Congressional Research Service
Informing the legislative debate since 1914

The Congressional Appropriations Process: An Introduction

James V. Saturno, Coordinator
Specialist on Congress and the Legislative Process

Bill Heniff Jr.
Analyst on Congress and the Legislative Process

Megan S. Lynch
Specialist on Congress and the Legislative Process

November 30, 2016

Congressional Research Service
7-5700
www.crs.gov
R42388

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Congress annually considers several appropriations measures, which provide discretionary funding for numerous activities—for example, national defense, education, and homeland security—as well as general government operations. Congress has developed certain rules and practices for the consideration of appropriations measures, referred to as the *congressional appropriations process*. The purpose of this report is to provide an overview of this process.

Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees. In recent years these measures have provided approximately 35% to 39% of total federal spending. The remainder of federal spending comprises direct (or mandatory) spending, controlled by House and Senate legislative committees, and net interest on the public debt.

The annual appropriations cycle is initiated with the President's budget submission, which is due on the first Monday in February. This is followed by congressional consideration of a budget resolution that, in part, sets spending ceilings for the upcoming fiscal year. The target date for completion of the budget resolution is April 15. Committee and floor consideration of the annual appropriations bills occurs during the spring and summer months and may continue through the fall and winter until annual appropriations are enacted. Floor consideration of appropriations measures is subject to procedural rules that may limit the content of those measures and any amendments thereto.

Congress has established a process that provides for two separate types of measures associated with discretionary spending: authorization bills and appropriation bills. These measures perform different functions. Authorization bills establish, continue, or modify agencies or programs. Appropriations measures subsequently provide funding for the agencies and programs authorized.

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, the beginning of the fiscal year. If regular bills are not enacted by the beginning of the new fiscal year, Congress adopts *continuing resolutions* to continue funding, generally until regular bills are enacted. *Supplemental appropriations bills* provide additional appropriations to become available during a fiscal year.

Budget enforcement for appropriations measures under the congressional budget process has both statutory and procedural elements. The statutory elements are derived from the Budget Control Act of 2011, which imposes limits on discretionary spending for each of the fiscal years between FY2012 and FY2021. The procedural elements generally stem from requirements under the Congressional Budget Act that are normally associated with the budget resolution. Through this Budget Act process, the Appropriations Committee in each chamber, as well as each of their subcommittees, receives procedural limits on the total amount of budget authority for the upcoming fiscal year (referred to as 302(a) and 302(b) allocations). Enforcement of the statutory limits occurs primarily through sequestration, while enforcement of the procedural limits occurs through points of order. Discretionary appropriations may be designated or otherwise provided so that they are effectively exempt from statutory and procedural budget enforcement. Such designations include "emergency requirements," "overseas contingency operations/global war on terrorism," and for "disaster relief."

Rescissions are provisions of law that cancel previously enacted budget authority. As budget authority providing the funding must be enacted into law, so too a rescission cancelling the budget authority must be enacted into law. Rescissions can be included either in separate rescission measures or any of the three types of appropriations measures.

Contents

Introduction 1
Annual Appropriations Cycle 2
President Submits Budget 2
Congress Adopts Budget Resolution 3
Timetable for Consideration of Appropriations Measures 4
Work of the Appropriations Committees 5
House Floor Consideration 6
Senate Floor Consideration 7
House and Senate Conference Action 8
Presidential Action 9
Relationship Between Authorization and Appropriations Measures 10
Types of Appropriations Measures 11
Regular Appropriations Bills 12
Omnibus Appropriations 13
Continuing Resolutions 13
Supplemental Appropriations Measures 14
Budget Enforcement for Appropriations Measures 14
Statutory Discretionary Spending Limits 15
Enforcement 15
Allocations and Other Limits on Appropriations Associated with the Budget Resolution 16
Enforcement 17
Emergency Spending 19
Rescissions 20

Contacts

Author Contact Information 21

Introduction

Congress annually considers several appropriations measures, which provide discretionary funding for numerous activities—such as national defense, education, and homeland security—as well as general government operations. Appropriations acts are characteristically annual and generally provide funding authority that expires at the end of the federal fiscal year, September 30.[1]

These measures are considered by Congress under certain rules and practices, referred to as the *congressional appropriations process*. This report discusses the following aspects of this process:

- The annual appropriations cycle,
- The relationship between authorization and appropriation measures,
- Types of appropriations measures,
- Budget enforcement for appropriations measures, and
- Rescissions.

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."[2] The power to appropriate is a legislative power. Congress has enforced its prerogatives through certain laws. The so-called Antideficiency Act, for example, strengthened the application of this section by, in part, explicitly prohibiting federal government employees and officers from making contracts or other obligations in advance of or in excess of an appropriation, unless authorized by law, and providing administrative and criminal sanctions for those who violate the act.[3] Furthermore, under law, public funds may be used only for the purpose(s) for which Congress appropriated the funds.[4]

The President has an important role in the appropriations process by virtue of the constitutional power to approve or veto entire measures, which Congress can override only by two-thirds vote of both chambers. The President also has influence, in part, because of 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 is organized into subcommittees, with each subcommittee having responsibility for developing one regular annual appropriations bill to provide funding for departments and activities within its jurisdiction.[5] Each House appropriations subcommittee is paired with a Senate appropriations subcommittee and the two subcommittees' jurisdictions are generally identical. The current appropriations subcommittee structure includes the following 12 subcommittees[6]:

[1] The federal fiscal year begins on October 1 and ends the following September 30.

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

[3] 31 U.S.C. §§1341(a)-1342 and 1349-1350.

[4] 31 U.S.C. §1301(a).

[5] For more information on the jurisdiction of the House and Senate appropriations subcommittees by agency, see CRS Report R40858, *Locate an Agency or Program Within Appropriations Bills*, by Justin Murray.

[6] For additional information, see CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920 to 2015*, by James V. Saturno.

1. Agriculture, Rural Development, Food and Drug Administration, and Related Agencies;
2. Commerce, Justice, Science, and Related Agencies;
3. Defense;
4. Energy and Water Development, and Related Agencies;
5. Financial Services and General Government;
6. Homeland Security;
7. Interior, Environment, and Related Agencies;
8. Labor, Health and Human Services, Education, and Related Agencies;
9. Legislative Branch;
10. Military Construction, Veterans Affairs, and Related Agencies;
11. State, Foreign Operations, and Related Programs; and
12. Transportation, Housing and Urban Development, and Related Agencies.

Annual Appropriations Cycle

President Submits Budget

The President initiates the annual budget cycle with the submission of an annual budget proposal for the upcoming fiscal year to Congress. The President is required to submit the annual budget on or before the first Monday in February.[7] Congress has, however, provided deadline extensions both statutorily and, sometimes, informally.[8]

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 provides the legal authority to make the subsequent payments from the Treasury.

A FY2016 appropriations act, for example, provided $ $77,349,000 in new budget authority for FY2016 to the National Institute of Environmental Health Sciences for agency operations.[9] That is, the act gave the institute legal authority to sign contracts to purchase supplies and pay salaries. The agency could not commit the government to pay more than the $77 million provided for these covered activities. The outlays occur when government payments are made.

Budget authority must be obligated in the fiscal year(s) in which the funds are made available, but outlays may occur over time. In the case of the institute's activities, it may not pay for all the supplies until the following fiscal year.

The amount of outlays in a fiscal year may vary among activities funded because the length of time to complete the activities differs. For example, outlays to pay salaries may occur in the year

[7] 31 U.S.C. §1105(a).

[8] For information on past deadline extensions in presidential transition years, see CRS Report RS20752, *Submission of the President's Budget in Transition Years*, by Michelle D. Christensen.

[9] P.L. 114-113, Division G, 129 Stat. 2568.

the budget authority is made available, while outlays for a construction project may occur over several years as various stages of the project are completed.

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.

After the President submits the budget proposal to Congress, each agency generally provides additional detailed *justification* materials to the House and Senate appropriations subcommittees with jurisdiction over its funding.[10]

Congress Adopts Budget Resolution

The Congressional Budget and Impoundment Control Act of 1974 (CBA)[11] provides for the annual consideration of a concurrent resolution on the budget.[12] The budget resolution is Congress's response to the President's budget. It is a concurrent resolution because it is an agreement between the House and Senate that establishes overall budgetary and fiscal policy to be carried out through subsequent legislation. The budget resolution must cover at least five fiscal years: the upcoming fiscal year (referred to as the "budget year") plus the four subsequent fiscal years.[13]

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 20 functional categories (such as national defense, agriculture, and transportation), setting budget authority and outlay 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.[14] The House and Senate Committees on Appropriations receive allocations 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.

The budget resolution is not sent to the President and does not 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 legislation is considered on the House or Senate floor, respectively.

These spending ceilings for the upcoming fiscal year may be enforced through points of order during House consideration of each appropriation measure. During Senate consideration of each appropriations bill, the total new budget authority and outlay levels for the upcoming fiscal year

[10] For further information on budget justifications, see CRS Report RS20268, *Agency Justification of the President's Budget*, by Michelle D. Christensen.

[11] P.L. 93-344, as amended.

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

[13] In general, the CBA requirements that apply to the content of the budget resolution do not also apply to the President's budget submission. Requirements for the President's budget submission are in 31 U.S.C. §1105.

[14] The committee allocations are usually provided in the joint explanatory statement included in the conference report to the budget resolution. For more details, see "Budget Enforcement for Appropriations Measures" below.

as well as the subcommittee spending ceilings—but not the committee ceilings—may be enforced.

The CBA establishes April 15 as the target date for congressional adoption of the budget resolution. Since FY1977, Congress has frequently not met this target date. In many instances in recent years (FY1999, FY2003, FY2005, FY2007, FY2011-FY2015, and FY2017), Congress did not adopt a budget resolution.[15]

There is no penalty if the budget resolution is not completed before April 15 or not at all. Under the CBA, 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 before Congress completes the budget resolution and, in the Senate, before the Senate Appropriations Committee receives its spending ceilings.[16] The CBA allows the House, however, to consider most appropriations measures after May 15, even if the budget resolution has not been adopted by Congress.[17] The Senate may adopt a motion to waive this CBA requirement for spending ceilings by a majority vote.

If Congress delays completion of the annual budget resolution (or does not adopt one), each chamber may adopt a deeming resolution to address these procedural difficulties.[18]

Timetable for Consideration of Appropriations Measures

The timing of the various stages of the appropriations process tends to vary from year to year. Although timing patterns for each stage tend to be discernible over time, certain anomalies from these general patterns occur in many years.

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

The House Appropriations Committee reports the 12 regular appropriations bills separately to the full House. The committee generally reports the bills in May and June.[19] Generally, the full House starts floor consideration of the regular appropriations bills in May or June as well.

---

[15] For more information on budget resolutions, see CRS Report RL30297, *Congressional Budget Resolutions: Historical Information*, by Bill Heniff Jr..

[16] Section 303

[17] This exception applies to *general appropriations bills*, which the House defines as regular appropriations bills and supplemental appropriations measures that provide funding for more than one agency. (For more information, see "Types of Appropriations Measures" below.)

[18] For information on deeming resolutions, see "Allocations and Other Limits on Appropriations Associated with the Budget Resolution" below and CRS Report R44296, *Deeming Resolutions: Budget Enforcement in the Absence of a Budget Resolution*, by Megan S. Lynch.

[19] Although historically there has been significant variance in this general pattern, in recent years the House Appropriations Committee has reported most of the regular bills before July. For example, of the 12 regular bills, the committee reported 10 of the FY2015 bills before July 1 and one after. In both FY2016 and FY2017, the committee reported 10 before July 1 and two after.

The Senate Appropriations Committee typically begins reporting the bills in June and generally completes committee consideration prior to the August recess.[20] The Senate typically begins floor consideration of the bills beginning in June or July.

Consideration by the full House and Senate may continue through the fall. While Congress has traditionally considered and approved each regular appropriations bill separately, delays in their consideration may mean that one or more appropriations measures may not receive separate initial consideration in one or both chambers and that several appropriations bills may subsequently get combined into a single legislative vehicle prior to enactment, referred to as omnibus appropriations measures.

If this process is not completed prior to the start of the fiscal year (October 1), Congress may need to enact one or more measures to provide temporary funding authority pending the final disposition of the regular appropriations bills, either separately or as part of an omnibus measure. Because budget authority is typically provided for a single fiscal year, temporary funding measures are necessary if action on a regular appropriations measure has not been completed prior to the beginning of a fiscal year in order to prevent a funding gap that could require an agency to cease non-excepted activities. Traditionally, temporary funding has been provided in the form of a joint resolution to allow agencies or programs to continue to obligate funds at a particular rate (such as the rate of operations for the previous fiscal year) for a specific period of time, which may range from a single day to an entire fiscal year. These measures are known as continuing resolutions (or CRs).[21]

Work of the Appropriations Committees

After the President submits the 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, which provide supporting materials to the budget submission. The hearings, at which primarily agency officials testify, may also be supplemented by meetings and communications between the subcommittee staff and agency officials. At the same time, the subcommittees may solicit requests from Members of Congress for programmatic levels and language to be included in the appropriations bills and committee reports.

After conducting these hearings, the House and Senate Appropriations Committees make their suballocations, and the subcommittees begin to draft, mark up, and report the regular bills under their jurisdiction to their respective full committees.[22] Both Appropriations Committees consider each subcommittee's recommendations separately. The committees may adopt amendments to a subcommittee's recommendations prior to reporting the bills and making them available for further consideration by their respective chambers.

[20] For FY2017, the Senate Appropriations Committee reported all 12 regular bills prior to July 1.

[21] For information on continuing resolutions, see "Continuing Resolutions" below.

[22] 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 during a markup of the bill). Regular appropriations bills are not introduced prior to full committee markup. Because House rules allow the Appropriations Committee to report an original bill, the bill is not introduced and assigned a bill number until the House Appropriations Committee reports it. In the Senate there have been occasions in previous years in which some subcommittees did not formally report a regular bill to the full committee. Instead, in these instances, formal committee action on the regular bill began at full-committee markup.

House Floor Consideration

Prior to floor consideration of an appropriations bill, the House almost always considers a special rule reported by the House Rules Committee setting parameters for floor consideration of the bill.[23] If the House adopts the special rule, it usually considers the appropriations bill soon thereafter.

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.[24] 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 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. The appropriations bill is generally read for amendment, by paragraph.[25] Amendments to general appropriations bills are goverened by a variety of requirements:

- House standing rules and precedents that establish several requirements applicable to all types of measures, such as requiring amendments to be germane to the bill;
- House standing rules and precedents that establish a separation between appropriations and other legislation;[26]
- Separate orders establishing certain requirements, such as those requiring a "spending reduction account" section in each regular appropriations bill and limiting permissible amendments to that section[27];
- Spending limits imposed by the congressional budget process (see "Allocations and Other Limits on Appropriations Associated with the Budget Resolution" below); and

[23] Because the regular appropriations bills must be completed in a timely fashion, House Rule XIII, clause 5, provides that these appropriations bills are privileged. This allows the House Appropriations Committee to make a motion to bring a regular appropriations bill directly to the floor without the Rules Committee reporting a special rule providing for the measure's consideration, as is necessary for most major bills. However, in recent years, the House Appropriations Committee has usually used the special rule procedure.

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 structuring or restricting floor amendments. For further information, see CRS Report R42933, *Regular Appropriations Bills: Terms of Initial Consideration and Amendment in the House, FY1996-FY2015*, by Jessica Tollestrup.

[24] House Rule XVIII, clause 3, requires that appropriations measures be considered in the Committee of the Whole before the House votes on final passage of the measures. (For more on Committee of the Whole, 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

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

[26] See "Relationship Between Authorization and Appropriations Measures" below. Also, for further information, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup and James V. Saturno.

[27] Section 3(d) of H.Res. 5 (114th Cong.) allows amendments that would transfer appropriations in a pending general appropriations bill to a spending reduction account, which is required in each such bill. Only amendments transferring funds into the account are allowed; therefore, the House may not consider an amendment withdrawing funds from the account.

- Provisions of a special rule or unanimous consent agreement providing for consideration of a particular appropriations bill.[28]

If an amendment violates any of these requirements, any Representative may raise a point of order to that effect. These points of order are not self-enforcing. A Member must raise a point of order that an amendment violates a specific rule. If the presiding officer rules the amendment out of order, it cannot be considered by the House. A special rule or unanimous consent agreement, however, may waive requirements imposed by House rules or the budget process, thereby allowing the House to consider the amendment.

During consideration of individual appropriations bills, the House sometimes sets additional parameters, either by adopting a special rule or by unanimous consent. For example, the House has sometimes agreed to limit consideration to a specific list of amendments or to limit debate on individual amendments by unanimous consent.

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

Senate Floor Consideration

The recent practice has been for the full Senate to consider the text of a bill as reported by its Appropriations Committee in the form of a substitute to the House-passed appropriations bill.[29] The Senate does not have a device like a special rule to set parameters for consideration of bills by majority vote. 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 established under the Senate standing rules and precedents and congressional budget process as well as any requirements agreed to by unanimous consent. The specifics of the Senate and House rules for general appropriations bills differ, including the waiver procedures, but include the following common themes[30]:

- Separate consideration of legislation and appropriations[31]; and
- Enforcement of the spending limits imposed by the congressional budget process.

[28] For further information on how special rules and unanimous consent agreements have previously been used to govern consideration of regular appropriations bills on the House floor, see CRS Report R42933, *Regular Appropriations Bills: Terms of Initial Consideration and Amendment in the House, FY1996-FY2015*, by Jessica Tollestrup.

[29] Recently, the Senate Appropriations Committee has generally either (1) reported the House-passed bill with a committee substitute, or (2) reported an original Senate bill, waited until the House-passed bill was received in the Senate, and then offered a committee substitute (comprising the text of the Senate bill) to the House-passed bill. In either case, the Senate considers the committee's recommendations in the form of a committee amendment to the House-passed bill.

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

[31] Senate Rule XVI also prohibits amendments that are not germane to the subject matter in the bill, but the Senate standard for germaneness and procedures for determining whether an amendment is germane are different than the House. For information about germaneness and Senate Rule XVI, paragraph 4, see Riddick and Frumin, *Riddick's Senate Procedure*, pp. 161-171. See also the report section "Relationship Between Authorization and Appropriations Measures."

The Senate generally does not require that amendments be considered in the order of the bill. Senators may propose amendments to any portion of the bill at any time it is pending unless the Senate agrees to set limits.

House and Senate Conference Action

The Constitution requires that the House and Senate approve the same measure in precisely the same form before it may be presented to the President for his signature or veto. Consequently, once the House and Senate have both completed initial consideration of an appropriations measure, the Appropriations Committees in each chamber will endeavor to negotiate a resolution of the differences between their respective versions. The practice has generally been for the House and Senate to convene a conference committee to resolve differences between the chambers on appropriations bills.[32] Alternatively, agreement may be reached through an exchange of amendments between the houses.[33]

In current practice, the Senate typically passes the House bill with the Senate version attached as a single substitute amendment. As a result, the House and Senate resolve their differences based on disagreement on the measure as a whole. Members of the House and Senate appropriations subcommittees having jurisdiction over a particular regular appropriations bill, as well as the chair and ranking minority members of the full committees, are designated as conferees or managers and tasked with meeting to negotiate over differences between the House- and Senate-passed versions.[34]

The purpose of the negotiations is to resolve differences between the two chambers, and therefore House and Senate rules generally require conferees to negotiate within the scope of the differences on those matters in disagreement.[35] Additionally, they may not include in the conference report new *directed spending provisions*, defined as

> 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.[36]

Completion of the conference report is not on a specified timeline, so negotiations are concluded only when a majority of the conferees from each chamber sign the conference report. Once conferees reach agreement on all points of difference, they report the conference report, which proposes a new conference substitute for the bill as a whole. In addition, the conference report

[32] For more on resolving differences, see CRS Report 96-708, *Conference Committee and Related Procedures: An Introduction*, by Elizabeth Rybicki; and CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

[33] Although this method has been used on occasion, it remains rare for appropriations measures. For information on amendment exchanges, see CRS Report 98-812, *Amendments Between the Houses: A Brief Overview*, by Elizabeth Rybicki and James V. Saturno; and CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

[34] In practice, if the Senate and/or House does not pass an individual appropriations bill, informal negotiations may still take place on the basis of the reported version of that chamber(s) (such has been the case, for example, for some provisions included in omnibus appropriations measures in recent years; see "Regular Appropriations Bills" section below).

[35] House Rule XXII, clause 9, and Senate Rule XXVIII.

[36] Senate Rule XLIV, paragraph 8.

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. The first chamber to consider the conference report may vote to adopt it, reject it, or recommit it to the conference for further consideration. After the first house adopts the conference report, the conference is automatically disbanded; therefore, the second house has two options—to adopt or reject the conference report. In cases in which the conference report is either rejected or recommitted to the conference committee, the two chambers may negotiate further over the matters in dispute.[37] The measure cannot be sent to the President until both houses have agreed to the entire text of the bill.

The rules governing the content of the conference report may be enforced or waived during House and Senate consideration of it. Prior to consideration of the conference report, the House typically adopts a special rule waiving all points of order against the conference report or its consideration. In the Senate, such points of order may be waived through unanimous consent or (in some cases) motions to waive. If a point of order is sustained, the conference report falls.

A mechanism is available, however, through which new matter or new directed spending provisions included in a conference report can be stricken while the remaining provisions are effectively retained for further Senate consideration. If the presiding officer sustains a point of order against new matter or one or more new directed spending provisions, the offending language is stricken from the conference report. 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 the changed legislative text can no longer be considered as a conference report. The House would then consider the amendment. The House may choose to further amend the Senate amendment and return it to the Senate for further consideration. If the House, however, agrees to the amendment, the measure is cleared for presidential action.[38] Alternatively, the Senate may choose to retain such provisions by voting to waive these points of order. To succeed, the motion must be adopted by a three-fifths vote of all Senators duly chosen and sworn (60 Senators if there are no vacancies). An appeal of a ruling by the presiding officer on one of these points of order would also require a vote of three-fifths of all Senators.

Presidential Action

Under the Constitution,[39] after a measure is presented 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 if Congress is in session. 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] If either house rejects the conference report, the two houses normally agree to further conference, usually appointing the same conferees.

[38] For more detailed information on these Senate rules, see CRS Report RS22733, *Senate Rules Restricting the Content of Conference Reports*, by Elizabeth Rybicki.

[39] U.S. Constitution, Article I, Section 7, known as the Presentment Clause.

Relationship Between Authorization and Appropriations Measures

Congress has established a process that provides for two separate types of measures—authorization measures and appropriation measures. These measures perform different functions. Authorization acts establish, continue, or modify agencies or programs. For example, an authorization act may establish or modify programs within the Department of Defense. An authorization act may also explicitly authorize subsequent appropriations for specific agencies and programs, frequently setting spending ceilings for them. These authorizations of appropriations provisions may be permanent, annual, or multiyear authorizations. Annual and multiyear provisions require reauthorizations when they expire. Congressional rules generally restrict appropriations measures to provide new budget authority only for programs, activities, or agencies previously authorized by law. Congress, however, is not required to provide appropriations for an authorized discretionary spending program.

House and Senate rules enforce the separation of these functions into different measures by separating committee jurisdiction over appropriations and other types of legislation and rules prohibiting measures from including both appropriations and other legislation.[40] 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. Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees.

The House and Senate prohibit, in various ways, language in appropriations bills providing appropriations for purposes not authorized by law or legislation on an appropriations bill. An appropriation for purposes not authorized by law, commonly called an *unauthorized appropriation*, is new budget authority in an appropriations measure (including an amendment or conference report) for agencies or programs with no current authorization or for which budget authority exceeds the ceiling authorized.[41] *Legislation* refers to language in appropriations measures that changes existing law, such as establishing new law or amending or repealing current law. Legislation is under the jurisdiction of the legislative committees.

Although House rules prohibit both unauthorized appropriations and legislation in regular appropriations bills and supplemental appropriations measures that provide funds for two or more agencies, the House may choose to waive their application.[42] However, House rules do not prohibit such provisions in continuing resolutions. The House prohibition applies to bills reported by the House Appropriations Committee, amendments, and conference reports. The point of order applies to the text of the bill as well as any amendments or conference reports.

Senate rules regarding legislation on appropriations bills restrict the content of amendments to regular bills, supplementals that provide funds for more than one purpose or agency, and continuing resolutions. Such amendments include those that are:

---

[40] House Rule XXI, clause 2; House Rule XXII, clause 5; and Senate Rule XVI prohibit the inclusion of legislative provisions in appropriations measures. House Rule XXI, clause 4; and House Rule XXII, clause 5 also prohibit appropriations in legislation in other types of measures or conference reports.

[41] For further information on the relationship between authorizations and appropriations, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

[42] This is typically done through special rules providing for their consideration, described in "House Floor Consideration" above.

- offered 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.[43]

In other words, Senate rules prohibit legislation in both Senate Appropriations Committee amendments and non-committee amendments.[44] They also prohibit non-germane amendments.[45]

These Senate rules do not apply to provisions in Senate bills or conference reports.[46] Recently, the practice of the Senate Appropriations Committee has been either to (1) report the House-passed bill with a committee substitute, or (2) report an original Senate bill, wait until the Senate receives the House-passed bill, and then offer a committee substitute (comprising the text of the Senate bill) to the House-passed bill. In either case, the Senate considers the committee's recommendations in the form of a committee amendment.

Senate rules are generally considered to be less restrictive than the House regarding what may be interpreted as unauthorized appropriations, and they prohibit such appropriations in comparatively fewer situations. For example, the Senate Appropriations Committee may report committee amendments containing appropriations not previously authorized by law. Similarly, an amendment moved by direction of the committee with legislative jurisdiction or in pursuance of an estimate submitted in accordance with law would not be prohibited under Rule XVI. An appropriation is also considered authorized if the Senate has previously passed the authorization during the same session of Congress, even if the bill has not been enacted into law. As a result, while the Senate rule generally prohibits unauthorized appropriations, Senators rarely raise this point of order.

The division between an authorization and an appropriation is a construct of House and Senate rules created to apply to congressional consideration so that the term "unauthorized appropriations" does not convey a legal meaning with regard to funding. If unauthorized appropriations or legislation remain in an appropriations measure as enacted, either because no one raised a point of order or the House or Senate waived the rules, the provision will still have the force of law. Unauthorized appropriations, if enacted, are therefore generally available for obligation or expenditure. Legislative provisions enacted in an annual appropriations act also generally have the force of law for the duration of that act unless otherwise specified.

Types of Appropriations Measures

There are generally three types of appropriations measures: regular appropriations bills, continuing resolutions, and supplemental appropriations measures.

[43] The Senate rule also applies to amendments between the houses.

[44] Senate Rule XVI, paragraph 2. 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.

[45] For information about germaneness and Senate Rule XVI, paragraph 4, see Riddick and Frumin, *Riddick's Senate Procedure*, pp. 161-171.

[46] The Senate rule reflects Senate practices at the time the rule was established. The Senate Appropriations Committee traditionally reported 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.

In general, during a calendar year, Congress may consider:

- 12 regular appropriations bills for the fiscal year that begins on October 1 (often referred to as the budget year) to provide the annual funding for the agencies, projects, and activities funded therein;
- one or more continuing resolutions for that same fiscal year; and
- one or more supplemental appropriations measures for the current fiscal year.

Regular Appropriations Bills

The appropriations process assumes the consideration of 12 regular appropriations measures annually. The House and Senate Appropriations Committees are both organized into 12 subcommittees, with each subcommittee having responsibility for developing one regular annual appropriations bill.

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 organized in one or several accounts. Each account generally includes similar programs, projects, or items, such as a research and development account or a salaries and expenses account, although a few accounts include only a single program, project, or item. For small agencies, a single account may fund all of the agency's activities. These acts typically provide a lump-sum amount for each account as well as any conditions, provisos, or specific requirements that apply to that account.

In report language,[47] the House and Senate Committees on Appropriations may provide more detailed expectations or directions to the departments and agencies on the distribution of funding among various activities funded within an account.

Appropriations measures may also provide transfer authority.[48] Transfers shift budget authority from one account or fund to another or allow agencies to make such shifts. For example, an agency moving new budget authority from a salaries and expenses account to a research and development account would be a transfer. Agencies are prohibited from making such transfers without statutory authority.

Agencies may, however, generally shift budget authority from one activity to another within an account without additional statutory authority. This is referred to as reprogramming.[49] The appropriations subcommittees have established notification and other oversight procedures for various agencies to follow regarding reprogramming actions. Generally, these procedures differ with each subcommittee.

[47] The term *report language* refers to information provided in reports accompanying committee-reported legislation as well as joint explanatory statements included in conference reports. Although the entire document is generally referred to as a conference report, it comprises two separate parts. The conference report contains a conference committee's proposal for legislative language resolving the House and Senate differences on a measure, while the joint explanatory statement explains the conference report.

[48] Authorization measures may also provide transfer authority. For more information on transfers, see CRS Report R43098, *Transfer and Reprogramming of Appropriations: An Overview of Authorities, Limitations, and Procedures*, by Michelle D. Christensen.

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

Omnibus Appropriations

Congress has traditionally considered and approved each regular appropriations bill separately, but Congress has also combined several bills together into a single legislative vehicle prior to enactment. These packages are referred to as omnibus appropriation measures.[50]

In these cases, Congress typically begins consideration of each regular bill separately but has generally combined some of the bills together at a later stage in the legislative process, particularly while one or more is in conference. During conference on one of the regular appropriations bills, the conferees have typically added to the conference report the final agreements on other outstanding regular appropriations bills, thereby creating an omnibus appropriations measure.[51]

Omnibus acts may provide the full text of each regular appropriations bill included in the act or may incorporate the full text by reference. Omnibus acts may also be in the form of full-year continuing resolutions.[52] Those that provide funding either by including the text of the regular bills or by incorporating them by reference may be considered omnibus bills, but those resolutions providing spending rates—such as is typically included in continuing resolutions—would not.

Packaging regular appropriations bills can be an efficient means for resolving outstanding differences within Congress or between Congress and the President. The negotiators may be able to make more convenient trade-offs between issues among several bills and complete consideration of appropriations using fewer measures. Omnibus measures may also be used to achieve a timely end to the annual appropriations process.

Continuing Resolutions

In general, budget authority provided in regular appropriations expires at the end of the fiscal year—September 30—unless otherwise specified. If action on one or more regular appropriations measures has not been completed by the start of the fiscal year, on October 1, the agencies funded by these bills must cease non-excepted activities due to lack of budget authority.[53]

Traditionally, temporary funding has been provided in the form of a joint resolution to allow agencies or programs to continue to obligate funds at a particular rate (such as the rate of operations for the previous fiscal year) for a specific period of time, which may range from a single day to an entire fiscal year. These measures are known as continuing resolutions (or CRs).

In only four instances since FY1977 (FY1977, FY1989, FY1995, and FY1997) were all regular appropriations enacted by the start of the fiscal year. In all other instances, at least one CR was necessary to fund governmental activities until action on the remaining regular appropriations bills was completed.[54]

---

[50] There is no agreed upon definition of omnibus appropriations measure, but the term *minibus appropriations measure* has sometimes been used to refer to a measure including only a few regular appropriations bills, while *omnibus appropriations measure* refers to a measure containing several regular bills. See CRS Report RL32473, *Omnibus Appropriations Acts: Overview of Recent Practices*, by James V. Saturno and Jessica Tollestrup.

[51] In a few cases, a similar combination has been achieved through an exchange of amendments.

[52] See "Continuing Resolutions" below.

[53] For more information, see CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, coordinated by Clinton T. Brass.

[54] For further information, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent* (continued...)

On or before the start of the fiscal year, Congress and the President generally complete action on an initial CR that temporarily funds the outstanding regular appropriations bills. In contrast to funding practices in regular bills (i.e., providing separate appropriations levels for each account), temporary CRs generally provide funding at a rate or formula, with certain exceptions. Recently, the CRs have generally provided a rate at the levels provided in the previous fiscal year for all accounts in each regular bill covered, with some account-specific adjustments, termed anomalies. 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 CRs may be used to sequentially extend the expiration date. These subsequent CRs sometimes change the funding methods.

Less frequently, a full-year CR may be enacted that continues funding—at a specific rate or formula for accounts in outstanding regular bills, typically with numerous account-specific exceptions—through the end of the fiscal year. For example, the FY2007 full-year CR (P.L. 110-5) covered nine regular bills, the FY2011 full-year CR (P.L. 112-10) covered 11 regular bills, and the FY2013 full-year CR (P.L. 113-6) covered seven regular bills.

Supplemental Appropriations Measures

In addition to the amounts provided in a regular appropriations measure, the President may request, and Congress may enact, additional funding for selected activities in the form of one or more supplemental appropriations measures (or supplementals). In general, supplemental funding may be enacted to address cases where resources provided through the annual appropriations process are determined to be inadequate or not timely. Supplementals have been used to provide funding for unforeseen needs, such as response and recovery costs due to a disaster. One recent example is the supplemental appropriations bill that was enacted in the wake of Hurricane Sandy in 2013. These measures, like regular appropriations bills, provide specific amounts of funding for individual accounts rather than funding based on a rate for operations (like a CR). Sometimes Congress includes supplemental appropriations in regular bills and CRs rather than in a separate supplemental bill.[55]

Budget Enforcement for Appropriations Measures

Budget enforcement for appropriations measures under the congressional budget process has both statutory and procedural elements. The statutory elements are derived from the Budget Control Act of 2011 (BCA), which imposes limits on discretionary spending each fiscal year through FY2021. The procedural elements of budget enforcement generally stem from requirements under the Congressional Budget Act of 1974 (CBA) that are normally associated with the budget resolution. Through this CBA process, the Appropriations Committee in each chamber, as well as each of their subcommittees, receives a procedural limit on the total amount of budget authority for the upcoming fiscal year.

(...continued)

Practices, by James V. Saturno and Jessica Tollestrup.

[55] In recent years, supplemental appropriations have often been designated or otherwise provided so that they are effectively exempt from the budget enforcement limits. For further information, see the report section "Emergency Spending."

Statutory Discretionary Spending Limits

The BCA places separate limits on two categories of discretionary spending: "defense" and "nondefense." The defense category includes all discretionary spending under budget function 050 (defense).[56] The nondefense category includes discretionary spending in all the other budget functions. The BCA limits were first implemented in FY2012 and are applicable for each of the fiscal years through FY2021.

Pursuant to procedures under the BCA, the limits initially established for FY2014 through FY2021 were further lowered each fiscal year to achieve certain additional budgetary savings.[57] The amount of the revised limits for the upcoming fiscal year is calculated by the Office of Management and Budget (OMB) and reported with the President's budget submission each year.[58] The timing of this calculation, which is to occur many months prior to the beginning of the fiscal year, is intended to allow time for congressional consideration of appropriations measures that comply with the revised limits.

Enforcement

If discretionary spending is enacted in excess of the statutory limits, enforcement primarily occurs through "sequestration," which is the automatic cancelation of budget authority through largely across-the-board reductions of non-exempt programs and activities.[59] Any such across-the-board reductions affect only non-exempt spending subject to the breached limit and are in the amount necessary to reduce spending so that it complies with the limit. The evaluation of the spending limits and any necessary sequestration occurs at specified times after appropriations measures are enacted. The first such evaluation occurs 15 days after Congress adjourns a session *sine die*. If appropriations measures are enacted after that time, subsequent evaluations of the budgetary effects of these measures and any necessary sequestration occurs 15 days after enactment.[60]

The discretionary spending limits are also enforceable procedurally through points of order raised under Section 314(f) of the CBA. Section 314(f) prohibits the House or Senate from considering any measure, amendment thereto, or conference report that would cause one or both of the limits to be exceeded. The House can waive Section 314(f) through a special rule and the Senate by a three-fifths vote of Members.[61]

---

[56] For information on the budget functions, see CRS Report 98-280, *Functional Categories of the Federal Budget*, by Bill Heniff Jr.

[57] The lowering of the limits was triggered when the BCA "joint committee" process did not result in the enactment of legislation to achieve a targeted level of spending reductions. For information on this process, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[58] The procedures through which these limits are reduced are in Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). For a description of these procedures and how they were initially carried out for the FY2014 reductions, see OMB Report to Congress on the Joint Committee Reductions for Fiscal Year 2014, pp. 11-16, available at http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy14_preview_and_joint_committee_reductions_reports_05202013.pdf.

[59] Procedures for discretionary spending sequestration are established in Sections 251 and 256 of the BBEDCA. Exempt programs and activities are listed in Section 255 of the BBEDCA.

[60] BBEDCA, Section 251(a). In addition, after June 30, if appropriations were enacted for the fiscal year that exceed one or both of the limits, the affected limit(s) for the following fiscal year would be reduced by the amount or amounts of the breach.

[61] CBA, Section 904(c)(2).

Allocations and Other Limits on Appropriations Associated with the Budget Resolution

As mentioned previously, within each chamber, the total budget authority and outlays included in the annual budget resolution are allocated 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*).[62]

The 302(a) allocation of the Appropriations Committee includes both discretionary spending and direct spending (including net interest).[63] Discretionary spending is controlled by appropriations acts, which are under the jurisdiction of the House and Senate Committees on Appropriations. In addition to budget authority for all programs funded by discretionary spending, appropriations measures also include budget authority to finance the obligations of some direct spending programs controlled by legislation under the jurisdiction of the legislative (or authorizing) committees.[64]

The budget authority for direct spending provided in appropriations measures is predominantly for entitlement programs, referred to as *appropriated entitlements*. These entitlements are funded through a two-step process.[65] First, legislation becomes law that sets program parameters (through eligibility requirements and benefit levels, for example); then the appropriations committees *must* provide the budget authority needed to finance the commitment. The Appropriations Committees have limited control over the amount of budget authority provided, since the amount needed is the result of previously enacted commitments in law.[66]

After the House and Senate Appropriations Committees receive their 302(a) allocations, they separately subdivide this amount among their subcommittees, providing each subcommittee with a ceiling. These subdivisions are referred to as the *302(b) suballocations*.[67] The authority for making 302(b) suballocations belongs to the House and Senate Appropriations Committees, and they may later be revised by the committees to reflect further action on appropriations. Such allocations become effective (and enforcable) once they have been reported by the committee.

[62] This refers to Section 302(a) of the CBA. Typically, these are provided in the joint explanatory statement that accompanies the conference report on the budget resolution.

[63] "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, *Glossary of Budgetary and Economic Terms*, available at http://www.cbo.gov.

[64] For example, Social Security and Medicare Part A are under the jurisdiction of the House Ways and Means Committee and Senate Finance Committee. Most of the other standing committees are also legislative committees, such as the House and Senate Armed Services Committees, the House Oversight and Governmental Committee, and the Senate Homeland Security and Government Affairs Committee.

[65] Alternatively, direct spending authority may also be provided through a one-step process in which the legislative act sets the program parameters and provides the budget authority, such as Social Security.

[66] Sometimes appropriations measures include amendments to the authorization laws that control the formula for mandatory appropriations, thereby changing the amount of appropriations subsequently needed. Because such amendments are legislative in nature, they violate the parliamentary rules separating authorizations and appropriations (see "Relationship Between Authorization and Appropriations Measures").

[67] This refers to Section 302(b) of the CBA.

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), because appropriations measures are annual.

If the budget resolution is significantly delayed (or is never completed), there may not be 302(a) allocations or 302(b) suballocations to enforce until the budget resolution is in place. In such instances, the House and Senate have often adopted alternative mechanisms to provide at least temporary 302(a) allocations for their respective Appropriations Committees, thereby establishing some enforceable spending ceilings. Such mechanisms have been referred to as a "deeming resolutions."[68] The method of adopting such alternative mechanisms for one or both chambers may take a variety of forms. For example, when Congress did not complete a FY2007 budget resolution, both the House and Senate adopted separate deeming resolutions in 2006. The House adopted a special rule[69] that, in part, deemed the House-adopted FY2007 budget resolution[70] and accompanying committee report in effect for enforcement purposes. As a result, the FY2007 total spending ceilings and 302(a) allocations (and therefore, subsequent 302(b) suballocations) were in effect. The Senate included in a FY2006 supplemental appropriations act a deeming provision that, in part, set FY2007 302(a) allocations for the Senate Appropriations Committee.[71] For FY2014 and FY2015, an alternative mechanism for budget enforcement, which included a means to establish 302(a) allocations for appropriations, was enacted in the Bipartisan Budget Act of 2013.[72] In the absence of a budget resolution, this mechanism allowed the chairs of the House and Senate Appropriations Committees to enter statements into the *Congressional Record* of budgetary levels for their respective chambers. Those statements, which included a 302(a) allocation for the chambers' Appropriations Committees, formed the basis for the subsequent 302(b) suballocations for the subcommittees.

Enforcement

The restrictions on appropriations associated with the budget resolution are enforced procedurally through points of order that can be raised on the House and Senate floors when the appropriations measures are considered.

House

Two CBA points of order, under Sections 302(f) and 311(a), are available to enforce the 302(a) allocation to the Appropriations Committees and the 302(b) suballocations to their subcommittees. These CBA points of order apply to committee-reported appropriations bills,[73] certain non-reported appropriations bills,[74] amendments, and conference reports to these measures

[68] For information on deeming resolutions, see CRS Report R44296, *Deeming Resolutions: Budget Enforcement in the Absence of a Budget Resolution*, by Megan S. Lynch

[69] H.Res. 818, Section 2 (109th Cong).

[70] H.Con.Res. 376 (109th Cong.).

[71] P.L. 109-234, Section 7035(a); 120 Stat. 418.

[72] P.L. 113-67, Sections 111, 115, and 116.

[73] The House Appropriations Committee typically reports regular and major supplemental appropriations bills. However, it does not generally report CRs.

[74] If a special rule expedites consideration of a measure by ordering the previous question directly to passage, the form of the measure considered is subject to the points of order. Some continuing resolutions have been considered by this procedure.

during their consideration. If such an appropriation violates these rules, the legislation or amendment cannot be considered.

The 302(f) point of order prohibits floor consideration of a measure, amendment, or conference report providing new budget authority for the upcoming fiscal year that would cause the applicable committee 302(a) or subcommittee 302(b) allocations of new budget authority for that fiscal year to be exceeded. The application of this point of order on appropriations measures is generally limited to discretionary spending (and any changes in direct spending initiated in the appropriations measures).[75] For example, if a committee-reported regular appropriations bill had provided total new discretionary budget authority equal to the subcommittee's 302(b) allocation, any amendment proposing additional new discretionary budget authority would violate the 302(f) point of order.

The 311(a) point of order prohibits floor consideration of a measure, amendment thereto, or conference report that would cause the applicable total budget authority and outlay ceilings in the budget resolution for that fiscal year to be exceeded.[76] As the amounts of all the spending measures considered in the House accumulate, they could potentially reach or exceed these ceilings. This point of order would typically affect the last spending bills to be considered, such as supplemental appropriations measures or the last regular appropriations bills. In the House, the so-called *Fazio Exception*, however, exempts legislation if it would not cause the applicable committee 302(a) allocations to be exceeded.[77]

Separate orders adopted at the beginning of the 112th through 114th Congresses, established new requirements applicable to House consideration of amendments to appropriations bills. Section 3(d)(3) of H.Res. 5 (114th Congress) provides a point of order against an amendment (or amendments offered en bloc) that proposes a net increase in budget authority, even if the level of budget authority in the bill is below the ceiling established under the appropriate 302(b) subdivision. This establishes a secondary enforcement mechanism intended to preserve any savings below the 302(b) subdivision achieved by the Appropriations Committee or through floor amendments. This new point of order applies only to general appropriations bills.

In addition, the FY2015 budget resolution established points of order in both the House and Senate that prohibit language in appropriations measures that would produce a net increase in the cost of direct spending programs above levels specified in the resolution (for FY201-FY2019).[78]

[75] The point of order does not apply to increases in the level of direct spending required to finance current law.

[76] Since 2005, the House has adopted a separate order for each Congress that extends enforcement of 302(b) allocations to appropriations bills as amended in the Committee of the Whole, most recently in H.Res. 5 Section 3(e)(2) (114th Cong.). The order establishes a point of order in the Committee of the Whole against a motion to rise and report to the House an appropriations bill that, as amended, exceeds the applicable 302(b) allocation in new budget authority. If the presiding officer sustains a point of order against such a motion, the Committee of the Whole must decide, by a vote, whether to adopt the motion even though the amended measure exceeds the allocation. If the committee votes against "rising," it may consider one proper amendment, such as an amendment reducing funds in the bill to bring it into compliance with the allocation. The separate order also provides an up-or-down vote on the amendment. Only one such point of order may be raised against a single measure. For more detailed information on motions to rise, see CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki.

[77] Section 311(c) of the CBA. The title of the exception refers to former Representative Victor Herbert Fazio Jr.

[78] See S.Con.Res. 11 (114th Cong.), Section 3103.

Senate

Three points of order typically enforce spending ceilings associated with the budget resolution. Two are CBA points of order, as provided in Sections 302(f) and 311(a). The Senate application of these rules, however, varies from the House versions. The Senate 302(f) point of order prohibits floor consideration of such legislation providing new budget authority for the upcoming fiscal year that would cause the applicable 302(b) suballocations in new budget authority and outlays for that fiscal year to be exceeded. In contrast to the House, it (1) does not apply to 302(a) allocations, but (2) does enforce the outlay level associated with the 302(b) subdivisions. The 311(a) point of order in the Senate is similar to the House version. The Senate, however, does not provide for an exception similar to the Fazio Exception in the House.

In addition, the FY2015 budget resolution established points of order in both the House and Senate that prohibit language in appropriations measures that would produce a net increase in the cost of direct spending programs above levels specified in the resolution (for FY201-FY2019).[79]

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

Emergency Spending

In the House and Senate, discretionary appropriations may be designated or otherwise provided so that they are effectively exempt from the budget enforcement limits.[80] Such designations or allowances for additional budget authority are provided pursuant to Section 251(b)(2)(A)-(D) of the Balanced Budget and Emergency Deficit Control Act (BBEDCA) and include the following:

- Appropriations designated as emergency requirements;
- Appropriations designated as Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT);
- Certain appropriations for continuing disability reviews and redeterminations;
- Certain appropriations for the health care fraud and abuse control (HCFAC); and
- Appropriations designated as for disaster relief.

The BBEDCA does not limit the amount of budget authority that can be designated as emergency requirements or for OCO/GWOT each fiscal year, nor does it specify the types of activities that are eligible for such designations. In practice, the emergency requirements designation has generally been used to provide additional budget authority for unanticipated needs.[81] The OCO/GWOT designation has generally been used for expenses associated with overseas operations, such as in Iraq and Afghanistan, as well as other purposes.[82]

[79] See S.Con.Res. 11 (114th Cong.), Section 3103.

[80] These include points of order under Titles III and IV of the CBA, such as 302(f) and 311(a) points of order, as well as the statutory discretionary spending limits.

[81] For example, almost all of the budget authority in the supplemental appropriations act to assist with the Hurricane Sandy recovery (P.L. 113-2) was designated as emergency requirements. More recently, budget authority in the supplemental appropriations act for Department of Defense activities associated with the Iron Dome program (P.L. 113-145) were also designated in this manner.

[82] For further information on OCO/GWOT spending in recent years, see CRS Report R44519, *Overseas Contingency* (continued...)

The allowable purposes for the continuing disability reviews and redeterminations budget authority are such activities under Titles II and XVI of the Social Security Act and for the costs associated with conducting redeterminations of eligibility under Title XVI. The purposes for the HCFAC funds are any for that program at the Department of Health and Human Services. The BBEDCA specifies the maximum amounts for these programs that would be effectively exempt from the spending limits, if appropriated, for each of the fiscal years between FY2012 and FY2021.

Budget authority eligible for the disaster relief designation is for the cost of activities carried out pursuant to a declaration of a major disaster under the Stafford Act (42 U.S.C. 5122(2)).[83] The amount for this disaster designation is capped each fiscal year to the 10-year rolling average for such budget authority minus the high and low fiscal years during that period. If the entire allowable amount that can be designated for a fiscal year is not appropriated, the unused amount of the designation may be carried over to the following fiscal year.

Section 314(d) of the CBA allows House amendments to strike amounts that are designated as an emergency in appropriations measures or amendments thereto, notwithstanding their budgetary effects. In the Senate, amounts that are designated as an emergency are subject to a point of order under Section 314(e). That point of order may be waived by a three-fifths vote of the Senate. If the point of order is not waived and the presiding officer sustains the point of order, the designation is stricken, and the measure or amendment may be vulnerable to the various enforceable spending limits.[84]

The House also considers the emergency, OCO/GWOT, and disaster relief designations to be legislative and prohibits their inclusion in general appropriations bills, amendments thereto, or conference reports.[85] The Senate, however, does not consider such designations to be legislative.

Rescissions

Rescissions are provisions of law that cancel previously enacted budget authority. For example, if Congress provided $50 million to an agency, it could enact subsequent legislation cancelling some or all of the budget authority prior to its obligation. Rescissions are an expression of changed or differing priorities. They may also be used to offset increases in budget authority for other activities.

The President may recommend rescissions to Congress, but they must be enacted into law in order to take effect. Under Title X of the CBA,[86] if Congress does not enact a bill approving the President's rescissions within 45 days of continuous session of Congress, the budget authority must be made available for obligation.

(...continued)

Operations Funding: Background and Status, coordinated by Lynn M. Williams and Susan B. Epstein .

[83] For further information on appropriations to the disaster relief designation, see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy

[84] These designations may be subject to other points of order under the CBA. For general information on Budget Act points of order, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[85] House Rule XXI, clause 2(b) and (c), and Rule XXII, clause 5(b). This interpretation effectively requires a waiver of these provisions in order to consider appropriations with these designations. See "Relationship Between Authorization and Appropriations Measures."

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

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. For example, 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 DOD, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, but it did not provide a rescission from the second account.[87]

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

As budget authority providing the funding must be enacted into law, so too a rescission cancelling the budget authority must be enacted into law. Rescissions can be included either in separate rescission measures or any of the three types of appropriations measures.

Author Contact Information

James V. Saturno, Coordinator
Specialist on Congress and the Legislative Process
jsaturno@crs.loc.gov, 7-2381

Megan S. Lynch
Specialist on Congress and the Legislative Process
mlynch@crs.loc.gov, 7-7853

Bill Heniff Jr.
Analyst on Congress and the Legislative Process
wheniff@crs.loc.gov, 7-8646

Acknowledgments

This report was originally authored and updated by Sandy Streeter and Jessica Tollestrup, former Analysts on Congress and the Legislative Process. The listed authors have produced the most recent update of the report and are available to respond to inquiries on the subject.

[87] P.L. 109-148, 119 Stat. 2680.