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FY2005 Consolidated Appropriations Act: Reference Guide

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Summary

Congress and President Bush brought action on the 13 regular appropriations acts for FY2005 to a close through the enactment of H.R. 4818, the Consolidated Appropriations Act for FY2005. The House agreed to the conference report, by a vote of 344-51, on November 20, 2004, and the Senate agreed to it, by a vote of 65-30, later that day. On December 6, the House completed action on H.Con.Res. 528, a measure correcting the enrollment of H.R. 4818, thus clearing the bill for the President's approval. Among other things, H.Con.Res. 528 removed from the bill a controversial provision pertaining to congressional access to income tax returns. President Bush signed the bill into law on December 8, as P.L. 108-447 (118 Stat. 2809 et. seq.).

The Consolidated Appropriations Act incorporates the remaining nine regular appropriations acts for FY2005 (four were enacted into law earlier in 2004) and provides about \$388 billion in discretionary budget authority for the fiscal year. In order to offset part of the costs, the act requires that FY2005 appropriations (and obligation limitations), except for defense and homeland security spending, be cut across the board by 0.80%. According to preliminary estimates, the across-the-board cut is expected to yield savings of about \$3.5 billion in budget authority and \$1.9 billion in outlays for FY2005. This report will be updated as developments warrant.

Legislative History

In 2004, during the second session of the 108th Congress, the House and Senate cleared four of the 13 regular appropriations acts for FY2005 individually and President George W. Bush signed them into law.¹ Congress and the President brought action on the remaining nine regular appropriations acts for FY2005 to a close through the enactment

¹ The four FY2005 regular appropriations acts signed into law individually earlier in 2004 were (1) Defense, P.L. 108-287 (Aug. 5, 2004); (2) Military Construction, P.L. 108-324 (Oct. 13, 2004); (3) Homeland Security, P.L. 108-334 (Oct. 18, 2004); and (4) District of Columbia, P.L. 108-335 (Oct. 18, 2004).

of a single bill, H.R. 4818, the Consolidated Appropriations Act for FY2005. The act, which first passed the House on July 15, 2004, and the Senate on September 23, initially provided appropriations only for Foreign Operations, Export Financing, and Related Programs. It was expanded at the conference stage to cover the other eight regular appropriations acts. The conference report, H.Rept. 108-792, was reported on November 19, 2004.

The House agreed to the conference report on H.R. 4818, by a vote of 344-51, on November 20, 2004. The conference report was considered pursuant to the terms of a special rule, H.Res. 866, that had been reported by the House Rules Committee earlier that day (H.Rept. 108-794).² During House consideration of the special rule, it was amended to provide for automatic adoption in the House of a measure (discussed below) providing for enrollment corrections in H.R. 4818. The Senate agreed to the conference report, by a vote of 65-30, later that day.

On December 6, 2004, the House completed action on H.Con.Res. 528, a measure correcting the enrollment of H.R. 4818, thus clearing the bill for the President's approval. Among other things, the enrollment correction measure removed from the bill a controversial provision pertaining to congressional access to income tax returns. The provision, originally found in Division H (Transportation-Treasury Appropriations Act), Title II, Section 222, read as follows:

Sec. 222. Hereafter, notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the Chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall allow agents designated by such Chairman access to Internal Revenue Service facilities and any tax returns or return information contained therein.³

As automatically adopted by the House on November 20, pursuant to Section 3 of H.Res. 866, the enrollment correction measure provided for two changes in H.R. 4818: (1) substituting new language for Division H, Title VI, Section 643, pertaining to debt collection procedures; and (2) changing the across-the-board reduction percentage in Division J, Title I, Section 122 from 0.83% to 0.80%. Later that day, the Senate by unanimous consent adopted H.Con.Res. 528 with an amendment (Stevens amendment no. 4076) removing the provision relating to income tax returns, and then returned the measure to the House. Earlier on November 20, the Senate had passed by unanimous consent S.J.Res. 42, a measure declaring that the tax return provision "shall have no force and effect." Senate action on H.Con.Res. 528, however, superseded its earlier passage of S.J.Res. 42.

President Bush signed the bill into law on December 8, as P.L. 108-447 (118 Stat. 2809 et. seq.). The President issued a statement upon signing the bill, indicating his concern with some of its provisions:

² House consideration of H.Res. 866 is found in the *Congressional Record* of Nov. 20, 2004, daily ed., vol. 150, no. 135, on pp. H10087-H10098.

³ Section 222, as contained in the conference report on H.R. 4818, is set forth in the *Congressional Record* of Nov. 19, 2004, daily ed., vol. 150, no. 134, book II, on p. H10352.

Many provisions of the CAA [Consolidated Appropriations Act] are inconsistent with the constitutional authority of the President to conduct foreign affairs, command the Armed Forces, protect sensitive information, supervise the unitary executive branch, make appointments, and make recommendations to the Congress. Many other provisions unconstitutionally condition execution of the laws by the executive branch upon approval by congressional committees.⁴

The statement identified the various provisions of concern and indicated the executive branch's response in each case.

Structure and Content

Representative C. W. Bill Young, the chairman of the House Appropriations Committee, inserted explanatory materials into the *Congressional Record* of November 20 indicating that the act provides \$388.4 billion in discretionary spending for FY2005 and complies with the FY2005 cap of \$821.9 billion agreed to earlier in the session by congressional leaders and the President.⁵ In addition, Chairman Young inserted detailed tables on the discretionary spending provided in the measure.⁶

An abbreviated listing of the contents of H.R. 4818 is provided in **Table 1**. The act is organized into 11 divisions, with each of the first nine divisions (A through I) corresponding to one of the unfinished regular appropriations acts. The next division, Division J, pertains to "Other Matters," including miscellaneous appropriations and offsets. The final division, Division K, involves "Small Business" legislation. Citations are given to the pages of the *Congressional Record* of November 19, 2004, where the legislative text of the conference report and the joint explanatory statement are provided (as noted, the explanatory material for Division K is provided in the *Congressional Record* of November 20).

Across-the-Board Spending Cuts

Government-Wide Cuts. In order to offset part of the costs of the act, Division J, Title I, Section 122, requires that FY2005 appropriations (and obligation limitations), with certain exceptions, be cut across the board. (The exceptions pertain to funding provided in the Defense, Homeland Security, and Military Construction Appropriations Acts enacted earlier in the session, as well as any supplemental appropriations for FY2005.) In addition, the cut applies to advance appropriations for FY2005 provided in prior appropriations acts and certain contract authority. Under the enrollment correction measure, the across-the-board reduction percentage was changed from 0.83% to 0.80%. According to preliminary estimates, the across-the-board cut is expected to yield savings of about \$3.5 billion in budget authority and \$1.9 billion in outlays for FY2005.

⁴ See "President's Statement on the Consolidated Appropriations Act, 2005" (Dec. 8, 2004) at [<http://www.whitehouse.gov/news/releases/2004/12/20041208-13.html>].

⁵ See "Highlights of the Final FY05 Spending Bills" in the *Congressional Record*, Nov. 20, 2004, daily ed., vol. 150, no. 135, pp. H10186-H10189. The document also is available on the House Appropriations Committee's website at [<http://appropriations.house.gov>].

⁶ See the *Congressional Record*, *ibid.*, pp. H10099-H10185.

Pursuant to Section 122, rescissions made under the 0.80% across-the-board cut have to be made proportionately at the account and program, project, and activity (PPA) level. Unlike across-the-board cut provisions included in past consolidated appropriations acts, there is no requirement that the director of the Office of Management and Budget (OMB) report to Congress on the implementation of the cuts. OMB Bulletin 05-01, issued on December 16, 2004, provides guidance to agencies on implementing the 0.80% cut, as well as the other spending cuts discussed below.⁷ The text of Section 122, as it was modified by H.Con.Res. 528 and enacted into law, is provided in **Table 2**.

In his statement on the act, Chairman Young indicated that the across-the-board cut in Section 122 and two other provisions in the act were involved in constraining total funding to the capped level:

All additional spending is paid for by an across the board cut of .80% in all non-defense and non-homeland security spending, [a] \$300 million rescission in non-war, non-emergency defense funds, [and]\$283 million from limitations on expenditures from the Crime Victims Fund.⁸

Cuts Within Divisions of the Act. The Consolidated Appropriations Act for FY2005 also includes three other provisions requiring across-the-board spending cuts focused on particular divisions of the act. The cuts must be made on a proportionate basis and are expected to yield total savings of about \$367 million in budget authority for FY2005.

First, Division B (Commerce-Justice-State-the Judiciary Appropriations Act), Section 640 rescinds 0.54% of discretionary appropriations for FY2005 provided in the act. According to the House Appropriations Committee, savings from the cut are estimated at \$229 million in budget authority.⁹

Second, Division E (Interior Appropriations Act), Section 501 rescinds 0.594% of discretionary appropriations for FY2005 provided in the act, as well as advance appropriations for FY2005 provided in the Interior Appropriations Act for FY2004. The estimated savings from the cut, according to the House Appropriations Committee, are \$120.024 million in budget authority.¹⁰

⁷ The bulletin may be found at [<http://www.whitehouse.gov/omb/bulletins/fy05/b05-01.pdf>]

⁸ See the *Congressional Record*, *ibid.*, p. H10186.

⁹ The *Congressional Record*, daily ed., Nov. 19, 2004, vol. 150, no. 134, book II, sets forth the text of Section 640 on p. H10265 and the pertinent portion of the joint explanatory statement on p. H10476. The estimated savings from Section 640 are set forth in materials inserted by Chairman Young in the *Congressional Record*, daily ed., Nov. 20, 2004, vol. 150, no. 135, p. H10117.

¹⁰ The *Congressional Record*, daily ed., Nov. 19, 2004, vol. 150, no. 134, book II, sets forth the text of Section 501 on p. H10317 and the pertinent portion of the joint explanatory statement on p. H10609. The estimated savings from Section 501 are set forth in materials inserted by Chairman Young in the *Congressional Record*, daily ed., Nov. 20, 2004, vol. 150, no. 135, p. H10137.

Finally, Division F (Labor-HHS-Education Appropriations Act), Section 519 reduces amounts made available under the act for administrative and related expenses for departmental management (except for the Food and Drug Administration and the Indian Health Service) by \$18 million.¹¹

Table 1. Contents of the Consolidated Appropriations Act for FY2005 (H.R. 4818, Conference Report, H.Rept. 108-792)

Section/ Division	Content	Congressional Record Page Number	
		Legislative Text	Joint Explanatory Statement
Sec. 1	Short Title	H10235	—
Sec. 2	Table of Contents	H10235	—
Sec. 3	References	H10235	—
Sec. 4	Statement of Appropriations	H10235	—
Division A	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies	H10235- H10247	H10411- H10426
Division B	Commerce, Justice, and State, the Judiciary, and Related Agencies	H10247- H10268	H10426- H10476
Division C	Energy and Water Development	H10268- H10277	H10476- H10576
Division D	Foreign Operations, Export Financing, and Related Programs	H10277- H10297	H10576- H10590
Division E	Interior and Related Agencies	H10297- H10317	H10590- H10627
Division F	Labor, Health and Human Services, and Education, and Related Agencies	H10317- H10331	H10627- H10770
Division G	Legislative Branch	H10331- H10340	H10770- H10775
Division H	Transportation, Treasury, Independent Agencies, and General Government	H10340- H10364	H10775- H10824
Division I	Veterans Affairs and Housing and Urban Development, and Independent Agencies	H10364- H10379	H10824- H10887

¹¹ The *Congressional Record*, daily ed., Nov. 19, 2004, vol. 150, no. 134, book II, sets forth the text of Section 519 on p. H10331 and the pertinent portion of the joint explanatory statement on p. H10700. The required savings are specified in the text of the provision and included in the cost data set forth in materials inserted by Chairman Young in the *Congressional Record*, daily ed., Nov. 20, 2004, vol. 150, no. 135, p. H10158 (see line code 50240).

Section/ Division	Content	Congressional Record Page Number	
		Legislative Text	Joint Explanatory Statement
Division J	Other Matters	H10379- H10405	H10887
Division K	Small Business	H10405- H10411	H10196- H10202 ^a

Source: Conference report on H.R. 4818, H.Rept. 108-792 (Nov. 19, 2004), as printed in the *Congressional Record*, Nov. 19, 2004, daily ed., vol. 150, no. 134, book II.

a. The page numbers of the joint explanatory statement for Division K (Small Business) refer to the *Congressional Record* of Nov. 20, 2004.

Table 2. Text of the 0.80% Across-the-Board Spending Cut Provision in the Consolidated Appropriations Act for FY2005 (Division J, Title I, Section 122 of P.L. 108-447)

<p>Sec. 122 (a) Across-the-Board Rescissions. — There is hereby rescinded an amount equal to 0.80 percent of —</p> <p>(1) the budget authority provided (or obligation limitation imposed) for fiscal year 2005 for any discretionary account in divisions A through J of this Act and in any other fiscal year 2005 appropriation Act (except any fiscal year 2005 supplemental appropriation Act, the Department of Homeland Security Appropriations Act, 2005, the Department of Defense Appropriations Act, 2005, or the Military Construction Appropriations Act, 2005);</p> <p>(2) the budget authority provided in any advance appropriation for fiscal year 2005 for any discretionary account in any prior fiscal year appropriation Act; and</p> <p>(3) the contract authority provided in fiscal year 2005 for any program subject to limitation contained in any division or appropriation Act subject to paragraph (1).</p> <p>(b) Proportionate Application. — Any rescission made by subsection (a) shall be applied proportionately —</p> <p>(1) to each discretionary account and each item of budget authority described in such subsection; and</p> <p>(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).</p>

Source: *Congressional Record*, Nov. 19, 2004, daily edition, vol. 150, no. 134, book II, p. H10381 (legislative text) and p. H10887 (joint explanatory statement), and H.Con.Res. 528, which changed the rescission percentage from 0.83% to 0.80%.