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Defense Primer: Defense Appropriations Process

The Constitution gives Congress the power of the purse in Article I, Section 9, which provides that “No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” In order to fulfill this duty Congress annually considers appropriations measures, which provide funding for numerous activities—such as national defense, education, and homeland security—consistent with policies and priorities established through legislation such as the National Defense Authorization Act.

The congressional appropriations process includes various rules and practices that Congress has adopted to distinguish appropriations measures and facilitate their consideration. These measures generally provide funding authority that remains available for a single fiscal year (October 1 - September 30).

Committees of Jurisdiction

The House and Senate Committees on Appropriations exercise jurisdiction over the annual appropriations measures. Each committee has 12 subcommittees, with each subcommittee having responsibility for developing one regular annual appropriations bill to provide funding for departments and activities within its jurisdiction. The jurisdictions of the House and Senate Appropriations subcommittees are generally parallel. The subcommittees dealing with defense matters are:

- *Subcommittees on Defense*, with jurisdiction over appropriations for the Departments of Army, Navy (including Marine Corps), Air Force, Office of Secretary of Defense, Defense Agencies, the Central Intelligence Agency, and the Intelligence Community Staff.
- *Subcommittees on Military Construction, Veterans Affairs and Related Agencies*, with jurisdiction over appropriations for Military Construction, Chemical Demilitarization Construction, Military Family Housing Construction and Operation and Maintenance, the Base Realignment and Closure Account, NATO Security Investment Program as well as the Department of Veterans Affairs, and other related agencies.
- *Subcommittee on Energy and Water Development*, with jurisdiction over the Army Corps of Engineers, and all defense related activities of the Department of Energy, including the National Nuclear Security Administration.

The Congressional Budget Resolution

The Congressional Budget Act of 1974 provides for the annual consideration of a concurrent resolution on the budget, which allows Congress to establish overall budgetary and fiscal policy to be implemented through

enactment of subsequent legislation. The budget resolution, in part, establishes a limit on total new budget authority and outlay levels divided among 20 functional categories—such as national defense, agriculture, and transportation—that set spending priorities.

Section 302(a) of the Congressional Budget Act requires that the total new budget authority and outlays in the budget resolution be allocated among all committees with spending jurisdiction. This establishes ceilings on spending for legislation reported from each committee that can be enforced procedurally through points of order during consideration of the legislation. All discretionary spending is allocated to the House and Senate Appropriations Committees, which are required to subdivide this allocation among their 12 subcommittees under Section 302(b) of the Congressional Budget Act. These suballocations are also enforceable during consideration of legislation, preventing the consideration of amendments that would increase funding above these limits.

Committee Processes

Upon receipt of the President’s budget request, the appropriations subcommittees begin a series of hearings in which the senior civilian and military leadership of the Department of Defense, the military services, and certain defense agencies are invited to testify before the subcommittees on the budget request.

At the same time, Members of Congress may submit requests and make recommendations concerning proposed programmatic levels and language to be included in appropriations bills and committee reports.

After conducting these hearings, the House and Senate Appropriations Committees make their suballocations, and the subcommittees begin to draft, mark up, and report the appropriations bills to their respective full committees. The full committees also hold a markup, and may adopt amendments to a subcommittee’s recommendations before reporting the bills, and making them available for floor consideration. In addition to drafting the bills, the subcommittees also prepare reports, which include information required by House and Senate rules, and explain committee actions and provide guidance and directives to agencies. Committee reports may not be amended directly during floor proceedings.

House and Senate Consideration

Traditionally, the House initiates consideration of regular appropriations measures, although the Senate Appropriations Committee may draft or report appropriations legislation in anticipation of House action. The House Appropriations Committee generally begins reporting the appropriations bills to the House in May or

June. Once reported from committee, an appropriations bill may be scheduled for floor consideration. In the House, current practice is to consider the bill under the terms of a special rule (reported by the House Rules Committee) that structures the conditions of debate and specifies possible floor amendments to the bill. After being debated, amended and passed by the House, the measure is sent to the Senate.

The Senate Appropriations Committee typically begins reporting the bills in June. The recent practice generally has been for the Senate to consider the text of a bill as reported by its Appropriations Committee in the form of a complete substitute amendment for the House-passed bill. In the Senate, floor debate and amendment consideration is typically structured pursuant to multiple unanimous consent agreements. However, one or more cloture processes (by which three-fifths of the Senate, typically 60 Senators, votes to limit consideration) may be necessary for the Senate to reach a final vote on certain amendments, and on the bill itself.

Conference

The Constitution requires that the House and Senate approve the same measure in precisely the same form before it may be presented to the President for his signature or veto. Consequently, once the House and Senate have both completed initial consideration of an appropriations measure, the Appropriations Committees in each chamber will endeavor to negotiate a resolution of the differences between their respective versions. The House and Senate can agree to convene a conference committee to conduct this negotiation and propose a package settlement of all their disagreements. Alternatively, agreement may be reached through an exchange of amendments between the houses.

The practice has generally been to use a conference committee to resolve differences between the houses on the annual defense appropriations bill. Conferees are typically drawn from the defense subcommittees of the House and Senate Appropriations Committees. Conferees are generally required by House and Senate rules to negotiate within the scope of the differences between the versions of the bill, and report the result of their negotiation in the form of a conference report. Completion of the conference report is not on a specified timeline, so that negotiations are concluded only when a majority of the conferees from each chamber sign the conference report. The conference committee will typically begin their work as soon as possible following passage in both chambers.

Once reported by the conference committee, a conference report is subject to floor debate during consideration, but is not amendable. (In the Senate, reaching a vote on the conference report may require three-fifths of the Senate to invoke cloture.) If the House and Senate each agree to the conference report, the measure is enrolled for presentation to the President.

While Congress has traditionally considered and approved each regular appropriations bill separately, delays in their consideration may lead to a combination of several

appropriations bills into a single legislative vehicle prior to enactment, referred to as omnibus appropriations measures.

Statutory Spending Limit

Under the provisions of the Budget Control Act of 2011, there is a limit on the amount of discretionary spending that can be provided in appropriations measures (through FY2021). This amount is divided into separate limits for defense and non-defense. If spending in excess of either of these statutory limits is enacted, the President is required to issue a sequester order making across-the-board cuts in non-exempt programs and activities within the breached category. The statute also provides, however, for the caps to be adjusted for any appropriations designated for “Overseas Contingency Operations/Global War on Terrorism,” effectively making such spending exempt from the caps.

Continuing Resolutions

If this process is not completed prior to the start of the fiscal year (October 1), Congress may need to enact one or more measures to provide temporary funding authority pending the final disposition of the regular appropriations bills, either separately or as part of an omnibus measure. Because budget authority is typically provided for a single fiscal year, temporary funding measures are necessary if action on a regular appropriations measure has not been completed prior to the beginning of a fiscal year in order to prevent a funding gap that could require an agency to cease non-exempt activities. Traditionally, temporary funding has been provided in the form of a joint resolution to allow agencies or programs to continue to obligate funds at a particular rate (such as the rate of operations for the previous fiscal year), for a specific period of time, which may range from a single day to an entire fiscal year. These measures are known as continuing resolutions (or CRs).

Supplemental Appropriations

In addition to the amounts provided in a regular appropriations measure, the President may request, and Congress may enact, additional funding for selected activities, in the form of one or more supplemental appropriations measures (or supplementals). These have been used to provide funding for unforeseen needs, such as response to the terror attacks of September 11, 2001, and recovery costs due to Hurricane Sandy in 2013. They have also been used as vehicles to provide funding for Overseas Contingency Operations. Like regular appropriations bills, supplementals provide specific amounts of funding for individual accounts rather than funding based on a rate of operations (like a CR).

CRS Products

CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, coordinated by James V. Saturno

CRS Report IG10005, *From Bill to Law: Stages of the Legislative Process*, by Valerie Heitshusen and Jennifer E. Manning

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