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# The Appropriations Process: A Brief Overview

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## The Appropriations Process: A Brief Overview

The Constitution states that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” This means that the power of the purse must be exercised through the lawmaking process, allowing Congress to craft the terms of appropriations or deny appropriations outright through legislation. The Constitution does not, however, prescribe how Congress should develop or consider appropriations measures. Consequently, the House and Senate have each adopted rules and practices related to appropriations measures including distinguishing them from other types of legislation.

Within the committee structure established by Congress, the task of developing appropriations legislation is delegated to the Appropriations Committees of the House and Senate. These committees, in turn, have created a system of subcommittees designed to facilitate their ability to carry out these tasks. The committees are organized in 12 parallel subcommittees, each of which is charged with developing, drafting, and managing the consideration of one regular appropriations act each fiscal year.

House and Senate rules restrict the content of appropriations bills so that they focus on questions related to funding. Unlike other legislation, appropriations acts are organized as a series of mostly unnumbered paragraphs that provide budget authority, which permits a federal agency to enter into financial agreements that will obligate the Treasury to make payments. In addition to appropriations bills, the subcommittees draft written reports that accompany them and provide agencies with more detailed information about congressional intent concerning how agencies should use appropriated funds.

Once appropriations bills are reported, they may be considered under the rules applicable to their respective chamber. In the House, the practice in recent years has been to consider appropriations bills under the terms of a special rule reported from the Rules Committee. In the Senate, appropriations bills enjoy no special privilege so that their consideration is in most respects subject to the same rules for consideration as other legislation.

In addition to the development and consideration of regular appropriations bills, this report summarizes other forms of appropriations measures commonly used by Congress. Continuing appropriations measures (also termed continuing resolutions or CRs) provide temporary funding in the absence of regular appropriations. Supplemental appropriations provide additional funding during the course of a fiscal year; in modern practice this is typically in response to urgent and unanticipated needs such as natural disasters and urgent military operations.

Because provisions in appropriations bills are often influenced by decisions made through authorizing legislation and budget resolutions, this report also briefly discusses these relationships.

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## Introduction

The Constitution states that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”<sup>1</sup> This means that the power of the purse must be exercised through the lawmaking process, allowing Congress to craft the terms of appropriations or deny appropriations outright through legislation.<sup>2</sup> The Constitution does not, however, prescribe how Congress should develop or consider appropriations measures. Consequently, the House and Senate have each developed their own rules and practices related to the development and consideration of appropriations measures. This has allowed Congress to distinguish appropriations measures from other legislation. This report provides an introduction to congressional rules and practices, focused particularly on those that affect the annual development and consideration of regular appropriations acts.

## Appropriations Legislation

An appropriation may generally be described as a statutory provision that provides budget authority, thus permitting a federal agency to enter into financial agreements that will obligate the Treasury to make payments. The actual payments of these obligations are referred to as outlays, and the rate at which budget authority becomes outlays in a fiscal year<sup>3</sup> is called the spendout rate or the outlay rate. The spendout rate can vary for different activities.

The appropriations process is characteristically annual. Although the Constitution does not require annual appropriations, since the First Congress the practice has been to enact appropriations that will be available for obligation during a single fiscal year. Appropriations acts may, however, also provide multiyear budget authority that will be available for a designated period longer than a single fiscal year or “no year” budget authority that will remain available until expended.

Appropriations acts provide funding in definite dollar amounts for specific purposes over limited periods of time. Once appropriations legislation has been enacted, the specified amounts, purposes, and time periods included impose legal constraints on the subsequent use of appropriated funds. Generally speaking, the executive branch is prohibited from (1) spending more than is appropriated, (2) spending less than is appropriated, and (3) spending for purposes other than those specified. For example, an agency or department cannot obligate funds in excess of the amounts provided, or for other purposes, or during time periods that are not provided for in law. Nor can they obligate funds in advance of an appropriation being provided by Congress or refuse to obligate funds after an appropriation is enacted, except in some limited circumstances.

The form and organization of regular appropriations acts are unique. Unlike other forms of legislation, regular appropriations acts are organized as a series of mostly unnumbered paragraphs. Each paragraph is separated by a heading and generally corresponds to a unique budgetary account that funds similar budgetary items, such as salaries and expenses or research and development. Appropriations for larger agencies are typically organized in multiple accounts, but smaller agencies may be funded via a single account. Each account is typically provided with an overall “lump-sum” appropriation of a specified dollar amount of budget authority for all of the items within the account. That amount may be further subdivided for specific items within the

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<sup>1</sup> U.S. Const. art. I, §9, cl. 7.

<sup>2</sup> See CRS In Focus IF11577, *Congress’s Power Over Appropriations: A Primer*, by Sean M. Stiff.

<sup>3</sup> The federal fiscal year runs from October 1 to September 30.

account, and most paragraphs also include provisos that specify additional terms and conditions that apply to that account or to specific programs or activities within that account. A separate title at the end of each act also includes a numbered list of general provisions, which are requirements that apply to multiple accounts or all of the accounts in the act.

## The Appropriations Committees

Within the committee structure established by Congress, the task of developing appropriations legislation is delegated to the Appropriations Committees of the House and Senate. These committees each have jurisdiction over measures that provide appropriations, rescind prior appropriations, or transfer unobligated balances.<sup>4</sup> The Appropriations Committees, in turn, have organized a system of subcommittees designed to facilitate their ability to carry out these tasks.

Since the 110<sup>th</sup> Congress (2007), the House and Senate Appropriations Committees have been organized in 12 subcommittees, with each subcommittee responsible for developing and managing the consideration of one regular appropriations act.<sup>5</sup>

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

## Committee Action

During the initial stages of the annual appropriations process, each subcommittee will typically

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<sup>4</sup> The jurisdiction of the House Appropriations Committee is defined in House Rule X, clause 1(b); the jurisdiction of the Senate Appropriations Committee is defined in Senate Rule XXV, paragraph 2(b).

<sup>5</sup> In most respects, the House and Senate Appropriations Committees maintain parallel subcommittee jurisdictions. The one salient exception is jurisdiction over funding for the Commodity Futures Trading Commission (CFTC). In the House, funding for CFTC is included in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill, while the Senate includes it in the Financial Services and General Government Appropriations bill. Since 2007, the two chambers have alternated which of these two measures includes CFTC funding when enacted. For more on the evolution of appropriations subcommittee jurisdiction, see CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920 to 2023*, by James V. Saturno. For more information about which agencies and departments are within each subcommittee's jurisdiction, see CRS Report R40858, *Locate an Agency or Program Within Appropriations Bills*, by Justin Murray.

- analyze the President’s annual budget request and agency spending justifications for the upcoming fiscal year;
- solicit the input of other Members who do not serve on the Appropriations Committees; and
- draft and mark up regular appropriations bills (as well as draft a written report to accompanying the bill).

Although a subcommittee may forgo hearings or markup in some cases, this would not prevent subsequent consideration of an appropriations measure by either the full Appropriations Committees or their respective chambers.

The subcommittees’ development of regular appropriations bills typically begins shortly after the President submits an annual budget request to Congress, which is stated to occur in early February.<sup>6</sup> Shortly afterward, individual agencies and departments also submit detailed budget justifications to the Appropriations Committees. These justification documents lay out in greater detail the agency’s spending plans for the upcoming fiscal year as well as how the agencies used their prior year’s appropriations.<sup>7</sup> After the House and Senate Appropriations subcommittees have an opportunity to analyze these justification documents, they typically hold hearings to solicit the testimony of agency officials and question them about the agency’s budget request. During this time, subcommittees typically collect input from Members of Congress who do not serve on the Appropriations Committees.

### **How Members Can Influence Appropriations at the Committee Stage**

As the House and Senate Appropriations Committees are developing appropriations legislation, they often provide a formal mechanism for Members to communicate their preferences and offer input. The committees typically invite congressional offices to submit requests to their respective Appropriations Committees through electronic submission systems, available on each of the subcommittee’s websites.

While the types of formal requests that Members may submit to their respective Appropriations Committees are determined by the committees and their subcommittees, three general types of requests have been permitted: programmatic, language-based, and, more recently, Community Project Funding/Congressionally Directed Spending Items.

Programmatic requests seek to express general support for funding a program or to request a specific amount of funding for a specific program.

Language-based requests seek to add some type of language to either the appropriations bill or the appropriations bill’s accompanying committee report.

Community Project Funding requests (House) and Congressionally Directed Spending Items (Senate) seek to direct funding within a specific program or account to a specified state, local government, or nonprofit recipient and are subject to House and Senate earmark disclosure rules. For more, see CRS Report R46722, *Community Project Funding: House Rules and Committee Protocols*, by Megan S. Lynch.

For more information on this and other means by which Members may have an impact on committee or floor consideration of appropriations legislation, see CRS Report R47031, *The House Appropriations Process: Opportunities for Member Participation*, by Megan S. Lynch.

<sup>6</sup> The President is required to submit the budget request for the upcoming fiscal year by the first Monday in February each calendar year (31 U.S.C. §1105), although the actual submission of the budget may sometimes be delayed. For more information, see CRS Report R47019, *The Executive Budget Process: An Overview*, by Dominick A. Fiorentino and Taylor N. Riccard.

<sup>7</sup> P.L. 117-40 requires agencies to post these materials electronically on their websites. For more information about the content of these documents, see CRS Report R47090, *Executive Agency Justification of the President’s Budget: In Brief*, by Dominick A. Fiorentino.

After conducting these hearings and receiving input from other Members, each subcommittee drafts and marks up the regular bill under its jurisdiction. Regular appropriations bills are often marked up by the subcommittees beginning in the spring. During these subcommittee markups, the subcommittee's chairperson usually provides a draft bill (known as the chair's mark). The chair and other subcommittee members then discuss and consider amendments to the draft bill. After the subcommittee has considered any amendments, the subcommittee votes on whether to forward the amended draft bill to the full committee.

The Appropriations Committees typically conduct their own markups of each bill, taking into account the subcommittee's recommendations as well as considering additional amendments from members of the full committee. Following the consideration of any amendments, the committee votes to report a bill for further consideration by the entire chamber. All bills reported in the House are accompanied by written reports. Senate bills reported by the Appropriations Committee are also usually accompanied by reports.

By long-standing practice, the Appropriations Committees use the written reports that accompany bills to provide detailed information about congressional intent concerning how agencies should use appropriated funds. Because the text of these reports is not included in the legislative text, it does not establish a statutory requirement or obligation that the agency must follow. In some instances, however, report language has been incorporated into the statutory text of appropriations acts by reference and become a part of the law.<sup>8</sup> Nevertheless, agencies tend to heed report language, since it indicates congressional intent.

Because House rules allow the Appropriations Committee to report an original bill, an appropriations bill is not formally introduced and assigned a bill number until the House Appropriations Committee reports it.

## Floor Consideration

While House and Senate practices for developing appropriations measures are similar, the manner in which the two chambers consider legislation in plenary session has significant differences.

### House Consideration

There are several procedures that the House may use to consider regular appropriations measures. Since the 111<sup>th</sup> Congress, it has considered regular appropriations measures exclusively under the terms of *special rules* (also known as *special orders of business*).<sup>9</sup> These special rules are House resolutions that are developed and reported by the Committee on Rules. Once approved by the House, special rules can set the terms and conditions for debating and amending a measure on the floor by temporarily augmenting, superseding, or waiving any otherwise applicable rules of the House. As a consequence of their power and flexibility, the specific terms and conditions of special rules are instrumental in determining how regular appropriations measures are considered by the House.

Since the 115<sup>th</sup> Congress, the House has exclusively used *structured special rules* with several common features to govern the initial floor consideration of regular appropriations measures.<sup>10</sup>

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<sup>8</sup> For more information, see CRS Report R44124, *Appropriations Report Language: Overview of Development and Components*, by Drew C. Aherne.

<sup>9</sup> For more on the consideration of legislation in the House generally, see CRS Report RS20067, *How Measures Are Brought to the House Floor: A Brief Introduction*, by Christopher M. Davis.

<sup>10</sup> Special rules are generally categorized by whether or how they limit the offering of floor amendments.

First, they provide for an hour of general debate at the beginning of a measure’s consideration that is equally divided and controlled by the chair and ranking member of the Appropriations Committee or their designees. During this time, either the chair or the ranking member may speak on the measure or yield time to other Members of their respective caucus. Following the conclusion of general debate, the bill is usually open for a period of amending. Under structured rules, however, only the amendments designated in order by the Rules Committee can be offered, and the time available to debate each amendment is limited (usually to 10 minutes) and controlled by the Member offering the amendment and a single opponent.<sup>11</sup>

Members who wish to offer amendments to an appropriations measure considered under a structured rule must submit their amendments to the Rules Committee for its consideration before the special rule is reported by the committee. The Rules Committee announces submission guidelines and deadlines in advance of any hearing to consider a structured rule. These announcements are typically made via electronic “Dear Colleague” letters and posted on the committee’s website.<sup>12</sup> The Committee on Rules often notes that it does not intend to make in order amendments that would require a waiver of either House rules or budget rules.<sup>13</sup>

Rules Committee guidelines generally require that proposed amendments

- be germane to the text of the underlying measure,
- provide funds only for activities previously authorized by law (except for public works or other ongoing projects),
- do not impose new statutory duties on a department or agency,
- comply with spending limits imposed by the congressional budget process, and
- other requirements specified in the special rule.

When the Rules Committee reports a rule to the House, the written report that accompanies it contains the text of the amendments designated in order under the rule.<sup>14</sup>

Since the 115<sup>th</sup> Congress, the House has frequently considered several appropriations measures simultaneously. These measures are often referred to as “minibus”<sup>15</sup> measures. These combined measures are created under the terms of a special rule that provides for the text of multiple appropriations bills to be combined in a committee print that can serve as the text made in order for House consideration. Typically, the special rule provides that upon its adoption, the committee print be considered as having been also adopted as an amendment in the nature of a substitute to one of the regular bills.<sup>16</sup> These minibus measures are usually formatted so that the text of the

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<sup>11</sup> For more information about how these rules affect the consideration of regular appropriations measures in the House, congressional readers may contact the authors. See also CRS Report R46841, *Changes in the House of Representatives’ Initial Consideration of Regular Appropriations Measures, 113th-116th Congresses*, by Kevin P. McNellis.

<sup>12</sup> <https://rules.house.gov/>.

<sup>13</sup> For example, see U.S. Congress, House Committee on Rules, Amendment Process Announcement for H.R. 4373—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022, 117<sup>th</sup> Cong., July 20, 2021, <https://rules.house.gov/news/announcement/amendment-process-announcement-hr-4373-department-state-foreign-operations-and>.

<sup>14</sup> For example, see H.Rept. 117-109 that accompanied H.Res. 555. The report contained the amendments designated in order during the consideration of H.R. 4502, a FY2022 appropriations measure.

<sup>15</sup> The term is derived from the word *omnibus*, which is used to describe one legislative vehicle combining the text of multiple separate bills, including appropriations bills. *Minibus* is an inexact term that has typically been used to describe a combination of some, but not most or all, regular appropriations bills.

<sup>16</sup> This type of procedure is often referred to as a “self-executing” amendment, because the House does not take a separate vote on whether to agree to the committee print as an amendment.

separate regular appropriations bill included is designated as a separate division of the bill. The special rules then provide that each division is to be amended separately in sequential order.

Once the amendment process is completed, the House votes on the measure's engrossment and third reading. At this point, a Member who opposed the measure may make a motion to recommit the measure back to the Appropriations Committee, which would have the effect of delaying any further consideration of the measure.<sup>17</sup> Following the disposition of any motion to recommit, the House votes on final passage of the measure. After House passage, the bill is sent to the Senate for further consideration.

## Senate Consideration

The Senate lacks a procedural mechanism like the House Rules Committee and special rules that can be used to tailor its consideration of regular appropriations measures. In addition, appropriations measures enjoy no special privilege for consideration under the Senate's rules. As a consequence, floor consideration of appropriations bills is similar in most respects to the consideration of other legislation.<sup>18</sup>

Because appropriations measures enjoy no special privilege for consideration in the Senate, a motion to proceed to their consideration would be debatable in most circumstances. This means that the question of whether to consider an appropriations measure (as well as the appropriations measure itself) would be subject to the possibility of extended debate (commonly known as a filibuster).<sup>19</sup> The Senate can avoid this possibility through the use of unanimous consent or overcome it by invoking cloture by supermajority vote.

The Senate routinely uses unanimous consent agreements to supersede, modify, or waive its rules. These agreements simply involve no Senator objecting to the request. Using this practice, the Senate may choose to call up legislation for consideration or set specialized terms and conditions for floor debate and amending. If objection is heard and unanimous consent cannot be obtained, the majority leader (or his or her designee) may offer a motion to proceed to the consideration of the measure. This motion can be agreed to by a simple majority, but because it is usually debatable, Senators may choose to debate, even when debate would delay or prevent floor consideration. In order to end debate, Senate Rule XXII provides for cloture to be invoked by a vote of three-fifths of all Senators (60 votes if there is no more than one vacancy).

Once the Senate has agreed to consider an appropriations measure, it may operate under the regular rules and practices of the Senate, or it may agree by unanimous consent to limit or structure debate or amending. In particular, Senate Rule XVI establishes general restrictions on amendments to appropriations bills, including prohibitions against amendments that propose general legislation or are not germane to the subject matter contained in the bill.<sup>20</sup>

As with the motion to proceed, an appropriations bill can be agreed to by a simple majority, but it may be necessary to invoke cloture in order to end debate and reach a vote on final passage.

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<sup>17</sup> For more information about the motion to recommit, see CRS Report R46790, *House Rules Changes Affecting Floor Proceedings in the 117th Congress (2021-2022)*, by Jane A. Hudiburg.

<sup>18</sup> For more information on the legislative process in the Senate generally, see CRS Report RS20668, *How Measures Are Brought to the Senate Floor: A Brief Introduction*, by Christopher M. Davis.

<sup>19</sup> For more information, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Valerie Heitshusen and Richard S. Beth.

<sup>20</sup> Under Rule XVI, paragraph 4, if a point of order is raised that an amendment is not germane, the presiding officer may make a threshold ruling whether there is language to which the amendment could be considered germane, but the question is determined by a vote of the Senate.

## Resolving Differences Between the House and Senate

The final stage of the legislative process is the resolving of any disagreements between the House and Senate. For Congress to present any legislation to the President for signature or veto, the Constitution requires that the House and Senate pass the same measure without any differences in the legislative text.

The simplest method to achieve this result is for one chamber to take up a measure passed by the other chamber and pass it without amendment. In cases when this is not possible, two other procedures can be used: (1) appointing a formal conference committee to negotiate a compromise form of the measure or (2) an exchange of amendments between the chambers. Under the former method, Members from each chamber are appointed as conferees to negotiate a compromise text, which then has to be approved by both chambers. Conferees are chosen from the membership of the Appropriations Committees as the committees of jurisdiction. The exchange of amendments method entails one chamber agreeing to a compromise text and proposing it to the other chamber. The second chamber may choose to agree to the new text, reject it, or propose a further amended text.<sup>21</sup>

Traditionally, the House of Representatives initiated consideration of regular appropriations measures, and the Senate subsequently considered and amended the House-passed bills. Under more recent practice, the Senate has sometimes chosen instead to begin consideration with Senate bills independent of the timing of House consideration. Regardless of the approach, the House bill has been the legislative vehicle ultimately enacted.

In addition to the legislative text, the final version of appropriations measures is accompanied by explanatory text that is written and negotiated by the House and Senate Appropriations Committees.<sup>22</sup> This explanatory text functions much like the written reports that accompany regular appropriations bills when reported by the Appropriations Committees. It often incorporates any committee reports previously reported by the House and Senate Appropriations Committees by reference and provides additional information regarding congressional intent concerning how agencies should obligate the appropriated funds, including resolving any differences in the House and Senate committee reports.

## Other Forms of Appropriations Legislation

In addition to regular appropriations acts, Congress typically develops and considers appropriations in the form of continuing and supplemental appropriations acts every year. These acts are used for different purposes than regular appropriations acts are, and, consequently, their form and congressional consideration differ. This section provides a brief summary of these differences.

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<sup>21</sup> For more information, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

<sup>22</sup> When differences are resolved using a conference committee, the explanatory text is provided in a Joint Explanatory Statement that accompanies, and is printed with, the conference report. When differences are resolved through an amendment exchange, this explanatory text is typically printed in the *Congressional Record*. For more information, see “Preceding Matter Concerning the Explanatory Statement” in CRS Report R46899, *Regular Appropriations Acts: Selected Statutory Interpretation Issues*, by Sean M. Stiff.

## Continuing Appropriations

Congress has not typically completed its consideration of regular appropriations bills before the start of the next fiscal year on October 1.<sup>23</sup> Because budget authority provided in regular appropriations acts typically expires at the end of the fiscal year (September 30), Congress may use one or more continuing appropriations acts (often referred to as a “continuing resolution” or a CR<sup>24</sup>) to provide interim funding. If there is an interval during a fiscal year when appropriations for a particular project or activity are not enacted into law, either in the form of a regular appropriations act or a CR, a funding gap (also referred to as a funding lapse) may occur. If there is a funding gap, the Antideficiency Act (31 U.S.C. §§1341-1342, 1511-1519) generally bars the obligation or expenditure of federal funds in the absence of appropriations, and affected agencies and departments must cease the majority of their operations until additional appropriations are provided.<sup>25</sup> In some instances, continuing appropriations acts have been used to provide funding for the entire remainder of a fiscal year. (Such measures are commonly referred to as “full-year CRs.”)

The form of a CR differs from other appropriations acts and is usually comprised of three main components:

- temporary appropriations to continue funding for the activities funded by the prior year’s regular appropriations acts;
- provisions limiting the agencies’ use of that budget authority during the duration of the CR; and
- additional provisions (commonly referred to as “anomalies”) that provide either additional funding, exceptions to the terms and conditions of the CR, or other legislative changes for specific programs or activities.

The first component of a CR provides funding for the government’s ongoing activities using a funding rate specified in the law itself. In recent practice, this has typically been at the rate based on the prior year’s appropriations acts, prorated for the duration of the CR. CRs also typically attach a number of routine conditions on these funds in order to preserve Congress’s authority to determine spending levels and priorities for the new fiscal year in subsequent regular appropriations acts. For example, most CRs require that agencies not initiate new programs or activities and use the CR’s funding authority in the most limited way possible.<sup>26</sup> CRs may also include “anomaly” provisions that specify exceptions to the CR’s funding rate for designated programs or activities.

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<sup>23</sup> The Congressional Budget Act of 1974 established that beginning with FY1977, fiscal years would commence on October 1 of each year and end on September 30 of the following year. Since FY1977, there have been four times when all regular appropriations bills have been enacted before the start of the fiscal year, most recently for FY1997. For more information, see CRS Report R46595, *Continuing Resolutions: Overview of Components and Practices*, coordinated by James V. Saturno.

<sup>24</sup> Historically, continuing appropriations acts took the form of joint resolutions. In recent practice, it is more common for them to be included in measures that include other legislative provisions in addition to continuing appropriations.

<sup>25</sup> For more information, see CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*, by James V. Saturno, and CRS Report RL34680, *Shutdown of the Federal Government: Causes, Processes, and Effects*, coordinated by Clinton T. Brass. In addition, an overview of the Antideficiency Act and additional resources concerning the requirements of the law are available from the Government Accountability Office at <https://www.gao.gov/legal/appropriations-law-decisions/resources>.

<sup>26</sup> For other examples, see the “Coverage Duration, and Rate” section of CRS Report R47283, *Overview of Continuing Appropriations for FY2023 (Division A of P.L. 117-180)*, by Drew C. Aherne and Sarah B. Solomon.

In recent practice, CRs are generally developed by House and Senate leadership and the leaders of the Appropriations Committees but have not usually been marked up by the Appropriations Committees.<sup>27</sup>

## **Supplemental Appropriations**

Supplemental appropriations acts provide budget authority in addition to any amounts provided by regular or continuing appropriations measures. These measures are usually developed in response to urgent and unanticipated needs, such as natural disasters and urgent military operations.<sup>28</sup>

Like regular appropriations acts, these supplemental appropriations acts provide definite amounts of budget authority for specific purposes. However, this budget authority is usually available for obligation immediately upon enactment and remains available until it is expended. Like CRs, in recent practice these measures have usually been introduced without being first marked up or otherwise considered by the Appropriations Committees. It is common for supplemental appropriations bills to be packaged and jointly considered with regular or continuing appropriations measures.

## **Appropriations and Other Measures**

The annual consideration of regular appropriations measures is one part of the federal budget process.<sup>29</sup> Various statutes, congressional rules, practices, and precedents have been established over time to create a complex system in which multiple decisions and actions occur with varying degrees of coordination. Appropriations measures can be distinguished from other legislation under House and Senate rules, but the provisions included in appropriations measures are often influenced or constrained by other legislation. In particular, decisions made through authorizing legislation and budget resolutions can have an impact on the choices made by Congress with respect to which programs or activities are funded and how much may be appropriated.

## **Authorizations and Appropriations<sup>30</sup>**

Authorizations may generally be described as any statutory provisions that define the authority of the federal government to act. They can establish or continue a federal agency, program, policy, project, or activity. Further, an authorization may establish policies and restrictions or deal with organizational and administrative matters. These are sometimes referred to as “organic” or “enabling” authorizations. It is generally understood that such statutory authority to administer a program or engage in an activity also provides an implicit authorization for Congress to appropriate for such program or activity. An authorization may also include language to explicitly authorize subsequent congressional action to provide appropriations in definite or indefinite amounts (i.e., “such sums as may be necessary”).

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<sup>27</sup> Consequently, the Appropriations Committees also do not typically write reports to accompany CRs.

<sup>28</sup> For example, see Divisions B and C of the Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43).

<sup>29</sup> For a broader discussion of the budget process, see CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno.

<sup>30</sup> For more information, see CRS Report R46497, *Authorizations and the Appropriations Process*, by James V. Saturno.

Although authorizations are often thought of in the context of being the first step in the authorization and appropriations process, authorizations of appropriations are not budgetary legislation for two reasons: (1) by itself an authorization of appropriations does not provide funding for government activities, and (2) Congress is not required to provide appropriations for all authorized programs. For example, an authorization act may establish or modify programs or activities within the Department of Justice, but funding for those programs would be available only to the extent provided in appropriations acts. If an authorization act includes language explicitly authorizing subsequent appropriations for specific agencies and programs, under House and Senate rules that language is considered to establish a procedural ceiling on the level of appropriations that may be provided.

The standing rules of the House and Senate<sup>31</sup> generally establish a presumption that appropriations measures provide new budget authority only for programs, activities, or agencies previously authorized by law. While limiting appropriations to purposes previously authorized by law imposes a general requirement for sequential action, this is not understood to entail a requirement that authorizing legislation also be enacted on an annual (or periodic) cycle or in the same year as appropriations action. Authorizations may be enacted on a permanent, annual, or multiyear basis. Annual and multiyear provisions may require reauthorizations when they expire. Funding for programs or activities is often described as “unauthorized” when no authorization has been enacted or, if previously enacted, has terminated or expired. Because this distinction is based on chamber rules rather than a constitutional or general statutory requirement, Congress may still choose to appropriate funds. In such cases, the enacted appropriation may be considered, in effect, to be its own authorization, and the funds would be available to the agency for obligation and expenditure.

House and Senate rules also preserve the distinction between authorizations and appropriations by prohibiting the inclusion of general legislative language in appropriations measures.

## **Budget Resolutions and Appropriations<sup>32</sup>**

The Congressional Budget Act (CBA) provides for the adoption of a concurrent resolution on the budget. Because a concurrent resolution is not a law, the President cannot sign or veto it, and it does not have statutory effect, so no money can be raised or spent pursuant to it. The main purpose of the budget resolution is to establish the framework within which Congress considers separate budget-related measures, including appropriations measures. To do this, the budget resolution is used to set aggregate budget policies and functional priorities for the upcoming budget year and for at least four additional fiscal years. In recent practice, budget resolutions have often covered a 10-year period. The CBA provides for the levels agreed upon for the upcoming budget year to be enforceable by points of order.<sup>33</sup>

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<sup>31</sup> House Rule XXI and Senate Rule XVI.

<sup>32</sup> For more information, see CRS Report R40472, *The Budget Resolution and Spending Legislation*, by Megan S. Lynch.

<sup>33</sup> Points of order are effectively prohibitions against certain types of legislation or other congressional actions being taken in the legislative process. Points of order are not self-enforcing. A Member must raise a point of order on the floor of the chamber before the presiding officer can rule on its application and thus its enforcement.

The CBA requires that the report accompanying the budget resolution in each chamber include an allocation of total budget authority among all committees with spending jurisdiction (commonly referred to as Section 302(a) allocations after the applicable section of the CBA). Although the major program assumptions underlying the functional amounts in the budget resolution inform these allocations, these assumptions are not considered binding or enforceable, and specific programmatic funding decisions remain the responsibility of the committees with spending jurisdiction, including the House and Senate Appropriations Committees. An allocation as required under Section 302(a) of the CBA, however, effectively sets an enforceable ceiling on total appropriations.<sup>34</sup>

The CBA further requires the Appropriations Committees separately subdivide the 302(a) amount among their subcommittees, effectively providing each subcommittee with its own ceiling. These subdivisions are referred to as the 302(b) suballocations. The authority for making 302(b) suballocations belongs to the House and Senate Appropriations Committees, and the committees may later revise them. Such suballocations become effective (and enforceable) once the committees have reported them.

The CBA provides that the House may consider regular appropriations bills after May 15 even if a budget resolution has not been adopted or 302(a) allocations or 302(b) suballocations made. Without a budget resolution, there may not be an enforceable upper limit on the overall level of appropriations.

Congress may use alternative means to establish enforceable budget levels. When Congress has reached final agreement on a budget resolution after April 15 or has not reached agreement at all, the House and Senate, often acting separately, have used legislative procedures to deal with enforcement issues on an ad hoc basis. These alternatives are typically referred to as “deeming resolutions,” because they are deemed to serve in place of an agreement between the two chambers on an annual budget resolution for the purposes of establishing enforceable budget levels for the upcoming fiscal year.<sup>35</sup>

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<sup>34</sup> For more information, see CRS Report R47388, *Enforceable Spending Allocations in the Congressional Budget Process: 302(a)s and 302(b)s*, by Drew C. Ahern.

<sup>35</sup> For more information, see CRS Report R44296, *Deeming Resolutions: Budget Enforcement in the Absence of a Budget Resolution*, by Megan S. Lynch.

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