19] Most recently, budget resolutions have limited advances to programs within nine appropriations accounts. These accounts include: Postal Service, low income housing vouchers, Job Corps, Training and Employment Services (Workforce Investment Act), Children and Family Services (Head Start), Education for the Disadvantaged (Title I grants), Special Education, School Improvement (Improving Teacher Quality grants) Vocational and Adult Education (Perkins State Grants) and the Corporation for Public Broadcasting. The $23.2 billion limit historically has not applied to the Corporation for Public Broadcasting. The multi-year Bioshield program appropriation enacted on the fiscal year 2004 Homeland Security appropriation bill is also excluded from the limit.

[20] Ibid 14.

[21] In the debate over the fiscal year 2006 budget resolution, Sen. Arlen Specter (R-PA) and Sen. Tom Harkin (D-IA) offered an amendment to the budget resolution that would use roughly $7 billion in additional advance appropriations to increase the fiscal year 2007 funding level for the Labor-HHS bill. *An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011*, SA 3048 to S. Con. Res. 83, 109th Cong. 2nd sess., *Congressional Record* (March 14, 2006) S 2099, S 2137.

[22] Senate Committee on the Budget, *Informed Budgeteer*, 107th Cong., 2nd sess. No. 21, July 29, 2002, 1.

[23] A proposal in the first budget request (fiscal year 2002) put forth by President Bush would have eliminated most advance appropriations and provided a one-time $14.6 billion funding increase for education programs to offset the proposed elimination of the advance appropriation made available in the succeeding fiscal year. It was not considered by Congress and the Administration has not included it in subsequent budget requests. Office of Management and Budget, *A Blueprint for New Beginnings: A Responsible Budget for America's Priorities*, 2002, http://www.gpoaccess.gov/usbudget/fy02/pdf/blueprnt.pdf, 104, 171.

[24] Budget score keeping rules govern how spending and revenue legislation is treated and recorded with respect to congressional budget rules and procedures.

[25] This approach was used in providing funding to retire a shortfall in the Pell Grant program. U.S. Congress, *Further Conference Report on H.R. 3010, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, 2006*, Conference Report 109-337, 109th Cong., 1st sess., December 13, 2005, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:hr337.109.pdf, 112; U.S. Congress, *Conference Report on H. Con. Res. 95, Concurrent Resolution on the Budget for Fiscal Year 2006*, Conference Report 109-62, 109th Cong., 1st sess., April 28, 2005, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:hr062.109.pdf, 76.

[26] A similar approach was adopted in 2006 to prevent appropriation legislation from borrowing from future funding for the Pell Grant program. Congress has abided by the rule thus far. "Pell Grant Budget Rule," *New America Foundation*, http://www.newamerica.net/programs/education_policy/federal_education_budget_project/basics/pell_rule, last accessed November 9, 2007; *Conference Report on H. Con. Res. 95*, 24.

[27] Ibid.

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