

Committee on Rules Legislative Process Program

Section 3 – *The Committee System and the Federal Budget Process*

111TH CONGRESS

LOUISE M. SLAUGHTER, *Chairwoman*

The Appropriations Process and the Appropriations Committee

Section 3, chapter 3 of 5

April 29, 2009



The Appropriations Process and the Appropriations Committee

Section 3 chapter 3 of 5

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Overview of the Authorization-Appropriations Process

CRS Report: RS20371¹
Updated June 17, 2008

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A primary avenue for exercising Congress's power of the purse is the authorization and appropriation of federal spending to carry out government activities. While the power over appropriations is granted to Congress by the U.S. Constitution, the authorization-appropriation process is derived from House and Senate rules. The formal process consists of two sequential steps: (1) enactment of an authorization measure that may create or continue an agency or program as well as authorize the subsequent enactment of appropriations; and (2) enactment of appropriations to provide funds for the authorized agency or program. For more information on the budget process, see the CRS Guides to Congressional Processes at: <http://www.crs.gov/products/guides/guidehome.shtml>.

The authorizing and appropriating duties in this two-step process are carried out by a division of labor within the committee system. Legislative committees, such as the House Committee on Armed Services and the Senate Committee on Commerce, Science, and Transportation, are responsible for authorizing legislation related to the agencies and programs under their jurisdiction; most standing committees have authorizing responsibilities. The Appropriations Committees of the House and Senate have jurisdiction over appropriations measures. As discussed below, House and Senate rules generally prohibit the encroachment of these committee responsibilities by the authorizers and appropriators.

Agencies and programs funded through the annual appropriations process, referred to as discretionary spending, generally follow this two-step process. Not all federal agencies and programs, however, are funded through this authorization-appropriations process. Funding for some agencies and programs is provided by the authorizing legislation, bypassing this two-step process. Such spending, referred to as direct spending, currently constitutes about two-thirds of all federal spending. Some direct spending, mostly entitlement programs, is funded by permanent appropriations in the authorizing law. Other direct spending (referred to as appropriated entitlements), such as Medicaid, is funded in appropriations acts, but the amount appropriated is controlled by the authorizing legislation.

Authorizing Legislation

An authorizing measure can establish, continue, or modify an agency or program for a fixed or indefinite period of time. It also may set forth the duties and functions of an agency or program, its organizational structure, and the responsibilities of agency or program officials. Authorizing legislation also authorizes the enactment of appropriations for an agency or program. The amount authorized to be appropriated may be specified for each fiscal year or may be indefinite (providing "such sums as may be necessary"). The authorization of appropriations is intended to provide guidance regarding the appropriate amount of funds to carry out the authorized activities of an agency.

Appropriations Measures

An appropriations measure provides budget authority to an agency for specified purposes. Budget authority allows federal agencies to incur obligations and authorizes payments to be made out of the Treasury. Discretionary agencies and programs, and appropriated entitlement programs, are funded each year in appropriations acts.

¹ <http://apps.crs.gov/products/rs/html/RS20371.html>

The subcommittees of the Appropriations Committees of the House and Senate are each responsible for one of the regular appropriations acts. The regular appropriations acts provide budget authority for the next fiscal year, beginning October 1. Congress usually adopts one or more supplemental appropriations acts to provide additional funding for unexpected needs while the fiscal year is in progress. If the regular appropriation acts are not completed by October 1, then Congress must adopt a continuing appropriations act, commonly referred to as a continuing resolution, providing stop-gap funding. In some years, instead of adopting the regular appropriation measures individually, Congress may include several in an omnibus appropriations measure, or a continuing appropriations bill providing funding for the full fiscal year.

Enforcing the Authorization-Appropriations Process

The separation between the two steps of the authorization-appropriations process is enforced through points of order provided by rules of the House and Senate. First, the rules prohibit appropriations for unauthorized agencies and programs; an appropriation in excess of an authorized amount is considered an unauthorized appropriation. Second, the rules prohibit the inclusion of legislative language in appropriations measures. Third, the House, but not the Senate, prohibits appropriations in authorizing legislation.

While the rules encourage the integrity of the process, a point of order must be raised to enforce the rules. Also, the rules may be waived by suspension of the rules, by unanimous consent, or, in the House, by a special rule. If unauthorized appropriations are enacted into law through circumvention of House and Senate rules, in most cases the agency may spend the entire amount.

The Appropriations Subcommittees

Excerpt from CRS Report: 97-684 (page 2)²
Updated December 2, 2008

The Congressional Appropriations Process: An Introduction
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The House and Senate Committees on Appropriations have jurisdiction over the annual appropriations measures. Each committee has 12 subcommittees and each subcommittee has jurisdiction over one annual, regular appropriations bill that provides funding for departments and agencies under the subcommittee's jurisdiction.³

The jurisdictions of the House and Senate appropriations subcommittees are generally parallel. That is, each House appropriations subcommittee is paired with a Senate appropriations subcommittee and the two subcommittees' jurisdictions are generally identical.⁴ As currently organized, there are 12 subcommittees:⁵

The Subcommittees

- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies (Agriculture);
- Commerce, Justice, Science, and Related Agencies (Commerce, Justice, and Science);
- Defense;
- Energy and Water Development, and Related Agencies (Energy and Water Development);
- Financial Services and General Government;
- Department of Homeland Security (Homeland Security);
- Interior, Environment, and Related Agencies (Interior and Environment);
- Departments of Labor, Health and Human Services, Education, and Related Agencies (Labor, Health and Human Services, and Education);
- Legislative Branch;
- Military Construction, Veterans Affairs, and Related Agencies (Military Construction and Veterans Affairs);
- State, Foreign Operations, and Related Programs (State and Foreign Operations); and
- Departments of Transportation, and Housing and Urban Development, and Related Agencies (Transportation and Housing and Urban Development).
- State, Foreign Operations, and Related Programs; and
- Departments of Transportation, and Housing and Urban Development, and Related Agencies.

² <http://apps.crs.gov/products/rl/html/97-684.html#fn6>

³ The House has an additional subcommittee, Select Intelligence Oversight Panel (select panel). It, however, does not have jurisdiction over providing spending. The select panel, instead, makes annual intelligence funding recommendations to the House Defense Appropriations Subcommittee, which has jurisdiction over legislation to provide intelligence spending.

⁴ For departments and agencies under the jurisdiction of each subcommittee, see CRS Report WA00004, [Locate an Agency or Program within Appropriations Bills: 110th Congress](#), by Mary Frances Bley; U.S. Congress, House Committee on Appropriations, *Subcommittee Jurisdiction*, Jacket Number 32-282, 110th Cong., 1st sess. (Washington: GPO, 2007); and U.S. Congress, Senate Committee on Appropriations, *Subcommittee Jurisdiction*, S. Prt. 110-11, 110th Cong., 1st sess. (Washington: GPO, 2007).

⁵ For additional information, see CRS Report RL31572, [Appropriations Subcommittee Structure: History of Changes from 1920-2007](#), by James V. Saturno.

302(b) allocations

CRS Report: RS20144⁶
Updated June 17, 2008

Allocations and Subdivisions in the Congressional Budget Process
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The annual budget resolution sets forth total spending and revenue levels for at least five fiscal years. The spending amounts are allocated, or "crosswalked," to the House and Senate committees having jurisdiction over discretionary spending (the Appropriations Committees) and direct spending (the legislative committees). The committee allocations provide Congress with one means of enforcing the spending levels of a budget resolution after it has been adopted. See the CRS Guides to Congressional Processes at <http://www.crs.gov/products/guides/guidehome.shtml> for more information on the budget process.

While the budget resolution allocates spending among the 20 major functional categories of the federal budget for the purpose of providing a broad statement of budget priorities, the functional categories do not correspond to the committee system by which Congress operates. The committee allocations reformulate the functional category amounts in a budget resolution to correspond to committee jurisdictions. By allocating the spending among committees responsible for spending legislation, the committee allocations allow Congress to hold its committees accountable for staying within the spending limits established in the budget resolution.

Section 302(a) of the Congressional Budget Act of 1974 (Titles I-IX of [P.L. 93-344](#), 88 Stat. 297-332), as amended, requires that the total budget authority and outlays set forth in the budget resolution be allocated to each House and Senate committee that has jurisdiction over specific spending legislation. These committee allocations usually are included in the joint explanatory statement accompanying the conference report on a budget resolution. Section 302(b) of the Budget Act requires the Appropriations Committee of each chamber to subdivide its committee allocation among its subcommittees as soon as practicable after a budget resolution has been adopted. The Appropriations Committees are then required to report these subdivisions to their respective chamber and may revise the subdivisions any time during the appropriations process to reflect actions taken on spending legislation. Section 302(c) of the Budget Act provides a point of order against the consideration of any appropriations measures before the Appropriations Committees report their subdivisions.

The spending allocations may be revised after a budget resolution has been adopted if provided for in the resolution. For instance, Congress usually includes reserve fund provisions in the annual budget resolution, which provide the chairs of the House and Senate Budget Committees the authority to revise the committee spending allocations if certain legislation is reported by the appropriate committee or other conditions are met.

The House and Senate Appropriations Committees have jurisdiction over the regular appropriations acts and other appropriations acts. The Appropriations Committees of each chamber have parallel subcommittees, each of which is responsible for one of the regular appropriations acts. After extensive hearings, each of the subcommittees reports one of the regular appropriations bills to its respective full committee. Then, the full Appropriations Committees report the bills to their respective chamber. A cost estimate of each bill is prepared and compared to the amount allocated or subdivided to the relevant subcommittee.

Section 302(f) of the Budget Act prohibits any measure or amendment that would cause the 302(a) or 302(b) allocations to be exceeded. In the House, these committee allocations and suballocations are the primary focus of enforcement since Section 311(c) of the Budget Act, known as the "Fazio exception," allows the overall limit of spending to be breached so long as a committee's 302(a) allocation is not exceeded.

⁶ <http://apps.crs.gov/products/rs/html/RS20144.html>

The allocation limits are not self-enforcing; a Member must raise a point of order for an allocation to be enforced. The points of order may also be waived. In the House, a special rule may be adopted, or unanimous consent may be granted, waiving any budgetary points of order. In the Senate, the point of order against violations of the spending allocations may be waived by a motion under Section 904 of the Budget Act or by unanimous consent. A motion to waive the point of order requires a three-fifths vote of all Senators duly sworn and chosen (60 votes if there are no vacancies).

Annual Appropriations Cycle

Excerpt from CRS Report: 97-684 (pages 2-10)⁷
Updated December 2, 2008

The Congressional Appropriations Process: An Introduction
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President Submits Budget

The President initiates the annual budget cycle when he submits his annual budget for the upcoming fiscal year⁸ to Congress. He is required to submit his annual budget on or before the first Monday in February.⁹ Congress has, however, provided deadline extensions; both statutorily and, sometimes, informally.¹⁰

The President recommends spending levels for various programs and agencies of the federal government in the form of *budget authority* (or *BA*). Such authority does not represent cash provided to, or reserved for, agencies. Instead, the term refers to authority provided by federal law to enter into contracts or other financial *obligations* that will result in immediate or future expenditures (or *outlays*) involving federal government funds. Most appropriations are a form of budget authority that also provide legal authority to make the subsequent payments from the Treasury.

An FY2008 appropriations act, for example, provided \$222 million in new budget authority for FY2008 to the Department of the Interior's National Park Service (NPS) for construction, improvement, repair, and replacement of facilities. That is, the act gave NPS legal authority to sign contracts to construct and repair the facilities. The agency could not commit the government to pay more than \$222 million. The outlays occur when government payments are made to complete the tasks.

While budget authority must generally be obligated in the fiscal year in which the funds were made available, outlays may occur over time. In the case of the NPS construction projects, for example, the outlays may occur over several years as various stages of the project are completed. In this example, the \$222 million appropriation could be spent over four fiscal years:

- FY2008, \$22 million;
- FY2009, \$55 million;
- FY2010, \$55 million; and
- FY2011, \$90 million.

The amount of outlays in a fiscal year may vary among activities funded because the length of time to complete the activities differs. Outlays to purchase office supplies may occur in the year the budget authority is made available, while outlays for construction projects may take longer.

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

⁷ <http://www.congress.gov/erp/rl/html/97-684.html>

⁸ 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. FY2009 began on October 1, 2008.

⁹ 31 U.S.C. § 1105(a).

¹⁰ For information on deadline extensions in presidential transition years, see CRS Report RS20752, *Submission of the President's Budget in Transition Years*, by Robert Keith.

After the President submits his budget to Congress, each agency generally provides additional detailed *justification* materials to the House and Senate appropriations subcommittees with jurisdiction over its funding.

Congress Adopts Budget Resolution

The Congressional Budget and Impoundment Control Act of 1974 (Congressional Budget Act)¹¹ requires Congress to adopt an annual budget resolution.¹² 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 allocates federal spending among generally 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 for each fiscal year are also allocated among committees with jurisdiction over spending, thereby setting spending ceilings for each committee (see "[Allocations](#)" section below).¹³ The House and Senate Committees on Appropriations receive ceilings only for the upcoming fiscal year, because appropriations measures are annual. Once the appropriations committees receive their spending ceilings, they separately subdivide the amount among their respective subcommittees, providing spending ceilings for each subcommittee.¹⁴

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; instead, it is a guide for the House and Senate as they consider various budget-related bills, including appropriations and tax measures. Both the House and Senate have established parliamentary rules to enforce some of these spending ceilings when appropriations measures are considered on the House or Senate floor, respectively.¹⁵

The Congressional Budget Act provides an April 15 deadline for congressional adoption of the budget resolution. During the past 33 fiscal years Congress has considered budget resolutions (FY1976-FY2008), however, Congress frequently has not met this deadline, and in four of those years (FY1999, FY2003, FY2005, and FY2007), Congress did not adopt a budget resolution.¹⁶

There is no penalty if the budget resolution is not completed or is tardy. Under the Congressional Budget Act, however, certain enforceable spending ceilings associated with the budget resolution are not established until the budget resolution is completed. The act also prohibits both House and Senate floor consideration of appropriations measures for the upcoming fiscal year until they complete the budget resolution; and, in the Senate, until the Senate Appropriations Committee receive their spending ceilings.¹⁷ The House, however, may consider most appropriations measures after May 15, even if the budget resolution is not in place;¹⁸ and the Senate may adopt a motion to waive this rule by a majority vote.

¹¹ 2 U.S.C. § 621 et seq.

¹² Budget resolutions are under the jurisdiction of the House and Senate Committees on the Budget.

¹³ The committee ceilings are usually provided in the joint explanatory statement that accompanies the conference report to the budget resolution.

¹⁴ See "[Allocations](#)" below.

¹⁵ For more details, see "[Spending Ceilings for Appropriations Measures](#)" below.

¹⁶ 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.

¹⁷ 2 U.S.C. § 634 (or Congressional Budget Act, section 303); and [H.Res. 6](#), section 511(a)(2) (110th Cong.).

¹⁸ This exception applies to regular appropriations bills and supplemental appropriations measures that provide funding for more than one agency or purpose (for more information, see "[Types of Appropriations Measures](#)" below).

If Congress delays completion of the annual budget resolution (or does not complete the resolution), each chamber may adopt a deeming resolution to address these procedural difficulties.¹⁹

Timetable for Consideration of Appropriations Measures

Traditionally, the House of Representatives initiated consideration of regular appropriations measures, and the Senate subsequently considered and amended the House-passed bills. Recently, the Senate appropriations subcommittees and committee have sometimes not waited for the House bills, instead they have reported original Senate bills. Under this non-traditional approach, both House and Senate appropriations committees and their subcommittees have often considered the regular bills simultaneously.

The House Committee on Appropriations reports the 12 regular appropriations bills separately to the full House.²⁰ The committee typically begins reporting the bills in May or June, completing their consideration of all (or almost all) of them by the annual August recess. Generally, the full House starts consideration of the regular appropriations bills in May or June as well, passing most of those bills by the August recess. For three of the last seven fiscal years (FY2002-FY2008) the House did not pass all the regular bills separately. The regular bills that do not pass are typically funded in an omnibus appropriations bill.²¹

In the Senate, the Senate Appropriations Committee typically begins reporting the bills in June and generally completes reporting them in September. The Senate typically starts passing the bills in June or July and continues through the fall. For five of the last seven fiscal years, the Senate also did not pass all of the bills separately.

During the fall and winter, the appropriations committees are usually heavily involved in conferences to resolve differences between the versions of appropriations bills passed by their respective chambers. Relatively little (if any) 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. As a result, Congress is usually faced with the need to enact one or more temporary continuing resolutions pending the final disposition of the regular appropriations bills.²²

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 generally received their spending ceilings, the subcommittees begin to mark up²³ the regular bills under their jurisdiction and report them to their respective full committees. Both appropria-

¹⁹ For information on deeming resolutions, see "[Allocations](#)" section below and CRS Report RL31443, [The "Deeming Resolution": A Budget Enforcement Tool](#), by Robert Keith (pdf).

²⁰ For almost 35 years (1971-2004), Congress generally considered 13 regular appropriations bills each year. As a result of two reorganizations of the House and Senate Committees on Appropriations in 2005 and, again, in 2007, the total number of bills changed twice. Congress considered 11 regular bills for FY2006 and FY2007 and there have been 12 regular bills for FY2008 and FY2009. (For more information, CRS Report RL31572, [Appropriations Subcommittee Structure: History of Changes from 1920-2007](#), by James V. Saturno.)

²¹ See "[Regular Appropriations Bills](#)" below.

²² For a description of continuing resolutions, see "[Continuing Resolutions](#)" below.

²³ 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. House rules allow the House appropriations committee to originate a bill. In contrast, most House committees do not have such authority.

tions committees consider each of their subcommittee's recommendations separately. The committees may adopt amendments to a subcommittee's recommendations, and then report the bill as amended to their respective floors for further 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.²⁴ 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.²⁵ 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 member²⁶ 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. A regular appropriations bill is generally read for amendment, by paragraph.²⁷ Amendments must meet a variety of requirements:

- House standing rules and precedents generally that establish several requirements, such as requiring amendments to be germane to the bill;
- House standing rules and precedents that establish a separation between legislation and appropriations (see "[Relationship Between Authorization and Appropriation Measures](#)" below);
- funding limits imposed by the congressional budget process (see "[Spending Ceilings for Appropriations Measures](#)" below); and
- provisions of a special rule or unanimous consent agreement 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 consid-

²⁴ 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 make a motion to bring a regular appropriations bill directly to the floor in contrast to asking the Rules Committee to report a special rule providing for the measure's consideration, as is necessary for most major bills.

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.

²⁵ 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 Christopher M. Davis; and CRS Report RL32200, [Debate, Motions, and Other Actions in the Committee of the Whole](#), by Bill Heniff Jr. and Elizabeth Rybicki.

²⁶ A ranking minority member of a committee or subcommittee is the head of the minority party members of the particular committee or subcommittee.

²⁷ For more information, see CRS Report 98-995, [The Amending Process in the House of Representatives](#), by Christopher M. Davis.

ered on the House floor. The special rule or unanimous consent agreement²⁸ may waive the requirements imposed by House rules or the budget process, 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. For example, the House sometimes agrees to limit consideration to a specific list of amendments or to limit debate on individual amendments by unanimous consent.²⁹

After the Committee of the Whole completes consideration of the measure, it rises 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.³⁰ The Senate does not have a device like 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 (including the authorization-appropriations process) and congressional budget process, as well as requirements agreed to by unanimous consent. The specifics of the Senate and House requirements differ, including the waiver procedures.³¹

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.

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.³²

²⁸ Under *unanimous consent agreements*, the House agrees to the new parameters if no Representative objects.

²⁹ In addition to special rules, in recent years House consideration of appropriations bills has been supplemented by unanimous consent agreements. For more information, see CRS Report RS22711, [Considering Regular Appropriations Bills on the House Floor: Current Practice Regarding Comprehensive Unanimous Consent Agreements](#), by Christopher M. Davis.

³⁰ In cases in which the non-traditional practice is utilized, the Senate Committee on Appropriations typically reports an original 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.

³¹ The Senate may waive these rules either by unanimous consent or, in some cases, by motion.

³² 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 Bills](#)" section below).

Under House and Senate rules, the negotiators (called *conferees* or *managers*) are generally required to remain within the scope of the differences between the positions of the two chambers, and cannot add new matter.³³ 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 million-\$5 million range. In the Senate, the conference report cannot add new directed spending provisions that were not included in either the House- or Senate-passed versions of the bill. The Senate rule against new matter applies to any provision in the conference report, while the rule against new directed spending provisions is limited to

any item that consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.³⁴

These rules may be enforced during House and Senate consideration of the conference report.

The Senate typically passes the House bill with the Senate version attached as a single substitute amendment. 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 conference report includes a *joint explanatory statement* (or *managers' statement*) explaining the new substitute. A conference report may not be amended in either chamber.

Usually, the House considers conference reports on appropriations measures first, because it traditionally considers the measures first. Prior to consideration of the conference report, the House typically adopts a special rule waiving any points of order against the conference report. The first chamber to consider the conference report has the option of voting to recommit it to the conference for further consideration, rejecting it, 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. The Senate, however, may strike new matter or new directed spending provisions from the conference report by points of order thereby rejecting it. The Senate can avoid this situation by adopting a motion to waive the applicable rule by a three-fifths vote of all Senators duly chosen and sworn (60 Senators if there are no vacancies). If the Presiding Officer sustains point(s) of order against new matter or new directed spending provisions, the offending language is stricken from the bill. After all points of order under both requirements have been disposed of, the Senate considers a motion to send the remaining provisions to the House as an amendment between the houses since they cannot amend the conference report. The House would then consider the amendment. The House may choose to further amend the Senate amendment and return to the Senate for further consideration. If the House, however, agrees to the amendment the measure is sent to the President.³⁵

In cases in which either the conference report is rejected or recommitted to the conference committee, the conferees negotiate further over the matters in dispute between the two houses.³⁶ The measure cannot be sent to the President until both houses have agreed to the entire text of the bill.

³³ House Rule XXII, clause 9, and Senate Rule XXVIII, paragraphs 2 and 3.

³⁴ Senate Rule XLIV, paragraph 8.

³⁵ For more detailed information on these Senate rules, see CRS Report RS22733, [Senate Rules Changes in the 110th Congress Affecting Restrictions on the Content of Conference Reports](#), by Elizabeth Rybicki.

³⁶ If either house rejects the conference report, the two houses normally agree to further conference, usually appointing the same conferees.

Presidential Action

Under the Constitution,³⁷ 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 two-thirds vote in both houses. If Congress successfully overrides the veto, the bill becomes law. If Congress is unsuccessful, the bill dies.

³⁷ U.S. Constitution, Article I, section 7.

Types of Appropriations Measures

Excerpt from CRS Report: 97-684 (pages 13-15)³⁸
Updated December 2, 2008

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There are three major types appropriations measures: regular appropriations bills, continuing resolutions, and supplemental appropriations measures. Of the three types, regular appropriations bills typically provide most of the funding.³⁹

Regular Appropriations Bills

The House and Senate annually consider several regular appropriations measures. Each House and Senate appropriations subcommittee has jurisdiction over one regular bill. Due to the 2007 House and Senate appropriations committees' reorganization, each chamber considers 12 regular bills.

Regular appropriations bills contain a series of unnumbered paragraphs with headings; generally reflecting a unique budget account. The basic unit of regular and supplemental appropriations bills is the account. Under these measures, funding for each department and large independent agency is distributed among several accounts. Each account, generally, includes similar programs, projects, or items, such as a "research and development" account or "salaries and expenses" account. For small agencies, a single account may fund all of the agency's activities. These acts typically provide a lump-sum amount for each of these accounts. A few accounts include a single program, project, or item, which the appropriations act funds individually.

In report language,⁴⁰ the House and Senate Committees on Appropriations provide more detailed directions to the departments and agencies on the distribution of funding among various activities funded within an account. Funding for most local projects are specified in report language, as opposed to the text of the appropriations bill. Congressional earmarks (referred to as congressionally directed spending items in Senate Rule XLIV) are frequently included in report language and have also been provided in a bill, amendment, or conference report.

Appropriations measures may also provide transfer authority.⁴¹ *Transfers* shift budget authority from one account or fund to another. For example, an agency moving new budget authority from a "salaries and expenses" account to a "construction" account would be a transfer. Agencies are prohibited from making such transfers without statutory authority.

In contrast, agencies may generally shift budget authority from one activity to another within an account without such statutory authority. This is referred to as *reprogramming*.⁴² 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.

³⁸ <http://apps.crs.gov/products/rl/html/97-684.html>

³⁹ A notable exception was an FY2007 continuing resolution (P.L. 110-5, 121 Stat. 8), which provided funding for nine FY2007 regular appropriations bills through the end of FY2007.

⁴⁰ *Report language* refers to the content of committee reports and joint explanatory statements, which are attached to the back of conference reports.

⁴¹ Authorization measures may also provide transfer authority. For information on authorization measures, see "[Relationship Between Authorization and Appropriation Measures](#)" below.

⁴² Transfer authority may be required, however, in cases in which the appropriations act includes a set aside for a specified activity within an account.

Congress has traditionally considered and approved each regular appropriations bill separately, but Congress has on occasion combined several bills together. For 19 of the past 32 years (FY1977-FY2008), Congress has packaged two or more regular appropriations bills together in one measure.⁴³ These packages are referred to as omnibus appropriation measures.⁴⁴

In these cases, Congress typically began consideration of each regular bill separately, but generally has combined some of the bills together at the conference stage. During conference on a single regular appropriations bill, the conferees typically have included in the conference report the final agreements on other outstanding regular appropriations bills, thereby creating an omnibus appropriations measure.

Packaging, as shown in **Table 1**, 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 10 times—five during President William Jefferson Clinton's presidency (FY1996-FY1997 and FY1999-FY2001) and five while President George W. Bush has been in the White House (FY2003-FY2005 and FY2007-FY2008).

In two years (FY1987 and FY1988) during Ronald Reagan's presidency, all of the bills were enacted in an omnibus bill; while in three years (FY2003, FY2007, and FY2008), while President George W. Bush has been in the White House, all but one or two bills have been enacted as a part of a package.

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

Continuing Resolutions

The provisions in regular appropriations bills typically allow funds to be obligated only until the end of the fiscal year, October 1. 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 for 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*).

Table 1. Number of Regular Appropriations Bills Packaged in Omnibus (or Minibus) Measure, FY1977-FY2008

Fiscal Year	Presidential Administration	Regular Acts in Omnibus or Minibus Measure
1977	Gerald Ford	0
1978	Jimmy Carter	0
1979		0
1980		2

⁴³ For example, 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.

⁴⁴ There is no agreed upon definition of omnibus appropriations measure, but the term *minibus appropriations measure* refers to a measure including only a few regular appropriations bills, while *omnibus appropriations measure* refers to a measure containing several regular bills.

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
2007		9
2008		11

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-110th Congresses* (Washington: GPO, 1976-2008).

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.

In 27 of the past 32 years (FY1977-FY2008), Congress and the President did not complete action on a majority of the regular bills by the start of the fiscal year (see **Table 2**). In eight years, they did not finish any of the bills before October 1. They completed action on all the bills on schedule only four times: FY1977, FY1989, FY1995, and FY1997.

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 were sent home.

On or before the start of the fiscal year, 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 enact-

ment 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 31 fiscal years, Congress has approved, on average, four continuing resolutions each year (see [Table 2](#)).

Supplementals

Congress frequently considers one or more supplemental appropriations measures (or supplementals) for a fiscal year that generally increase funding for selected activities previously funded in the regular bills. Recent supplementals have also been used to provide funds for the wars in Iraq and Afghanistan. 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. These measures, like regular appropriations bills, provide specific amounts of funding for individual accounts in the bill. Sometimes Congress includes supplemental appropriations in regular bills and continuing resolutions rather than in a separate supplemental bill.

During a calendar year, Congress typically considers, at least

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

Table 2. Regular Appropriations Bills Completed by Deadline and Number of Continuing Resolutions, FY1977-FY2008

Fiscal Year	Presidential Administration	Regular Appropriations Bills Became Law by or on October 1 st	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
1997		13 ^b	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
2007	1	4 ^c
2008	0	4 ^d

Sources: U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, 94th Cong., 2nd sess.-04th 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. 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.

c. The initial FY2007 CR was included in the FY2007 Department of Defense regular appropriations act ([P.L. 109-289](http://www.congress.gov/cgi-lis/bdquery/R?d109:FLD002:@1(109+289))[http://www.congress.gov/cgi-lis/bdquery/R?d109:FLD002:@1\(109+289\)](http://www.congress.gov/cgi-lis/bdquery/R?d109:FLD002:@1(109+289))), Division B; 120 Stat. 1257).

d. The second FY2008 CR was included in the FY2008 Department of Defense regular appropriations act ([P.L. 110-116](http://www.congress.gov/cgi-lis/bdquery/R?d110:FLD002:@1(110+116))[http://www.congress.gov/cgi-lis/bdquery/R?d110:FLD002:@1\(110+116\)](http://www.congress.gov/cgi-lis/bdquery/R?d110:FLD002:@1(110+116))), Division B; 121 Stat. 1295).

Use of Omnibus Measures

Excerpt from CRS Report: RL32473 (pages 2-7)⁴⁵
Updated September 25, 2008

Omnibus Appropriations Acts: Overview of Recent Practices
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Summary

Omnibus appropriations acts have become a significant feature of the legislative process in recent years as Congress and the President have used them more frequently to bring action on the regular appropriations cycle to a close. Following a discussion of pertinent background information, this report reviews the recent enactment of such measures and briefly addresses several issues raised by their use.

For nearly two centuries, regular appropriations acts were considered by the House and Senate as individual measures and enacted into law as freestanding laws. In 1950, the House and Senate undertook a one-time experiment in improving legislative efficiency by considering all of the regular appropriations acts for FY1951 in a single bill, the Omnibus Appropriations Act of 1950. The following year, the House and Senate returned to the practice of considering the regular appropriations acts individually.

During the period covering FY1986-FY2008, a total of 294 regular appropriations acts were considered. All but one of these acts were enacted into law either individually or as part of an omnibus measure. Of the 293 measures enacted into law, 184 (63%) were enacted as freestanding measures and 109 (37%) were enacted in omnibus legislation. On average, eight (8.0) regular appropriations acts were enacted into law as freestanding measures and nearly five (4.7) were enacted into law in omnibus legislation each year.

During this period, 14 different omnibus measures were enacted into law for 13 different fiscal years (two separate omnibus appropriations acts were enacted for FY2001). Each of the measures funded between two and 13 regular appropriations acts, on average funding about eight (7.8) of them.

Nine of the omnibus measures were bills or joint resolutions carrying the designation "consolidated" appropriations or "omnibus consolidated" appropriations in the title; four were continuing appropriations acts; and one was the VA-HUD Appropriations Act for FY2001, which also included the Energy and Water Development Appropriations Act for FY2001.

In addition to the customary concern—of sacrificing the opportunity for debate and amendment for greater legislative efficiency—that arises whenever complex legislation is considered under time constraints, the use of omnibus appropriations acts has generated controversy for other reasons. These include whether adequate consideration was given to regular appropriations acts prior to their incorporation into omnibus appropriations legislation, the use of across-the-board spending cuts, and the inclusion of significant legislative (rather than funding) provisions.

⁴⁵ <http://apps.crs.gov/products/rl/html/RL32473.html>

History

Each year, Congress and the President enact discretionary spending⁴⁶ in the form of regular appropriations acts, as well as continuing and supplemental appropriations acts.⁴⁷ The number of regular appropriations acts had been fixed at 13 for several decades,⁴⁸ but a realignment of the House and Senate Appropriations subcommittees at the beginning of the 109th Congress reduced the number of regular appropriations acts considered each year to 11.⁴⁹ The number of regular appropriations acts was increased to 12 at the beginning of the 110th Congress due to further subcommittee realignment.

If action is not completed on all of the regular appropriations acts toward the end of a congressional session, Congress sometimes will combine the unfinished appropriations acts into an omnibus measure. An omnibus act may set forth the full text of each of the regular appropriations acts included therein, or it may enact them individually by cross-reference.

The House and Senate consider annual appropriations acts, and other budgetary legislation, within constraints established in a yearly budget resolution required by the Congressional Budget Act of 1974, as amended. Budget resolution policies are enforced by points of order that may be raised during House and Senate consideration of spending, revenue, and debt-limit legislation.⁵⁰ On occasion, budget policies may be modified by agreements reached between congressional leaders and the President; such modifications may be accommodated during legislative action through the use of waivers of points of order, emergency spending designations, and other budgetary or procedural devices.

During the period covering FY1991-FY2002, legislative action on annual appropriations acts also was subject to limits on discretionary spending established by the Budget Enforcement Act (BEA) of 1990, as amended. Under this statutory mechanism, separate discretionary spending limits were applied to two different measurements of spending—budget authority and outlays. The discretionary spending limits were enforced by the sequestration process, which involved automatic, largely across-the-board reductions in discretionary spending in order to eliminate any breach of the limits.⁵¹

For nearly two centuries, regular appropriations acts were considered by the House and Senate as individual measures and enacted into law by the President as freestanding laws. In 1950, the House and Senate undertook a one-time experiment in improving legislative efficiency by considering all of the regular appropriations acts for FY1951 in a single bill, the Omnibus Appropriations Act of 1950 (81st Congress, P.L. 759, September 6, 1950).⁵² The following year, the House and Senate returned to the practice of considering the regular appropriations acts individually.

⁴⁶ *Discretionary spending*, which accounts for roughly one-third of total federal spending, is spending that is under the control of the House and Senate Appropriations Committees. For the most part, discretionary spending funds the routine operations of the federal government. It is distinguished from *direct spending*, which is controlled by the legislative committees in substantive law and funds such mandatory programs as Social Security and Medicare. Discretionary spending and direct spending together make up total federal spending.

⁴⁷ For background on the appropriations process, see CRS Report 97-684, [The Congressional Appropriations Process: An Introduction](#), by Sandy Streeter.

⁴⁸ For information on changes in the number of regular appropriations acts over the years, see CRS Report RL31572, [Appropriations Subcommittee Structure: History of Changes from 1920-2007](#), by James V. Saturno.

⁴⁹ The Senate Appropriations Committee reported a twelfth regular appropriations act, for the District of Columbia, but in final legislative action it was incorporated into another bill.

⁵⁰ For a general discussion of budget enforcement procedures, see CRS Report 98-721, [Introduction to the Federal Budget Process](#), by Robert Keith.

⁵¹ The sequestration process is discussed in detail in CRS Report RL31137, [Sequestration Procedures Under the 1985 Balanced Budget Act](#), by Robert Keith (pdf).

⁵² See "The Omnibus Appropriations Act of 1950," by Dalmus H. Nelson, *Journal of Politics*, vol. 15, no. 2, May 1953.

Beginning in the late 1970s, continuing appropriations acts sometimes have taken the form of omnibus legislation, generally incorporating the full text of multiple regular appropriations acts for full-year funding instead of providing short-term funding by formula.⁵³ In recent years, the House and Senate on several occasions have combined multiple regular appropriations acts into "consolidated" appropriations measures, sometimes enacting individual bills by cross-reference.

Omnibus Appropriations Acts: FY1986-FY2006

During the 23-year period covering FY1986-FY2008, 14 different omnibus measures were enacted into law for 13 different fiscal years (two separate omnibus appropriations acts were enacted for FY2001). Each of the measures funded between two and 13 regular appropriations acts, on average funding about eight (7.8) of them.

Nine of the omnibus measures were bills or joint resolutions carrying the designation "consolidated" appropriations or "omnibus consolidated" appropriations in the title; four were designated as continuing appropriations acts; and one was the VA-HUD Appropriations Act for FY2001, which also included the Energy and Water Development Appropriations Act for FY2001 (see **Table 1**, and, at the end of the report, **Table 2**).

Table 1. Omnibus Appropriations Acts: FY1986-FY2008

Further Continuing Appropriations Act, 1986

([P.L. 99-190](#); December 19, 1985)

Continuing Appropriations Act, 1987

(P.L. 99-500; October 18, 1986)

Further Continuing Appropriations Act, 1988

([P.L. 100-202](#); December 22, 1987)

Omnibus Consolidated Rescissions and Appropriations Act of 1996

([P.L. 104-134](#); April 26, 1996)

Omnibus Consolidated Appropriations Act, 1997

([P.L. 104-208](#); September 30, 1996)

Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999

([P.L. 105-277](#); October 21, 1998)

Consolidated Appropriations Act, 2000

([P.L. 106-113](#); November 29, 1999)

Consolidated Appropriations Act, 2001

([P.L. 106-554](#); December 21, 2000)

VA-HUD Appropriations Act, 2001

⁵³ For more information on practices relating to the use of continuing appropriations acts, see CRS Report RL32614, [Duration of Continuing Resolutions in Recent Years](#), by Robert Keith.

([P.L. 106-377](#); October 27, 2000)

Consolidated Appropriations Resolution, 2003

([P.L. 108-7](#); February 20, 2003)

Consolidated Appropriations Act, 2004

([P.L. 108-199](#); January 23, 2004)

Consolidated Appropriations Act, 2005

([P.L. 108-447](#); December 8, 2004)

Revised Continuing Appropriations Resolution, 2007

([P.L. 110-5](#); February 15, 2007)

Consolidated Appropriations Act, 2008

([P.L. 110-161](#); December 26, 2007)

Source: Prepared by the Congressional Research Service.

[P.L. 110-5](#), the Revised Continuing Appropriations Resolution for FY2007, did not include the text of the regular appropriations acts that it covered; however, in addition to its formulaic funding provisions, it included many adjustments in appropriated levels and other provisions (amounting to over 50 pages in length as a slip law), so it is regarded as an omnibus appropriations act for purposes of this report.

[P.L. 106-553](#) was enacted as an omnibus measure enacting the Commerce-Justice-State-Judiciary Appropriations Act for FY2001 and the District of Columbia Appropriations Act for FY2001 by cross-reference. However, the provision dealing with District of Columbia appropriations was repealed; therefore, [P.L. 106-553](#) is not counted in this report as an omnibus measure.

During this period, a total of 294 regular appropriations acts were considered. All but one of these acts were enacted into law either individually or as part of an omnibus measure.⁵⁴

Of the 293 measures enacted into law, 184 (63%) were enacted as freestanding measures and 109 (37%) were enacted in omnibus legislation. On average, eight (8.0) regular appropriations acts were enacted into law as freestanding measures and nearly five (4.7) were enacted into law in omnibus legislation each year.

Sixty-one (20.8%) of the 293 regular appropriations acts were enacted into law on or before October 1, the start of the fiscal year. Six of these measures were included in an omnibus measure (for FY1997) and the rest were enacted as freestanding measures. On average during this period, about less than three (2.7) regular appropriations acts were enacted annually before the start of the fiscal year.

Seven of the nine omnibus appropriations acts bearing the designation "consolidated" or "omnibus consolidated" in their title originated in the House as a regular appropriations act and were expanded in coverage (and their titles redesignated) at the stage of resolving House-Senate differences. These included the appropriations acts for:

⁵⁴ The Foreign Operations Appropriations Act for FY1992 was not enacted into law. Funding for activities covered by this act was provided in a series of continuing resolutions, culminating with the enactment of [P.L. 102-266](#) on April 1, 1992.

- Defense ([H.R. 3610](#)) in FY1997;
- Transportation ([H.R. 4238](#)) in FY1999;
- District of Columbia ([H.R. 3194](#)) in FY2000;
- Labor-HHS-Education ([H.R. 4577](#)) in FY2001;
- Agriculture ([H.R. 2673](#)) in FY2004;
- Foreign Operations ([H.R. 4818](#)) in FY2005; and
- State-Foreign Operations ([H.R. 2764](#)) in FY2008.

In the case of the first six acts listed above, the transformation from a regular appropriations act into a consolidated appropriations act occurred as part of the conference proceedings between the House and Senate. In the case of the final act listed, for FY2008, conference procedures were not used and the transformation occurred in connection with an exchange of amendments between the two chambers.⁵⁵

The acts for FY2000 and FY2001 enacted regular appropriations measures by cross-reference instead of including their full text (except for FY2000 appropriations for the District of Columbia).⁵⁶

In FY2003, the omnibus measure originated in the House as a simple continuing resolution ([H.J.Res. 2](#)), but was expanded in coverage and redesignated during Senate floor action. The remaining measure, for FY1996 ([H.R. 3019](#)), originated as an omnibus measure and retained this status throughout its consideration.

Selected Issues in the Use of Omnibus Appropriations Acts

Several issues pertaining to the use of omnibus appropriations have been the focus of debate in recent years, including the extent to which the regular appropriations acts have received consideration prior to being incorporated into omnibus legislation, the use of across-the-board spending cuts, and the inclusion of legislative provisions.

Prior Consideration of Regular Appropriations Acts

One of the chief concerns regarding the use of omnibus appropriations acts is that it reduces the opportunities Members have to debate and amend the regular appropriations acts that are incorporated therein. This concern may be lessened if the regular appropriations acts eventually incorporated into omnibus legislation are first considered individually.

During the FY1986-FY2008 period, the Senate was more likely than the House not to have given prior consideration to regular appropriations acts. The House did not initially consider, or considered but did not pass, 18 of the 109 regular appropriations acts subsequently included in omnibus legislation. These most often included regular appropriations acts for Foreign Operations and Labor-HHS-Education (four times each) and Agriculture and Defense (two times each).

During the same period, the Senate did not initially consider, or considered but did not pass, 52 of the 109 regular appropriations acts subsequently included in omnibus legislation. Eight of the 52 measures were considered on the floor, while 44 were not; all of these measures were reported by the Senate Appropriations Committee. The regular appropriations acts most often included in

⁵⁵ For a discussion of legislative action on the FY2008 measure, see CRS Report RL34298, [Consolidated Appropriations Act for FY2008: Brief Overview](#), by Robert Keith.

⁵⁶ For additional information on the legislative history and structure of recent omnibus appropriations acts, see (1) CRS Report RS20403, *FY2000 Consolidated Appropriations Act: Reference Guide*, by Robert Keith (archived; available from author); (2) CRS Report RS20756, *FY2001 Consolidated Appropriations Act: Reference Guide*, by Robert Keith (archived; available from author); (3) CRS Report RS21433, [FY2003 Consolidated Appropriations Resolution: Reference Guide](#), by Robert Keith (pdf); (4) CRS Report RS21684, [FY2004 Consolidated Appropriations Act: Reference Guide](#), by Robert Keith; and (5) CRS Report RS21983, [FY2005 Consolidated Appropriations Act: Reference Guide](#), by Robert Keith (pdf).

omnibus legislation without either initial consideration or passage in the Senate were Interior (seven times), and Commerce-Justice and Labor-HHS-Education (six times each).

Across-the-Board Spending Cuts

In order to adhere to restraints imposed by congressional budget resolutions, the discretionary spending limits, and ad hoc budget agreements between congressional leaders and the President, or to meet other purposes, Congress and the President from time to time incorporate across-the-board cuts in discretionary budget authority into annual appropriations acts.⁵⁷ During the six fiscal years covering FY2000-FY2005, five government-wide, across-the-board spending cuts were included in omnibus appropriations acts. In addition, an across-the-board cut was included in the Defense Appropriations Act for FY2006, a year in which all of the regular appropriations acts were enacted separately.⁵⁸

The government-wide across-the-board spending cuts included in omnibus appropriations acts ranged in size from 0.22% to 0.80% of covered appropriations, and an estimated \$1.1 billion to \$3.5 billion in savings:

- the 0.38% cut for FY2000 in [P.L. 106-113](#) saved an estimated \$2.4 billion in budget authority;
- the 0.22% cut for FY2001 in [P.L. 106-554](#) saved an estimated \$1.1 billion in budget authority;
- the 0.65% cut for FY2003 in [P.L. 108-7](#) saved an estimated \$2.6 billion in budget authority;
- the 0.59% cut for FY2004 in [P.L. 108-199](#) saved an estimated \$2.8 billion in budget authority; and
- the 0.80% cut for FY2005 in [P.L. 108-447](#) saved an estimated \$3.5 billion in budget authority.

The 0.59% across-the-board cut in nondefense programs for FY2004 in [P.L. 108-199](#) was accompanied by a requirement that defense appropriations, which were exempt from the 0.59% cut, be reduced by a fixed amount (\$1.8 billion). This requirement was repealed by Section 9003(c) of the Defense Appropriations Act for FY2005, which President Bush signed into law on August 5, 2004, as [P.L. 108-287](#) (118 Stat. 951 et. seq.).

Omnibus appropriations acts sometimes include other across-the-board spending cuts that apply to individual appropriations acts, as set forth in separate divisions of the omnibus legislation. [P.L. 108-199](#), for example, included two other requirements for much smaller uniform spending cuts in nondefense programs: (1) a 0.465% cut in funding in the Commerce-Justice-State Appropriations division, estimated to yield \$188.7 million in savings; and (2) a cut of \$50 million in administrative expenses for the Departments of Labor, Health and Human Services, and Education.

Further, [P.L. 108-447](#) included three other provisions requiring across-the-board spending cuts focused on particular divisions of the act: (1) a 0.54% cut in the Commerce-Justice-State Appropriations division, estimated to save \$229 million; (2) a 0.594% cut in the Interior Appropriations division, estimated to save \$120 million; and (3) a cut of \$18 million in the Labor-HHS-Education Appropriations division, applicable to administrative and related expenses for departmental management (except for the Food and Drug Administration and the Indian Health Service).

⁵⁷ This topic is discussed in more detail in CRS Report RL32153, [Across-the-Board Spending Cuts in End-of-Session Appropriations Acts](#), by Robert Keith.

⁵⁸ The act, which became [P.L. 109-148](#) on December 30, 2005, included in Division B, Section 3801(a), a government-wide spending cut of 1% (118 Stat. 2791-2792). Emergency requirements and spending for the Veterans Administration were exempted from the cut, which was expected to reduce total budget authority by about \$8.5 billion. For additional information, see OMB Bulletin 06-02, *Guidance on Implementing the Government-wide Across-the-Board Reduction in the Department of Defense Appropriations Act, FY 2006* (H.R. 2863), January 5, 2006, available at: <http://www.whitehouse.gov/omb/bulletins/fy2006/b06-02.pdf>.

The Consolidated Appropriations Act for FY2008 also employed across-the-board spending cuts, but they were not government wide. Instead, they applied to six of the divisions of the act, ranging in size from 0.25% (Legislative Branch) to 1.747% (Labor-HHS-Education). The Office of Management and Budget estimated total savings from the cuts (excluding cuts affecting the Legislative Branch) at \$3.357 billion in discretionary budget authority.

The significance of the spending cuts differed with regard to budget enforcement. The FY2000 cut was an integral component of the plan that successfully avoided a sequester at the end of the session. The FY2001 cut contributed to overall discretionary spending being below the statutory limits, but the across-the-board cut proved to be unnecessary in avoiding a sequester. With regard to the FY2003 cut, the House and Senate did not reach agreement on a budget resolution and the statutory discretionary limits had expired the fiscal year before; nonetheless, the across-the-board cut was necessary in adhering to an informal limit reached between congressional leaders and President Bush and avoiding a veto of the omnibus appropriations act. Similarly, the FY2004, FY2005, and FY2008 cuts were necessary to keep the costs of the measures under overall limits acceptable to the President.

Although the across-the-board spending cuts were viewed as essential elements in meeting budget enforcement goals, some Members criticized them as involving a formulaic approach that undermined the process of making deliberate, informed choices regarding appropriate funding levels.

Inclusion of Legislative Provisions

Although House and Senate rules and practices over the decades have promoted the separate consideration of legislation and appropriations, the separation has not been ironclad. In many instances, during the routine operation of the annual appropriations process, minor provisions are included in appropriations acts that technically may be regarded under the rules as legislative in nature, but do not significantly undermine the dichotomy between legislation and appropriations. At other times, however, the legislative provisions included in annual appropriations acts—especially omnibus appropriations acts—have been much more substantial and have represented a deliberate suspension of the usual procedural boundaries.⁵⁹

In addition to the regular appropriations for FY2003, for example, the Consolidated Appropriations Resolution for FY2003 ([P.L. 108-7](#)) included the Agricultural Assistance Act of 2003, amendments to the Price-Anderson Act and the Homeland Security Act, and provisions dealing with the U.S.-China Economic and Security Review Commission, among other legislative matters. The Consolidated Appropriations Act for FY2008 ([P.L. 110-161](#)) included such items as the Emergency Steel Loan Guarantee Act of 1999 Amendments, the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 Amendments, the ED 1.0 Act, and the Kids in Disasters Well-being, Safety, and Health Act of 2007.

While the inclusion of significant legislative matters may represent an efficient way to conclude legislative business as a congressional session comes to an end, it also may raise concerns about the adequate opportunity for Members to debate and amend them.

⁵⁹ Recent practices in this regard are addressed in CRS Report RL30619, [Examples of Legislative Provisions in Annual Appropriations Acts](#), by Robert Keith (pdf).

Other Appropriations Procedures

Limitations

Excerpt from CRS Report: 98-518 (page 2)⁶⁰
Updated December 7, 2004

Earmarks and Limitations in Appropriations Bills
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A *limitation* places a restriction on the expenditure of funds provided in an appropriations bill, either by setting a spending ceiling, or by prohibiting the use of funds for a specified purpose(s). Congress is not required to provide funds for every agency or purpose authorized by law. It may provide funds for some activities or projects under an agency, but not others. Precedents require that the language be phrased in the negative, for example, that none of the funds provided in this paragraph (typically an account) shall be used for a specified activity.⁶¹

Limitations may apply to a single account, several accounts, a title, or a bill. They may be included in appropriations bills, floor amendments, and conference reports. Limitations are also included in committee reports and managers' statements. As with earmarks, limitations included in the text of the legislation are legally binding; limitations provided only in the committee reports and managers' statements are not legally binding, but may have effect.

Under Senate and House rules, limitations, as well as other language in the text of appropriations legislation, cannot change existing law (paragraphs 2 and 4 of Senate Rule XVI and clause 2(b) and (c) of House Rule XXI). That is, they cannot amend or repeal existing law nor create new law (referred to as *legislation* or *legislation on an appropriations bill*). Limitations also may not extend beyond the fiscal year for which an appropriation is provided.

In the House, these prohibitions apply to committee-reported regular appropriations bills and supplementals, which provide funds for more than one purpose or agency, as well as amendments and conference reports to such measures. The rule does not apply to continuing resolutions or amendments and conference reports to such resolutions. In the Senate, these prohibitions apply only to amendments, including committee amendments, to regular appropriations bills, supplementals, which provide funds for more than one purpose or agency, as well as continuing resolutions.

In the House, the rule may be waived by adoption of a special rule. Under Senate precedents, an amendment, which contains legislation to a House-passed appropriations measure, may be considered if it is germane to language in that measure. Amendments to original Senate bills are not afforded such protection. Under House rules, limitation amendments generally must be considered after all the other amendments have been considered (clause 2(c) of House Rule XXI). Only the majority leader (or his designee) may prevent consideration of permissible limitation amendments by making a motion to "rise and report," effectively ending consideration of a measure. If a majority votes for the motion, no more amendments may be considered. If the motion fails, the majority leader may again propose it after a limitation amendment is voted on (clause 2(d) of House Rule XXI). No similar procedure restricts the consideration of limitation amendments in the Senate.

⁶⁰ <http://www.congress.gov/erp/rs/html/98-518.html>

⁶¹ Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary: Third Edition*, pp. 139-140.

Earmarking

Under clause 9 of rule XXI, for purposes of that clause, the term “congressional earmark” is defined as “...a provision or report language included primarily as the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality of Congressional district, other than through a statutory or administrative formula-driven or competitive award process.” – **Rule XXI, Clause 9(e)**

For further information on earmarks, see the Appropriations Committee website at: <http://appropriations.house.gov/>

Also see:

CRS Report RL34462: <http://apps.crs.gov/products/rl/html/RL34462.html>

CRS Report RS22866: <http://apps.crs.gov/products/rs/html/RS22866.html>

Authorizing Language in Appropriations Bills

CRS Report: RS20371⁶²
Updated June 17, 2008

Overview of the Authorization-Appropriations Process
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A primary avenue for exercising Congress's power of the purse is the authorization and appropriation of federal spending to carry out government activities. While the power over appropriations is granted to Congress by the U.S. Constitution, the authorization-appropriation process is derived from House and Senate rules. The formal process consists of two sequential steps: (1) enactment of an authorization measure that may create or continue an agency or program as well as authorize the subsequent enactment of appropriations; and (2) enactment of appropriations to provide funds for the authorized agency or program. For more information on the budget process, see the CRS Guides to Congressional Processes at:

<http://www.crs.gov/products/guides/guidehome.shtml>.

The authorizing and appropriating duties in this two-step process are carried out by a division of labor within the committee system. Legislative committees, such as the House Committee on Armed Services and the Senate Committee on Commerce, Science, and Transportation, are responsible for authorizing legislation related to the agencies and programs under their jurisdiction; most standing committees have authorizing responsibilities. The Appropriations Committees of the House and Senate have jurisdiction over appropriations measures. As discussed below, House and Senate rules generally prohibit the encroachment of these committee responsibilities by the authorizers and appropriators.

Agencies and programs funded through the annual appropriations process, referred to as *discretionary spending*, generally follow this two-step process. Not all federal agencies and programs, however, are funded through this authorization-appropriations process. Funding for some agencies and programs is provided by the authorizing legislation, bypassing this two-step process. Such spending, referred to as *direct spending*, currently constitutes about two-thirds of all federal spending. Some direct spending, mostly entitlement programs, is funded by permanent appropriations in the authorizing law. Other direct spending (referred to as appropriated entitlements), such as Medicaid, is funded in appropriations acts, but the amount appropriated is controlled by the authorizing legislation.

⁶² <http://apps.crs.gov/products/rs/html/RS20371.html>

Authorizing Legislation

An authorizing measure can establish, continue, or modify an agency or program for a fixed or indefinite period of time. It also may set forth the duties and functions of an agency or program, its organizational structure, and the responsibilities of agency or program officials.

Authorizing legislation also authorizes the enactment of appropriations for an agency or program. The amount authorized to be appropriated may be specified for each fiscal year or may be indefinite (providing "such sums as may be necessary"). The authorization of appropriations is intended to provide guidance regarding the appropriate amount of funds to carry out the authorized activities of an agency.

Appropriations Measures

An appropriations measure provides budget authority to an agency for specified purposes. Budget authority allows federal agencies to incur obligations and authorizes payments to be made out of the Treasury. Discretionary agencies and programs, and appropriated entitlement programs, are funded each year in appropriations acts.

The subcommittees of the Appropriations Committees of the House and Senate are each responsible for one of the *regular appropriations acts*. The regular appropriations acts provide budget authority for the next fiscal year, beginning October 1. Congress usually adopts one or more *supplemental appropriations acts* to provide additional funding for unexpected needs while the fiscal year is in progress. If the regular appropriation acts are not completed by October 1, then Congress must adopt a *continuing appropriations act*, commonly referred to as a continuing resolution, providing stop-gap funding. In some years, instead of adopting the regular appropriation measures individually, Congress may include several in an omnibus appropriations measure, or a continuing appropriations bill providing funding for the full fiscal year.

Enforcing the Authorization-Appropriations Process

The separation between the two steps of the authorization-appropriations process is enforced through points of order provided by rules of the House and Senate. First, the rules prohibit appropriations for unauthorized agencies and programs; an appropriation in excess of an authorized amount is considered an unauthorized appropriation. Second, the rules prohibit the inclusion of legislative language in appropriations measures. Third, the House, but not the Senate, prohibits appropriations in authorizing legislation.

While the rules encourage the integrity of the process, a point of order must be raised to enforce the rules. Also, the rules may be waived by suspension of the rules, by unanimous consent, or, in the House, by a special rule. If unauthorized appropriations are enacted into law through circumvention of House and Senate rules, in most cases the agency may spend the entire amount.

Unauthorized Appropriations

Excerpt from CRS Report: RL31055 (pages 9, 15)⁶³
Updated December 13, 2006

House Offset Amendments to Appropriations Bills: Procedural Considerations
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Under House Rule XXI, clause 2(a), legislation must generally be enacted authorizing appropriations for a purpose (such as an account, program, project, or activity) before appropriations for that purpose can be considered on the House floor. The rule prohibits floor consideration of: (1) appropriations for purposes whose authorization has expired; (2) appropriations that have not been authorized; and (3) appropriations that exceed spending ceilings approved in an authorization act. Appropriations violating these restrictions are *unauthorized appropriations*.⁶⁴

The prohibition applies to 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*).⁶⁵

Appropriations bills frequently include unauthorized appropriations. An unauthorized appropriation is allowed to remain in an appropriations bill when the House adopts a special rule waiving the rule against the provision, or, less frequently, when no one raised a point of order against it.⁶⁶ A *germane*⁶⁷ amendment to such a provision is permitted if the amendment solely and *directly*⁶⁸ changes the amount of the unauthorized appropriation. Such an amendment cannot add legislative language or earmark separate funds for another unauthorized purpose. In contrast, an amendment, such as a reachback amendment, adding a new paragraph to another part of a bill that *indirectly*⁶⁹ increases an unauthorized amount is prohibited.

An example of an amendment that directly changes the amount of appropriation would strike the original amount, \$2 million, and replace it with another amount, \$3 million.⁷⁰ A special rule waiving the point of order (or no one raising the point of order) protects these amendments as well as the unauthorized appropriation in the bill.

Since clause 2(f) amendments directly change amounts in bills, they may increase unauthorized appropriations that were allowed to remain in the bill (subject to the spending ceilings enforced by sections 302(f) and 311(a) as well as clause 2(f)). A scenario providing the stages follows:

1. An authorization act authorizes \$2 million for program yellow for FY2002.

⁶³ <http://www.congress.gov/erp/rl/html/RL31055.html>

⁶⁴ Unauthorized appropriations for works and projects in progress are allowed.

⁶⁵ In the House, continuing resolutions are not considered general appropriations bills and, therefore, may include unauthorized appropriations. For background information, see [CRS Report 97-684](#), *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter.

⁶⁶ In parliamentary parlance, the unauthorized appropriation is *permitted to remain in the bill*.

⁶⁷ House Rule XVI, clause 7, prohibits an amendment from including a subject different from that contained in the paragraph or section it would amend. For information on the application of this rule, see House rules and precedents sources in "For Additional Information," below.

⁶⁸ "Directly" refers to changing the unauthorized amount by amending the text in the bill that provides the unauthorized amount or by adding a parenthesis immediately after the amount. "Indirectly" refers to changing the unauthorized amount by adding a new provision that refers to the amount.

⁶⁹ *Ibid.*

⁷⁰ An amendment that changes the amount by inserting after the amount a parenthetical increase or decrease may also increase an unauthorized appropriation that was allowed to remain, for example, by inserting after the original amount of \$2 million -- (increase by \$1 million). For more information, see U.S. Congress, House, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, by Wm. Holmes Brown, 104th Cong., 2nd sess. (Washington: GPO, 1996), p. 141, section 69.

2. Subsequently, an FY2002 regular appropriations bill provides an appropriation of \$3 million for program yellow. The appropriation exceeds the authorization level by \$1 million, which is an unauthorized appropriation.

3. The House adopts a special rule waiving House Rule XXI, clause 2(a) against all provisions in the bill, allowing the above appropriation to remain in the bill.

4. A clause 2(f) offset amendment directly replacing the appropriated amount of \$3 million for program yellow with \$4 million would be allowed.

This exception to the prohibition against unauthorized appropriations applies to amendments changing lump-sum appropriations as well as earmarks. In the following example, all these unauthorized amounts could be increased by a clause 2(f) offset amendment:

For necessary expenses, including salaries and related expenses, of the Executive Office for YYY, to implement program activities, \$200,000,000, of which \$100,000,000 is for the yellow program, \$50,000,000 for the green program, and \$50,000,000 for the blue program.

A clause 2(f) amendment may not propose to increase an *authorized* appropriation in an appropriations bill beyond the authorized level. In the scenario demonstrating the stages above, if the regular appropriations bill provided \$2 million, which was the authorized level, an amendment increasing that amount would be prohibited.

Procedural Considerations

Appropriations bills generally include unauthorized appropriations. Typically, the House Rules Committee reports a special rule adopted by the House, waiving the prohibition against unauthorized appropriations⁷¹ for most or all unauthorized appropriations in a reported bill. Clause 2(f) amendments can increase those unauthorized appropriations allowed to remain. Reachback amendments, however, can only increase authorized appropriations in the bill to the authorized level.

In some cases, entire bills or significant portions of bills have been unauthorized appropriations. As a result, reachback amendments could not increase those amounts. Most of the lump-sum appropriations provided in the committee-reported FY2001 defense and military construction regular appropriations bills were unauthorized. The House adopted special rules regarding each bill waiving House Rule XXI, clause 2. Therefore, clause 2(f) amendments to those bills could increase the funds in the bill, while reachback amendments were limited to the few, if any, authorized appropriations.

If the account or earmark a Representative wants to increase is unauthorized, the Member must generally use a clause 2(f) amendment within the restrictions on such amendments. For example, the amendment could not add a new lump-sum appropriation or earmark.

⁷¹ Budget authority (and the resulting outlays) designated as an emergency under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900-922) is exempt from the 302(f) and 311(a) points of order (see "Spending Ceilings and Offset Amendments"). However, language in an amendment designating specific funds as such an (Continued...)

(Continued...) emergency is considered legislation and, therefore, would violate House Rule XXI, clause 2(c). Such language would create new law, which would not otherwise exist.