

CRS Report for Congress

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Omnibus Appropriations Acts: Overview of Recent Practices

Updated April 27, 2005

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Omnibus Appropriations Acts: Overview of Recent Practices

Summary

Omnibus appropriations acts have become a significant feature of the legislative process in recent years as Congress and the President have used them more frequently to bring action on the regular appropriations cycle to a close. Following a discussion of pertinent background information, this report reviews the recent enactment of such measures and briefly addresses several issues raised by their use.

For nearly two centuries, regular appropriations acts were considered by the House and Senate as individual measures and enacted into law as freestanding laws. In 1950, the House and Senate undertook a one-time experiment in improving legislative efficiency by considering all of the regular appropriations acts for FY1951 in a single bill, the Omnibus Appropriations Act of 1950. The following year, the House and Senate returned to the practice of considering the regular appropriations acts individually.

During the period covering FY1986-FY2005, a total of 260 regular appropriations acts were considered. All but one of these acts were enacted into law either individually or as part of an omnibus measure. Of the 259 measures enacted into law, 170 (66%) were enacted as freestanding measures and 89 (34%) were enacted in omnibus legislation. On average, less than nine (8.5) regular appropriations acts were enacted into law as freestanding measures and more than four (4.5) were enacted into law in omnibus legislation each year.

During this period, 12 different omnibus measures were enacted into law for 11 different fiscal years (two separate omnibus appropriations acts were enacted for FY2001). Each of the measures funded between two and 13 of the regular appropriations acts, on average funding about seven of them.

Eight of the omnibus measures were bills or joint resolutions carrying the designation “consolidated” appropriations or “omnibus consolidated” appropriations in the title; three were continuing appropriations acts; and one was the VA-HUD Appropriations Act for FY2001, which also included the Energy and Water Development Appropriations Act for FY2001.

In addition to the customary concern — of sacrificing the opportunity for debate and amendment for greater legislative efficiency — that arises whenever complex legislation is considered under time constraints, the use of omnibus appropriations acts has generated controversy for other reasons. These include whether adequate consideration was given to regular appropriations acts prior to their incorporation into omnibus appropriations legislation, the use of across-the-board spending cuts, and the inclusion of significant legislative (rather than funding) provisions.

This report will be updated as warranted.

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Omnibus Appropriations Acts: Overview of Recent Practices

Omnibus appropriations acts have become a significant feature of the legislative process in recent years as Congress and the President have resorted more frequently to their use to bring action on the regular appropriations cycle to a close. Following a discussion of pertinent background information, this report reviews the recent use of such measures and briefly addresses several issues that their use raises.

Background

Each year, Congress and the President enact discretionary spending¹ in the form of regular appropriations acts, as well as continuing and supplemental appropriations acts.² The number of regular appropriations acts had been fixed at 13 for several decades, but a realignment of the House and Senate Appropriations subcommittees at the beginning of the 109th Congress is expected to result in two or three fewer regular appropriations acts each year. If action is not completed on all of the regular appropriations acts toward the end of a congressional session, Congress sometimes will combine the unfinished appropriations acts into an omnibus measure. An omnibus act may set forth the full text of each of the regular appropriations acts included therein, or it may enact them individually by cross-reference.

The House and Senate consider annual appropriations acts, and other budgetary legislation, within constraints established in a yearly budget resolution required by the Congressional Budget Act of 1974, as amended. Budget resolution policies are enforced by points of order that may be raised during House and Senate consideration of spending, revenue, and debt-limit legislation.³ On occasion, budget policies may be modified by agreements reached between congressional leaders and the President; such modifications may be accommodated during legislative action through the use of waivers of points of order, emergency spending designations, and other budgetary or procedural devices.

¹*Discretionary spending*, which accounts for roughly one-third of total federal spending, is spending that is under the control of the House and Senate Appropriations Committees. For the most part, discretionary spending funds the routine operations of the federal government. It is distinguished from *direct spending*, which is controlled by the legislative committees in substantive law and funds such mandatory programs as Social Security and Medicare. Discretionary spending and direct spending together make up total federal spending.

²For background on the appropriations process, see CRS Report 97-684, *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter.

³For a general discussion of budget enforcement procedures, see CRS Report 98-721, *Introduction to the Federal Budget Process*, by Robert Keith and Allen Schick.

During the period covering FY1991-FY2002, legislative action on annual appropriations acts also was subject to limits on discretionary spending established by the Budget Enforcement Act (BEA) of 1990, as amended. Under this statutory mechanism, separate discretionary spending limits were applied to two different measurements of spending — budget authority and outlays. The discretionary spending limits were enforced by the sequestration process, which involved automatic, largely across-the-board reductions in discretionary spending in order to eliminate any breach of the limits.⁴

For nearly two centuries, regular appropriations acts were considered by the House and Senate as individual measures and enacted into law by the President as freestanding laws. In 1950, the House and Senate undertook a one-time experiment in improving legislative efficiency by considering all of the regular appropriations acts for FY1951 in a single bill, the Omnibus Appropriations Act of 1950 (81st Congress, P.L. 759, September 6, 1950).⁵ The following year, the House and Senate returned to the practice of considering the regular appropriations acts individually.

In the late 1970s and continuing into the 1980s, continuing appropriations acts sometimes took the form of omnibus legislation, incorporating the full text of multiple regular appropriations acts for full-year funding instead of providing short-term funding by formula.⁶ In recent years, the House and Senate on several occasions have combined multiple regular appropriations acts into “consolidated” appropriations measures, sometimes enacting individual bills by cross-reference.

Omnibus Appropriations Acts: FY1986-FY2005

During the 20-year period covering FY1986-FY2005, 12 different omnibus measures were enacted into law for 11 different fiscal years (two separate omnibus appropriations acts were enacted for FY2001). Each of the measures funded between two and 13 of the regular appropriations acts, on average funding about seven of them.

Eight of the omnibus measures were bills or joint resolutions carrying the designation “consolidated” appropriations or “omnibus consolidated” appropriations in the title; three were continuing appropriations acts; and one was the VA-HUD Appropriations Act for FY2001, which also included the Energy and Water Development Appropriations Act for FY2001 (see **Table 1**, and, at the end of the report, **Table 2**).

⁴The sequestration process is discussed in detail in CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith.

⁵See “The Omnibus Appropriations Act of 1950,” by Dalmus H. Nelson, *Journal of Politics*, vol. 15, no. 2, May 1953.

⁶For more information on practices relating to the use of continuing appropriations acts, see CRS Report RL32614, *Duration of Continuing Resolutions in Recent Years*, by Robert Keith.

P.L. 106-553 was enacted as an omnibus measure enacting the Commerce-Justice-State-Judiciary Appropriations Act for FY2001 and the District of Columbia Appropriations Act for FY2001 by cross-reference. However, the provision dealing with District of Columbia appropriations was repealed; therefore, P.L. 106-553 is not counted in this report as an omnibus measure.

Table 1. Omnibus Appropriations Acts: FY1986-FY2005

Further Continuing Appropriations Act, 1986 (P.L. 99-190; December 19, 1985)
Continuing Appropriations Act, 1987 (P.L. 99-500; October 18, 1986)
Further Continuing Appropriations Act, 1988 (P.L. 100-202; December 22, 1987)
Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134; April 26, 1996)
Omnibus Consolidated Appropriations Act, 1997 (P.L. 104-208; September 30, 1996)
Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277; October 21, 1998)
Consolidated Appropriations Act, 2000 (P.L. 106-113; November 29, 1999)
Consolidated Appropriations Act, 2001 (P.L. 106-554; December 21, 2000)
VA-HUD Appropriations Act, 2001 (P.L. 106-377; October 27, 2000)
Consolidated Appropriations Resolution, 2003 (P.L. 108-7; February 20, 2003)
Consolidated Appropriations Act, 2004 (P.L. 108-199; January 23, 2004)
Consolidated Appropriations Act, 2005 (P.L. 108-447; December 8, 2004)

During this period, a total of 260 regular appropriations acts were considered. All but one of these acts were enacted into law either individually or as part of an omnibus measure.⁷

Of the 259 measures enacted into law, 170 (66%) were enacted as freestanding measures and 89 (34%) were enacted in omnibus legislation. On average, less than nine (8.5) regular appropriations acts were enacted into law as freestanding measures and more than four (4.5) were enacted into law in omnibus legislation each year.

⁷ The Foreign Operations Appropriations Act for FY1992 was not enacted into law. Funding for activities covered by this act was provided in a series of continuing resolutions, culminating with the enactment of P.L. 102-266 on Apr. 1, 1992.

Fifty-eight (23%) of the 259 regular appropriations acts were enacted into law on or before October 1, the start of the fiscal year. Six of these measures were included in an omnibus measure (for FY1997) and the rest were enacted as freestanding measures. On average during this period, about three (2.9) regular appropriations acts were enacted annually before the start of the fiscal year.

Six of the eight omnibus appropriations acts bearing the designation “consolidated” or “omnibus consolidated” in their title originated in the House as a regular appropriations act and were expanded in coverage (and their titles redesignated) at the conference stage. These included the appropriations acts for

- Defense (H.R. 3610) in FY1997;
- Transportation (H.R. 4238) in FY1999;
- District of Columbia (H.R. 3194) in FY2000;
- Labor-HHS-Education (H.R. 4577) in FY2001;
- Agriculture (H.R. 2673) in FY2004; and
- Foreign Operations (H.R. 4818) in FY2005.

The acts for FY2000 and FY2001 enacted regular appropriations measures by cross-reference instead of including their full text (except for FY2000 appropriations for the District of Columbia).⁸

In FY2003, the omnibus measure originated in the House as a simple continuing resolution (H.J.Res. 2), but was expanded in coverage and redesignated during Senate floor action. The remaining measure, for FY1996 (H.R. 3019), originated as an omnibus measure and retained this status throughout its consideration.

Selected Issues in the Use of Omnibus Appropriations Acts

Several issues pertaining to the use of omnibus appropriations have been the focus of debate in recent years, including the extent to which the regular appropriations acts have received consideration prior to being incorporated into omnibus legislation, the use of across-the-board spending cuts, and the inclusion of legislative provisions.

Prior Consideration of Regular Appropriations Acts. One of the chief concerns regarding the use of omnibus appropriations acts is that it reduces the opportunities Members have to debate and amend the regular appropriations acts that are incorporated therein. This concern may be lessened if the regular appropriations

⁸For additional information on the legislative history and structure of recent omnibus appropriations acts, see (1) CRS Report RS20403, *FY2000 Consolidated Appropriations Act: Reference Guide*, by Robert Keith; (2) CRS Report RS20756, *FY2001 Consolidated Appropriations Act: Reference Guide*, by Robert Keith (archived; available from author); (3) CRS Report RS21433, *FY2003 Consolidated Appropriations Resolution: Reference Guide*, by Robert Keith; (4) CRS Report RS21684, *FY2004 Consolidated Appropriations Act: Reference Guide*, by Robert Keith; and (5) CRS Report RS21983, *FY2005 Consolidated Appropriations Act: Reference Guide*, by Robert Keith.

acts eventually incorporated into omnibus legislation are first considered individually.

Data collected for the FY1986-FY2005 period show that the Senate is more likely than the House not to have given prior consideration to regular appropriations acts. The House did not initially consider, or considered but did not pass, 17 of the 89 regular appropriations acts subsequently included in omnibus legislation. These most often included regular appropriations acts for Foreign Operations (four times), Labor-HHS-Education (three times), and Agriculture and Defense (two times each).

During the same period, the Senate did not initially consider, or considered but did not pass, 39 of the 89 regular appropriations acts subsequently included in omnibus legislation. Seven of the 39 measures not initially passed by the Senate were considered on the floor, while 32 were not (all 32 of these measures were reported by the Senate Appropriations Committee). The regular appropriations acts most often included in omnibus legislation without either initial consideration or passage in the Senate were for (1) Commerce, Justice, (2) Interior, and (3) Labor-HHS-Education, at five times each. Two regular appropriations acts — Legislative Branch and Military Construction — were included in omnibus appropriations acts during this period (five times and two times, respectively), but not without having first been considered by the Senate in each instance.

Across-the-Board Spending Cuts. In order to adhere to restraints imposed by congressional budget resolutions, the discretionary spending limits, and ad hoc budget agreements between congressional leaders and the President, or to meet other purposes, Congress and the President from time to time incorporate across-the-board cuts in discretionary budget authority into annual appropriations acts.⁹ During the last six fiscal years, FY2000-FY2005, five government-wide, across-the-board spending cuts were included in omnibus appropriations acts. The cuts 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.

The 0.59% across-the-board cut in nondefense programs for FY2004 in P.L. 108-199 was accompanied by a requirement that defense appropriations, which were exempt from the 0.59% cut, be reduced by a fixed amount (\$1.8 billion). This

⁹This topic is discussed in more detail in CRS Report RL32153, *Across-the-Board Spending Cuts in Omnibus Appropriations Acts*, by Robert Keith.

requirement was repealed by Section 9003(c) of the Defense Appropriations Act for FY2005, which President Bush signed into law on August 5, 2004, as P.L. 108-287 (118 Stat. 951 et. seq.).

Omnibus appropriations acts sometimes include other across-the-board spending cuts that apply to individual appropriations acts, as set forth in separate divisions of the omnibus legislation. P.L. 108-199, for example, included two other requirements for much smaller uniform spending cuts in nondefense programs: (1) a 0.465% cut in funding in the Commerce-Justice-State Appropriations division, estimated to yield \$188.7 million in savings; and (2) a cut of \$50 million in administrative expenses for the Departments of Labor, Health and Human Services, and Education.

Further, P.L. 108-447 included three other provisions requiring across-the-board spending cuts focused on particular divisions of the act: (1) a 0.54% cut in the Commerce-Justice-State Appropriations division, estimated to save \$229 million; (2) a 0.594% cut in the Interior Appropriations division, estimated to save \$120 million; and (3) a cut of \$18 million in the Labor-HHS-Education Appropriations division, applicable to administrative and related expenses for departmental management (except for the Food and Drug Administration and the Indian Health Service).

The significance of the spending cuts differed with regard to budget enforcement. The FY2000 cut was an integral component of the plan that successfully avoided a sequester at the end of the session. The FY2001 cut contributed to overall discretionary spending being below the statutory limits, but the across-the-board cut proved to be unnecessary in avoiding a sequester. With regard to the FY2003 cut, the House and Senate did not reach agreement on a budget resolution and the statutory discretionary limits had expired the fiscal year before; nonetheless, the across-the-board cut was necessary in adhering to an informal limit reached between congressional leaders and President Bush and avoiding a veto of the omnibus appropriations act. Similarly, the FY2004 and FY2005 cuts were necessary to keep the costs of the measures under overall limits acceptable to the President.

Although the across-the-board spending cuts were viewed as essential elements in meeting budget enforcement goals, some Members criticized them as involving a formulaic approach that undermined the process of making deliberate, informed choices regarding appropriate funding levels.

Inclusion of Legislative Provisions. Although House and Senate rules and practices over the decades have promoted the separate consideration of legislation and appropriations, the separation has not been ironclad. In many instances, during the routine operation of the annual appropriations process, minor provisions are included in appropriations acts that technically may be regarded under the rules as legislative in nature, but do not significantly undermine the dichotomy between legislation and appropriations. At other times, however, the legislative provisions included in annual appropriations acts — especially omnibus

appropriations acts — have been much more substantial and have represented a deliberate suspension of the usual procedural boundaries.¹⁰

In addition to the regular appropriations for FY2003, for example, the Consolidated Appropriations Resolution for FY2003 (P.L. 108-7) included the Agricultural Assistance Act of 2003, amendments to the Price-Anderson Act and the Homeland Security Act, and provisions dealing with the U.S.-China Economic and Security Review Commission, among other legislative matters.

While the inclusion of significant legislative matters may represent an efficient way to conclude legislative business as a congressional session comes to an end, it also may raise concerns about the adequate opportunity for Members to debate and amend them.

¹⁰Recent practices in this regard are addressed in CRS Report RL30619, *Examples of Legislative Provisions in Omnibus Appropriations Acts*, by Robert Keith.

Table 2. Detail on Omnibus Appropriations Acts: FY1986-FY2005

Fiscal Year	Congress/ Session	Number of Regular Appropriations Acts:			Omnibus Appropriations Act
		Enacted by Start of Fiscal Year	Enacted as Freestanding Legislation	Enacted in Omnibus Legislation	
1986	99/1	0	6	7	Further Continuing Appropriations Act, FY1986 (P.L. 99-190, December 19, 1985)
1987	99/2	0	0	13	Continuing Appropriations Act, FY1987 (P.L. 99-500, October 18, 1986)
1988	100/1	0	0	13	Further Continuing Appropriations Act, FY1988 (P.L. 100-202, December 22, 1987)
1989	100/2	13	13	0	[none]
1990	101/1	1	13	0	[none]
1991	101/2	0	13	0	[none]
1992	102/1	3	12	0	[none]
1993	102/2	1	13	0	[none]
1994	103/1	2	13	0	[none]
1995	103/2	13	13	0	[none]
1996	104/1	0	8	5	Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134, April 26, 1996)
1997	104/2	13	7	6	Omnibus Consolidated Appropriations Act, 1997 (P.L. 104-208, September 30, 1996)

Fiscal Year	Congress/ Session	Number of Regular Appropriations Acts:			Omnibus Appropriations Act
		Enacted by Start of Fiscal Year	Enacted as Freestanding Legislation	Enacted in Omnibus Legislation	
1998	105/1	1	13	0	[none]
1999	105/2	1	5	8	Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277; October 21, 1998)
2000	106/1	4	8	5	Consolidated Appropriations Act, 2000 (P.L. 106-113, November 29, 1999)
2001	106/2	2	8	5	Consolidated Appropriations Act, 2001 [3 acts] (P.L. 106-554, December 21, 2000) VA-HUD Appropriations Act, 2001 [2 acts] (P.L. 106-377, October 27, 2000)
2002	107/1	0	13	0	[none]
2003	107/2	0	2	11	Consolidated Appropriations Resolution, 2003 (P.L. 108-7, February 20, 2003)
2004	108/1	3	6	7	Consolidated Appropriations Act, 2004 (P.L. 108-199; January 23, 2004)
2005	108/2	1	4	9	Consolidated Appropriations Act, 2005 (P.L. 108-447; December 8, 2004)
Total		58	170	89	—
Annual Average		2.9	8.5	4.5	—

Source: *Calendars of the United States House of Representatives, 99th-108th Congresses*