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The Congressional Appropriations Process: An Introduction

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Summary

Congress annually considers 11 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*.

Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees. These committees control only about 40% of total federal spending provided for a fiscal year. The House and Senate legislative committees control the rest.

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.

Each year Congress considers a budget resolution that, in part, sets spending ceilings for the upcoming fiscal year. Both the House and Senate have established parliamentary rules that may be used to enforce certain spending ceilings associated with the annual budget resolution during congressional consideration of appropriations measures.

Congress has also established an authorization-appropriation process which 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 measures are under the jurisdiction of the legislative committees; most congressional committees are legislative committees, such as the House Committee on Armed Services and the Senate Committee on the Judiciary. This process is enforced, in part, by House and Senate parliamentary rules.

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Introduction

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- annual appropriations cycle;
- appropriations measures (types);
- spending ceilings for appropriations associated with the annual budget resolution; and
- relationship between authorization and appropriation 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 power to appropriate is a legislative power. 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 Congress.

The House and Senate Committees on Appropriations have jurisdiction over the annual appropriations measures. Each committee has, to a certain extent, organized its subcommittees differently.

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

[2] The Antideficiency Act (31 U.S.C. 1341(a)(1)(A). This prohibition originated from a statute enacted in 1870 (16 Stat. 251). U.S. Government Accountability Office, *Principles of Federal Appropriations Law*, 3rd edition, vol. 2, GAO-06-382SP (Washington: GPO, Feb. 2006), pp. 6-34 through 6-35.

[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*, 3rd edition, vol. 1, GAO-04-261SP (Washington: GPO, Jan. 2004), pp. 4-6.

The House committee has established 10 appropriations subcommittees, whereas its Senate counterpart has established 12 subcommittees. Each House and Senate appropriations subcommittee has jurisdiction over a single regular appropriations bill.[4] In the House, an additional regular appropriations bill, the Legislative Branch regular bill, is under the jurisdiction of the full committee. As a result, the House considers 11 regular appropriations bills, whereas the Senate initially considers 12 regular bills.[5]

The jurisdiction of each House appropriations subcommittee is paired with the jurisdiction of a single Senate appropriations subcommittee (see **Table 1**). In the House, the District of Columbia is under the jurisdiction of the Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, and the District of Columbia. The House committee's jurisdiction over the Legislative Branch regular bill is paired with the Senate Subcommittee on the Legislative Branch.

The jurisdictions of six Senate appropriations subcommittees are not parallel to the jurisdictions of their House counterparts, whereas the jurisdictions of the remaining six Senate subcommittees are parallel (see **Table 1**).

In the cases in which the jurisdictions are not parallel, there are similarities. Both the House and Senate Subcommittees on Defense, for example, have identical jurisdictions over certain Department of Defense (DOD) military activities, such as military procurement and research and development, as well as the Central Intelligence Agency and related activities. However, the House Subcommittee on Defense does not have jurisdiction over a few DOD military activities,[6] whereas the corresponding Senate subcommittee has jurisdiction over these activities.

The jurisdictions of six Senate appropriations subcommittees are parallel to the jurisdictions of their House counterparts (see **Table 1**). The House and Senate agriculture appropriations subcommittees, for example, have jurisdiction over most of the U.S. Department of Agriculture, the Food and Drug Administration (Department of Health and Human Services), and a few related entities.

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[4] Of the three types of appropriations measures, regular appropriations bills have traditionally provided most of the funding included in appropriations acts (see "Types of Appropriations Measures" section below).

[5] During the annual appropriations process, the Senate adds the District of Columbia regular appropriations bill to the Transportation, Treasury, Housing and Urban Development, and the Judiciary regular bill. The Congress, therefore, completes 11 regular bills.

[6] These activities are environmental restoration activities; basic housing allowances; Defense Health Program; and military facilities, sustainment, restoration, and modernization activities.

Table 1. Senate and House Appropriations Subcommittees

Senate Subcommittee	House Subcommittee (or Full Committee)	Parallel/Not Parallel Jurisdiction
Agriculture	Agriculture	Parallel
Commerce, Justice, and Science	Science, State, Justice, and Commerce	Not Parallel
Defense	Defense	Not Parallel
District of Columbia	— No Subcommittee[a] —	Not Parallel
Energy and Water	Energy and Water Development	Parallel
Homeland Security	Homeland Security	Parallel
Interior	Interior and Environment	Parallel
Labor, Health and Human Services, and Education	Labor, Health and Human Services, and Education	Parallel
Legislative Branch	— No Subcommittee — Full Committee Jurisdiction	Parallel[b]
Military Construction and Veterans Affairs	Military Quality of Life and Veterans Affairs	Not Parallel
State and Foreign Operations	Foreign Operations	Not Parallel
Transportation, Treasury, the Judiciary, Housing and Urban Development	Transportation, Treasury, Housing and Urban Development, the Judiciary, District of Columbia	Not Parallel

a. In the House committee, the District of Columbia is under the jurisdiction of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and District of Columbia Subcommittee.

b. There are two minor exceptions. Due to congressional comity, the House committee does not recommend funding levels for Senate activities and the Senate subcommittee does not recommend funding levels for House of Representative activities.

Annual Appropriations Cycle

President Submits Budget

The President initiates the appropriations process by submitting his annual budget for the upcoming fiscal year to Congress.[7] The President is required to submit his annual budget on or before the first Monday in February.[8] Congress has provided extensions of the deadline both statutorily and, sometimes, informally.[9]

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 build a submarine or purchase supplies) result in outlays, which are payments from the Treasury, usually in the form of checks and electronic funds transfers.

For example, a FY2006 appropriations act provided $1.6 billion in new budget authority for FY2006 to the Department of Defense to build a nuclear attack submarine. That is, the act gave the Department of Defense legal authority to sign contracts to build the submarine. The department could not commit the government to pay more than $1.6 billion. The outlays occur when the government payments are made to the contractor.

An appropriation is a type of budget authority that not only provides the authority to make obligations, but also gives the agency authority to make the subsequent payments from the Treasury. Appropriations measures provide *new* budget authority (as opposed to previously enacted budget authority). Appropriations must be obligated in the fiscal year for which they are provided, unless an act expressly provides otherwise.

Not all new budget authority provided for a fiscal year is expended that year. For example, in the case of construction projects, the outlays may occur over several years as various stages of the project are completed. In the example, the $1.6 billion outlays may be spent over four fiscal years:

- FY2006, $0.2 billion;
- FY2007, $0.2 billion;
- FY2008, $0.6 billion; and
- FY2009, $0.6 billion.

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[7] 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. Fiscal year 2006 began on October 1, 2005.

[8] 31 U.S.C. 1105(a).

[9] 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.

In other cases, such as federal employee salaries, the outlays may occur in the same year the appropriations are provided.

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)[10] requires Congress to adopt an annual budget resolution.[11] 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, in part, 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.

Within each chamber, the total new budget authority and outlays are also distributed among committees with jurisdiction over spending, thereby setting spending ceilings for each committee (see "Allocations" section below).[12] Once the House and Senate Committees on Appropriations receive their spending ceilings, they separately distribute the funding among their respective subcommittees, providing a spending ceiling for each subcommittee.[13]

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 the House and Senate as they consider various budget bills, including appropriations and tax measures. Both the House and Senate have established

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[10] 2 U.S.C. 601-656 (2005). The Congressional Budget Act (Titles I-IX of P.L. 93-344 (88 Stat. 297) has been amended several times. Significant amendments were provided in the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (99 Stat. 1037, 1038); Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119 (101 Stat. 754); Budget Enforcement Act of 1990, P.L. 101-508 (104 Stat. 1388-573 to 1388-630); Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (107 Stat. 312); and Budget Enforcement Act of 1997, P.L. 105-33 (111 Stat. 251).

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

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

[13] The House Committee on Appropriations also allocates a portion of the spending to the full committee for the legislative branch bill.

parliamentary rules to enforce some of these spending ceilings when appropriations measures are considered on the House or Senate floor (for more details, see "Spending Ceilings for Appropriations Measures" below).

The Congressional Budget Act provides an April 15 deadline for final congressional adoption of the budget resolution. However, during the 31 fiscal years Congress has considered budget resolutions (FY1976-FY2006), Congress frequently did not meet this deadline. For three of those years (FY1999, FY2003, and FY2005), Congress never completed a budget resolution.[14]

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.[15] 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. No similar exception exists in the Senate, but the Senate can waive this rule or appeal the presiding officer's ruling by a majority vote until January 3, 2007.[16] 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. In recent years, the Senate Committee on Appropriations has reported regular appropriations bills and, sometimes, the full Senate has passed such measures before the House Committee on Appropriations has acted. However, the traditional practice was resumed for FY2006 and FY2007 regular appropriations bills.

The House Committee on Appropriations reports the 11 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 July or the annual August recess.

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[14] As of December 12, 2006, Congress had not completed the FY2007 budget resolution and is not expected to finish it. For more information on budget resolutions, see CRS Report RL30297, *Congressional Budget Resolutions: Selected Statistics and Information Guide*, by Bill Heniff, Jr., and Justin Murray.

[15] Section 303 of the Congressional Budget Act (for details, see 2 U.S.C. 634 (2005).

[16] The FY2006 budget resolution (H.Con.Res. 95, sec. 403 (109th Cong.) established a supermajority vote requirement to waive this rule or sustain an appeal of the presiding officer's ruling. A three-fifths vote of all Senators (60 Senators, if there are no vacancies) is required. Due to concern that a FY2007 budget resolution may not be completed, earlier this year the Senate provided an exception, allowing a majority vote to waive or appeal the ruling until January 3, 2007 (P.L. 109-234, sec. 7035(d)(2).

Generally, the full House begins consideration of the regular appropriations bills in May or June as well, passing most by July or the recess.

The Senate appropriations committee, generally, begins reporting its 12 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.

Over the past 10 years (FY1997-FY2006), neither chamber has passed all the regular appropriations bills each year. For four of the past 10 years, the House did not pass all the bills and, for seven of the past 10 years, the Senate did not pass all of them.[17] For FY2006, both chambers passed all the bills.

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.[18]

Work of the Appropriations Committees

After the President submits his budget, the House and Senate appropriations subcommittees hold hearings on the segments of the budget under their jurisdiction. They focus on the details of the agencies' justifications, primarily obtaining testimony from agency officials.

After the hearings have been completed and the House and Senate appropriations committees have received their spending ceilings, the subcommittees may begin to mark up[19] the regular bills under their jurisdiction and report them to their respective full committees. (Under the traditional practice, each Senate subcommittee waits until it receives the House-passed bill and recommends a substitute amendment replacing the text of the House-passed bill.[20]) Both appropriations committees consider each of their subcommittee's recommendations

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[17] From FY1997 through FY2005, both the House and Senate considered 13 regular appropriations bills. The regular bills that the House or Senate did not pass were generally funded in omnibus appropriations measures (see "Regular Appropriations Bills" section below).

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

[19] 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.

[20] Under the non-traditional approach, both House and Senate appropriations committees and their subcommittees may be considering the regular bills simultaneously.

separately. The committees may adopt amendments to a subcommittee's recommendations and then report the bill as amended to their respective floors for action.

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 Committee on Rules setting parameters for floor consideration of the bill.[21] 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.[22] 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[23] 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.[24] 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);
- authorization-appropriation process, which enforces the relationship between authorization and appropriations measures (see

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[21] 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 Committee on Appropriations 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.

[22] 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).

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

[24] 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.

"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*. That is, 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 rises (dissolves) and 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.[25] 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.[26] The specifics of the Senate and House requirements differ. As in the House, the Senate may sometimes waive some of these rules.[27]

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

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[25] In cases in which the non-traditional practice is utilized, the Senate Committee on Appropriations 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.

[26] 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.

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

ranking minority members of the full committees meet to negotiate over differences between the House- and Senate-passed bills.[28]

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.[29] 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.[30]

The Senate typically passes a single substitute amendment 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.[31] The 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

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[28] If the Senate and/or House does not pass a bill, informal negotiations typically take place on the basis of the reported version of that chamber(s). For example, the provisions of the House-passed bill and Senate committee-reported bill might be negotiated. Typically, the compromise is included in a conference report on an omnibus appropriations measure (see "Regular Appropriations Bill" section below).

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

[30] 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.

[31] Technically, if either house rejects the conference report, the two houses normally agree to further conference, usually appointing the same conferees.

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

Each year, the House and Senate initially consider 11 and 12 regular appropriations bills, respectively. As mentioned previously, the Senate combines two regular bills[32] during consideration of the appropriations bills; as a result, Congress finally completes action on 11 regular bills.

In a regular (or supplemental) appropriations bill, funding for departments and large agencies is distributed among several accounts. Each account is typically provided in a single unnumbered paragraph of an appropriations bill and includes funding for similar programs, projects, or items, such as a "procurement" account or "salaries and expenses" account. For smaller agencies, a single account may fund all of the agency's activities. The appropriations bills generally provide a lump-sum appropriation for each account.

In report language,[33] the House and Senate Committees on Appropriations provide more detailed directions to the department and agencies on the distribution of funding among various activities funded within an account. Funding for most local projects are included in report language, as opposed to the text of the appropriations bill.[34]

Appropriations measures may also provide transfer authority.[35] *Transfers* shift budget authority from one account or fund to another. For example, if the Department of Defense moved budget authority from the "Aircraft Procurement, Navy" account to the "Shipbuilding and Conversion, Navy" account, that would be

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[32] The Senate adds the District of Columbia regular appropriations bill to the Transportation, Treasury, The Judiciary, Housing and Urban Development, and Independent Agencies regular bill; the combination corresponds to the House Transportation, Treasury, Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies regular bill.

[33] *Report language* refers to statements in committee reports and joint explanatory statements.

[34] For more information, see CRS Report RL33397, *Earmark Reform Proposals: Analysis of Latest Versions of S. 2349 and H.R. 4975*, by Sandy Streeter.

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

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*.[36] 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 begun combining bills together. For 17 of the past 30 years (FY1977-FY2006), Congress packaged two or more regular appropriations bills together in one measure, or, in the case of FY2001, into two measures.[37] These packages are referred to as omnibus measures or mini-bus measures.[38]

In these cases, Congress typically began consideration of each regular bill separately, but generally in conference combined some of the bills together. 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 2** shows, was used for nine consecutive fiscal years beginning for 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 eight times — five during President William Jefferson Clinton's presidency (FY1996-FY1997 and FY1999-FY2001) and three while President George W. Bush has been in the White House (FY2003-FY2005).

In two of the years during Ronald Reagan's presidency, all the bills were enacted together (FY1987 and FY1988) and, in one year when President George W. Bush was in the White House, all but two bills were enacted together (FY2003).

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[36] Transfer authority may be required, however, in cases in which the appropriations act includes a set aside for a specified activity within an account.

[37] The FY2001 Energy and Water Development bill was attached to the FY2001 Veterans Affairs, Housing and Urban Development, and Independent Agencies bill. The FY2001 Legislative Branch bill and Treasury and General Government bill were attached to the FY2001 Labor, Health and Human Services, Education, and Related Agencies bill.

[38] 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.

(From FY1977 through FY2005, Congress annually considered 13 regular appropriations bills.)[39]

Table 2. Number of Regular Appropriations Bills Packaged in Omnibus (or Minibus) Measure, FY1977-FY2006

Fiscal Year	Presidential Administration	Regular Bills in Omnibus or Minibus Measure
1977	Gerald Ford	0
1978	Jimmy Carter	0
1979		0
1980		2
1981		5
1982	Ronald Reagan	3
1983		6
1984		3
1985		8
1986		7
1987		13
1988		13
1989		0
1990	George H.W. Bush	0
1991		0
1992		0
1993		0
1994	William Clinton	0
1995		0
1996		5
1997		6
1998		0
1999		8
2000		5
2001		2,3[a]
2002	George W. Bush	0
2003		11
2004		7
2005		9
2006		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 Veterans Affairs, Housing and Urban Development, and Independent Agencies bill. The FY2001 Legislative Branch bill and Treasury and General Government bill were attached to the FY2001 Labor, Health and Human Services, Education, and Related Agencies bill.

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[39] In early 2005, both the House and Senate Committees on Appropriations reorganized their subcommittees and reduced the number of subcommittees from 13 to 10 and 12, respectively. Due to the reorganization, the House has 11 regular bills and the Senate has 12 bills.

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.

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 25 of the past 30 years (FY1977-FY2006), Congress and the President did not complete action on a majority of the regular bills by the start of the fiscal year (see **Table 3**). In eight years, they did not finish any of the bills by the deadline. They completed action on all the bills on schedule only four times: FY1977, FY1989, FY1995, and FY1997.

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 by 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 typically 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. Over the past 30 fiscal years, Congress has enacted, on average, five continuing resolutions each year (see **Table 3**).

Table 3. Regular Appropriations Bills Completed by Deadline and Number of Continuing Resolutions, FY1977-FY2006

Fiscal Year	Presidential Administration	Regular Appropriations Bills Became Law by or on October 1st	Continuing Resolutions Became Law
1977	Gerald Ford	13	(2[a])
1978	Jimmy Carter	9	3
1979		5	1
1980		3	2
1981		1	2
1982	Ronald Reagan	0	4
1983		1	2
1984		4	2
1985		4	5
1986		0	5
1987		0	5
1988		0	5
1989		13	0
1990	George H.W. Bush	1	3
1991		0	5
1992		3	4
1993		1	1
1994	William J. Clinton	2	3
1995		13	0
1996		0	14[b]
1997		13[c]	0
1998		1	6
1999		1	6
2000		4	7
2001		2	21
2002	George W. Bush	0	8
2003		0	8
2004		3	5
2005		1	3
2006		2	3

Sources: U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, 94th Cong., 2nd sess. - 104th Cong., 1st sess. (Washington: GPO, 1976-1995). U.S. Congress, House, *Calendars of the U.S. House of Representatives and History of Legislation*, 104th Cong., 1st sess. - 107th Cong., 1st sess. (Washington: GPO, 1995-2005).

a. The two CRs did not provide continuing funding for entire regular bills; instead, they provided funding for selected activities.

b. All measures providing continuing funding are included. However, two of these bills were not initially appropriations bills. Later, Congress added continuing funding to both.

c. Five regular bills were attached to the FY1997 defense regular act, which became law on September 30. As a result, the FY1997 appropriations process was completed by October 1.

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 funds to recover from a hurricane, earthquake or flood); or increase or provide funding for other activities. Sometimes Congress includes supplemental appropriations in regular bills and continuing resolutions.

During a calendar year, Congress typically considers, at least

- 11 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.[40]

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 Committees on Appropriations. Through this allocation process, the budget resolution sets total spending ceilings for each House and Senate committee (referred to as the *302(a) allocations*).[41] **Table 4** provides 302(a) allocations to the House Committee on Appropriations for FY2006.

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[40] The congressional budget process was established by the Congressional Budget Act, (Titles I-IX of P.L. 93-344, 88 Stat. 297, 2 U.S.C. 601-656 (2005). The act has been amended several times. Significant amendments were provided in the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (99 Stat. 1037, 1038); Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119 (101 Stat. 754); Budget Enforcement Act of 1990, P.L. 101-508 (104 Stat. 1388-573 to 1388-630); Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (107 Stat. 312); and Budget Enforcement Act of 1997, P.L. 105-33 (111 Stat. 251).

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

Table 4. House Committee on Appropriations' 302(a) Allocations for FY2006
(in billions of dollars)

Spending Category	Budget Authority	Outlays
Discretionary	843.020	916.836
Mandatory	528.504	510.843

Source: U.S. Congress, Conference Committees, 2005, *Concurrent Resolution on the Budget for Fiscal Year 2006*, conference report to accompany H.Con.Res. 95, H.Rept. 109-62, 109th Cong., 1st sess. (Washington: GPO, 2006), p. 86.

Table 4 includes allocations for discretionary spending and mandatory spending. Congress divides budget authority and the resulting outlays into two categories: discretionary spending and mandatory spending (including net interest[42]). Discretionary spending is controlled by the annual appropriations acts, which are under the jurisdiction of the House and Senate Committees on Appropriations. In contrast, mandatory spending is controlled by authorization (or legislative) acts under the jurisdiction of the authorization (or legislative) committees (principally the House Committee on Ways and Means and Senate Committee on Finance).[43] Appropriations measures include all the discretionary spending and some of the mandatory spending.

Discretionary spending provides funds for a wide variety of activities, such as those described in the "Introduction" above, whereas mandatory spending funds entitlement programs[44] and other mandatory spending programs. Of total actual outlays for FY2005, only 40% was discretionary spending; the remaining 60% was mandatory spending (7% was net interest).

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[42] "In the federal budget, 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, *The Budget and Economic Outlook: Fiscal Years 2007 to 2016* (Washington: GPO, 2006), p. 167.

[43] Most standing committees are legislative committees, such as the House Committee on Armed Services and the Senate Committee on the Judiciary. For more information, see "Relationship Between Authorization and Appropriation Measures" below.

[44] The Congressional Budget Office defines entitlement as:

> A legal obligation of the federal government to make payments to a person, group of people, business, unit of government, or similar entity that meets the eligibility criteria set in law and for which the budget authority is not provided in advance in an appropriation act. Spending for entitlement programs is controlled through the eligibility criteria and benefit or payment rules.

Major entitlement programs include Social Security and Medicare. U.S. Congressional Budget Office, pp. 162-163.

Regarding the distribution of discretionary spending outlays for FY2005, 51% of the outlays was for defense activities, 45% for domestic activities, and 4% for international activities.

The mandatory spending provided in appropriations measures is predominantly for entitlement programs, referred to as *appropriated entitlements*. 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 legislative law.[45]

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 have, for example, provided $2.6 billion in new budget authority to build the nuclear attack submarine, mentioned earlier, instead of $1.6 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 government commitments in permanent law, such as Social Security benefit levels and eligibility requirements.

After the House and Senate Committees on Appropriations receive their 302(a) allocations, they separately divide their allocations among their subcommittees, providing each subcommittee with a ceiling. The House committee also provides a separate allocation for Legislative Branch activities to the full committee. These subdivisions are referred to as the *302(b) allocations*.[46] **Table 5** provides the House Committee on Appropriations' initial 302(b) allocations of discretionary, mandatory, and total spending for FY2006. 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 spending ceilings associated with the annual budget resolution that apply to appropriations measures are generally for a single fiscal year (the upcoming fiscal year) and typically must be established each year.[47] If the budget resolution is significantly delayed (or is never completed), there are no total spending ceilings, 302(a) allocations, or 302(b) allocations to enforce until the budget resolution is completed. In such instances, the House and Senate have often adopted separate

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[45] Some mandatory spending is provided through a one-step process. The authorization act may set the program parameters and provide the budget authority.

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

[47] In contrast, spending ceilings associated with the budget resolution that apply to legislative measures are provided for several fiscal years.

Table 5. Initial House Appropriations Committee's 302(b) Allocations for FY2006

(in billions of dollars)

Subcommittee	Discretionary	Mandatory	Total
Agriculture			
New Budget Authority	16.832	69.535	86.367
Outlays	18.691	50.456	69.147
Defense			
New Budget Authority	363.440	0.245	363.685
Outlays	372.696	0.245	372.941
Energy and Water Development			
New Budget Authority	29.746		29.746
Outlays	30.236		30.236
Foreign Operations			
New Budget Authority	20.270	0.042	20.312
Outlays	25.380	0.042	25.422
Homeland Security			
New Budget Authority	30.846	0.931	31.777
Outlays	33.233	0.924	34.157
Interior and Environment			
New Budget Authority	26.107	0.054	26.161
Outlays	27.500	0.060	27.560
Labor, Health and Human Services, and Education			
New Budget Authority	142.514	402.591	545.105
Outlays	143.802	404.083	547.885
(Legislative Branch)[a]			
New Budget Authority	3.719	0.118	3.837
Outlays	3.734	0.117	3.851
Military Quality of Life and Veterans Affairs			
New Budget Authority	85.158	35.640	120.798
Outlays	81.651	35.570	117.221
Science, State, Justice, and Commerce			
New Budget Authority	57.453	0.361	57.814
Outlays	58.856	0.373	59.229
Transportation, Treasury, Housing and Urban Development, the Judiciary, and District of Columbia			
New Budget Authority	66.935	18.987	85.922
Outlays	120.908	18.973	139.881
Total[b]			
New Budget Authority	843.020	528.504	1,371.524
Outlays	916.836	510.843	1,427.679

Source: U.S. Congress, House Committee on Appropriations, *Report on the Suballocation to Budget Allocations for Fiscal Year 2006*, 109th Cong., 1st sess. (Washington: GPO, 2005), pp. 2-3.

a. The House committee provided a separate 302(b) allocation to the full committee for Legislative Branch activities.
b. The committee also set aside a small full committee allowance of $0.149 billion in discretionary outlays.

deeming resolutions, providing, at least, temporary 302(a) allocations, thereby establishing enforceable spending ceilings.[48]

For FY2007, the House adopted a special rule that, in part, deemed the 302(a) allocations associated with the House-adopted FY2007 budget resolution (H.Con.Res. 376, 109th Congress) in effect for enforcement purposes.[49] The Senate included in a FY2006 supplemental appropriations act deeming language that, in part, set 302(a) allocations for the Senate Committee on Appropriations.[50]

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. These 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 permanent House points of order enforcing spending ceilings that affect appropriations measures are the 302(f) and 311(a).[51] These points of order apply to all appropriations measures reported by the committee as well as amendments and conference reports to the measures, they do not apply to amended appropriations 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).[52] For example, the reported FY2006 Agriculture regular

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

[49] H.Res. 818 (109th Cong.), section 2.

[50] P.L. 109-234, section 7035(a).

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

[52] It does not affect increased mandatory spending that the appropriators are required to provide. For example, if the House Committee on Appropriations 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.

appropriations bill could not have exceeded the Agriculture subcommittee's total discretionary spending allocation for FY2006 — $16.832 billion — provided in **Table 5**.[53]

The House has temporarily extended enforcement of 302(b) allocations to certain amended general appropriations bills.[54] In 2005, the House established a point of order in the Committee of the Whole against certain motions to rise and report[55] a general appropriations bill that, as amended, exceeded the 302(b) allocation. Upon the chair sustaining the point of order, the House votes on a question to rise and report the bill even though the bill exceeds the 302(b) allocation. If the House rejects this motion, the House may consider and adopt a single amendment, which would bring the bill into compliance. If adopted, the House would then vote on another motion to rise and report. The point of order does not apply to motions to rise and report proposed by the Majority Leader (or his designee). This point of order is in effect for the 109th Congress (2005-2006).[56]

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

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[53] 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.)

[54] In the House, *general appropriations bills* refer to regular appropriations bills and supplemental appropriations measures, which provide funds for more than one purpose or agency. It does not apply to continuing resolutions.

[55] For information on the Committee of the Whole, see "House and Senate Floor Action" section above.

[56] For more information see, House-adopted H.Res. 248 (109th Cong.), section 2, and U.S. Congress, House Committee on Rules, *Waiving Points of Order Against the Conference Report to Accompany H.Con.Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006*, report to accompany H.Res. 248, 109th Cong., 1st sess., H.Rept. 109-63 (Washington: GPO, 2005), pp. 1-2.

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). 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.[57]

The House may waive or suspend 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 permanent Senate points of order enforce spending ceilings that affect appropriations measures are the 302(f) and 311(a).[58] 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. 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*.

Senators may make motions to waive these points of order at the time the issue is raised. Currently, a vote of three-fifths of all Senators (60 Senators, if there are no vacancies) is required to approve a waiver motion for any of these points of order.[59] These super-majority vote requirements expire on September 30, 2010.

Emergency Spending. Since 1990, both the House and Senate have generally exempted budget authority (and resulting outlays) provided in appropriations measures, amendments, and conference reports that are designated as emergency spending from the points of order enforcing spending ceilings discussed

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[57] Section 311(c) of the Congressional Budget Act, as amended.

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

[59] A vote to appeal the presiding officer's ruling also requires three-fifths vote of all Senators.

above.[60] Emergency-designations were originally designed as a safety valve so that spending for emergencies, such as disaster assistance, could be expeditiously enacted. Congress typically includes its emergency-designation language after the appropriation to be protected.

In practice, House emergency designations are generally included in the committee-reported bills and conference reports, but not floor amendments. Under House precedents, emergency designations are considered legislation on an appropriations bill (or legislation), which are prohibited.[61] The House, generally, adopts a special rule waiving this point of order against emergency designations in the reported bills and conference reports, but not such provisions in floor amendments.

In contrast, under Senate precedents such designations are not considered legislation. Emergency designations may be included in floor amendments as well as committee amendments, reported bills, amended bills, and conference reports. However, such designations for non-defense spending are subject to another point of order (section 402(b) of H.Con.Res. 95 (109th Congress). If a point of order under section 402(b) is raised and sustained, the emergency designation is stricken and the legislation is subject to the points of order enforcing the spending ceilings. In order to waive section 402(b), a three-fifths vote of all Senators is required, thereby requiring super-majority support.[62]

The current House procedures generally provide a $6.450 billion limit for FY2007 emergency designated non-defense discretionary spending, but no limit on emergency-designated defense spending.[63] Under Senate procedures, there is a FY2007 limit of $86.3 billion on all emergency-designated funding.[64]

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[60] For current House procedures, see H.Con.Res. 376 (109th Cong.), as adopted by the House, sec. 402 and title V. For current Senate procedures, see U.S. Congress, Conference Committees, 2005, *Concurrent Resolution on the Budget for Fiscal Year 2006*, conference report to accompany H.Con.Res. 95, 109th Cong., 1st sess., H.Rept. 109-62 (Washington: GPO, 2005), sec. 402; P.L. 109-234, sec. 7035; and S.Con.Res. 83 (109th Cong.), as adopted by the Senate, sec. 402. For general information on rules regarding emergency designations, see CRS Report RS21035, *Emergency Spending: Statutory and Congressional Rules*, by James V. Saturno.

[61] Specifically, *special budgetary designations pursuant to the concurrent resolution on the budget* are considered legislation. Special budgetary designations include provisions (1) designating funds as “making appropriations for contingency operations directly related to the global war on terrorism and other unanticipated defense-related operations” under sec. 402 of H.Con.Res 376 (109th Cong.); and (2) designating funds as “an emergency requirement” under title v of the same resolution.

For more information on legislation, see “Relationship Between Authorization and Appropriation Measures” section below.

[62] A vote to appeal the presiding officer’s ruling also requires three-fifths vote of all Senators.

[63] H.Con.Res. 376 (109th Cong.), as adopted by the House, sec. 402 and title V.

[64] P.L. 109-234, sec. 7035; and S.Con.Res. 83 (109th Cong.), as adopted by the Senate, sec. 402.

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 Department of Defense. The authorization act also authorizes subsequent appropriations for specific agencies and programs, frequently setting spending ceilings for them. The authorization of appropriations provisions may be permanent, annual, or multi-year authorizations. Annual and multi-year provisions require re-authorizations when they expire. Congress is not required to provide appropriations for an authorized discretionary spending program.

Authorization measures are under the jurisdiction of legislative committees such as the House Committees on Agriculture and Homeland Security, or the Senate Committees on Armed Services and the Judiciary. Most congressional committees are legislative committees. Major non-legislative committees include the House and Senate appropriations and budget committees.[65] Appropriations measures provide new budget authority for the program, activity, or agency previously authorized.

The authorization-appropriation process enforces separation of these functions into separate measures with points of order prohibiting certain provisions in appropriations measures.[66] The House and Senate prohibit, in varying degrees, language in appropriations bills providing *unauthorized appropriations* or *legislation on an appropriations bill* (or *legislation*).

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. Legislation refers 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 legislation in regular appropriations bills and supplemental appropriations measures, 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

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[65] 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.

[66] 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).

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.[67] The point of order applies to the text of the bills, amendments, and conference reports; not the committee report or the joint explanatory statement.

In the Senate, unauthorized appropriations and legislation 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*).

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.

The rule does not apply to provisions in Senate bills or conference reports.[68] 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.[69] Recently, the Senate has adopted procedures, on a bill-by-bill basis, that make these points of order applicable to the provisions of Senate bills.

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 must be in law.

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.

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[67] 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. Special rules typically waive points of order against all provisions in all conference reports on general appropriations measures.

[68] The rule also does not apply to language in committee reports or joint explanatory statements.

[69] 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.

The Senate rule prohibits legislation in both Senate Appropriations Committee amendments and non-committee amendments.[70] 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 legislation 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, enacted unauthorized appropriations are generally available for obligation or expenditure.

Rescissions

Rescissions cancel previously enacted budget authority. To continue the earlier example, after Congress enacted the $1.6 billion to construct the submarine, it could 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,[71] 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.[72]

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 2005, the President requested a rescission of $106 million from the Department of Defense (DOD), Operations and Maintenance, Defense-Wide account and $48.6 million from DOD, Research, Development, Test, and Evaluation, Army account. Congress provided a rescission of $80 million from the first account in the Department of Defense, Emergency Supplemental Appropriations to Address

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[70] Under Senate precedents, an amendment containing legislation may be considered if it is germane to language in the House-passed appropriations bill. That is, if the House opens the door by including a legislative provision 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 the legislative provision could be germane. Therefore, the defense of germaneness is not available.

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

[72] CRS Report RL33635, *Item Veto and Expanded Impoundment Proposals: Legislative History and Current Status*, by Virginia A. McMurtry.

Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006.[73] The act did not provide a rescission from the second account.

Congress may also initiate rescissions. In the above act, Congress also initiated a rescission of $10 million from the Department of State, Diplomatic and Consular Programs account.

Rescissions can be included in either separate rescission measures or any of the three types of appropriations measures.

For Additional Reading

CRS Products

CRS Report RL32153. *Across-the-Board Spending Cuts in Omnibus Appropriations Acts*, by Robert Keith.

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

CRS Report RL33122. *Congressional Budget Resolutions: Revisions and Adjustments*, by Robert Keith.

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

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 RL32614. *Duration of Continuing Resolutions in Recent Years*, by Robert Keith.

CRS Report RL33397, *Earmark Reform Proposals: Analysis of Latest Versions of S. 2349 and H.R. 4975*, by Sandy Streeter.

[73] P.L. 109-148.

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