97-684 GOV

CRS Report for Congress

Received through the CRS Web

The Congressional Appropriations Process: An Introduction

Updated August 3, 1999

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ABSTRACT

This report describes the annual appropriations cycle from the President's submission of his annual budget through enactment of the appropriations measures. It describes the three types of appropriations measures—regular appropriations bills, continuing resolutions, and supplemental bills. It explains the spending ceilings for appropriations bills that are associated with the budget resolution and the sequestration process, including a description of the mechanisms used to enforce the ceilings. It also explains the authorization-appropriations process, which prohibits certain provisions in some of the appropriations bills.

The Congressional Appropriations Process: An Introduction

Summary

Congress annually considers 13 or more appropriations measures, which provide funding for activities such as national defense, certain income security programs (primarily housing subsidies), education, anti-crime programs, and general government operations such as the administration of federal agencies. Congress has developed certain rules and practices for the consideration of appropriations measures, referred to as the appropriations process.

Generally, the appropriations process includes the

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

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

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

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Introduction

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- Prohibitions against certain language in appropriations measures that violate separation of the authorization and appropriations functions into separate measures.

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

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

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[1] *Constitution of the United States*, Article I, Section 9.

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

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

This report discusses the annual appropriations cycle, spending ceilings, and relationship between authorization and appropriations measures.

Annual Appropriations Cycle

President Submits Budget

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

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

For example, an appropriations act might provide $3 billion in new budget authority for FY2000 to the Defense Department to construct four ships. That is, the act gives the Department legal authority to sign contracts to build the ships. The department can not commit the government to pay more than $3 billion. The outlays occur when the contractor cashes the government check for building the ships.

Generally, *appropriations* are a type of budget authority. Appropriations measures provide *new* budget authority (as opposed to previously enacted budget authority). Typically, appropriations must be obligated in the fiscal year for which they are provided. In the above example, the Defense Department would be required to sign the construction contracts during FY2000.

Not all new budget authority provided for a fiscal year is expended that year. For example, although Congress provides $3 billion in budget authority for FY2000 to construct four ships, the outlays may occur over several years, until the project is completed:

- FY2000, no outlays;
- FY2001, $0.5 billion;
- FY2002, $1.0 billion; and
- FY2003, $1.5 billion.

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[4] Congress provides spending for fiscal years, in contrast to calendar years. Fiscal years begin on October 1 and end the following September 30. Fiscal Year 1999 (FY1999) began on October 1, 1998.

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

A total of $3.0 billion in outlays is spent over four fiscal years.

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

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

Congress Adopts Budget Resolution

The Congressional Budget and Impoundment Control Act of 1974, as amended, (the Congressional Budget Act)[6] requires Congress to adopt an annual budget resolution.[7] During the 24 fiscal years that Congress has considered budget resolutions, Congress has eventually adopted a budget resolution in every year except one—FY1999. There is no penalty if the budget resolution is not completed.

Usually, the budget resolution is Congress's response to the President's budget. The budget resolution must cover at least five fiscal years: the upcoming fiscal year plus four additional fiscal years.

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

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

Total new budget authority and outlays are distributed among both the House and Senate committees with jurisdiction over spending, thereby setting spending ceilings for each committee (see *Allocations* section under *Budget Resolution*).[8]

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[6] 2 U.S.C. 601-688 (1988 & Supp. IV 1992); P.L. 93-344 (88 Stat. 297); amended by the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177 (99 Stat. 1037, 1038); further amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, P.L. 100-119 (101 Stat. 754); further amended by the Budget Enforcement Act of 1990, P.L. 101-508 (104 Stat. 1388-573 to 1388-630); further amended by the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (107 Stat. 312); and further amended by the Budget Enforcement Act of 1997, P.L. 105-33 (111 Stat. 251).

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

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

The Congressional Budget Act provides an April 15 deadline for final congressional adoption of the budget resolution. However, Congress frequently does not meet this deadline and there is no penalty if it is not met.

The Congressional Budget Act generally prohibits House or Senate floor consideration of revenue or spending measures for a fiscal year until Congress adopts the budget resolution.[9] However, even if the budget resolution is not in place, the House may begin considering the regular appropriations bills without violating the act after May 15.[10]

No such provision exists in the Senate. Anticipating a delay of congressional adoption of the FY1999 budget resolution, the Senate approved S.Res. 209 on April 2, 1998. This resolution allowed the Senate to consider the FY1999 regular appropriations bills even though Congress had not completed the budget resolution. S.Res. 209 provided interim spending allocations to the Senate Appropriations Committee that was to have expired upon completion of the FY1999 budget resolution.

Timetable for Consideration of Appropriations Measures

Traditionally, the House of Representatives has initiated consideration of appropriations measures. The House Appropriations Committee has jurisdiction over appropriations measures and ordinarily begins the legislative process by reporting the 13 regular appropriations bills separately to the full House.

Generally, the House Appropriations Committee begins reporting the bills in May or June, completing all or almost all of them by the annual August recess. The full House begins consideration of the regular appropriations bills in May or June as well, passing most by the recess.[11]

Prior to the 105th Congress (CY1997 and CY1998 [12]), the Senate usually did not initiate its own appropriations bills; instead, it considered and amended House-passed bills both in committee and on the floor. The Senate Appropriations Committee, which has jurisdiction over appropriations measures, occasionally originated an appropriations bill when there was a significant delay in House consideration.

During CY1997, the Senate Appropriations Committee reported 11 original regular appropriations bills and, the following year, reported 13 original bills.

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[9] For details, see §303(a) of the Congressional Budget Act, as amended by §10107 of the Budget Enforcement Act of 1997 (P.L. 105-33, 111 Stat. 251).

[10] Section 303(b) of the Congressional Budget Act, as amended. Of the three types of appropriations measures, regular appropriations bills have traditionally provided agencies most of their budget authority (see *Types of Appropriations Measures* below).

[11] The House typically passes all 13 regular appropriations bills. However, a rare exception occurred when the House did not pass the FY1999 Labor-Health and Human Services-Education regular bill.

[12] CY1997 and CY1998 refers to calendar years 1997 and 1998, in contrast to fiscal years.

Generally, the Senate Appropriations Committee begins reporting the regular appropriations bills to the full Senate in June or July. All of the measures are reported before the August recess or in September. The Senate begins passing the bills in June or July and completes most of the bills by the end of September. However, recently the Senate has not passed all 13 regular appropriations bills.[13] In such cases, differences between the Senate Appropriations Committee-reported bill and the House-passed bill were resolved in conference on an omnibus appropriations measure.[14]

During the fall, the Appropriations Committees are usually heavily involved in conferences to resolve differences between the two chambers. Relatively little or no time is left before the fiscal year begins to resolve what may be wide disparities between the House and Senate, to say nothing of those between Congress and the President. Congress is usually faced with the need to enact one or more temporary continuing resolutions pending the final disposition of the regular appropriations bills.[15]

Some variations from prior practice on completion of the bills have occurred during the 104th Congress (CY1995-CY1996) and 105th Congress. In the 104th Congress, for FY1996, Congress did not complete action on regular appropriations bills until seven months into the fiscal year. Conversely, for FY1997, Congress completed action on all regular appropriations measures by the start of the fiscal year, in part by consolidating several bills into an omnibus appropriations measure.

Work of the Appropriations Committees

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

Each appropriations subcommittee has jurisdiction over one regular appropriations bill. Each House appropriations subcommittee is paired with a Senate appropriations subcommittee, both having jurisdiction over the same agencies and programs. For example, the House and Senate agriculture appropriations subcommittees have jurisdiction over the agriculture regular appropriations bill.

After the hearings have been completed and the House Appropriations Committee has received its committee spending ceilings from the budget resolution, the House appropriations subcommittees begin to *mark up* the regular bills under their

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[13] The Senate never passed as separate measures one of the FY1996 regular bills, four of the FY1997 bills, and three of the FY1999 bills.

[14] Omnibus appropriations measures package more than one regular appropriations bill together in a single measure, see *Regular Appropriations Bills* below.

[15] For a description of continuing resolutions, see *Types of Appropriations Measures* below.

jurisdiction and report them to the full committee.[16] The House Appropriations Committee considers each subcommittee's recommendations separately. The committee may adopt amendments to a subcommittee bill and then report the bill as amended to the House floor for action.

Traditionally, the Senate Appropriations Committee had waited until it received a House-passed regular appropriations bill and before it drafted its version. The Senate appropriations subcommittee reported the House-passed bill to the full committee with several amendments distributed throughout the bill.[17] The number of amendments in each bill would range from a few to over 100. The full committee considered subcommittee recommendations and made any changes it considered appropriate. The full committee then reported the bill with recommended amendments to the Senate for floor consideration.

As mentioned previously, during the 105th Congress, the Senate Appropriations Committee reported almost all regular bills as Senate bills instead of waiting to amend the House-passed bills.

House and Senate Floor Action

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

House. Prior to floor consideration of a regular appropriations bill, the House generally considers a special rule reported by the House Rules Committee setting

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[16] If Congress is late in completing action on the budget resolution, the appropriations committees sometimes use temporary committee spending ceilings and begin the process.

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

[17] The Senate Appropriations Committee infrequently reported a complete substitute amendment to a House-passed regular bill (for example, the FY1997 foreign operations bill (H.R. 3540)).

parameters for floor consideration of the bill.[18] 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 of which all Representatives are members.[19] 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 chairman and *ranking minority member*[20] 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.[21] Amendments must meet requirements of the:

- House standing rules and precedents, for example, amendments must be germane to the bill;
- Authorization-appropriations process, which enforces the relationship between authorization and appropriations measures (see *Relationship Between the Authorization and Appropriations Measures* below);
- Congressional budget process (see *Allocations* section under *Budget Resolution*); and
- Special rule providing for consideration of the particular bill.

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

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

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

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

[19] House Rule XVIII, clause 3, requires that appropriations measures be considered in the Committee of the Whole House on the State of the Union (Committee of the Whole) before the House votes on passage of the measures (see U.S. Library of Congress, Congressional Research Service, *The Legislative Process on the House Floor: An Introduction*, by Stanley Bach, CRS report 95-563 GOV (Washington: periodically updated).

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

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

example, the House sometimes agrees to limit debate on individual amendments by unanimous consent.

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

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

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

In most cases in which the Senate Appropriations Committee reports several committee amendments to the House-passed bill, the amendments are adopted by unanimous consent. When committee amendments are controversial, they are sometimes considered separately, and referred to as *excepted committee amendments*. That is, they are excepted from the unanimous consent agreement by which most of the committee amendments were adopted.

The Senate then considers various eligible floor amendments.[22] Amendments must meet requirements under the Senate standing rules and precedents, the authorization-appropriations process, and the congressional budget process. The specifics of the Senate and House requirements differ. As in the House, the Senate may sometimes waive some of these rules.[23]

When the Senate Appropriations Committee reports a Senate bill, the Senate only considers floor amendments. After the amendments have been considered, the Senate waits for the House to send its bill to the Senate and amends the House-passed bill with a substitute amendment that contains the text of the Senate bill as amended on the Senate floor.

House and Senate Conference Action

Generally, members of the House and Senate appropriations subcommittees having jurisdiction over a particular regular appropriations bill, the chairmen of the

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[22] 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.

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

full committees, and the ranking minority members of the full committees meet to negotiate over differences between the House- and Senate-passed bills.[24]

Under House and Senate rules, the negotiators (or *conferees* or *managers*) are generally required to remain within the scope of the differences between the positions of the two chambers.[25] Their agreement must be within the range established by the House- and Senate-passed versions. For example, if the House-passed bill appropriates $3 million for a program and a separate Senate amendment provides $5 million, the conferees must reach an agreement that is within the $3-5 million range. However, these rules are not always followed.[26]

In cases in which the Senate adopts several amendments to the House-passed bill and the conferees reach agreement, a conference report containing the agreements together with a joint explanatory statement (or *managers' statement*) providing an explanation of the agreements is sent to both houses. If the conferees do not reach agreement on one or more amendments, they separately report those in disagreement and do not include them in the conference report.

During 1995-1996, in 14 of 18 cases in which a Senate-passed version contained several amendments to a House-passed bill, the conferees included all the amendments in the conference report. In four cases, the conferees included all except one amendment, which was reported in disagreement.

When the Senate passes a single substitute amendment to a House bill,[27] the conferees must reach agreement on all points of difference between the House and Senate versions before reporting the conference report in agreement. When this occurs, the conference report proposes a new conference substitute for the bill as a whole. The conferees attach a joint explanatory statement explaining the new substitute.

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

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

[26] Generally, before the House considers a conference report on an appropriations measure, it adopts a special rule waiving all points of order against the conference report and its consideration, including points of order that the conference report goes beyond the scope of the differences. In the Senate, a 1995 precedent rendered its rule on this point effectively unenforceable (see U.S. Library of Congress, Congressional Research Service, *Recent Senate Decision Concerning Conference Reports*, by Stanley Bach, CRS general distribution memorandum (Washington: Oct. 16, 1996)).

[27] Single substitute amendments are used because the Senate Appropriations Committee reported either a single substitute amendment to the House-passed bill or an original Senate bill.

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

Conference reports cannot be amended in either the House or Senate. However, amendments reported in disagreement may be amended.

If the conference report is rejected, or is recommitted by the first house, the conferees negotiate further over the matters in dispute between the two houses.[28] The measure cannot be sent to the President until both houses have agreed to the entire text of the bill.

Presidential Action

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

If the President vetoes the bill, he sends it back to Congress. Congress may override the veto by a 2/3 vote in both houses. If Congress successfully overrides the veto, the bill becomes law. If Congress is unsuccessful, the bill dies.[29]

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

[29] On June 25, 1998, the Supreme Court ruled the Line Item Veto Act (100 Stat. 1200) unconstitutional. Under the Line Item Veto Act, the President was authorized to cancel, in whole, any dollar amount of discretionary spending provided in an appropriations measure, listed in an accompanying report, or identified elsewhere, such as in another law. The Supreme Court ruled that the Line Item Veto Act violated explicit Constitutional requirements for enacting legislation. The Constitution requires that three steps be taken before a bill becomes law: 1) the House passes a bill; 2) the Senate passes the bill containing the identical text; and 3) the President signs the bill containing the identical text or does not veto it within ten days. The Supreme Court stated that the Line Item Veto Act "...authorize(s) the President to create a different law, one whose text was not voted on by either House of Congress or presented to the President for signature." Therefore, the Line Item Veto Act is unconstitutional.

Types of Appropriations Measures

Regular Appropriations Bills

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

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

Generally, Congress provides appropriations in lump-sum amounts by grouping related activities together (referred to as *accounts*) and providing budget authority for each account it chooses to fund. For example, the FY1997 energy and water act provided an appropriation of $1.2 billion for the "Construction, General" account of the Army Corps of Engineers. Some of the activities funded in this account were construction projects regarding flood control and shore protection.

Regular appropriations measures may also include provisions setting aside funds within an account for a more specific purpose (referred to as an *earmark*). For example, within the FY1997 appropriation for the Corps' "Construction, General" account, Congress earmarked $3 million for Red River Emergency Bank Protection in Arkansas.[30]

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

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[30] For more information, see U.S. Library of Congress, Congressional Research Service, *Earmarks and Limitations in Appropriations Bills*, by Sandy Streeter, CRS report 98-518 GOV (Washington: periodically updated).

Appropriations measures may also provide transfer authority.[31] *Transfers* shift budget authority from one account or fund to another. For example, if the Corps of Engineers moved budget authority from the "Construction, General" account to the "Flood Control and Coastal Emergencies" account, that would be a transfer. Agencies are prohibited from making such transfers without specific statutory authority.

In contrast, agencies may generally shift budget authority from one activity to another within an account without such statutory authority; this activity is referred to as *reprogramming*.[32] The appropriations subcommittees have established notification and other oversight procedures for the various agencies to follow regarding reprogramming actions. Generally, these procedures differ with each subcommittee.

Congress has traditionally considered and enacted each regular appropriations bill separately. Over the past 23 years (FY1977-FY1999), Congress has used two other practices as well. During 12 of those years, Congress generally began consideration of 13 separate bills, but ultimately packaged two or more regular appropriations bills together in one measure.

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

Packaging, as **Table 1** shows, was used for 9 consecutive fiscal years beginning in FY1980. The first two of those years (FY1980-FY1981) occurred while President Jimmy Carter was in the White House, while the remaining seven were during Ronald Reagan's presidency. Since that time, however, it has only been used three times. Congress packaged appropriations bills twice (FY1996-FY1997) in President William Jefferson Clinton's first term, and once (FY1999) thus far in his second term. No regular appropriation bills where packaged while George Bush was President (FY1990-FY1993).

In contrast, during two years of the Carter Administration, three years of the Clinton Administration, and all four years of the Bush Administration, none of the regular bills were packaged.

Congress has also used another practice: instead of providing funding for the entire fiscal year in regular appropriations bills, at times it has provided the entire funding in continuing resolutions (see the discussion on full-year continuing resolutions in *Continuing Resolutions* below).

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

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

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

Table 1. Number of Regular Appropriations Bills Packaged in a Single Measure, FY1977-FY1999

Fiscal Year	Presidential Administration	Number of Bills Packaged
1977	Ford	0
1978	Carter	0
1979		0
1980		2
1981		5
1982	Reagan	3
1983		6
1984		3
1985		8
1986		7
1987		13
1988		13
1989		0
1990	Bush	0
1991		0
1992		0
1993		0
1994	Clinton	0
1995		0
1996		5
1997		6
1998		0
1999		8

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-105th Congresses* (Washington: GPO, 1976-1998).

Discretionary spending provides funds for a wide variety of activities, such as those described in the *Introduction*, while mandatory spending predominantly provides funds for *entitlement* programs.[33] Of total actual outlays for FY1998 ($1,651 billion), only 34% was discretionary spending; the remaining 66% was mandatory spending.

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

Appropriated entitlements are funded through a two-step process. First, authorizing legislation is enacted to set program parameters (through eligibility requirements and benefit levels, for example); then the Appropriations Committees *must* provide the budget authority needed to meet the commitment. The Appropriations Committees have little control over the amount of budget authority provided, since the amount needed is the result of previously enacted commitments in authorization law. For FY1998, approximately 66% of the outlays allocated to the Appropriations Committees was discretionary spending, while the remaining 34% was mandatory spending.

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

Congress also controls mandatory spending by controlling budget authority. It does not, however, generally control this form of budget authority by setting specific spending levels. It controls mandatory spending by establishing parameters for government commitments in permanent law, such as Social Security benefit levels and eligibility requirements.

Table 2 provides the distribution of enacted FY1999 discretionary spending by appropriations subcommittee, as of Oct. 21, 1998. Three appropriations subcommittees (Defense, Labor-HHS-Education, and VA-HUD) had jurisdiction over most of the new discretionary budget authority (72%); one of three, the Defense subcommittee, had jurisdiction over almost half of the discretionary spending. For FY1999, the Defense subcommittee had 45% of all the discretionary new BA; the Labor-HHS-Education bill, 15%; and the VA-HUD bill, 12%. Ten subcommittees had jurisdiction over the remaining 28% of new discretionary budget authority.

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

Table 2. Distribution of FY1999 Enacted Discretionary Spending by Appropriations Subcommittee
(new budget authority in billions of dollars)

Subcommittee	Amount	Percentage of Total
Agriculture	19.608	3.4
Commerce-Justice-State	34.750	6.0
Defense	257.897	44.8
District of Columbia	0.620	0.1
Energy and Water Development	21.696	3.8
Foreign Operations	31.625	5.5
Interior	14.071	2.4
Labor-HHS-Education	83.811	14.5
Legislative Branch	2.559	0.4
Military Construction	8.660	1.5
Transportation	13.482	2.3
Treasury	16.089	2.8
VA-HUD	71.311	12.4
Total[a]	576.179	99.9

Source: U.S. Congressional Budget Office, *CBO's Current Status of Discretionary Appropriations*, Table 2 (compiled Oct. 21, 1998), http://www.cbo.gov, visited March 8, 1999.

[a] Details may not add to totals due to rounding.

Continuing Resolutions

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

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 stopped and federal workers hired to perform those services did not report for duty.

In 18 of the past 23 years (FY1977-FY1999), Congress and the President have not completed action on a majority of regular bills by the start of the fiscal year. In six years, they did not finish any of the bills by the deadline. They completed action on all 13 bills on schedule only four times.

Traditionally, Congress passes a few short-term continuing resolutions to provide funding until action is completed on all the regular bills. In contrast to funding practices in regular appropriations bills (*i.e.*, providing appropriations for each account), short-term continuing resolutions generally provide funding with formulas. For example, the short-term continuing resolution could provide that funding levels for each activity in the regular bills covered will be the lowest of the following: the amount provided last year, the amount provided in the House-passed bill, or the amount provided in the Senate-passed bill. Short-term continuing resolutions frequently base the formulas on the latest House and Senate action on the regular bills covered.

In addition to short-term continuing resolutions, Congress also sometimes enacts full-year continuing resolutions. These measures provide full-year funding in the continuing resolution for the outstanding regular bills, instead of eventually enacting each regular bill separately. In 13 of the past 23 years, Congress has enacted full-year continuing resolutions (see **Table 3**). Recently, the funding method for these continuing resolutions is similar to the regular bills; formulas are not used.

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

From FY1977 through FY1999, Congress enacted on average three continuing resolutions per year. (For FY1996, Congress enacted 14 continuing resolutions.[34])

[34] Two of the bills providing continuing appropriations did not originate as appropriations bills. The two bills originated as (1) a bill regarding the conveyance of a National Marine Fisheries Service laboratory and (2) a bill authorizing an extension of most-favored-nation treatment to Bulgarian products. Subsequently, Congress adopted amendments to both bills that provided continuing appropriations.

Table 3. Number of Regular Appropriations Bills Enacted Separately and in Continuing Resolutions, FY1977-FY1999

Fiscal Year	Presidential Administration	Enacted Separately	Enacted in Continuing Resolution
1977	Ford	13	0
1978	Carter	12	1
1979		12	1
1980		10	3
1981		8	5[c]
1982	Reagan	9	4
1983		6	7
1984		10	3
1985		5	8
1986		6	7
1987		0	13
1988		0	13
1989		13	0
1990	Bush	13	0
1991		13	0
1992		12	1
1993		13	0
1994	Clinton	13	0
1995		13	0
1996		7	6[d]
1997		7[a]	0
1998		13	0
1999		5[b]	0

Sources: U.S. Congress, House, *Calendars of the U.S. House of Representatives and History of Legislation*, 94th-105th Congresses (Washington: GPO, 1976-1998); and U.S. Congress, Senate Committee on Appropriations, *Appropriations, Budget Estimates, Etc.*, committee prints, 94th Cong., 2nd sess.-103rd Cong., 2nd sess. (Washington: GPO, 1976-1985).

[a] Six regular bills were packaged in one omnibus regular bill. They were not funded in a continuing resolution.

[b] Eight regular bills were packaged in one omnibus regular bill. They were not funded in a continuing resolution.

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

[d] An FY1996 continuing resolution (P.L. 104-99) provided full-year funding for the FY1996 foreign operations regular bill; however, the continuing resolution provided that the foreign operations measure be enacted separately (P.L. 104-107). It is included in this amount.

Supplementals

During the fiscal year, Congress frequently considers one or more supplemental appropriations measures that provide additional funds for specified activities. For example, during FY1998 (the spring of calendar year 1998), Congress considered one FY1998 supplemental. Supplementals may provide funding for unforeseen needs, such as funds to recover from an earthquake or flood, or to increase or provide funding for other programs. Sometimes Congress includes supplemental appropriations in regular bills and continuing resolutions. Supplemental appropriations measures provide appropriations by account and may include earmarks.

During calendar year 1998, the following appropriations measures were enacted into law:

- One FY1998 supplemental;
- Five FY1999 separate regular appropriations bills;
- Eight FY1999 packaged in the FY1999 omnibus bill; and
- Six FY1999 short-term continuing resolutions.

Spending Ceilings for Appropriations Measures

Congress has established two processes for establishing and enforcing spending ceilings for appropriations measures. First, Congress established the congressional budget process through which it annually sets spending ceilings associated with the budget resolution and enforces those ceilings with parliamentary rules, or *points of order*, during congressional consideration of appropriations bills.[35] Second, Congress established the sequestration process. Under this process, Congress by statute has established certain discretionary spending ceilings that are enforced by automatic across-the-board reductions if enacted spending exceeds the ceilings.[36]

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[35] The congressional budget process was established by the Congressional Budget Act (for citation, see footnote 6).

[36] A sequestration process was originally established by the Balanced Budget and Emergency Deficit Control Act of 1985 (or Gramm-Rudman-Hollings)(P.L. 99-177, 99 Stat. 1037, 1038). Congress enacted major revisions in the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (P.L. 100-119, 101 Stat. 754). As an amendment to Gramm-Rudman-Hollings, Congress established the current sequestration process in the Budget Enforcement Act of 1990 (P.L. 101-508, 104 Stat. 1388-573 to 1388-630). This Act was subsequently amended by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, 107 Stat. 312), Budget Enforcement Act of 1997 (P.L. 105-33, 111 Stat. 251), Transportation Equity Act for the 21st Century (P.L. 105-178, 112 Stat. 107), and Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206, 112 Stat. 685).

Budget Resolution

Allocations. As mentioned previously, the budget resolution distributes the total new budget authority and outlays among the House and Senate committees with jurisdiction over spending, including the House and Senate Appropriations Committees. Through this allocation process, the budget resolution sets total spending ceilings for each House and Senate committee (referred to as the *302(a) allocations*).[37] **Table 4** provides the original provisional 302(a) allocations to the House and Senate Appropriations Committees for FY1999.[38]

The discretion to establish discretionary spending ceilings in the budget resolution for the Appropriations Committees is limited. The Budget Enforcement Act of 1997 established *discretionary spending limits* (or *caps*) for FY1998 through FY2002 (see **Table 5**).[39] These limits are enforced by sequestration (see *Sequestration Process* below) and parliamentary rules in the Senate (see *Enforcement of Budget Resolution Ceilings* below). While the House Budget Committee may (and for FY1999 did) report a FY1999 budget resolution with lower discretionary spending ceilings, the sequestration enforcement mechanism constrains efforts to increase the ceilings.

After the Appropriations Committees receive their 302(a) allocations, they divide their allocations among their 13 subcommittees. This subdivision is referred to as the *302(b) allocations*.[40] **Table 6** provides a House Appropriations Committee's 302(b) subdivision of discretionary and total spending for FY1999. Making 302(b) allocations is within the jurisdiction of the House and Senate Appropriations Committees, and they typically make revisions to reflect the action on the appropriations bills.

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

[38] Anticipating a delay in completion of the FY1999 budget resolution, the Senate and House Appropriations Committees received provisional 302(a) allocations for FY1999. The House adopted a special rule providing for consideration of the first FY1999 regular appropriations that included interim 302(a) allocations for the House Appropriations Committee. The Senate adopted S.Res. 209, which provided interim 302(a) allocations for the Senate Appropriations Committee. The provisional allocations to both Appropriations Committees were to expire upon completion of the FY1999 budget resolution.

The Budget Enforcement Act of 1997 provides for specified increases in the 302(a) allocations under certain conditions. See section 302(a)(5) of the Congressional Budget Act for guidelines for allocations absent completion of the budget resolution.

[39] The data provided in Table 5 was compiled on July 8, 1998. Since then, the Office of Management and Budget has periodically adjusted the ceilings due to statutory requirements. The out-of-date information is provided here in order to demonstrate the relationship between the discretionary spending limits and the 302(a)/302(b) allocations. The information is contemporary to the data in Tables 4 and 6. The most current data is available from the Congressional Budget Office.

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

Table 4. FY1999 Appropriations Committees' Provisional 302(a) Allocations
(in billions of dollars)

Spending	House	Senate
Discretionary		
Defense		
New Budget Authority	—	271.570
Outlays	—	266.635
Non-Defense		
New Budget Authority	—	255.450
Outlays	—	289.547
Violent Crime Reduction		
New Budget Authority	—	5.800
Outlays	—	4.953
Total Discretionary[a]		
New Budget Authority	531.961	(532.820)
Outlays	562.277	(561.135)
Mandatory[b]		
New Budget Authority	298.105	299.159
Outlays	290.858	291.731

Sources: H.Res. 477 and S.Res. 209 (105th Congress).

[a] The differences between the House and Senate Committees' discretionary amounts are due to adjustments included in the House amounts that were not included in the Senate amounts. After the Senate Appropriations Committee received it's allocations, the Transportation Equity Act for the 21st Century (P.L. 105-178) was enacted and the House adopted the conference report to H.R. 2676, Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206). Both provide discretionary spending adjustments. The House Appropriations Committee received it's allocations after this action and the allocations reflect these adjustments.

[b] The differences between the House and Senate Committees' mandatory amounts reflect differing score keeping practices.

Table 5. Discretionary Spending Limits, as Adjusted, FY1999-FY2002
Compiled July 8, 1998[a] (in billions of dollars)

Fiscal Year	Category					
	Defense	**Non-defense**	**Highway**	**Mass Transit**	**Violent Crime Reduction**	**General**
FY1999						
New Budget Authority	271.570	254.591	—	—	5.800	(531.961)
Outlays	266.635	264.403	21.885	4.401	4.953	(562.277)
FY2000						
New Budget Authority			—	—	4.500	531.626
Outlays			24.436	4.761	5.554	533.120
FY2001						
New Budget Authority			—	—		540.951
Outlays			26.204	5.190		537.744
FY2002						
New Budget Authority			—	—		549.981
Outlays			26.977	5.709		533.671

Source: U.S. Congress, Congressional Budget Office, CBO March (1998) Baseline Caps; Changes by Transportation Equity Act for the 21st Century; and Title IX of conference report to H.R. 2676, IRS Restructuring and Reform Act of 1998, 6/26/98.

[a] The data provided in Table 5 was compiled on July 8, 1998. Since then, the Office of Management and Budget has periodically adjusted the limits due to statutory requirements. The out-of-date information is provided here in order to demonstrate the relationship between the discretionary spending limits and the 302(a)/ 302(b) allocations. The most current data is available from the Congressional Budget Office.

Table 6. House Appropriations Committee's 302(b) Allocations for FY1999
(in billions of dollars)

Subcommittee	Discretionary Spending						Total Spending[a]
	Defense	Non-defense	Highway	Mass Transit	Violent Crime Reduction	Total	
Agriculture							
New Budget Authority		13.587				13.587	54.645
Outlays		14.002				14.002	47.089
Commerce-Justice-State							
New Budget Authority	.386	26.558			5.512	32.456	33.010
Outlays	.370	26.132			4.683	31.185	31.740
District of Columbia							
New Budget Authority		.491				.491	.491
Outlays		.484				.484	.484
Energy and Water Development							
New Budget Authority	12.019	8.720				20.739	20.739
Outlays	11.772	8.742				20.514	20.514
Foreign Operations							
New Budget Authority		12.475				12.475	12.520
Outlays		12.525				12.525	12.570
Interior							
New Budget Authority		13.370				13.370	13.428
Outlays		14.029				14.029	14.087
Labor-HHS-Education							
New Budget Authority		81.396			.156	81.552	301.985
Outlays		80.080			.141	80.221	301.667
Legislative Branch							
New Budget Authority		2.360				2.360	2.454
Outlays		2.340				2.340	2.434
Military Construction							
New Budget Authority	8.235					8.235	8.235
Outlays	9.100					9.100	9.100
National Security							

Subcommittee	Discretionary Spending						Total Spending[a]
	Defense	Non-defense	Highway	Mass Transit	Violent Crime Reduction	Total	
New Budget Authority	250.499	.027				250.526	250.728
Outlays	244.965	.027				244.992	245.194
Transportation							
New Budget Authority	.300	11.639	—	—		11.939	12.621
Outlays	.300	13.347	21.885	4.401		39.933	40.611
Treasury-Postal Service							
New Budget Authority		13.068			.132	13.200	26.639
Outlays		12.295			.129	12.424	25.863
VA-HUD							
New Budget Authority	.131	70.900				71.031	92.571
Outlays	.128	80.400				80.528	101.782
Total							
New Budget Authority	271.570	254.591	—	—	5.800	531.961	830.066
Outlays	266.635	264.403	21.885	4.401	4.953	562.277	853.135

Source: U.S. Congress, House Committee on Appropriations, *Suballocations to Subcommittees, Fiscal Year 1999 Budget Authority and Outlays*, http://www.house.gov/appropriations, approved June 16, 1998.

[a] Includes discretionary and mandatory spending.

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

House. Two key House points of order are the *302(f)* and *311(a)*.[41] These points of order apply to all appropriations measures reported by the committee as well as amendments and conference reports to the measures.

The 302(f) point of order prohibits floor consideration of appropriations that exceed the committee or subcommittee allocations of new budget authority (the 302(a) or 302(b) allocations, respectively). In effect, this point of order applies to total discretionary spending (and any mandatory spending initiated on the appropriations measures).[42] For example, the discretionary spending provided in the reported FY1999 Commerce-Justice-State bill could not exceed the Commerce-Justice-State subcommittee's total discretionary spending allocation for FY1999—$32.456 billion (see **Table 6**).[43]

The 311(a) point of order prohibits floor consideration of appropriations that would exceed the total new budget authority or outlay ceilings in the budget resolution. As various spending bills for a fiscal year are enacted, the amount of total new budget authority enacted and the resulting outlays accumulate and the budget resolution ceilings are eventually reached. An appropriations bill that would go over either of the ceilings is subject to the 311(a) point of order. If all the spending bills stay within their committee spending ceilings, a bill will not exceed the total ceilings

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

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

[43] Although the 302(f) point of order in the House enforces only new budget authority ceilings, under House rules amendments must also remain within the total discretionary new budget authority and outlay levels provided in the bill. Due to the 302(f) point of order, Members frequently must decrease budget authority in a bill for certain activities in order to finance increases in funding for other activities and to stay within the 302(a) or 302(b) allocations (the decreases are referred to as *offsets*).

Frequently, the increases and offsets Members prefer are not located in the same place in the bill, and the affected segments are considered at different times on the House floor. Generally, under House precedents, an amendment is subject to a point of order if it amends the bill in more than one place or if it amends a segment of the bill not yet under floor consideration (see *House Procedure*, Chapter 27, sec. 8.1). House Rule XXI, clause 2(f), protects offset amendments from these points of order if they do not increase budget authority or outlays in the bill. The rule also protects offset amendments from a demand that the amendments be divided and voted on in segments.

established in the budget resolution. However, in the past, some spending bills have exceeded their committee ceilings, thereby making bills subject to the 311(a) point of order. This point of order typically affects the last funding measures considered for a fiscal year (such as the supplementals).[44]

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

Senate. Three key Senate points of order are the *302(f), 312(b), and 311(a)*.[45] These points of order apply to all appropriations measures, both those reported by the committee and amended on the floor. They also apply to amendments, motions, and conferences reports to these measures.

In the Senate, the 302(f) point of order prohibits floor consideration of appropriations that exceed the subcommittee allocations in total new budget authority, total outlays, and each discretionary spending limit in new budget authority and outlays. As in the House, this point of order, in effect, applies to total discretionary spending (and any mandatory spending initiated on the appropriations measures). Appropriations cannot exceed any of the Senate subcommittee discretionary spending allocations.

The 312(b) point of order prohibits floor consideration of appropriations that exceed any of the discretionary spending limits in **Table 5** (although the "General"column for FY1999 is not separately enforceable). For FY1999, there are separate defense and non-defense limits, while for FY2000 they are combined into a single general category. The 311 point of order in the Senate is the same as in the House; however, it does not include the *Fazio Exception*.

Senators may make motions to waive any of these points of order at the time the issue is raised. Currently, a vote of three-fifths of all Senators (usually 60 Senators) is required in the Senate to approve a waiver motion for any of these points of order.[46]

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

[45] These refer to sections 302(f), 312(b), and 311(a), respectively, of the Congressional Budget Act.

[46] In both the House and Senate certain appropriations provisions are exempt from the Congressional Budget Act points of order. If a specific appropriation is designated as an emergency under the Balanced Budget and Emergency Deficit Control Act, the appropriation is not subject to the points of order. In addition, the Congressional Budget Act provides allowances for continuing disability reviews, earned income tax credit compliance initiatives, the International Monetary Fund, and arrearages for international organizations, international peacekeeping, and multilateral development banks.

Emergency-Designated Discretionary Spending. Any discretionary spending that both Congress and the President designate as emergency spending under the Balanced Budget and Emergency Deficit Control Act is effectively exempt from the Congressional Budget Act points of order and sequestration (see below). The allocations and discretionary spending limits are automatically adjusted to compensate for the emergency-designated spending. Emergency-designations were originally designed as a safety valve so that discretionary spending for emergencies, such as disaster assistance, could be expeditiously enacted.

Congress typically includes its emergency-designation language after the appropriation for each account to be protected in the appropriations bills, amendments, and conference reports. In the Senate, such designations for non-defense discretionary spending are subject to a point of order (sec. 206 of the FY2000 Budget Resolution, H.Con.Res. 68). In order to waive this point of order, a three-fifths vote is required.

Sequestration Process

Congress established in statute discretionary spending limits in both new budget authority and outlays for FY1991 through FY2002 (for an example, see **Table 5**).[47] The statute requires the Office of Management and Budget (OMB)[48] to make specific periodic adjustments to the discretionary spending limits.[49]

These spending limits are enforced through *sequestration*. If Congress enacts appropriations measures that exceed one of the discretionary spending limits in new budget authority or outlays, the President is required to issue an order providing for

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[47] The Budget Enforcement Act of 1997 (P.L. 105-33, 111 Stat. 251)divided FY1999 discretionary spending into three categories: defense, non-defense, and violent crime reduction. This Act continued the violent crime reduction limit through FY2000, but combined the defense and non-defense limits into one category (general) for FY2000-FY2002

The Transportation Equity Act for the 21st Century (P.L. 105-178, 112 Stat. 107) separated the highway and mass transit activities from the FY1999 non-defense and the FY2000-FY2002 general categories and established two additional categories—highway and mass transit. It also reduced the FY1999 non-defense and FY2000-FY2002 general categories. The Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206, 112 Stat. 685) provided amendments to the Transportation Act changing some of the spending levels.

The defense, non-defense, general, and violent crime reduction limits are in both budget authority and outlays, while the highway and mass transit limits are only in outlays.

[48] OMB is an agency in the Executive Office of the President. Its duties include assisting the President in preparing the budget and formulating the government's fiscal program, making recommendations regarding budget proposals and relevant legislation, and controlling the administration of the federal budget. U.S. National Archives and Records Administration, Office of the Federal Register, *The United States Government Manual 1994/1995* (Washington: GPO, July 1994), pp. 97-99.

[49] The adjustments are the amounts of certain enacted appropriations for those activities described in footnote 46 plus allowances for estimating differences in outlays and changes in concepts and definitions.

an automatic across-the-board reduction to eliminate the excess within that category. This automatic reduction permanently cancels budget authority and other budgetary resources for nonexempt programs.

Table 7 provides a possible FY1999 sequestration scenario. For FY1999, Congress established separate spending limits in new budget authority and outlays for defense activities, non-defense activities, and violent crime reduction activities and spending limits in outlays for highway and mass transit activities. OMB compares each limit to the total enacted amount funding the particular activities. Since the enacted amount of new budget authority for defense activities in the scenario exceeds the limit by $10 billion, an automatic across-the-board cut in new defense discretionary budget authority (and other budgetary resources) would be triggered to eliminate the excess budget authority. Funding for only defense programs, projects, and activities would be reduced.

A similar sequestration in non-defense new budget authority (and other budgetary resources) would occur. In calculating non-defense outlays, OMB must add any excess in highway or mass transit outlays to the non-defense outlays. In the non-defense scenario, a sequestration would be required to eliminate $6 billion in excess outlays ($5 billion non-defense outlays plus $1 billion mass transit outlays). This sequestration scenario would only effect nonexempt non-defense programs, projects, and activities. There would be no sequestration of the highway, mass transit, or violent crime reduction activities.

Table 7. FY1999 Sequestration Scenario
(billions of dollars)

	Discretionary Spending		
Category	**Limit**	**Enacted Amount**	**Difference**
Defense			
New Budget Authority	272.	282.	+10.
Outlays	267.	267.	—
Non-defense			
New Budget Authority	255.	255.	—
Outlays	264.	269.	+5.
Highway			
New Budget Authority	—	—	—
Outlays	22.	22.	—
Mass Transit			
New Budget Authority	—	—	—
Outlays	4.	5.	+1.
Violent Crime Reduction			
New Budget Authority	6.	6.	—
Outlays	5.	5.	—

During a calendar year, sequestration may occur for either of two separate fiscal years. In the spring and summer, sequestration may occur if individual supplemental appropriations acts enacted before July 1 exceed any of the discretionary spending limits.[50] Any such enactment occurring during the last quarter of the fiscal year (*i.e.*, between July 1 and September 30), however, would not cause an automatic across-the-board reduction, but would instead cause the appropriate discretionary spending limits for the next fiscal year to be reduced by the amount of the difference.

At the end of the session, sequestration may occur if the combined 13 regular appropriations measures and continuing resolutions, as enacted, exceed the discretionary spending limits.[51] For example, if the total enacted FY1999 regular bills had exceeded FY1999 limits, sequestration would have occurred (as demonstrated in **Table 7**).[52]

Relationship Between Authorization and Appropriations Measures

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

Authorization acts establish, continue, or modify agencies or programs. For example, an authorization act may change the structure or establish or modify programs within the Commerce Department. The authorization act also authorizes appropriations for specific agencies and programs, frequently setting spending ceilings for them. Authorization acts may provide permanent, annual, or multi-year

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[50] Sequestration will be triggered 15 days after enactment

[51] This sequestration would occur on the same day as any sequestration tied to enforcement of the "pay-as-you-go" procedure for mandatory spending and revenues measures. See U.S. Library of Congress, Congressional Research Service, *Manual on the Federal Budget Process*, by Allen Schick and Robert Keith, CRS Report 98-720 GOV, (Washington: updated periodically).

[52] As mentioned previously, statutorily required adjustments to the discretionary spending limits are made periodically. In October 1998, CBO estimated that the net effect of the adjustments to the FY1999 discretionary spending limits increased the limits. As a result, the amount of defense and non-defense spending enacted was within the budget authority limits. The entire defense adjustment was due to emergency-designated funds ($8.321 billion). Forty percent of the non-defense adjustment was due to emergency-designated funds ($13.123 billion), 55% was due to International Monetary Fund spending ($17.861 billion), and the remaining 5% ($1.532 billion) was due to four additional activities.

CBO estimated that the outlays exceeded the limits established for defense, non-defense, and mass transit spending. However, CBO's calculations are only advisory. OMB made the final determination regarding the application of the sequestration process and determined that the enacted appropriations were within each of the limits. (See CBO's *Final Sequestration Report for Fiscal Year 1999*, http://www.cbo.gov, visited Nov. 2, 1998.)

authorizations. Annual and multi-year authorization acts require re-authorizations when they expire. Congress is not required to provide appropriations for an authorized program.

Authorization measures are under the jurisdiction of authorizing committees such as the House Transportation and Infrastructure and Education and the Workforce Committees, or the Senate Judiciary and Energy and Natural Resources Committees. Most congressional committees are authorizing committees. Major non-authorization committees include the House and Senate appropriations and budget committees.[53]

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

The authorization-appropriations process enforces separation of these functions into separate measures with points of order prohibiting certain provisions in appropriations measures.[54] The House and Senate prohibit, in varying degrees, language in appropriations bills providing *unauthorized appropriations* or *legislation on an appropriations bill* (or *riders*).

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

House rules prohibit unauthorized appropriations and riders in regular appropriations bills and supplementals, which provide funds for more than one purpose or agency (referred to in the House as *general appropriations bills*). However, House rules do not prohibit such language in continuing resolutions. The House prohibition applies to bills reported by the House Appropriations Committee, amendments, and conference reports. The House may adopt a special rule waiving this rule prior to floor consideration of the appropriations bill or conference report.[55] Unauthorized earmarks are allowed in House Appropriations Committee reports and joint explanatory statements because the rule applies only to the text of the bills, amendments, and conference reports.

In the Senate, unauthorized appropriations and riders are treated differently. The Senate rule regarding such language applies to regular bills, supplementals which

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

[54] House Rule XXI, clause 2; House Rule XXII, clause 5; and Senate Rule XVI. House rules also prohibit appropriations in authorization measures, amendments, or conference reports (Rule XXI, clause 4, and Rule XXII, clause 6).

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

provide funds for more than one purpose or agency, and continuing resolutions (referred to in the Senate as *general appropriations bills*).

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

- Introduced on the Senate floor;
- Reported by the Senate Appropriations Committee to the House-passed measure; or
- Proposed as a substitute for the House-passed text.

This rule does not apply to provisions in Senate bills or conference reports. For example, this rule did not apply to provisions in S. 1005, the FY1998 Defense appropriations bill, as reported by the Senate Appropriations Committee. But it did apply to provisions in H.R. 2107, the FY1998 Interior bill, as reported by the Senate Appropriations Committee, since this version of the bill consisted of amendments to the House-passed bill.[56]

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

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

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[56] The Senate rule reflects Senate practices at the time the rule was established. As mentioned earlier, 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. Recently, the Senate Appropriations Committee began reporting most or all of the bills as original Senate bills.

The Senate rule prohibits riders in both Senate Appropriations Committee amendments and non-committee amendments.[57] It also prohibits non-germane amendments.

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

Rescissions

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

The President may recommend rescissions to Congress, but it is up to Congress to act on them. Under Title X of the Congressional Budget Act,[58] Congress must pass a bill approving the President's rescissions within 45 days of *continuous session of congress* or the budget authority must be spent.

> In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer.[59]

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[57] In March 1995, the Senate set a precedent that in effect struck prior precedents setting standards for defining a rider. This action effectively made the prohibition against riders inoperative. On July 26, 1999, the Senate adopted S.Res. 160 restoring those precedents. (For more information, see U.S. Library of Congress, Congressional Research Service, *S.Res. 160 and Reversing the Hutchison and FedEx Precedents*, by Paul S. Rundquist, CRS report RS20276.)

Under Senate precedents, an amendment containing a rider may be considered if it is germane to language in the House-passed appropriations bill. That is, if the House opens the door by passing a rider in an appropriations bill, the Senate has an "inherent right" to amend it. Prior to 1995, amendments containing riders were routinely considered using the *defense of germaneness*. However, since the current practice of the Senate Appropriations Committee to report original Senate bills, rather than the House-passed bill with amendments, there is no House language to which a rider could be germane. Therefore, the defense of germaneness is generally no longer available.

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

[59] U.S. Library of Congress, Congressional Research Service, *Item Veto and Expanded Impoundment Proposals*, by Virginia A. McMurtry, CRS Issue Brief 89148, updated March 15, 1999 (Washington: continually updated), p. 3.

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

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

For Additional Reading

CRS Reports

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

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

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

CRS Report 97-930 GOV. *The Budget Enforcement Act of 1997: A Fact Sheet*, by Robert Keith.

CRS Report 96-934 GOV. *Congressional Budget Resolutions: Formulation, Content, and Historical Information*, by Jennifer Suttle.

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

CRS Report 97-892 GOV. *Continuing Appropriations Acts: Brief Overview of Recent Practices*, by Sandy Streeter.

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

CRS Report 98-726 GOV. *Government Performance and Results Act and the Appropriations Process*, by Sandy Streeter.

CRS Report 93-729 S. *The House Appropriations Process, 1789-1993*, by Louis Fisher.

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

CRS Report 98-720 GOV. *Manual on the Federal Budget Process*, by Allen Schick and Robert Keith.

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

CRS Report 97-611 GOV. *Proposals for an Automatic Continuing Resolution*, by Robert Keith.

CRS Info Packs

Info Pack 012B. *Budget Process Info Pack*, prepared by the Information Research Division.

CRS Fact Sheets on the Budget Process

http://www.loc.gov/crs/legproc/newformat/CRSFactSheets/FactSheetMenuNF.html#BudgetProcess

Congressional Documents

United States Congress. House. *Rules of the House of Representatives: 106th Congress*, by Jeff Trandahl, Clerk of the House of Representatives. January 7, 1999.

United States Congress. House. *House Practice: A Guide to the Rules, Precedents and Procedures of the House*. 104th Cong., 2d. Sess., 1996. Washington: GPO, 1996.

United States Congress. House. *Procedure in the U.S. House of Representatives*. 97th Cong., 2d Sess., 1982. Washington: GPO, 1982.

United States Congress. Senate. *Riddick's Senate Procedure*. 101st Cong., 2d Sess., 1992. Washington: GPO, 1992.