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The Appropriations Process and the Congressional Budget Act

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The Appropriations Process and the Congressional Budget Act

Summary

Each year Congress considers a series of appropriations measures that provide funding for various federal programs. These measures consist of regular appropriations, supplemental appropriations, and continuing resolutions. The House and Senate have established procedures that make consideration of these measures distinct from other legislative matters. In particular, the Congressional Budget Act of 1974 (titles I-IX of P.L. 93-344) provides a timetable for the consideration of appropriations, and allows Congress to establish limitations on the level of funding they supply.

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The Appropriations Process and the Congressional Budget Act¹

Introduction

The Constitution provides that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."² However, it does not establish any specific procedures for consideration of spending legislation. Instead, the House and Senate have developed rules and practices that govern consideration of appropriations and other budgetary legislation pursuant to the constitutional authority of each chamber to "determine the Rules of its Proceedings."³ It is under this authority that the procedures outlined in the Congressional Budget Act of 1974 were established.

The Congressional Budget Act created the basic framework that is used today for congressional consideration of budget and fiscal policy. The Budget Act provided for the adoption of a concurrent resolution on the budget as a mechanism for coordinating congressional budgetary decision making. This process supplements other House and Senate procedures for considering spending, revenue, and debt legislation by allowing Congress to establish and enforce parameters with which those separate pieces of budgetary legislation must be consistent. For discretionary spending,⁴ which is provided in appropriations acts, these parameters are enforced, in part, through procedures contained in Title III of the Budget Act. These procedures consist of 1) a timetable for budgetary action; 2) a requirement that the overall totals agreed to in the budget resolution be allocated in each chamber among

¹ For more on the appropriations process generally, see U.S. Library of Congress, Congressional Research Service, *Appropriations Procedures in Congress*, by Stanley Bach, CRS Report 94-1009 S (Washington: 1994), and *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter, CRS Report 97-684 GOV (Washington: 1997). For more on the budget process generally see: U.S. Library of Congress, Congressional Research Service, *A Brief Introduction to the Federal Budget Process*, by Robert Keith, CRS Report 96-912 GOV (Washington: 1996), and *Budget Enforcement Act of 1997: Summary and Legislative History*, by Robert Keith, CRS Report 97-931 GOV (Washington: 1997).

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

³ U.S. Constitution, Article I, Section 5.

⁴ Discretionary spending is controlled through the appropriations process, which is used both to provide funds and to determine their level. It is distinguished from direct spending (e.g., entitlement authority or Food Stamps), for which the level is controlled by laws other than appropriations acts, although the budgetary resources for some direct spending programs may be provided in appropriations acts.

committees with jurisdiction over spending; and 3) points of order to prohibit consideration of measures that would violate these parameters.

Timing of Appropriations Consideration and the Congressional Budget Act

The Congressional Budget Act establishes a timetable for the consideration of budgetary legislation. This timetable (in Section 300) provides various deadlines; the following ones pertain to the appropriations process:

May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins. [all appropriations actions to be completed]

These deadlines reflect the pace at which the appropriations process typically occurs. Because the conventional pattern for consideration of appropriations is for the House to originate the measures, the deadlines focus on the House in order to promote timely consideration, and allow sufficient time for Senate and conference consideration.

June 10 and June 30 serve as target dates, and are not enforced by points of order. However, Section 309 does prohibit consideration of an adjournment resolution of longer than three calendar days during July until the House has approved all regular appropriations bills. By prohibiting any extended adjournment period, this point of order is clearly intended to reinforce the target dates indirectly.

The May 15 date is likewise not a formal deadline. Rather, it is an enabling date for House appropriations actions, and serves as a spur for the completion of congressional action on the budget resolution. Section 303(a) of the Budget Act prohibits consideration of legislation providing new budget authority prior to agreement on the budget resolution. However, under an exception provided in Section 303(b), this prohibition does not apply to regular appropriations bills considered in the House after May 15. There is no similar exception that applies to Senate consideration.

More general timing issues are enforced directly through points of order. The intent of Section 303(a) is to prohibit the consideration of legislation that would implement budget priorities, until those priorities are established in the form of the budget resolution. Similarly, Section 302(c) prohibits the consideration of appropriations measures by the House or Senate until the Appropriations Committee of that chamber has made the suballocations required under Section 302(b). The intent is to prohibit consideration of measures implementing part of discretionary spending priorities until the House or Senate has had a chance to see how the various parts are expected to fit together.

The start of the fiscal year is also part of the timetable established in Section 300 of the Budget Act, and serves as a deadline for completion of appropriations actions.⁵ Enforcement of this date is provided not through a point of order, but rather through the threat of a government shutdown if there is a funding lapse. Because appropriations measures typically provide funding for the period of a single fiscal year, all appropriations measures must be enacted prior to October 1, or funding must be provided on an interim basis in the form of a continuing resolution.

Previously, the Congressional Budget Act provided a deadline for reporting authorizing legislation. This deadline was intended to supplement the requirements in House and Senate Rules that assume the enactment of authorizing legislation prior to the consideration of appropriations. The result, however, was that rather than promote the timely consideration of authorizations, the deadline tended to create a bottleneck of legislation, making it difficult to complete floor action on authorizing measures prior to consideration of appropriations bills. The deadline was repealed in 1985 as part of the Balanced Budget and Emergency Deficit Control Act of 1985.

Allocations and Enforcement

Allocations Under Section 302(a)

One of the features of the process established under the Congressional Budget Act is that the budget resolution is not intended to implement the details of spending or revenue policy. Instead, it is left to the committees with jurisdiction over various spending and revenue laws to report the legislation necessary for implementation. They are expected to report this legislation in accordance with the priorities agreed to in the budget resolution. The budget resolution establishes spending priorities in terms of functional categories rather than in terms of spending for specific agencies or programs. The amounts for these functional categories are not binding, but they do provide a guide for how spending should be allocated to each committee, based on its jurisdictions. The amounts are then allocated, or "crosswalked," and become binding and enforceable.⁶ These allocations of new budget authority (ba) and outlays (o)⁷ are made under Section 302(a) of the Budget Act, and appear in the conference report on the budget resolution. The allocations to the Appropriations Committees reflect their jurisdiction over all discretionary spending programs. Section 302(f)(1) prohibits the House from considering legislation that would cause a committee's allocation of budget authority under 302(a) to be exceeded. The Senate operates under a slightly different limitation. Section 302(f)(2)(A) prohibits the Senate from

⁵ The fiscal year was changed to October 1 to September 30 under Section 501 of the Congressional Budget Act, as it was originally enacted. This Section was later replaced by provisions of the Federal Credit Reform Act of 1990, but is now codified at 31 U.S.C. 1102.

⁶ Amounts provided through the appropriations process for direct spending programs generally are not enforceable at this stage.

⁷ Budget authority represents the level of new budgetary resources provided in spending legislation, whereas outlays represent the projected level of expenditures due to either current or previous action.

considering legislation that would cause a committee's allocation of either budget authority or outlays under 302(a) to be exceeded.

Because Section 303(a) allows for the consideration of appropriations bills in the House even when Congress has not agreed to a budget resolution, Section 302(a)(5) provides guidelines for making allocations in those cases. As amended by the Budget Enforcement Act of 1997, this section provides that if a budget resolution is not adopted by April 15, an allocation for the House Appropriations Committee shall be submitted that is consistent with the discretionary spending levels in the previous year's budget resolution. Previously, such allocations in the absence of an agreement on a budget resolution were based on the President's budget submission.

Appropriations and Discretionary Spending Limits

The allocations made under Section 302(a) must be consistent with the discretionary spending limits established in Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (Table 1).⁸ Allocations under 302(a) may not provide for spending that would exceed the statutory limits on discretionary spending.

Enforcement of these discretionary spending limits occurs on two levels. First, Section 312(b) of the Budget Act prohibits the Senate from considering legislation that would cause any of the spending limits to be exceeded.⁹ The House has no equivalent point of order. This prohibition, however, is not necessarily absolute. Points of order are not self-enforcing, and they may be waived.¹⁰ Therefore, the spending limits are also enforced through the sequestration process.

Section 251(a) of the Balanced Budget and Emergency Deficit Control Act provides that any time one of the spending limits is breached, the President must order an across-the-board cut of all non-exempt programs within that category.

⁸ Discretionary spending limits for FY1990-1995 were established by the Budget Enforcement Act of 1990, and appeared in Title VI of the Congressional Budget Act. These limits were extended to cover FY1996-1998 by Title XIV of the Omnibus Budget Reconciliation Act of 1993. The Budget Enforcement Act of 1997 extended the discretionary spending limits through FY2002, repealed Title VI of the Congressional Budget Act, and shifted the discretionary spending limits to Section 251(c) of the Balanced Budget and Emergency Deficit Control Act.

⁹ Previously, the Senate had used points of order established as part of the budget resolutions in 1995, 1996, and 1997, to enforce discretionary spending amounts as specified in those budget resolutions through FY2002.

¹⁰ For more on points of order, including the waiver process, see: U.S. Library of Congress, Congressional Research Service, *Points of Order in the Congressional Budget Process*, by James V. Saturno, CRS report 97-865 GOV (Washington, 1997).

Table 1. Discretionary Spending Limits, FY1998-2002
(Budget Authority and Outlays)¹¹

Fiscal Year	Defense Spending	Nondefense Spending	Total Discretionary Spending	Violent Crime Reduction Spending
1998	ba \$269,000,000,000 o \$266,823,000,000	ba \$252,357,000,000 o \$282,853,000,000		ba \$5,500,000,000 o \$3,592,000,000
1999	ba \$271,500,000,000 o \$266,518,000,000	ba \$255,699,000,000 o \$287,850,000,000		ba \$5,800,000,000 o \$4,953,000,000
2000			ba \$532,693,000,000 o \$558,711,000,000	ba \$4,500,000,000 o \$5,554,000,000
2001			ba \$542,032,000,000 o \$564,396,000,000	
2002			ba \$551,074,000,000 o \$560,799,000,000	

Source: Section 251(c) of the Balanced Budget and Emergency Deficit Control Act, as amended by Section 10203(b) of the Budget Enforcement Act of 1997 (P.L. 105-33).

Enforcement of Total Spending

The Congressional Budget Act also provides that the total level of spending for a fiscal year as provided for in a budget resolution may be enforced by a point of order. Section 311(a) in the House, and 311(b) in the Senate, prohibit the consideration of legislation that would cause the total amount of new budget authority or outlays set forth in the budget resolution from being exceeded. However, this point of order does not apply in the House if the legislation in question does not also cause a committee's allocation under 302(a) to be exceeded. This exception under Section 311(c) (known as the "Fazio exception") means that it is necessary for committees to control the level of spending that will result from legislation they report, but not require them to offset increases in spending due to factors outside of their direct control, such as the economy.

Appropriations Bills and Suballocations Under Section 302(b)

Section 302(b) of the Budget Act requires the House and Senate Appropriations Committees to subdivide their allocations of budget authority and outlays under Section 302(a) among their subcommittees. These suballocations are to be made "as soon as practicable after a concurrent resolution on the budget is agreed to." This requirement is reinforced by Section 302(c), which prohibits the consideration of appropriations measures in the House or Senate until the suballocations are made. Because each subcommittee of the Appropriations Committees is responsible for

¹¹ These amounts are to be periodically adjusted in accordance with the parameters established in Section 251(b) of the Balanced Budget and Emergency Deficit Control Act, as amended by Section 10203(a) of the Budget Enforcement Act of 1997 (P.L. 105-33).

reporting a single general appropriations bill, the process of making suballocations effectively determines the spending level for each of the 13 regular appropriations bills.

One of the changes made to the Congressional Budget Act by the Balanced Budget and Emergency Deficit Control Act of 1985 was to establish the enforceability of suballocations by points of order. Under Section 302(f)(1) in the House, and Section 302(f)(2)(B) in the Senate, legislation that would cause the suballocations made under 302(b) to be exceeded is prohibited. As with total allocations to committee under Section 302(a), the House enforces the level of budget authority, while the Senate enforces both the levels of budget authority and outlays.

Because the 302(b) subdivisions are within the purview of the Appropriations Committees, the committees can (and do) issue revised subdivisions over the course of appropriations actions to reflect changes in spending priorities effected during floor consideration or in conference. Each revision then supplants all previous suballocations and becomes enforceable through points of order.

One way in which making 302(b) suballocations enforceable has had an impact has been to reduce the number of floor amendments to appropriations measures. Because the Appropriations Committees typically report measures that spend at the level of the appropriate suballocation, any amendment that would increase spending would be likely to cause that suballocation to be breached, and thus subject to a point of order.¹²

This rule, in combination with other rules of procedure, frequently makes it difficult to rearrange spending priorities within an appropriations bill through amendments on the floor. A separate amendment (or amendments) to reduce spending would need to be agreed to prior to consideration of one that would increase spending for an agency or program in order to offset that increase. The spending reduction needed to be agreed to first in order to insure that agreeing to the increase would not cause the 302(b) suballocation to be exceeded, but, because the amendments had to be offered separately, there was no certainty as to what spending (if any) the reduction would be used to offset. In order to alleviate this perceived difficulty, the House adopted a new provision to Rule XXI at the beginning of the 104th Congress.¹³ House Rule XXI, clause 2(f) provides that:

... it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc pursuant to this paragraph, such amendments may amend portions of the bill not yet read for

¹² For a discussion of this effect, see Richard G. Forgette and James V. Saturno, "302(b) or Not 302(b): Congressional Floor Procedures and House Appropriators," *Legislative Studies Quarterly*, vol. 19, no. 3 (Aug. 1994), p. 385-396.

¹³ Title II of H.Res. 6 (104th Congress), agreed to in the House January 4, 1995. *Congressional Record*, daily edition, vol. 141, no. 1, Jan. 4, 1995, and no. 2, Jan. 5, 1995 (continuation of proceedings of Jan. 4, 1995), p. H89.

amendment ... and shall not be subject to a demand for division of the question
....

This provision allows greater latitude in amending appropriations bills in the House, while preserving the Section 302(f) point of order as a method for enforcing the level of appropriations suballocations.