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# The Congressional Appropriations Process: An Introduction

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# The Congressional Appropriations Process: An Introduction

## Summary

Congress annually considers 13 or more appropriations measures, which provide funding for numerous activities, for example, national defense, education, homeland security, and crime. These measures also fund general government operations such as the administration of federal agencies. Congress has developed certain rules and practices for the consideration of appropriations measures, referred to as the *congressional appropriations process*.

Generally, the congressional appropriations process includes the

- annual appropriations cycle;
- spending ceilings for appropriations associated with the annual budget resolution; and
- prohibitions against certain language in appropriations measures that violate separation of the authorization and appropriation functions into separate measures.

There are three types of appropriations measures. *Regular appropriations bills* provide most of the funding that is provided in all appropriations measures for a fiscal year, and must be enacted by October 1 of each year. If regular bills are not enacted by the deadline, Congress adopts *continuing resolutions* to continue funding generally until regular bills are enacted. *Supplemental bills* are considered later and provide additional appropriations.

Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees. These committees control only about one-third of total federal spending provided for a fiscal year. The House and Senate authorizing committees control the rest.

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## Introduction

Congress annually considers 13 or more appropriations measures, which provide funding for numerous activities, for example, national defense, education, homeland security, and crime. These measures also fund general government operations such as the administration of federal agencies. Congress has developed certain rules and practices for the consideration of appropriations measures, referred to as the *congressional appropriations process*. This report discusses the following aspects of this process:

- Annual appropriations cycle;
- Spending ceilings for appropriations associated with the annual budget resolution; and
- Prohibitions against certain language in appropriations measures that violate separation of the authorization and appropriation functions into separate measures.

When considering appropriations measures, Congress is exercising the power granted to it under the Constitution, which states, "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."[1] The executive branch may not spend more than the amount appropriated,[2] and it may use available funds only for the purposes established by Congress.[3]

The President has an important role by virtue of his constitutional power to approve or veto entire measures and his various duties imposed by statute, such as submitting an annual budget to the Congress.

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[1] U.S. Constitution , Article I, Section 9.

[2] The Antideficiency Act (31 U.S.C. 1341(a)(1)). This prohibition was derived from a statute enacted in 1870 (16 Stat. 251). U.S. Government Accountability Office (formerly named the General Accounting Office), Principles of Federal Appropriations Law, 2nd edition, vol. 2, GAO/OGC-91-5 (Washington: GPO, July 1991), pp. 6-10 through 6-12.

[3] 31 U.S.C. 1301(a). This requirement was originally enacted in 1809 (2 Stat. 535). U.S. Government Accountability Office, Principles of Federal Appropriations Law, 2nd edition, vol. 1, GAO/OGC-91-5 (Washington: GPO, July 1991), pp. 4-2.

# Annual Appropriations Cycle

## President Submits Budget

The President initiates the appropriations process by submitting his annual budget for the upcoming fiscal year to Congress.[4] The President is required to submit his annual budget on or before the first Monday in February.[5] Congress has provided extensions of the deadline both statutorily and, sometimes, informally.[6]

The President recommends spending levels for the various programs and agencies of the federal government in the form of *budget authority* (or *BA*) since Congress provides budget authority instead of cash to agencies. Budget authority represents the legal authority for federal agencies to make *obligations* requiring either immediate or future expenditures (or *outlays*). These obligations (for example, entering into a contract to construct a ship or purchase supplies) result in outlays, which are payments from the Treasury, usually in the form of checks, electronic funds transfers, or cash disbursements.

For example, an appropriations act provided $3 billion in new budget authority for FY2002 to the Defense Department to construct four ships. That is, the act gave the Department legal authority to sign contracts to build the ships. The department could not commit the government to pay more than $3 billion. The outlays occur when the contractor cashes the government check for building the ships.

Generally, appropriations are a type of budget authority. Such an *appropriation* not only provides the authority to make obligations, but it also gives the agency authority to make the subsequent payments (outlays). Appropriations measures provide *new* budget authority (as opposed to previously enacted budget authority). Typically, appropriations must be obligated in the fiscal year for which they are provided. In the above example, the Defense Department would be required to sign the construction contracts during FY2002.

Not all new budget authority provided for a fiscal year is expended that year. A total of $3.0 billion in outlays is spent over four fiscal years. For example, although Congress provided $3 billion in budget authority for FY2002 to construct four ships, the outlays may occur over several years, until the project is completed:

- FY2002, $0.1 billion;
- FY2003, $0.4 billion;
- FY2004, $1.0 billion; and
- FY2005, $1.5 billion.

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[4] Congress generally provides spending for fiscal years, in contrast to calendar years. Federal government *fiscal years* begin on October 1 and end the following September 30. FY2005 began on October 1, 2004.

[5] 31 U.S.C. 1105(a).

[6] For information on budget submissions in presidential transition years, see CRS Report RS20752, *Submission of the President's Budget in Transition Years*, by Robert Keith.

As Congress considers appropriations measures providing new budget authority for a particular fiscal year, discussions on the resulting outlays only involve estimates. Data on the actual outlays for a fiscal year are not available until the fiscal year has ended.

When the President submits his budget to Congress, the agencies provide detailed *justification* materials to the House and Senate appropriations subcommittees, which have jurisdiction over funding for the particular agencies.

## Congress Adopts Budget Resolution

The Congressional Budget and Impoundment Control Act of 1974, as amended, (the Congressional Budget Act)[7] requires Congress to adopt an annual budget resolution.[8] Usually, the budget resolution is Congress's response to the President's budget. The budget resolution must cover at least five fiscal years: the upcoming fiscal year plus the four subsequent fiscal years.

The budget resolution sets total new budget authority and outlay levels for each fiscal year covered by the resolution. It also distributes federal spending among 20 functional categories, such as national defense, agriculture, and transportation, and sets similar levels for each function. The resolution also includes revenue floors for each fiscal year.

Total new budget authority and outlays are distributed among both the House and Senate committees with jurisdiction over spending, thereby setting spending ceilings for each committee (see "Allocations" section below).[9]

The budget resolution is never sent to the President, nor does it become law. It does not provide budget authority or raise or lower revenues, but is instead a guide for Congress to use as it considers various budget bills, including appropriations and tax measures.

The Congressional Budget Act provides an April 15 deadline for final congressional adoption of the budget resolution. However, Congress frequently does not meet this deadline.

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[7] 2 U.S.C. 601-656 (2000); P.L. 93-344 (88 Stat. 297); amended by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (99 Stat. 1037, 1038); further amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119 (101 Stat. 754); further amended by the Budget Enforcement Act of 1990, P.L. 101-508 (104 Stat. 1388-573 to 1388-630); further amended by the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (107 Stat. 312); further amended by the Budget Enforcement Act of 1997, P.L. 105-33 (111 Stat. 251); and further amended by the Adoption and Safe Families Act of 1997, P.L. 105-89 (111 Stat. 2125).

[8] Budget resolutions are under the jurisdiction of the House and Senate Budget Committees.

[9] The committee ceilings are usually provided in the joint explanatory statement that accompanies the conference report to the budget resolution.

During the 29 fiscal years that Congress has considered budget resolutions (FY1976-FY2004), Congress has eventually adopted a budget resolution in every year except two — FY1999 and FY2003.[10] There is no penalty if the budget resolution is not completed or is tardy, but there may be difficulties. For example, certain enforceable spending ceilings associated with the budget resolution are not established until the budget resolution is completed. In such instances, each chamber may adopt its own deeming resolution to address these difficulties (see "Allocations" section below).

The Congressional Budget Act generally prohibits House or Senate floor consideration of revenue or spending measures for a fiscal year until Congress adopts the budget resolution.[11] However, even if the budget resolution is not in place, the House may begin considering the regular appropriations bills without violating the act after May 15.[12] No such provision exists in the Senate; however, the Senate may waive the rule by a majority vote. In both chambers, this rule is not self-enforcing. A Representative or Senator must raise a point of order that a measure violates the rule.

## Timetable for Consideration of Appropriations Measures

Traditionally, the House of Representatives has initiated consideration of appropriations measures. Although recently, some of the regular appropriations bills have been reported in the Senate first.

The House Appropriations Committee has jurisdiction over appropriations measures and reports the 13 regular appropriations bills separately to the full House. The committee begins reporting the bills in May or June, completing all or almost all of them by the annual August recess. Generally, the full House begins consideration of the regular appropriations bills in May or June as well, passing most by the recess. For seven of the past 10 years (FY1995-FY2004), the House passed all 13 regular appropriations bills.

The Senate Appropriations Committee has jurisdiction over appropriations measures and, generally, begins reporting the regular appropriations bills to the full Senate in May or June. Measures are generally reported before the August recess or in September. The Senate begins passing the bills in June or July and continues in the fall. For six of the past 10 years, the Senate did not pass all 13 regular appropriations bills. One to four bills were not completed for each of those years, except one year. For FY2003, the Senate did not pass 10 bills.[13]

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[10] As of Dec. 6, 2004, Congress had not completed the FY2005 budget resolution.

[11] For details, see 2 U.S.C. 634 (2000).

[12] Of the three types of appropriations measures, regular appropriations bills have traditionally provided agencies most of their budget authority (see "Types of Appropriations Measures" section below).

[13] The regular bills that the House or Senate did not pass were generally funded in omnibus appropriations measures (see "Regular Appropriations Bills" section below).

During the fall, the Appropriations Committees are usually heavily involved in conferences to resolve differences between the two chambers. Relatively little or no time is left before the fiscal year begins to resolve what may be wide disparities between the House and Senate, to say nothing of those between Congress and the President. Congress is usually faced with the need to enact one or more temporary continuing resolutions pending the final disposition of the regular appropriations bills.[14]

## Work of the Appropriations Committees

After the President submits his budget, the House and Senate Appropriations Committees hold full committee and subcommittee hearings on the segments of the budget under their jurisdiction. The 13 appropriations subcommittees in each house hold more detailed hearings on the agencies' justifications, primarily obtaining testimony from agency officials.

Each appropriations subcommittee has jurisdiction over one regular appropriations bill. Each House appropriations subcommittee is paired with a Senate appropriations subcommittee, both having jurisdiction over the same agencies and programs. For example, the House and Senate agriculture appropriations subcommittees have jurisdiction over the agriculture regular appropriations bill, which funds most of the U.S. Department of Agriculture, the Food and Drug Administration (Department of Health and Human Services), and other entities.

After the hearings have been completed and the House and Senate Appropriations Committees have received their committee spending ceilings from the budget resolution, the House and Senate appropriations subcommittees begin to *mark up*[15] the regular bills under their jurisdiction and report them to their respective full committees. Each appropriations committee considers each of their subcommittee's recommendations separately. The committees may adopt amendments to a subcommittee bill and then report the bill as amended to their respective floors for action.

Recently, the Senate Appropriations Committee has generally reported either original Senate regular appropriations bills or substitute amendments replacing the texts of the House-passed bills.[16]

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[14] For a description of continuing resolutions, see "Continuing Resolutions" section below.

[15] The chair usually proposes a draft bill (the *chair's mark*). The chair and other subcommittee members discuss amendments to the draft and may agree to include some (referred to as *marking up the bill*). Regular appropriations bills are not introduced prior to full committee markup. The bill is introduced when the House Appropriations Committee reports the bill; a bill number is assigned at that time. The House rules allow the House Appropriations Committee to originate a bill. In contrast, most House committees do not have such authority.

[16] Traditionally, the Senate Appropriations Committee had generally waited until it received a House-passed regular appropriations bill before it drafted its version. The Senate appropriations subcommittee reported the House-passed bill to the full committee with

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## House and Senate Floor Action

After the House or Senate Appropriations Committee reports an appropriations bill to the House or Senate, respectively, the bill is brought to the floor. At this point, Representatives or Senators are generally provided an opportunity to propose floor amendments to the bill.

**House.** Prior to floor consideration of a regular appropriations bill, the House generally considers a special rule reported by the House Rules Committee setting parameters for floor consideration of the bill.[17] If the House adopts the special rule, it usually considers the appropriations bill immediately.

The House considers the bill in the Committee of the Whole House on the State of the Union (or Committee of the Whole) of which all Representatives are members.[18] A special rule on an appropriations bill usually provides for one hour of general debate on the bill. The debate includes opening statements by the chair and ranking minority member[19] of the appropriations subcommittee with jurisdiction over the regular bill, as well as other interested Representatives.

After the Committee of the Whole debates the bill, it considers amendments.[20] Amendments must meet requirements of the

- House standing rules and precedents, for example, amendments must be germane to the bill;
- congressional budget process (see "Spending Ceilings for Appropriations Measures" section below);

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[16] (...continued)
amendments distributed throughout the bill. The full committee considered subcommittee recommendations and made any changes it considered appropriate. The full committee then reported the bill with recommended amendments to the Senate for floor consideration. The number of amendments in each bill would range from a few to over 100.

[17] Because the regular appropriations bills must be completed in a timely fashion, House Rule XIII, clause 5, provides that these appropriations bills are privileged. This allows the House Appropriations Committee to bring appropriations bills directly to the floor in contrast to asking the Rules Committee to report a special rule. The latter method is used for most major measures.

In recent years, the House Appropriations Committee has usually used the special rule procedure, however. These special rules typically include waivers of certain parliamentary rules regarding the consideration of appropriations bills and certain provisions within them. Special rules may also be used for other purposes, such as restricting floor amendments.

[18] House Rule XVIII, clause 3, requires that appropriations measures be considered in the Committee of the Whole before the House votes on passage of the measures (see CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Elizabeth Rybicki and Stanley Bach).

[19] *A ranking minority member* of a committee or subcommittee is the head of the minority party members of the particular committee or subcommittee.

[20] They generally consider amendments by going through the bill in order. The presiding officer asks if there are any amendments to the paragraph (or title) under consideration.

- authorization-appropriation process, which enforces the relationship between authorization and appropriations measures (see "Relationship Between the Authorization and Appropriations Measures" section below); and
- special rule providing for consideration of the particular bill.

If an amendment violates any of these requirements, any Representative may raise a *point of order* to that effect. If the presiding officer rules the amendment out of order, it cannot be considered on the House floor. The special rule may waive any of these requirements, thereby allowing the House to consider the amendment.

During consideration of individual regular appropriations bills, the House sometimes sets additional parameters, either by adopting a special rule or by *unanimous consent*. The House agrees to the parameters only if no Representative objects. For example, the House sometimes agrees to limit debate on individual amendments by unanimous consent.

After the Committee of the Whole completes consideration of the measure, it reports the bill with any adopted amendments to the full House. The House then votes on the adopted amendments and passage. After House passage, the bill is sent to the Senate.

**Senate.** The full Senate considers the bill as reported by its Appropriations Committee. The Senate does not utilize the device of a special rule to set parameters for consideration of bills. Before taking up the bill, however, or during its consideration, the Senate sometimes sets parameters by unanimous consent.

When the bill is brought up on the floor, the chair and ranking minority member of the appropriations subcommittee make opening statements on the contents of the bill as reported.

Committee and floor amendments to the reported bills must meet requirements under the Senate standing rules and precedents, congressional budget process, authorization-appropriation process, as well as requirements agreed to by unanimous consent.[21] The specifics of the Senate and House requirements differ. As in the House, the Senate may sometimes waive some of these rules.[22]

When the Senate Appropriations Committee reports a Senate bill and after the full Senate has completed action on it, the Senate waits for the House to send its bill to the Senate and amends the House-passed bill with generally a substitute amendment that contains the text of the Senate bill as amended on the Senate floor.

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[21] The Senate, in contrast to the House, does not consider floor amendments in the order of the bill. Senators may propose amendments to any portion of the bill at any time unless the Senate agrees to set limits.

[22] It does so either by unanimous consent or, in some cases, by motion.

## House and Senate Conference Action

Generally, members of the House and Senate appropriations subcommittees having jurisdiction over a particular regular appropriations bill, and the chair and ranking minority members of the full committees meet to negotiate over differences between the House- and Senate-passed bills.[23]

Under House and Senate rules, the negotiators (or *conferees* or *managers*) are generally required to remain within the scope of the differences between the positions of the two chambers.[24] Their agreement must be within the range established by the House- and Senate-passed versions. For example, if the House-passed bill appropriates $3 million for a program and a separate Senate amendment provides $5 million, the conferees must reach an agreement that is within the $3-$5 million range. However, these rules are not always followed.[25]

Recently, the Senate has been passing single substitute amendments to each House bill. In such instances, the conferees must reach agreement on all points of difference between the House and Senate versions before reporting the conference report in agreement to both houses. When this occurs, the conferees propose a new conference substitute for the bill as a whole. The conferees attach a joint explanatory statement (or *managers' statement*) explaining the new substitute.

Usually, the House considers conference reports on appropriations measures first because it traditionally considers the measures first. The first house to consider a conference report has the option of voting to recommit the report to the conference for further consideration, rejecting the conference report, or adopting it. After the first house adopts the conference report, the conference is automatically disbanded; therefore, the second house has two options — adopt or reject the conference report.

Conference reports cannot be amended in either the House or Senate.

If the conference report is rejected, or is recommitted by the first house, the conferees negotiate further over the matters in dispute between the two houses.[26] The

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[23] If the Senate (or House) does not pass a bill, informal negotiations typically take place on the basis of the reported version of that chamber. For example, the House passed the FY1999 Interior bill, but the Senate did not. Negotiations then ensued over the House-passed version and the Senate reported-version. Frequently, the compromise is included in a conference report on an omnibus appropriations measure (see "Regular Appropriations Bill" section below). The final version of the FY1999 Interior bill was incorporated in the conference report to the FY1999 omnibus appropriations bill (P.L. 105-277), which included eight regular appropriations bills.

[24] House Rule XXII, clause 9, and Senate Rule XXVIII, paragraphs 2 and 3.

[25] Generally, before the House considers a conference report on an appropriations measure, it adopts a special rule waiving all points of order against the conference report and its consideration, including points of order that the conference report goes beyond the scope of the differences.

[26] Technically, if either house rejects the conference report, the two houses normally agree

(continued...)

measure cannot be sent to the President until both houses have agreed to the entire text of the bill.

## Presidential Action

After Congress sends the bill to the President, he has 10 days to sign or veto the measure. If he takes no action, the bill automatically becomes law at the end of the 10-day period. Conversely, if he takes no action when Congress has adjourned, he may *pocket veto* the bill.

If the President vetoes the bill, he sends it back to Congress. Congress may override the veto by a 2/3 vote in both houses. If Congress successfully overrides the veto, the bill becomes law. If Congress is unsuccessful, the bill dies.

# Types of Appropriations Measures

## Regular Appropriations Bills

Annually, Congress considers 13 regular appropriations bills. Their complete names and the familiar forms of those names are as follows:

- Agriculture, rural development, Food and Drug Administration, and related agencies (Agriculture);
- Departments of Commerce, Justice, and State, the Judiciary, and related agencies (Commerce-Justice-State);
- Department of Defense (Defense);
- District of Columbia (DC);
- Energy and water development (energy and water);
- Foreign operations, export financing, and related programs (foreign operations or foreign assistance);
- Department of Homeland Security (Homeland Security);
- Department of the Interior and related agencies (Interior);
- Departments of Labor, Health and Human Services, and Education, and related agencies (Labor-HHS-Education);
- Legislative branch (leg. branch);
- Military construction (mil. con.);
- Transportation, Treasury, independent agencies, and general government (Transportation and Treasury); and
- Departments of Veterans Affairs and Housing and Urban Development, and independent agencies (VA-HUD).

Generally, Congress provides appropriations in lump-sum amounts by grouping related activities together (generally referred to as *accounts*) and providing budget authority for each account it chooses to fund. For example, the FY1997 energy and

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[26] (...continued)
to further conference, usually appointing the same conferees.

water act provided an appropriation of $1.2 billion for the "Construction, General" account of the Army Corps of Engineers. Some of the activities funded in this account were construction projects regarding flood control and shore protection.

Regular appropriations measures may also include provisions setting aside funds within an account for a more specific purpose (some refer to this as an *earmark*).[27] For example, within the FY1997 appropriation for the Corps' "Construction, General" account, Congress earmarked $3 million for Red River Emergency Bank Protection in Arkansas.[28]

The appropriations committees include most of these earmarks in committee reports and the joint explanatory statements that accompany conference reports. Although earmarks in committee reports and joint explanatory statements do not have the force of law, agencies generally follow these guidelines set by the appropriators since the agencies require annual appropriations.

Appropriations measures may also provide transfer authority.[29] *Transfers* shift budget authority from one account or fund to another. For example, if the Corps of Engineers moved budget authority from the "Construction, General" account to the "Flood Control and Coastal Emergencies" account, that would be a transfer. Agencies are prohibited from making such transfers without specific statutory authority.

In contrast, agencies may generally shift budget authority from one activity to another within an account without such statutory authority; this activity is referred to as *reprogramming*.[30] The appropriations subcommittees have established notification and other oversight procedures for the various agencies to follow regarding reprogramming actions. Generally, these procedures differ with each subcommittee.

Congress has traditionally considered and enacted each regular appropriations bill separately, but Congress has recently utilized two other practices as well. First, for 12 of the past 28 years (FY1977-FY2004), Congress funded at least one regular appropriations bill through an entire fiscal year in a continuing resolution(s), as opposed to a regular appropriations bill (for more information on full-year continuing resolutions, see "Continuing Resolutions" section below). Second, during 16 years, Congress generally began consideration of 13 separate bills, but ultimately packaged

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[27] There is no definition of earmark accepted by all practitioners and observers of the congressional budget process.

[28] For more information, see CRS Report 98-518, *Earmarks and Limitations in Appropriations Bills*, by Sandy Streeter.

[29] Authorization measures may also provide transfer authority. For information on authorization measures, see "Relationship Between the Authorization and Appropriations Measures" section below.

[30] Agencies may not shift budget authority that has been earmarked within an account in an appropriations act.

two or more regular appropriations bills together in one measure, or, in the case of FY2001, into two measures.[31]

From FY1978 through FY1988, Congress combined outstanding regular appropriations bills and funded the measures through the entire fiscal year in continuing resolutions (see **Table 1**). From FY1996 through FY2004, Congress packaged two or more bills together in an omnibus (or minibus)[32] appropriations measure. During conference on a single regular appropriations bill, the conferees typically included in the conference report final agreements on other outstanding regular appropriations bills, thereby creating an omnibus or minibus appropriations measure.

Packaging, as **Table 1** shows, was used for nine consecutive fiscal years beginning in FY1980. The first two of those years (FY1980-FY1981) occurred while President Jimmy Carter was in the White House, and the remaining seven were during Ronald Reagan's presidency. Since that time, it has been used seven times — five during President William Jefferson Clinton's presidency (FY1996-FY1997 and FY1999-FY2001) and two while President George W. Bush has been in the White House (FY2003-FY2004).

Packaging regular appropriations bills can be an efficient means of resolving outstanding differences within Congress and between Congress and the President. The negotiators can make more convenient trade-offs between issues among several bills.

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[31] The FY2001 Energy and Water bill was attached to the FY2001 VA-HUD bill and the FY2001 Legislative Branch and Treasury bills were attached to the FY2001 Labor-HHS-Education bill.

[32] There is no agreed upon definition of minibus or omnibus appropriations measures, but a *minibus* appropriations measure generally refers to a measure including a few regular appropriations bills and an *omnibus* appropriations measure refers to a measure containing several regular bills.

## Table 1. Number of Regular Appropriations Bills Packaged in Omnibus (or Minibus) Measure and in Full-Year Continuing Resolution, FY1977-FY2004

| Fiscal Year | Presidential Administration | Regular Appropriations Bills Packaged in: Omnibus or Minibus Measure | Continuing Resolution |
|---|---|---|---|
| 1977 | Gerald Ford | 0 | 0 |
| 1978 | Jimmy Carter | 0 | 0 |
| 1979 | | 0 | 0 |
| 1980 | | 0 | 2 |
| 1981 | | 0 | 5 |
| 1982 | Ronald Reagan | 0 | 3 |
| 1983 | | 0 | 6 |
| 1984 | | 0 | 3 |
| 1985 | | 0 | 8 |
| 1986 | | 0 | 7 |
| 1987 | | 0 | 13 |
| 1988 | | 0 | 13 |
| 1989 | | 0 | 0 |
| 1990 | George H.W. Bush | 0 | 0 |
| 1991 | | 0 | 0 |
| 1992 | | 0 | 0 |
| 1993 | | 0 | 0 |
| 1994 | William Clinton | 0 | 0 |
| 1995 | | 0 | 0 |
| 1996 | | 5 | 0 |
| 1997 | | 6 | 0 |
| 1998 | | 0 | 0 |
| 1999 | | 8 | 0 |
| 2000 | | 5 | 0 |
| 2001 | | 2,3[a] | 0 |
| 2002 | George W. Bush | 0 | 0 |
| 2003 | | 11 | 0 |
| 2004 | | 7 | 0 |

**Sources:** U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, committee prints, 94th Cong., 2nd sess.-103rd Cong., 2nd sess. (Washington: GPO, 1976-1994); and U.S. Congress, House, *Calendars of the U.S. House of Representatives and History of Legislation, 94th-108th Congresses* (Washington: GPO, 1976-2004).

a. The FY2001 Energy and Water Development bill was attached to the FY2001 VA-HUD. The FY2001 Legislative Branch and Treasury bills were attached to the FY2001 Labor-HHS-Education bill.

**Distribution of Funding Among Regular Appropriations Bills.** Congress divides budget authority and the resulting outlays into three categories: discretionary spending, mandatory spending, and net interest.[33] Appropriations measures include discretionary and mandatory spending. Discretionary spending is controlled by annual appropriations acts, which are under the jurisdiction of the House and Senate Appropriations Committees. Mandatory spending is controlled by legislative acts under the jurisdiction of the authorizing committees (principally the House Ways and Means and Senate Finance Committees).

Discretionary spending provides funds for a wide variety of activities, such as those described in the "Introduction," while mandatory spending predominantly provides funds for entitlement programs.[34] Of total actual outlays for FY2003, only 38% was discretionary spending; the remaining 62% was mandatory spending and net interest.

All new budget authority in discretionary spending is provided in annual appropriations measures. Some new budget authority in mandatory spending, predominantly *appropriated entitlements*, is also provided in appropriations measures.

Appropriated entitlements are funded through a two-step process. First, authorizing legislation is enacted to set program parameters (through eligibility requirements and benefit levels, for example); then the Appropriations Committees *must* provide the budget authority needed to meet the commitment. The Appropriations Committees have little control over the amount of budget authority provided, since the amount needed is the result of previously enacted commitments in authorization law.

Instead of directly controlling outlays, Congress controls discretionary spending by setting levels of new budget authority for specific activities, programs, and agencies in annual appropriations measures. Congress could, for example, provide $2.5 billion in new budget authority to build the four ships in the example mentioned earlier, instead of $3 billion.

Congress also controls mandatory spending by controlling budget authority. It does not, however, generally control this form of budget authority by setting specific spending levels. It controls mandatory spending by establishing parameters for

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[33] "Net interest comprises the government's interest payments on debt held by the public offset by interest income that the government receives on loans and cash balances and by earnings of the National Railroad Retirement Investment Trust." U.S. Congressional Budget Office, *Glossary of Budgetary and Economic Terms*, available at [http://www.cbo.gov], visited Dec. 3, 2004.

[34] *Entitlements* are statutory requirements that government payments be made to any individual or unit of government that meets eligibility criteria established in the law. Entitlements are a binding obligation on the government and eligible recipients have legal recourse if the obligation is not met. Examples of entitlements include Social Security benefits, Medicare benefits, federal retirement benefits, and unemployment compensation.

government commitments in permanent law, such as Social Security benefit levels and eligibility requirements.

**Table 2** provides the distribution of enacted FY2004 discretionary spending by appropriations subcommittee, as of September 7, 2004. Three appropriations subcommittees (Defense, Labor-HHS-Education, and VA-HUD) had jurisdiction over most of the new discretionary budget authority (76%); one of three, the Defense subcommittee, had jurisdiction over half of the discretionary spending. For FY2004, the Defense subcommittee had 51% of all the discretionary new budget authority; the Labor-HHS-Education bill, 15%; and the VA-HUD bill, 10%. Ten subcommittees had jurisdiction over the remaining 24% of new discretionary budget authority.

### Table 2. Distribution of FY2004 Enacted Discretionary Spending by Appropriations Subcommittee

(new budget authority in billions of dollars)

| Subcommittee | Amount | Percentage of Total |
|---|---|---|
| Agriculture | 17.0 | 1.9 |
| Commerce-Justice-State | 38.2 | 4.2 |
| Defense | 461.0 | 51.0 |
| District of Columbia | 0.5 | 0.1 |
| Energy and Water Development | 27.3 | 3.0 |
| Foreign Operations | 38.7 | 4.3 |
| Homeland Security | 31.5 | 3.5 |
| Interior | 20.0 | 2.2 |
| Labor-HHS-Education | 139.0 | 15.4 |
| Legislative Branch | 3.5 | 0.4 |
| Military Construction | 9.8 | 1.1 |
| Transportation | 28.1 | 3.1 |
| VA-HUD | 90.8 | 10.0 |
| (full committee) | -1.8 | |
| Total[a] | 903.7 | 100.2 |

**Source:** U.S. Congressional Budget Office, *CBO's Current Status of Discretionary Appropriations: FY2004 Senate Current Status of Discretionary Appropriations*, Sept. 7, 2004, [http://www.cbo.gov] visited Dec. 2, 2004.

a. Sum and percentage may not equal total due to rounding.

## Continuing Resolutions

Regular appropriations bills expire at the end of the fiscal year. If action on one or more regular appropriations measures has not been completed by the deadline, the agencies funded by these bills must cease nonessential activities due to lack of budget authority. Traditionally, *continuing appropriations* have been used to maintain temporary funding to agencies and programs until the regular bills are enacted. Such appropriations continuing funding are usually provided in a joint resolution, hence the term *continuing resolution* (or *CR*).

In November and again in December 1995, FY1996 continuing resolutions expired and some regular appropriations bills had not been enacted. As a result, nonessential activities that would have been funded in those regular bills stopped and federal workers hired to perform those services did not report for duty.

In 24 of the past 28 years (FY1977-FY2004), Congress and the President have not completed action on a majority of the separate regular bills by the start of the fiscal year. In eight years, they did not finish any of the bills by the deadline. They completed action on all 13 separate bills on schedule only three times.[35]

On or before the deadline, Congress and the President generally complete action on an initial continuing resolution that temporarily funds the outstanding regular appropriations bills. In contrast to funding practices in regular bills (i.e., providing appropriations for each account), temporary continuing resolutions generally provide funding with a rate and/or formula. Recently, the continuing resolutions have generally provided a rate at the levels provided in the previous fiscal year. The initial CR is typically an *interim* (or *partial*) *continuing resolution*, which provides temporary funding until a specific date or until the enactment of the applicable regular appropriations acts, if earlier. Once the initial CR becomes law, additional interim continuing resolutions are frequently utilized to sequentially extend the expiration date. These subsequent continuing resolutions sometimes change the funding methods.

In addition to interim continuing resolutions, Congress also sometimes enacts *full-year continuing resolutions*. These measures provide full-year funding in the continuing resolution for the outstanding regular bills, instead of eventually enacting regular bills. In 12 of the past 28 years, Congress has enacted full-year continuing resolutions (see **Table 3**). The funding method for later full-year continuing resolutions was generally similar to the regular bills; formulas and rates were not generally used.

During the FY1996 budget confrontation between the 104th Congress and the Clinton Administration, Congress used a another type of continuing resolution. Traditionally, a single continuing resolution extends funding for all activities in the outstanding regular appropriations bills. However, in 1996, Congress provided *targeted appropriations* which separated activities from the outstanding regular bills and distributed them among three continuing resolutions. Congress distributed funding for activities in four of the six outstanding regular bills among the three continuing resolutions. Funding for most of the activities in the fifth regular bill (Foreign Operations) were provided in one of these continuing resolutions and funding for the most of the activities in the sixth bill (District of Columbia) in another.

From FY1978 through FY2004, Congress enacted on average five continuing resolutions per year.

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[35] In a fourth instance (FY1997), Congress and the President completed action on all 13 regular bills on time because they packaged six bills together.

## Table 3. Number of Regular Appropriations Bills Enacted in Continuing Resolutions (CRs), FY1977-FY2004

| Fiscal Year | Presidential Administration | Enacted in Continuing Resolution |
|---|---|---|
| 1977 | Gerald Ford | 0 |
| 1978 | Jimmy Carter | 1 |
| 1979 | | 1 |
| 1980 | | 3 |
| 1981 | | 5[a] |
| 1982 | Ronald Reagan | 4 |
| 1983 | | 7 |
| 1984 | | 3 |
| 1985 | | 8 |
| 1986 | | 7 |
| 1987 | | 13 |
| 1988 | | 13 |
| 1989 | | 0 |
| 1990 | George Bush | 0 |
| 1991 | | 0 |
| 1992 | | 1 |
| 1993 | | 0 |
| 1994 | William Clinton | 0 |
| 1995 | | 0 |
| 1996 | | 0[b] |
| 1997 | | 0 |
| 1998 | | 0 |
| 1999 | | 0 |
| 2000 | | 0 |
| 2001 | | 0 |
| 2002 | George W. Bush | 0 |
| 2003 | | 0 |
| 2004 | | 0 |

**Sources**: U.S. Congress, House, *Calendars of the U.S. House of Representatives and History of Legislation*, 94th-107th Congresses (Washington: GPO, 1976-2002); and U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, committee prints, 94th Cong., 2nd sess.-103rd Cong., 2nd sess., (Washington: GPO, 1976-1985).

a. Congress provided full-year funding for five regular bills in a supplemental appropriations and rescissions bill. The supplemental included a simple extension of a CR to the end of the fiscal year.

b. An FY1996 continuing resolution (P.L. 104-99) provided full-year funding for the FY1996 foreign operations regular bill; however, the continuing resolution provided that the foreign operations measure be enacted separately (P.L. 104-107). It is excluded here.

## Supplementals

During the fiscal year, Congress frequently considers one or more supplemental appropriations measures that provide additional funds for specified activities. Supplementals may provide funding for unforeseen needs (such as domestic funds to recover from a hurricane, earthquake or flood; or defense funds for a war) or increase or provide funding for other activities. Sometimes Congress includes supplemental appropriations in regular bills and continuing resolutions. Supplemental appropriations are provided by account and may include earmarks.

During a calendar year, Congress typically considers, at least:

- 13 regular appropriations bills for the fiscal year that begins on October 1;
- several continuing resolutions for the same fiscal year; and
- one or more supplementals for the previous fiscal year.

# Spending Ceilings for Appropriations Measures

Congress established the congressional budget process through which it annually sets spending ceilings associated with the budget resolution and enforces those ceilings with parliamentary rules, or *points of order*, during congressional consideration of appropriations bills.[36]

## Allocations

As mentioned previously, the budget resolution distributes the total new budget authority and outlays among the House and Senate committees with jurisdiction over spending, including the House and Senate Appropriations Committees. Through this allocation process, the budget resolution sets total spending ceilings for each House and Senate committee (referred to as the *302(a) allocations*).[37] **Table 4** provides 302(a) allocations to the Senate Appropriations Committee for FY2004.

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[36] The congressional budget process was established by the Congressional Budget Act. 2 U.S.C. 601-656 (2000); P.L. 93-344 (88 Stat. 297); amended by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (99 Stat. 1037, 1038); further amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119 (101 Stat. 754); further amended by the Budget Enforcement Act of 1990, P.L. 101-508 (104 Stat. 1388-573 to 1388-630); further amended by the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (107 Stat. 312); further amended by the Budget Enforcement Act of 1997, P.L. 105-33 (111 Stat. 251); and further amended by the Adoption and Safe Families Act of 1997, P.L. 105-89 (111 Stat. 2125).

[37] This refers to section 302(a) of the Congressional Budget Act. Typically, these are provided in the joint explanatory statement that accompany the conference report to the budget resolution.

### Table 4. Senate Appropriations Committee's 302(a) Allocations for FY2004, as Adjusted[a]

(in billions of dollars)

| Spending Category | Budget Authority | Outlays |
|---|---|---|
| Discretionary | | |
| General Purpose | 783.214 | 822.895 |
| Highways | | 31.555 |
| Mass Transit | 1.461 | 6.634 |
| (Subtotal) | (784.675) | (861.084) |
| Mandatory | 426.949 | 410.619 |
| Total | 1,211.624 | 1,271.703 |

**Source:** U.S. Congress, Senate Committee on Appropriations, *Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2004*, 108th Cong., 1st sess. (Washington: GPO, 2003), p. 2.

a. Congress has required the House and Senate Budget Committees to make adjustments to the 302(a) allocations under certain circumstances and exclude funds for certain activities from enforcement of the 302(a) and 302(b) allocations. The activities affected have varied through the years. The FY2004 budget resolution, for example, required an increase in the 302(a) allocations by the amount of an FY2003 supplemental appropriations act and exempted funds designated as an emergency from enforcement of the 302(a) and 302(b) allocations, among other provisions.

After the Appropriations Committees receive their 302(a) allocations, they divide their allocations among their 13 subcommittees. This subdivision is referred to as the *302(b) allocations*.[38] **Table 5** provides the Senate Appropriations Committee's 302(b) allocations of discretionary, mandatory, and total spending for FY2004. Making 302(b) allocations is within the jurisdiction of the House and Senate Appropriations Committees, and they typically make revisions to reflect action on the appropriations bills.

The annual budget resolution provides 302(a) allocations to the House and Senate Appropriations Committees for a single fiscal year: the year of the budget resolution. If the budget resolution is significantly delayed (or is never completed), there is no 302(a) allocations or subsequent 302(b) allocations to enforce until the budget resolution is completed. In such instances, the House and Senate have often adopted separate deeming resolutions, providing, at least, temporary 302(a) allocations, thereby establishing enforceable spending ceilings.[39]

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[38] This refers to section 302(b) of the Congressional Budget Act.

[39] For more information, see CRS Report RL31443, *The "Deeming Resolution:" A Budget Enforcement Tool*, by Robert Keith.

**Table 5. Senate Appropriations Committee's 302(b) Allocations for FY2004**
(in billions of dollars)

| Subcommittee | General Purpose | Transportation | Mandatory | Total |
|---|---|---|---|---|
| Agriculture | | | | |
| New Budget Authority | 17.005 | | 55.536 | 72.541 |
| Outlays | 17.891 | | 39.472 | 57.363 |
| Commerce, Justice, State | | | | |
| New Budget Authority | 37.014 | | .642 | 37.656 |
| Outlays | 40.107 | | .654 | 40.761 |
| Defense | | | | |
| New Budget Authority | 368.662 | | .528 | 369.190 |
| Outlays | 389.387 | | .528 | 389.915 |
| District of Columbia | | | | |
| New Budget Authority | .495 | | | .495 |
| Outlays | .497 | | | .497 |
| Energy and Water Development | | | | |
| New Budget Authority | 27.313 | | | 27.313 |
| Outlays | 27.359 | | | 27.359 |
| Foreign Operations | | | | |
| New Budget Authority | 18.093 | | .044 | 18.137 |
| Outlays | 20.253 | | .044 | 20.297 |
| Homeland Security | | | | |
| New Budget Authority | 28.521 | | .831 | 29.352 |
| Outlays | 30.248 | | .847 | 31.095 |
| Interior | | | | |
| New Budget Authority | 19.627 | | .064 | 19.691 |
| Outlays | 19.395 | | .070 | 19.465 |

| Subcommittee | General Purpose | Transportation | Mandatory | Total |
|---|---|---|---|---|
| Labor-HHS-Education | | | | |
| New Budget Authority | 137.601 | | 318.766 | 456.367 |
| Outlays | 134.932 | | 318.694 | 453.626 |
| Legislative Branch | | | | |
| New Budget Authority | 3.612 | | .109 | 3.721 |
| Outlays | 3.680 | | .109 | 3.789 |
| Military Construction | | | | |
| New Budget Authority | 9.196 | | | 9.196 |
| Outlays | 10.297 | | | 10.297 |
| Transportation and Treasury | | | | |
| New Budget Authority | 26.041 | | 17.518 | 14.664 |
| Outlays | 33.395 | | 17.516 | 19.905 |
| Highway | | | | |
| Outlays | | 31.555 | | 31.555 |
| Mass Transit | | | | |
| New Budget Authority | | 1.461 | | 1.461 |
| Outlays | | 6.634 | | 6.634 |
| VA-HUD | | | | |
| New Budget Authority | 90.034 | | 32.911 | 122.945 |
| Outlays | 95.454 | | 32.685 | 128.139 |
| Total | | | | |
| New Budget Authority | 783.214 | 1.461 | 426.949 | 1,211.624 |
| Outlays | 822.895 | 38.189 | 410.619 | 1,271.703 |

**Source:** U.S. Congress, Senate Committee on Appropriations, *Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2004*, 108th Cong., 1st sess. (Washington: GPO, 2003), p. 3.

## Enforcement

Certain spending ceilings associated with the budget resolution are enforced through points of order raised on the House and Senate floor when the appropriations measures are brought up for consideration. Points of order are not self-enforcing. A Representative or Senator must raise a point of order that a measure, amendment, or conference report violates a specific rule. Generally, if a Member raises a Congressional Budget Act point of order and the presiding officer rules that the measure, amendment, or conference report violates the parliamentary rule, it may not be considered on the floor.

**House.** Two House points of order enforcing spending ceilings that affect appropriations measures are the 302(f) and 311(a).[40] These points of order apply to all appropriations measures reported by the committee as well as amendments and conference reports to the measures.

The 302(f) point of order prohibits floor consideration of appropriations that exceed the committee or subcommittee allocations of new budget authority (the 302(a) or 302(b) allocations, respectively). In effect, this point of order applies to total discretionary spending (and any mandatory spending changes initiated on the appropriations measures).[41] For example, if **Table 5** had been the House Appropriations Committee's 302(b) allocations, the reported FY2004 Agriculture bill could not have exceeded the Agriculture subcommittee's total discretionary spending allocation for FY2004 — $17.005 billion.[42]

The 311(a) point of order prohibits floor consideration of appropriations that would exceed the total new budget authority or outlay ceilings in the budget

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[40] These refer to sections 302(f) and 311(a), respectively, of the Congressional Budget Act.

[41] It does not effect increased mandatory spending that the appropriators are required to provide. For example, if the House Appropriations Committee was required to increase new budget authority for unemployment compensation due to a recession, such budget authority would not be subject to the point of order.

[42] Although the 302(f) point of order in the House enforces new budget authority ceilings, under House rules certain offset amendments must remain within the total new budget authority and outlay levels provided in the bill. Due to the 302(f) point of order, Members frequently must decrease budget authority in a bill for certain activities in order to finance increases in funding for other activities in order to stay within the 302(a) or 302(b) allocations (the decreases are referred to as *offsets*.) An amendment providing both the increases and decreases is referred to as an offset amendment. Frequently, the increases and offsets Members prefer are not located in the same place in the bill, and the affected segments would normally be considered at different times on the House floor.

Offset amendments that amend the text of the bill in more than one place must remain within the total new budget authority and outlay levels provided in the bill (House Rule XXI, clause 2(f)). An offset amendment added at the end of a bill that indirectly effects earlier provisions in the bill would not fall under the procedure provided in Rule XXI, clause 2(f). However it would still be subject to requirements in section 302. That is, it may not cause the bill to exceed new budget authority allocations made pursuant to 302(a) or (b). (For more information, see CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Sandy Streeter.)

resolution. As various spending bills for a fiscal year are enacted, the amount of total new budget authority enacted and the resulting outlays accumulate and the budget resolution ceilings are eventually reached. An appropriations bill that would go over either of the ceilings is subject to the 311(a) point of order. If all the spending bills stay within their committee spending ceilings, a bill will not exceed the total ceilings established in the budget resolution. However, in the past, some spending bills have exceeded their committee ceilings, thereby making bills subject to the 311(a) point of order. This point of order typically affects the last funding measures considered for a fiscal year (such as the supplementals).[43]

The House may waive or suspend either of these points of order by adopting, by majority vote, a special rule waiving the particular point of order prior to floor consideration of the appropriations bill.

**Senate.** Two Senate points of order enforcing spending ceilings that affect appropriations measures are the 302(f) and 311(a).[44] The Senate versions of these rules vary from the House versions. These points of order apply to all appropriations measures, both those reported by the committee and amended on the floor. They also apply to amendments, motions, and conferences reports to these measures.

In the Senate, the 302(f) point of order prohibits floor consideration of appropriations that exceed the subcommittee allocations in total new budget authority and total outlays (see **Table 5**). In contrast to the House, it does not enforce the 302(a) allocations. As in the House, this point of order, in effect, applies to total discretionary spending (and any mandatory spending changes initiated on the appropriations measures). The 311(a) point of order in the Senate is the same as in the House; however, it does not include the *Fazio Exception*.

Recently, the Senate has generally supplemented these permanent Congressional Budget Act points of order with temporary provisions that established total discretionary spending limits and prohibited floor consideration of appropriations that exceeded the limits. No discretionary spending limits are in effect now.[45]

Senators may make motions to waive any of these points of order at the time the issue is raised. Currently, a vote of three-fifths of all Senators (usually 60 Senators)

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[43] In the House, the Fazio Exception exempts certain appropriations from the 311(a) point of order. If the total for appropriations bills remains within the Appropriations Committee's total allocation, the appropriations are excepted from the 311(a) point of order (see §311(c) of the Congressional Budget Act, as amended).

[44] These refer to sections 302(f) and 311(a), respectively, of the Congressional Budget Act.

[45] The Senate included a provision in the FY2004 budget resolution, for example, that established enforceable total discretionary spending limits for FY2003, FY2004, and FY2005. These limits went into effect in April 2003. In Aug. 2004, this section was repealed by a provision in the Department of Defense Appropriations Act, 2005. (See U.S. Congress, Conference Committees, 2003, *Concurrent Resolution on the Budget for Fiscal Year 2004*, conference report to accompany H.Con.Res. 95, H.Rept. 108-71, 108th Cong., 1st sess. (Washington: GPO, 2003), sec. 504; and Department of Defense Appropriations Act, 2005, P.L. 108-287, sec. 14007 (118 Stat. 1014).)

is required in the Senate to approve a waiver motion for any of these points of order. These super-majority vote requirements expire on September 30, 2008.

**Emergency-Designated Discretionary Spending.** Since 1990, both the House and Senate have generally exempted discretionary spending provided in appropriations measures, amendments, and conference reports that are designated as emergency spending from the points of order enforcing spending ceilings discussed above.

Emergency-designations were originally designed as a safety valve so that discretionary spending for emergencies, such as disaster assistance, could be expeditiously enacted.

Congress typically includes its emergency-designate language after the appropriation to be protected. In the Senate, such designations for non-defense discretionary spending are subject to a point of order.[46] In order to waive this point of order, a three-fifths vote is required, thereby requiring super-majority support. In the House, emergency-designate language in amendments is subject to House Rule XXI, clause 2(c), which prohibits legislation (see "Relationship Between Authorization and Appropriation Measures" section below).[47]

## Relationship Between Authorization and Appropriation Measures

Congress has established an authorization-appropriation process that provides for two separate types of measures — authorization measures and appropriation measures. These measures perform different functions and are to be considered in sequence. First, the authorization measure is considered and then the appropriation measure.

Authorization acts establish, continue, or modify agencies or programs. For example, an authorization act may change the structure or establish or modify programs within the Commerce Department. The authorization act also authorizes appropriations for specific agencies and programs, frequently setting spending ceilings for them. Authorization acts may provide permanent, annual, or multi-year authorizations. Annual and multi-year authorization acts require re-authorizations when they expire. Congress is not required to provide appropriations for an authorized program.

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[46] U.S. Congress, Conference Committees, 2004, *Concurrent Resolution on the Budget for Fiscal Year 2005*, conference report to accompany S.Con Res. 95, 108th Cong., 1st sess., H.Rept. 108-498 (Washington: GPO, 2004), sec. 402; and Department of Defense Appropriations Act, 2005, P.L. 108-287, sec. 14007 (118 Stat. 1014).)

[47] For more detailed information on rules regarding emergency designations, see CRS Report RS21035, *Emergency Spending: Statutory and Congressional Rules*, by James V. Saturno.

Authorization measures are under the jurisdiction of authorizing committees such as the House Transportation and Infrastructure and Education and the Workforce Committees, or the Senate Judiciary and Energy and Natural Resources Committees. Most congressional committees are authorizing committees. Major non-authorization committees include the House and Senate appropriations and budget committees.[48]

Appropriations measures provide new budget authority for the program, activity, or agency previously authorized.

The authorization-appropriations process enforces separation of these functions into separate measures with points of order prohibiting certain provisions in appropriations measures.[49] The House and Senate prohibit, in varying degrees, language in appropriations bills providing *unauthorized appropriations* or *legislation on an appropriations bill* (or *riders*).

Unauthorized appropriations are new budget authority in an appropriations measure for agencies or programs whose authorization has expired or was never authorized, or whose budget authority exceeds the ceiling authorized. Riders refer to language in appropriations measures that change existing law, such as establishing new law, or amending or repealing current law.

House rules prohibit unauthorized appropriations and riders in regular appropriations bills and supplementals, which provide funds for more than one purpose or agency (referred to in the House as *general appropriations bills*). However, House rules do not prohibit such language in continuing resolutions. The House prohibition applies to bills reported by the House Appropriations Committee, amendments, and conference reports. The House may adopt a special rule waiving this rule prior to floor consideration of the appropriations bill or conference report.[50] Unauthorized earmarks are allowed in House Appropriations Committee reports and joint explanatory statements because the rule applies only to the text of the bills, amendments, and conference reports.

In the Senate, unauthorized appropriations and riders are treated differently. The Senate rule regarding such language applies to regular bills, supplementals which provide funds for more than one purpose or agency, and continuing resolutions (referred to in the Senate as *general appropriations bills*).

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[48] The House Ways and Means Committee and the Senate Finance Committee have jurisdiction over some authorization measures, all revenue measures, and some mandatory spending measures.

[49] House Rule XXI, clause 2; House Rule XXII, clause 5; and Senate Rule XVI. House rules also prohibit appropriations in authorization measures, amendments, or conference reports (Rule XXI, clause 4 and House Rule XXII, clause 5).

[50] The special rule may provide a waiver for specified provisions or all provisions in the bill that are subject to the point of order. The special rule may also provide a waiver for specific amendments. Generally, special rules waive points of order against all provisions in all conference reports on general appropriations measures.

This Senate rule applies only to amendments to general appropriations bills, such as, those

- introduced on the Senate floor;
- reported by the Senate Appropriations Committee to the House-passed measure; or
- proposed as a substitute for the House-passed text.

This rule does not apply to provisions in Senate bills or conference reports. For example, this rule did not apply to provisions in S. 1005, the FY1998 Defense appropriations bill, as reported by the Senate Appropriations Committee. But it did apply to provisions in H.R. 2107, the FY1998 Interior bill, as reported by the Senate Appropriations Committee, since this version of the bill consisted of amendments to the House-passed bill.[51]

The Senate rule is less restrictive than the House on unauthorized appropriations. For example, the Senate Appropriations Committee may report committee amendments containing unauthorized appropriations. An appropriation is considered authorized if the Senate previously passes the authorization bill during the same session of Congress. In contrast, in the House, the authorization bill must be approved by both houses and signed by the President.

Although the Senate rule generally prohibits unauthorized appropriations in non-committee amendments, Senators rarely raise this point of order because of exceptions to the rule. Unauthorized earmarks are allowed in Senate Appropriations Committee reports and joint explanatory statements, as in the House.

The Senate rule prohibits riders in both Senate Appropriations Committee amendments and non-committee amendments.[52] It also prohibits non-germane amendments.

The division between an authorization and an appropriation is limited to congressional consideration of appropriations measures. If unauthorized appropriations or riders remain in a measure as enacted, either because no one raised a point of order or the House or Senate waived the rules, the provision will have the force of law. Again, unauthorized appropriations are generally available for obligation or expenditure.

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[51] The Senate rule reflects Senate practices at the time the rule was established. The Senate Appropriations Committee traditionally reported numerous amendments to the House-passed appropriations bill, instead of reporting an original Senate bill. Therefore, the rule's prohibition only applies to amendments, both committee and floor amendments. Recently, the Senate Appropriations Committee been reporting regularly most or all of the bills as original Senate bills.

[52] Under Senate precedents, an amendment containing a rider may be considered if it is germane to language in the House-passed appropriations bill. That is, if the House opens the door by passing a rider in an appropriations bill, the Senate has an "inherent right" to amend it. However, if the Senate considers an original Senate bill, rather than the House-passed bill with amendments, there is no House language to which a rider could be germane. Therefore, the defense of germaneness is not available.

# Rescissions

Rescissions cancel previously enacted budget authority. To continue the earlier example, after Congress enacts the $3 billion to construct the four ships, it may enact legislation canceling the budget authority prior to its obligation. Rescissions are an expression of changed or differing priorities. They may be used to offset increases in budget authority for other activities.

The President may recommend rescissions to Congress, but it is up to Congress to act on them. Under Title X of the Congressional Budget Act,[53] Congress must pass a bill approving the President's rescissions within 45 days of *continuous session of congress* or the budget authority must be spent.

> In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer.[54]

In response to the President's recommendation, Congress may decide not to approve the amount specified by the President, approve the total amount, or approve a different amount. In 1998, for instance, President Clinton proposed rescinding $2.1 million appropriated for maritime guaranteed loan subsidies. Congress did not concur. Also in 1998, the President proposed rescinding $737,000 of the appropriated funds for the Bureau of Indian Affair's construction account. Congress, in response, exceeded the President's request and rescinded $837,000 of these funds in the FY1998 Emergency Supplemental Appropriations Act (P.L. 105-174).

Congress may also initiate rescissions. An example is the rescission of $11.2 million for FY1998 for the Health professions education fund included in the same supplemental. Rescissions can be included in either separate rescission measures or any of the three types of appropriations measures.

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[53] Title X is referred to as the Impoundment Control Act.

[54] CRS Issue Brief IB89148, *Item Veto and Expanded Impoundment Proposals*, by Virginia A. McMurtry.

# For Additional Reading

## CRS Products

CRS Report RS20441. *Advance Appropriations, Forward Funding, and Advance Funding*, by Sandy Streeter.

CRS Report 98-648. *Appropriations Bills: What are "General Provisions?,"* by Sandy Streeter.

CRS Report 98-558. *Appropriations Bills: What is Report Language?*, by Sandy Streeter.

CRS Report 97-947. *The Appropriations Process and the Congressional Budget Act*, by James V. Saturno.

CRS Report RL30297. *Congressional Budget Resolutions: Selected Statistics and Information Guide*, by Bill Heniff, Jr.

CRS Report RS20095. *The Congressional Budget Process: A Brief Overview*, by James V. Saturno.

CRS Report RL30343. *Continuing Appropriations Acts: Brief Overview of Recent Practices*, by Sandy Streeter.

CRS Report RL31443. *The "Deeming Resolution:" A Budget Enforcement Tool*, by Robert Keith.

CRS Report 98-518. *Earmarks and Limitations in Appropriations Bills*, by Sandy Streeter.

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CRS Report RL30619. *Examples of Legislative Provisions in Omnibus Appropriations Acts*, by Robert Keith.

CRS Report RS20348. *Federal Funding Gaps: A Brief Overview*, by Robert Keith.

CRS Report 98-512. *Formulation and Content of the Budget Resolution*, by Bill Heniff, Jr.

CRS Report RL31055. *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Sandy Streeter.

CRS Report 98-721. *Introduction to the Federal Budget Process*, by Robert Keith and Allen Schick.

CRS Report 95-563. *The Legislative Process on the House Floor: An Introduction*, by Elizabeth Rybicki and Stanley Bach.

CRS Report 96-548. *The Legislative Process on the Senate Floor: An Introduction*, by Thomas P. Carr and Stanley Bach.

CRS Report 97-865. *Points of Order in the Congressional Budget Process*, by James V. Saturno.

CRS Report RS20752. *Submission of the President's Budget in Transition Years*, by Robert Keith.

## Congressional Hearings, Reports, and Documents

U.S. Congress. House. *Constitution, Jefferson's Manual, and Rules of the House of Representatives, 106th Congress* (or *House Manual*). H.Doc. 105-358, 105th Congress, 2nd session. Washington, 1999.

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——. *Procedure in the U.S. House of Representatives*. 97th Congress, 2nd session. Washington, 1982.

——. Committee on the Budget. *Compilation of Laws and Rules Relating to the Congressional Budget Process* (as amended through March 23, 2000). 106th Congress, 2nd session. Washington, 2000.

U.S. Congress. Senate. *Riddick's Senate Procedure*. 101st Congress, 2nd session. Washington, 1992.

## Selected Websites

*Cannon's Precedents* (House)
[http://www.gpo.gov/congress/house/precedents/cannons/cannons.html]

*Constitution, Jefferson's Manual, and Rules of the House of Representatives, 106th Congress* (or *House Manual*)
[http://www.access.gpo.gov/hrm/index.html]

CRS Guides to Congressional Processes (Federal Budget Process)
[http://www.crs.gov/products/guides/guidehome.shtml]

*Deschler's Precedents of the U.S. House of Representatives*
[http://www.access.gpo.gov/congress/house/precedents/deschler.html]

*Hinds' Precedents* (House)
[http://www.gpo.gov/congress/house/precedents/hinds/srchhinds.html]

*The House Practice: A Guide to the Rules, Precedents and Procedures of the House*
[http://www.gpoaccess.gov/hpractice/browse.html]

*Riddick's Senate Procedure*
[http://www.access.gpo.gov/congress/senate/riddick/index.html]

*Rules of the House*
[http://www.house.gov/rules/house_rules_text.htm]

*Standing Rules of the Senate*
[http://rules.senate.gov/senaterules/menu.htm]