Order Code RL33127

CRS Report for Congress
Received through the CRS Web

Speaker Hastert's Plan to Offset Spending: A Procedural Perspective

October 26, 2005

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Summary

Beginning in September 2005, Congress and the President have enacted various measures intended to provide relief to the victims of Hurricane Katrina and Hurricane Rita and to fund reconstruction activities. Legislative efforts in this area are expected to continue this session and into the next. Republican leaders in the House and Senate and others have expressed concern about the impact of these relief and reconstruction efforts on the federal deficit and have indicated that they would develop plans to enact offsets to the relief costs.

On October 6, 2005, Speaker of the House J. Dennis Hastert issued a press release on a plan developed by House Republican leaders. The plan (the "Hastert Plan") has four elements, according to the Speaker's press release:

- an increase of $15 billion or more in the mandatory savings required to be achieved through the budget reconciliation process, from about $35 billion for FY2006-FY2010 to at least $50 billion for that period, as well as the "dollar-for-dollar" offset of any new mandatory spending for disaster relief included in reconciliation legislation;
- continued restraint on discretionary spending, including an additional across-the-board cut in discretionary spending for FY2006;
- packages of additional rescissions to further help offset reconstruction costs; and
- the permanent elimination, through "deauthorization," of programs already "zeroed out" in the current appropriations process.

According to a preliminary assessment made by the Senate Budget Committee on October 24, 2005, the five-year costs stemming from these measures, covering FY2006-FY2010, are estimated at $70.913 billion. Most of the relief costs — $62.3 billion — is attributable to two emergency supplemental appropriations acts, P.L. 109-61 and P.L. 109-62. The Senate Budget Committee's preliminary assessment does not reflect several measures also enacted into law in September and October, still pending in the House or Senate, or expected to be considered at a later time. These measures could increase the relief costs by tens of billions of dollars.

The Speaker's press release stated that the first step in implementing the plan may be the consideration of a revised budget resolution for FY2006 in the coming days. House action on a revised budget resolution tentatively was scheduled for Thursday, October 20, but action was postponed and has not yet been rescheduled. In the Senate, the Republican leadership has announced its support for enacting offsets, but has not yet specified a plan to do so or indicated any intent to consider a revised budget resolution.

This report will be updated as developments warrant.

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This report provides background on the "Hastert Plan" to enact legislation offsetting the increased budget costs stemming from relief and reconstruction efforts associated with Hurricanes Katrina and Rita. Following a background section and a brief tally of potential costs to be offset, the report examines the various procedures that could be used to formalize and implement the plan. Other offset plans that have been offered are not addressed specifically in this report, but they likely would involve some or all of the same procedures discussed here.[1]

Background

Beginning in September 2005, Congress and the President have enacted various measures intended to provide relief to the victims of Hurricane Katrina and Hurricane Rita and to fund reconstruction activities.[2] Legislative efforts in this area are expected to continue this session and into the next. Republican leaders in the House and Senate and others have expressed concern about the impact of these relief and reconstruction efforts on the federal deficit and have indicated that they would develop plans to enact offsets to the relief costs.

In submitting his budget for FY2006, President George W. Bush renewed his goal, announced in the preceding year, of cutting the deficit in half in five years (from FY2004 to FY2009). In his FY2005 budget, President Bush had estimated that the FY2004 deficit would be $521 billion, or 4.5% of Gross Domestic Product (GDP), and would decline to $237 billion, or 1.6% of GDP, by FY2009.[3] A year later, in his FY2006 budget, he projected that the FY2009 deficit would be slightly lower than first estimated, $233 billion, or 1.5% of GDP.[4]

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[1] See, for example, a plan announced by seven Senators, who refer to themselves as the "Fiscal Watch Team": *Dr. Coburn, Fiscal Watch Team Unveil Plan to Pay for Katrina Spendin*g, press release (and PDF attachment), Oct. 25, 2005, available at [http://coburn.senate.gov] The plan would involve, among other things, an across-the-board cut in discretionary spending.

[2] Hurricane Katrina made landfall in Louisiana, Mississippi, and Alabama on August 29, 2005 (after impacting Florida on August 25), and Hurricane Rita made landfall in Louisiana and Texas on September 24. CRS reports on different aspects of this issue are listed on the CRS Web page [http://www.crs.gov] under the Current Legislative Issues term "Disaster — Hurricanes."

[3] Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2005*, Feb. 2, 2004, p. 365 (Table S-1. Budget Totals).

[4] Office of Management and Budget, *Budget of the United States Government, Fiscal Year* (continued...)

The FY2006 budget resolution, adopted by the House and Senate on April 28, 2005, adhered closely to the President's deficit-reduction goal, recommending a deficit for FY2009 of $238 billion.[5]

On October 6, 2005, Speaker of the House J. Dennis Hastert issued a press release on a plan developed by House Republican leaders.[6] In commenting on the plan, Speaker Hastert noted:

> Hurricanes Katrina and Rita have dealt a severe blow to our nation, both in terms of human and economic losses. We can and will recover, but it will require some serious belt-tightening throughout the federal government. House Republican leadership, Committee Chairmen and key members of the conference have worked together to come up with a proposal we believe can accomplish this task. In order to maintain our commitment to deficit reduction, we are proposing to move a mid-session Budget Amendment for the first time in almost 30 years (1977). The Amendment will increase the total amount of savings which can help pay for these unexpected costs. (emphasis in the original)

The "Hastert Plan" has four elements, according to the Speaker's press release:

- an increase of $15 billion or more in the mandatory savings required to be achieved through the budget reconciliation process, from about $35 billion for FY2006-FY2010 to at least $50 billion for that period, as well as the "dollar-for-dollar" offset of any new mandatory spending for disaster relief included in reconciliation legislation;
- continued restraint on discretionary spending, including an additional across-the-board cut in discretionary spending for FY2006;
- packages of additional rescissions to further help offset reconstruction costs; and
- the permanent elimination, through "deauthorization," of programs already "zeroed out" in the current appropriations process.

As announced by the Speaker, the plan does not indicate what portion or amount of costs are to be offset. The Speaker's press release stated that the first step in implementing the plan may be the consideration of a revised budget resolution for FY2006 in the coming days. House action on a revised budget resolution tentatively was scheduled for Thursday, October 20, but action was postponed and has not yet been rescheduled.[7] In the Senate, the Republican leadership has announced its

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[4] (...continued)
2006, Feb. 7, 2005, pp. 1-5 and p. 343 (Table S-1. Budget Totals).

[5] *Concurrent Resolution on the Budget for Fiscal Year 2006*, conference report to accompany H.Con.Res. 95, H.Rept. 109-62 (Apr. 28, 2005), p. 50.

[6] Speaker's Press Office, *Speaker Hastert Comments on Republicans' Initial Spending Cut Proposal*, Oct. 6, 2005, available on the Web at [http://www.speaker.gov]

[7] See: (1) "Leaders Delay Budget Vote in House," by Susan Davis and Peter Cohn, (continued...)

support for enacting offsets, but has not yet specified a plan to do so or indicated any intent to consider a revised budget resolution.

Following a brief assessment of the tally so far of the costs that potentially could be offset, the procedures that may be used to implement the plan are discussed.

Tally of the Potential Costs to be Offset

Congress and the President have responded to the need for hurricane-related relief by enacting into law various measures with significant budget costs, both in providing additional spending and reducing revenues. Further legislative action in this regard is expected to occur as the session continues and may extend into the next session.

According to a preliminary assessment made by the Senate Budget Committee on October 24, 2005, the five-year costs stemming from these measures, covering FY2006-FY2010, are estimated at $70.913 billion (see **Table 1**). Most of the relief costs — $62.3 billion — is attributable to two emergency supplemental appropriations acts, P.L. 109-61 and P.L. 109-62.

The Senate Budget Committee's preliminary assessment does not reflect several measures also enacted into law in September and October, still pending in the House or Senate, or expected to be considered at a later time. These measures could increase the costs for hurricane-related relief by tens of billions of dollars.

Table 1. Costs of Hurricane-Related Relief Measures Enacted Into Law

(as of October 24, 2005)

Act	Public Law Number	Date Enacted	Five-Year Costs ($ Billions)
Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (H.R. 3645)	P.L. 109-61	09-02-2005	10.500
Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (H.R. 3673)	P.L. 109-62	09-08-2005	51.800

[7] (...continued)
CongressDaily AM, Oct. 20, 2005; (2) "Senate Panel Looks to Finish Cuts Oct. 24; Blunt Plans to Try Again on Amendment," by Jonathan Nicholson, *BNA Daily Report for Executives*, no. 203, Oct. 21, 2005, p. G-9; and (3) "Blunt Won't Gamble on Budget Votes," by Alexander Bolton, *The Hill*, Oct. 21, 2005.

National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (H.R. 3669)	P.L. 109-65	09-20-2005	2.000
Pell Grant Hurricane and Disaster Relief Act (H.R. 3169)	P.L. 109-66	09-21-2005	0.002
TANF Emergency Recovery and Response Act of 2005 (H.R. 3672)	P.L. 109-68	09-21-2005	0.294
Katrina Emergency Tax Relief Act of 2005 (H.R. 3768)	P.L. 109-73	09-23-2005	6.114
Natural Disaster Student Fairness Act (H.R. 3863)	P.L. 109-86	10-07-2005	0.036
Community Disaster Loan Act of 2005 (S. 1858)	P.L. 109-88	10-07-2005	0.000
Medicare Cost Sharing and Welfare Extension Act of 2005 (H.R. 3971)	P.L. 109-91	10-20-2005	0.167
Total			**70.913**

Sources: Prepared by the Congressional Research Service based information provided by the: (1) Senate Budget Committee, "Senate Budget Committee Releases Current Tally of Hurricane-Related Spending," Oct. 24, 2005, at [http://www.senate.gov/~budget/republican]; (2) Congressional Budget Office, Cost Estimate on H.R. 3863, Natural Disaster Student Fairness Act, Oct. 4, 2005; and (3) Legislative Information System, Public Law database.

Notes: "Costs" include both revenue and outlay changes; P.L. 109-88 reappropriated $750 million from Emergency Supplemental Bills/Disaster Relief Fund.

Implementing Procedures

Several different budgetary procedures could be employed to formalize and implement the "Hastert Plan." Each procedure, and its possible application under the "Hastert Plan," is discussed briefly below.

Revised Budget Resolution. The House and Senate formalize their budget plans each year through the adoption of a budget resolution, as required by Section 301 of the Congressional Budget Act of 1974.[8] The budget resolution, which is not sent to the President and does not become law, reflects the agreement of the House and Senate and serves as an internal guide to congressional action on legislation to

[8] The Congressional Budget Act is Titles I-IX of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; July 12, 1974; 88 Stat. 297-339), as amended and codified at 2 U.S.C. 621-692. The House and Senate have reached final agreement on a budget every year since the inception of the congressional budget process in 1975, except in 1998 (for FY1999), 2002 (for FY2003), and 2004 (for FY2005). For more information on budget resolutions over the years, see CRS Report RL30297, *Congressional Budget Resolutions: Selected Statistics and Information Guide*, by Bill Heniff Jr.

implement budget policies. The budget resolution sets forth aggregate levels of revenues, spending, the debt limit, and the surplus or deficit, as well as allocations of spending (both budget authority and outlays) by each of 20 major functional categories of the budget. Additionally, the budget resolution may include certain optional matters, such as reconciliation directives.

Enforcement of budget resolution policies relies primarily upon points of order and reconciliation procedures keyed to the budget levels established in the budget resolution. Point-of-order provisions contained in the 1974 act, which sometimes are supplemented by point-of-order provisions carried in annual budget resolutions, allow any Member in either chamber to prevent the consideration of legislation that would violate budget resolution policies.[9] Of course, points of order are not self-enforcing and may be waived with a sufficient majority, thereby allowing legislation in violation of budget resolution policies to be considered. In the Senate, most of the points of order pertaining to budget enforcement require the affirmative vote of three-fifths of the membership (60 votes, if no seats are vacant) in order to be waived.

The purpose of the budget reconciliation process, which is an optional procedure that operates as an adjunct to the annual budget resolution, is to change substantive law so that revenue, mandatory spending, and public debt limit levels are brought into line with budget resolution policies. (The reconciliation process is discussed in more detail below.)

Constraints on the growth of discretionary spending, which is provided in annual appropriations acts, relies primarily on the enforcement of spending suballocations made by each of the House and Senate Appropriations subcommittees under Section 302(b) of the 1974 act. Constraints on the growth of mandatory spending, which is provided mainly in substantive law, rely principally on the enforcement of spending allocations made to each legislative committee under Section 302(a) of the 1974 act, as well as on the reconciliation process.

As stated earlier, the House and Senate reached final agreement on a budget resolution for FY2006 (H.Con.Res. 95) on April 28, 2005.[10] The aggregate and functional spending levels in the budget resolution, and the spending allocations made to the House and Senate Appropriations Committees, reflected the assumption that discretionary spending for FY2006 would total $843 billion in new budget authority (plus an additional $50 billion for costs of the war on terrorism). In addition, the budget resolution included reconciliation instructions expected to lead to the development of several reconciliation measures, including an omnibus spending bill that would reduce mandatory outlays by about $35 billion over FY2006-FY2010.

The "Hastert Plan" could be established on a formal basis by revising pertinent budget levels and related matters in the FY2006 budget resolution. Specifically, the

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[9] For a listing of the points of order, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[10] *Concurrent Resolution on the Budget for Fiscal Year 2006*, conference report to accompany H.Con.Res. 95, H.Rept. 109-62 (Apr. 28, 2005), p. 50.

aggregate spending levels and functional allocations of spending, and the spending suballocations made under Section 302(b) to the House and Senate Appropriations Committees, could be reduced to reflect the anticipated across-the-board spending cut. In addition, the reconciliation instructions to achieve savings in mandatory outlays could be increased by the amount contemplated by the plan, and the associated spending aggregates, functional allocations, and committee allocations under Section 302(a) could be further reduced accordingly. Finally, the resultant deficit levels could be revised downward for consistency with the reduced spending levels.

There are two main procedural advantages to revising the FY2006 budget resolution at this late point in the session. First, by revising all of the pertinent elements of the budget resolution, the total dimensions of the plan, and its implications for each element, are more readily apparent. The embodiment of the plan in a legislative vehicle would afford Members an opportunity to debate it as a whole, and possibly to offer amendments to it. Second, revision of the budget levels would provide an updated basis of enforcement, particularly with regard to adjusted Section 302(b) suballocations of spending applicable to the consideration of the remaining regular and supplemental appropriations acts for FY2006.

An attempt to revise the FY2006 budget resolution at this late point in the session may, however, entail procedural disadvantages. The eight House and eight Senate committees subject to spending reconciliation instructions, for example, may all finish their markups of reconciliation submissions before a revised budget resolution is adopted. Although House and Senate leaders previously requested that they boost mandatory outlay savings beyond the instructed levels, some committees may not be able to do so to the degree contemplated by a revised budget resolution, or at all. Accordingly, some committees might find themselves out of compliance with a revised reconciliation instruction, with little or no opportunity to resolve the matter.

The principal difficulty with respect to a revision of the budget resolution in this instance is that Senate leaders have not indicated a desire to join the House in such an effort. Inasmuch as a budget resolution reflects the concurrence of the two chambers, action by only one chamber may seem like a futile or empty gesture by some. Nonetheless, action by the House, but not the Senate, on budget resolution revisions may be seen as a means of garnering support for the later implementation of the plan in that chamber.

Although revision of the FY2006 budget resolution may be desirable in furthering the goals of the "Hastert Plan," the goals still may be accomplished without such a revision. There is no procedural impediment to approving discretionary spending levels that are less than those allowed under the Section 302(b) suballocations, or in achieving savings in mandatory outlays that are greater than those required under the reconciliation instructions. These outcomes can be achieved with only simple majority votes in each chamber.

Pursuant to the 1974 act and related House and Senate practices, budget levels and other matters in a budget resolution may be revised or adjusted in several ways.[11] The "Hastert Plan" advocates the use of a revised budget resolution, which may be the most practical means of making budget resolution revisions at this stage of the budget process. Other means of revision involve significant shortcomings, such as entailing significant delay (i.e., by folding revisions for FY2006 into the FY2007 budget resolution) or being anticipated beforehand (i.e., through the inclusion of reserve funds or other procedures in the FY2006 budget resolution).

Section 304 of the 1974 act authorizes the House and Senate to adopt a revised budget resolution for a fiscal year as a separate measure.[12] This action may occur at any time after the initial budget resolution for that fiscal year (required by Section 301) has been agreed to, but before the applicable fiscal year has ended. The revised budget resolution may change any or all of the budget levels or other matter contained in a prior resolution, or merely reaffirm them.

During the consideration of a revised budget resolution, the regular procedures for the consideration of a budget resolution set forth in Section 305 of the 1974 act apply. Section 305(b)(1) provides a debate limitation of 15 hours in the Senate for the consideration of a revised budget resolution (compared to a debate limitation of 50 hours for the budget resolution required under Section 301).

The House and Senate adopted a revised budget resolution under Section 304 as a separate measure only once, in March 1977 for FY1977. Due to the fact that two budget resolutions already had been adopted in 1976 for FY1977, as was required at the time, the revised budget resolution was referred to as the "third budget resolution" for that fiscal year. The development of the third budget resolution for FY1977 stemmed from budget revisions, including a stimulus package, submitted to Congress by incoming President Jimmy Carter at the beginning of the 1977 session.

Budget Reconciliation Process. As indicated previously, the purpose of the budget reconciliation process is to change substantive law so that revenue, mandatory spending, and public debt limit levels are brought into line with budget resolution policies.[13] Reconciliation is a two-step process. Under the first step, reconciliation instructions are included in the budget resolution, directing one or more committees in each House to develop legislation that changes revenues, spending, or the public debt limit by the amounts specified in the budget resolution.

Under the second step of the reconciliation process, reconciliation legislation is considered in the House and Senate under expedited procedures (for example,

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[11] For further information on this topic, see CRS Report RL33122, *Congressional Budget Resolutions: Revisions and Adjustments*, by Robert Keith.

[12] Section 304 of the 1974 act originally was codified at 31 U.S.C. 1325, in the title dealing with "Money and Finance." As part of the recodification and enactment of Title 31 under P.L. 97-258 (Sept. 13, 1982), the provision was moved to Title 2, which pertains to "The Congress."

[13] The reconciliation process is examined extensively in CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

debate time in the Senate on a reconciliation measure is limited to 20 hours and amendments must be germane). The process culminates when the reconciliation legislation is enacted, and the policies of the budget resolution are put into effect, or the reconciliation legislation is vetoed (and the veto is not overridden).

The FY2006 budget resolution included reconciliation instructions expected to lead to the development of three different reconciliation measures: (1) an omnibus spending bill that would reduce mandatory outlays by about $35 billion over FY2006-FY2010; (2) a revenue bill that would reduce revenues by $70 billion over the same period; and (3) a bill that would increase the limit on the public debt by $781 billion.

The "Hastert Plan" advocates increasing the savings in mandatory outlays by $15 billion over FY2006-FY2010. As discussed above, a revised budget resolution could be adopted that would increase the spending reconciliation instructions to some or all of the eight House and eight Senate committees already subject to them. The adoption of a revised budget resolution is not necessary, however, to achieve this outcome. The savings targets set in the spending reconciliation instructions are viewed as floors, not ceilings. Accordingly, each of the instructed committees may recommend savings that exceed the instructed levels without committing procedural violations.

Under the FY2006 budget resolution, each of the committees subject to spending reconciliation instructions was to submit its recommendations to its respective Budget Committee by September 16, 2005. By informal agreement, the deadline was extended into late October, when the House and Senate Budget Committees are scheduled to assemble and report the omnibus reconciliation bill.

To the extent that committee submissions to the Budget Committees do not increase the mandatory outlay savings by an additional $15 billion, additional savings could be proposed during House and Senate floor action on the omnibus reconciliation bill. In assembling the omnibus measure, the Budget Committees are proscribed by the 1974 act from making "any substantive revision" in the legislative recommendations submitted to them by the instructed committees.

While floor amendments proposing greater mandatory outlay savings could be offered, they could run afoul of other procedural obstacles, such as the requirement that amendments to reconciliation measures be germane. Constraints on the offering of such amendments could be set aside in the House by the use of a special rule reported by the House Rules Committee. (In the House, reconciliation measures usually are considered under the terms of a special rule.) In the Senate, the motion to recommit with instructions also is available, and it affords more latitude with respect to germaneness if it is used to remedy noncompliance by a committee. Amendments offered in the Senate are subject to an additional constraint, the Byrd rule (Section 313 of the 1974 act), which bars the inclusion of extraneous material.[14]

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[14] For additional information on the operation of the rule, see CRS Report RL30862, *The Budget Reconciliation Process: The Senate's "Byrd Rule,"* by Robert Keith.

Across-the-Board Cut in Discretionary Spending. Another element in the "Hastert Plan" is an across-the-board cut in discretionary spending, although the size of the cut and other features remain to be determined. Across-the-board spending cuts typically take the form of rescissions of a specified percentage of budget authority or other resources, but could be formulated as rescissions of fixed amounts, as well.

The House and Senate have considerable experience in recent years in using across-the-board cuts in discretionary spending to achieve certain budgetary goals. In five of the past six fiscal years (FY2000-FY2005, excluding FY2002), Congress and the President brought action on the regular appropriations acts for the fiscal year to a close by incorporating unfinished acts into an omnibus appropriations measure. Each of the five omnibus acts included an across-the-board spending cut to offset part of the measure's cost.[15]

The five across-the-board spending cuts enacted previously, which were all stated as percentages, ranged in size from 0.22% to 0.80% of covered appropriations, and an estimated $1.1 billion to $3.5 billion in savings:

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

An across-the-board cut of 1.0% in all discretionary spending for FY2006, to illustrate the potential budgetary impact, would yield savings of $8.43 billion in new budget authority for that year, with an equivalent amount of outlay savings spread out over several years, if the FY2006 appropriations adhere to the budget resolution assumption of $843 billion in new budget authority (not counting the additional $50 billion for the war on terrorism).

If an omnibus appropriations act is not used to wrap up action on the regular appropriations acts for FY2006, an across-the-board spending cut could be included in any of the remaining appropriations acts and made applicable to all or some of the other appropriations acts. By expanding the application of an across-the-board spending cut to other appropriations acts, a provision might be judged as "legislative" in character, which generally violates House and Senate rules. The rules are not self-enforcing, however, and should such a point of order threaten the spending-cut provision, the point of order could be waived by a simple majority in either chamber.

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[15] These spending cuts are discussed in detail in CRS Report RL32153, *Across-the-Board Spending Cuts in Omnibus Appropriations Acts*, by Robert Keith.

Aside from the percentage or fixed amount to be used in making reductions, several features of the across-the-board spending cut would affect the level of savings and the manner in which the cuts are implemented. First, the types of funding to be covered by the spending cuts would have to be decided. Initially (for FY2000 and FY2001), coverage included discretionary budget authority provided for the fiscal year in the applicable appropriations acts, and obligation limits imposed in the acts. The coverage of the spending cuts was expanded, beginning with FY2003, to advance appropriations for the fiscal year provided in prior-year appropriations acts, as well as to contract authority for the fiscal year subject to limitations set forth in the covered annual appropriations acts.

Second, the number of regular appropriations acts subject to the spending cuts, and whether there would be exemptions for particular accounts or programs, would have to be determined. In the past, coverage of regular appropriations acts under the cuts have ranged from 10 acts (for FY2005) to 13 acts (for FY2000). The FY2000 across-the-board spending cut, which was the only one of the five to apply to all 13 of the regular appropriations acts, covered the five acts incorporated into the omnibus measure, as well as the eight acts that had been enacted as freestanding laws. The expanded coverage of the spending cut was accomplished by making it apply to funding provided for that fiscal year "in this or any other Act."

In the remaining instances, between one and three of the regular appropriations acts were exempted from the spending cuts: the Labor-HHS-Education appropriations act was exempted for FY2001; the Homeland Security appropriations act was exempted for FY2005; and the Defense and Military Construction appropriations acts were exempted for FY2003, FY2004, and FY2005.[16] Further exemptions were provided for specified accounts and programs and supplemental appropriations acts. Military personnel accounts, for example, were exempted specifically from the spending cuts for FY2000 and FY2001 (these accounts also were exempted in subsequent years by virtue of the exclusion of the entire Defense appropriations act).

Third, it would remain to be decided if the reductions imposed by the percentage cuts would be made subject to a proportionality requirement or a percentage limitation. The FY2000 cut required that defense accounts be reduced uniformly; with regard to nondefense accounts, proportional cuts were not required, but no program, project, or activity (PPA) within an account could be reduced by more than 15%. The cuts for the other four years required proportional reductions to all accounts and PPAs.

Some, but not all, of the previous across-the-board spending cuts have required the director of the Office of Management and Budget to report to Congress on the implementation of the cuts.

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[16] Exempted appropriations acts were referenced explicitly in the spending cut provisions, except for FY2003; in that year, the spending cut was made applicable to the 11 regular appropriations acts covered by the omnibus measure, but not to the Defense and Military Construction appropriations acts, which had been enacted as freestanding measures.

Rescission Packages. The "Hastert Plan" envisions "packages" of additional rescissions to help offset costs. Rescissions, which cancel appropriations or other forms of budget authority, are used fairly regularly in the annual appropriations process for a variety of purposes, ranging from the routine cancellation of funds that no longer are needed, to partial or complete offsets to the costs of emergency supplemental appropriations made for higher-priority matters.

The Impoundment Control Act of 1974 established a process for the submission of rescission requests by the President and congressional action on rescission measures. To propose a rescission, the President must submit a special message to Congress specifying the amount to be rescinded, the accounts and programs involved, the estimated fiscal and program effects, and the reasons for the rescission. Multiple rescissions can be grouped in a single message. The Comptroller General, who heads the Government Accountability Office, monitors the impoundment process, in part to ensure that Congress is properly notified of rescissions.

After the message has been submitted to it, Congress has 45 days of "continuous session" (usually a larger number of calendar days) during which it can pass a rescission bill dealing with one or more of the proposed rescissions. Congress may rescind all, part, or none of the amounts proposed by the President. Rescission bills are considered under expedited procedures in each chamber, as provided for under Section 1017 of the act. In particular, these procedures provide for the automatic discharge of a rescission bill from committee after 25 days of "continuous session," a two-hour limit on debate in the House, and, in the Senate, a 10-hour limit on debate and a requirement that amendments be germane.

If Congress does not approve a rescission in legislation by the expiration of this period, the President must make the funds available for obligation and expenditure. If the President fails to release funds at the expiration of the 45-day period for proposed rescissions, the Comptroller General may bring suit to compel their release. This has been a rare occurrence, however.

As a matter of practice, the House and Senate typically deal with rescissions in regular or supplemental appropriations acts rather than rescission bills.[17]

The most recent, and perhaps most well known, instance in which Congress acted on a rescission bill occurred in 1992. On March 20, 1992, President George H.W. Bush made a speech in which he criticized Congress for wasteful spending and pledged to submit a series of rescission proposals that would force "line-by-line votes on items of pork."[18] The President submitted four rescission messages to Congress, proposing dozens of rescissions that amounted in the aggregate to just under $8

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[17] For examples of rescission bills, see P.L. 94-14 (Apr. 8, 1975), P.L. 95-10 (Mar. 10, 1977), P.L. 95-254 (Apr. 4, 1978), and P.L. 96-7 (Apr. 9, 1979).

[18] See "Remarks to Republican Members of Congress and Presidential Appointees," in *Public Papers of the Presidents of the United States, George Bush*, Book I (January 1 to July 31, 1992), pp. 477-481.

billion.[19] Although the President focused on examples of what he considered to be wasteful domestic spending (e.g., "prickly pear research"), more than $7 billion in rescissions involved defense spending, including the cancellation of two Seawolf submarines.[20]

Congress responded with a single rescission bill, H.R. 4990 (S. 2403), considered pursuant to the Impoundment Control Act of 1974. The Senate passed S. 2403 on May 6, by a vote of 61-38, while the House passed H.R. 4990 the next day, May 7, by a vote of 412-2. The bill was enacted into law on June 4, as P.L. 102-298, less than three months after President Bush first made his proposals.

The rescission act provided slightly more in rescissions (about $8.2 billion) than the President had requested. While some of the President's rescissions proposals were accepted in whole or in part (e.g., one of the Seawolf submarines was cancelled), others were not accepted at all; in some instances, Congress substituted rescissions that had not been requested by the President (e.g., reductions in the Strategic Defense Initiative).

Under the "Hastert Plan," Congress could await rescission proposals from the President or initiate its own; it could act on them in the form of a rescission bill under the Impoundment Control Act of 1974, or it could include them in annual appropriations acts for FY2006 that still are pending.

"Deauthorization". Most discretionary spending programs are created and funded under a two-step process. The first step involves the creation of the program in authorizing legislation, while the second step involves funding the program by means of an annual appropriations act. House Rule XXI and Senate Rule XVI reinforce this dichotomy by generally prohibiting appropriations for unauthorized programs and barring the inclusion of legislative provisions in appropriations acts. The procedural barriers between authorizing measures and appropriations acts are not ironclad, however; sometimes unauthorized programs are funded and legislative provisions are included in appropriations acts.[21]

Authorizing legislation may include one or more provisions that explicitly authorize the enactment of appropriations. The Energy Policy Act of 2005 (P.L. 109-58; August 8, 2005), for example, provides an authorization of appropriations in Section 107 (119 Stat. 612) for the Advanced Building Efficiency Testbed. Section 107 reads in part: "There are authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain

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[19] See, for example, the special message of March 10, 1992, proposing 30 rescissions, in: *Federal Register*, vol. 57, no. 63, Wed., Apr. 1, 1992, pt. II (Office of Management and Budget), pp. 11140 et. seq.

[20] See "Bush Calls for Cuts in 'Pork-Barrel' Spending" in the *Congressional Quarterly Almanac*, vol. XLVIII, 1992, pp. 587-592.

[21] For more information on this topic, see CRS Report RL30619, *Examples of Legislative Provisions in Omnibus Appropriations Acts*, by Robert Keith. In most cases, there is no bar against an agency spending appropriated funds that may have been appropriated in violation of House or Senate rules.

available until expended." While Section 107 of the act does not provide any funds to the program, it does authorize specific amounts. Accordingly, annual appropriations of up to $6 million could be considered in FY2006, FY2007, and FY2008 without incurring a violation under House Rule XXI or Senate Rule XVI.

In many instances, the underlying law that created a federal program remains in effect on a permanent basis, but selected elements of the authorizing law (such as authorization of appropriations provisions) are modified or renewed from time to time. Comprehensive authorizations for certain departments and agencies, such as the Defense Department, are made on a recurring annual or multi-year cycle.

During the FY2006 appropriations cycle, so far, the House Appropriations Committee has recommended the termination of 98 programs that were funded in the prior year or newly proposed in the President's budget for FY2006.[22] In budgetary parlance, the programs have been "zeroed out" (i.e., terminated by virtue of having received no funding for the upcoming fiscal year). According to the committee, the terminations would save more than $4.3 billion.

The "Hastert Plan" proposes to permanently eliminate these 98 programs through "deauthorization." There are several possible ways to deauthorize a program, including: (1) repealing the underlying authorization law; (2) repealing the provisions in the underlying authorization law that authorize the enactment of appropriations, if such provisions were used; or (3) enacting new law that nullifies the operation of the underlying law (e.g., "Section xxx of P.L. yyy-zzz shall have no force or effect"). Other methods to deauthorize programs may be available as well.

While the "Hastert Plan" presumes that the deauthorized programs would be terminated permanently, there is no guarantee that a future Congress would not decide to renew one or more the programs. It is not clear by what means the long-term savings from deauthorization, if any, would be estimated.

There is no established procedure devoted to the deauthorization of programs, so it is not clear what type of legislative vehicle would be used.[23] The consideration of a single measure that incorporates the necessary deauthorizing language could be accommodated in the House through the use of a special rule reported by the House Rules Committee. In the Senate, such a measure would not likely fall under any of the categories of expedited legislation. Consequently, it probably would be subject to filibuster. In the event a filibuster occurred, debate could be brought to a close by adopting cloture, an action that would require the affirmative vote of 60 Senators. Prior to invoking cloture, nongermane amendments presumably could be considered.

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[22] House Appropriations Committee, *Reducing Government Waste by Terminating Low-Priority Programs*, press release, July 11, 2005, available at [http://www.appropriations.house.gov]

[23] From time to time, "sunset" legislation has been proposed to establish a regular, comprehensive procedure for the periodic review, and possible termination, of federal programs, but such legislation has not been enacted into law.

Sequestration. Some recent media reports on the "Hastert Plan" have stated that the sequestration process is available as a means of securing offsets. These reports are incorrect.

The sequestration process was established under the Balanced Budget and Emergency Deficit Control Act of 1985, as modified by the Budget Enforcement Acts of 1990 and 1997 and other laws, as a means of enforcing deficit targets, and later, discretionary spending limits and the "pay-as-you-go" (PAYGO) requirement.[24] Sequestration involved automatic, largely across-the-board spending cuts in nonexempt programs, triggered by the issuance of a report by the director of Office of Management and Budget indicating a violation of the pertinent budgetary constraint.

The procedures for enforcing the discretionary spending limits expired, as scheduled, at the end of FY2002. The procedures for enforcing the PAYGO requirement, which were scheduled to expire at the end of FY2006 for the out-year effects of legislation enacted by September 30, 2002, effectively were terminated early (in late 2002).[25]

While the 1985 act, as amended, remains "on the books," it would have to be amended by another law (providing, at a minimum, revised termination dates and limits on discretionary spending) in order to take effect.

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[24] For more information on sequestration, see CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith.

[25] See CRS Report RS21378, *Termination of the "Pay-As-You-Go" (PAYGO) Requirement for FY2003 and Later Years*, by Robert Keith.