

Federal Budget – Fall 2021

Professor Timothy J. Muris

Thursday, 6:00 pm – 7:50 pm

We will study the Federal Budget in its many particulars, including the relevant constitutional and case law, statutory framework, institutional structure, and important policy components, such as discretionary spending, entitlements, and regulatory analysis. We will discuss the budget process as it evolves during the year, beginning with CBO's Baseline Reports, Release of the President's Budget, Development and Passage of the Congressional Budget Resolution, the Appropriations Process, and (sometimes) Reconciliation.

Grades will be based upon a paper, due the last class period, **Thursday, November 18th**. I will circulate a list of topics, from which you can choose to write or we can mutually agree on the topic. We will have multiple individual meetings on your papers. I will circulate a sign-up sheet on September 9th, with individual meetings on your topics September 16th.

An outline, of at least 4-5 pages double spaced pages, will be due on October 6th via email: tmuris@gmu.edu. Individual meetings with me on the outlines will be on October 7th. I will circulate a signup sheet on September 30th.

We will use a variety of sources, including:

Attachment 1 (articles, cases, and DOJ opinions)

Attachment 2 (Chapters from the Budget Puzzle, of which I am a co-author, on reserve).

You should also regularly visit:

- <https://www.cbo.gov>
- <https://www.whitehouse.gov/omb>
- <http://crfb.org>
- <http://www.concordcoalition.org>

The blogs and government material cited above provide relevant introductory material, for example on the now much discussed reconciliation process. A still useful book on the subject is Allen Schick, *The Federal Budget: Politics, Policy, Process* (2007)

We will begin with introductory class sessions and the Stith and Sidak articles, cited in Attachment 1.

We will also discuss John Cogan's recent book, "The High Cost of Good Intentions: A History of U.S. Federal Entitlement Programs" (Stanford U. Press 2017). Two copies are available on reserve.

Finally, we will use the basic CBO, OMB, and Legislative Tools as they are development during the budget process.

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Stith, “Congress’ Power of the Purse”, 97 Yale L.J. 1343, (June 1988), pp 1343-1396

Sidak, “The President’s Power of the Purse”, 1989 Duke L.J. 5, (1989), pp 1162-1253

Budget Process Law Annotated (1993 edition) (annotations by William G. Dauster)

Furman and Summers, Who’s Afraid of Budget Deficits, Foreign Affairs 82 (March/April 2019)

Wsj.com has numerous useful articles this year on budget issues. For example, 1-30 (Greg Ip on the embrace of deficits), 3-18 (Ip on American Rescue Plan), and 3-30 (Schlesinger and Restuccia on Biden Administration’s reliance on government to drive growth).

Washingtonpost.com published multiple op-eds by Summers about the inflation risk of the Biden program, February 4 and 7, as well as May 24.

Aei.org follows budget policy as well, for example Michael Strain on 8-4 and 7-23. There is also a useful paper on the executive power of the purse, by Reynolds and Wallach, published in October 2020.

AG Civiletti-OLC Shutdown Memo (1980)

Government Operations in the Event of a Lapse in Appropriations, Letter from Walter Dellinger, August 16, 1995, 2 Op. O.L.C. at 323.

Authority for the Continuance of Government Functions During a Temporary Lapse in Appropriations. Letter from Benjamin Civiletti, January 16, 1981, 43 Op. Att’y.Gen. 293 (1981).

U.S. Const. Art. 1, Sec. 9 cl. 7

United States v. Butler, 297 U.S. 1 (1936).

United States v. Dickerson, 310 U.S. 554 (1940).

New York Airways, Inc. v. United States, 369 F.2d 743 (Court Claims, 1966).

Los Angeles v. Adams, 556 F.2d 40 (D.C. Cir. 1977).

Human Resources Development Institute v. Donovan, 587 F. Supp. 617 (D.C. Cir. 1983).

International Union UAAAIWA v. Donovan, 746 F.2d 855 (D.C. Cir. 1984).

Virginia v. Sebelius, 728 F. Supp. 2d 768 (E.D. Va. 2010).

Thomas More Law Center v. Obama, Case No. 10-CV-11156 (E.D. Mich. 2010), *available at* <https://www.mied.uscourts.gov/PDFFiles/09714485866.pdf>

Nat'l Fed'n of Indep. Bus. v. Sebelius, 567 U.S. 519 (2012).

King v. Burwell, 135 S. Ct. 2480 (2015).

House v. Burwell, 185 F. Supp.3d 165 (D. D.C. 2018)

Sierra Club v. Trump, 379 F. Supp.3d 883 (N.D. Cal. 2019) *aff'd* 963 F.3d 874 (9th Cir 2020); cert granted but dismissed as most when President Biden reversed the previous policy.

Maine Community Health Options v. United States, 140 S. Ct 1408 (2020)

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The Budget Puzzle: Understanding Federal Spending

by

John F. Cogan, Timothy J. Muris and Allen Shick

Chapters 3 & 4 (printouts w/ endnotes)

On Reserve in Library