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Appropriations Report Language: Overview of Development, Components, and Issues for Congress

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Summary

In general, congressional reports may accompany appropriations measures as part of either the committee stage or the resolving differences stage of the legislative process. Although this language is not considered binding in the same manner as language in the statute, the congressional understanding of an appropriations measure is closely related to its development. There are appropriations-specific components and practices related to report language that have been developed by the House and Senate Appropriations Committees to better enable their oversight of the agencies. There are also components that have come about as a result of chamber rules to provide greater information on appropriations measures in order to facilitate their congressional consideration. The purpose of this report is to provide an overview of appropriations report language.

Although appropriations report language is primarily developed by the House and Senate Appropriations Committees, those committees have formal and informal practices that enable input on the language from a variety of sources, including programmatic requests that are submitted to the committees from Members of Congress. When appropriators meet to mark up an appropriations measure, amendments to the draft report may also be offered and considered in committee. While report language cannot be directly amended on the floor, it is sometimes possible to propose amendments to an appropriations bill that have the effect of overriding language in the report. During the resolving differences stage of the legislative process, congressional negotiators also seek to address differences between the relevant House and Senate appropriations report language in the joint explanatory statement or other explanatory text produced as a result of those negotiations. In current practice, report language does not accompany formulaic continuing resolutions (CRs), even if funds are provided in this manner for the remainder of the fiscal year.

In current practice, appropriations report language has a number of typical components. The bulk of appropriations report language is devoted to a "section-by-section" analysis of each account and a lengthy table that provides a "comparative statement of new budget authority" in the bill. The report language may also provide general directives to the agencies funded in the bill related to budget preparation and execution, including the form of budget justifications, other reporting guidelines and committee initiatives, "program, project, or activity" (PPA) definitions, and reprogramming. The Congressional Budget Act requires that the House and Senate Appropriations Committee reports for regular and supplemental appropriations measures include a statement comparing levels in the measure to the applicable 302(b) suballocations. House and Senate rules also mandate that committee reports for general appropriations measures provide lists of appropriations not authorized by law. Finally, the House has additional requirements that rescissions and transfers, as well as language changing existing law, be listed in committee reports accompanying general appropriations measures.

Appropriations report language raises certain issues for Congress. Each fiscal year, as the Appropriations Committees choose the directives that will be made to agencies, they must decide which of these directives to include in the bill itself and which to include in report language. Over time, as the House and Senate develop rules that govern the content of appropriations report language, each chamber must assess its informational needs as it engages in appropriations decisionmaking. The House and Senate may choose to take similar or differing approaches to its rules relating to appropriations report language, and such rules may be altered as the institutional needs of each chamber evolve.

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Introduction

Since the first Congress, the congressional appropriations process has involved the annual consideration of appropriations measures to fund the activities of most federal government agencies.[1] Over the years, this process has evolved so that it currently assumes the consideration of 12 *regular appropriations* bills to provide discretionary spending for the upcoming fiscal year.[2] If some or all of the regular appropriations measures are not enacted prior to the beginning of the fiscal year (October 1), one or more *continuing resolutions* (CRs) might be enacted to provide temporary appropriations until either regular appropriations are enacted or the fiscal year ends. *Supplemental appropriations* might also be enacted during the fiscal year to provide funds in addition to those in regular appropriations acts or CRs.[3]

The congressional process for considering these various types of appropriations measures has developed in the context of institutional considerations that are both internal and external. Internal considerations include long-standing congressional rules that encourage the separation of money and policy decisions ("appropriations" and "authorizations," respectively), as well as the constraints of previously agreed upon fiscal policies and goals, such as those associated with the budget resolution. Additional external considerations, which largely derive from the relationship between Congress and the agencies funded through the annual appropriations process, include issues such as the level of flexibility that Congress grants to agencies in budget execution. One way that the congressional appropriations process has evolved to address these internal and external considerations has been in the form and content of report language that accompanies appropriations measures.

In general, report language is used by House and Senate committees for two broad purposes. First, report language explains the provisions of a measure to the chamber or chambers that will subsequently consider it. Second, report language may also communicate legislative intent to the agencies that will carry out the measure once it becomes law. Although report language itself is not law and therefore not binding in the same manner as language in the statute, agencies usually seek to comply with any directives contained therein. As one congressional scholar has observed, "the criticisms and suggestions carried in the reports accompanying each bill are expected to influence the subsequent behavior of the agency. Committee reports are not the law, but it is expected that they be regarded almost as seriously."[4] For this reason, congressional interest in the

[1] An appropriation is a type of budget authority. Budget authority is authority provided by federal law to enter into contracts or other financial obligations that will result in immediate or future expenditures (or outlays) involving federal government funds. For a further explanation of these terms, see U.S. Government Accountability Office (GAO), *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 2005, http://www.gao.gov/new.items/d05734sp.pdf, pp. 20-21.

[2] The congressional budget process distinguishes between *discretionary* spending, which is controlled through appropriations acts, and *direct* (or mandatory) spending, which is controlled through permanent law. For further information on this distinction, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by Bill Heniff Jr. The annual appropriations process is also used to provide appropriations necessary to finance certain direct spending programs that lack a funding source in the authorizing statute. Such "appropriated mandatory" or "appropriated entitlement" spending is discussed in CRS Report RS20129, *Entitlements and Appropriated Entitlements in the Federal Budget Process*, by Bill Heniff Jr.

[3] For a general overview of the annual appropriations process, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup.

[4] Richard Fenno, *The Power of the Purse: Appropriations Politics in Congress* (Boston: Little, Brown and Company, 1966), p. 18.

mechanics of the appropriations process is not limited to the procedures and practices for considering measures but also encompasses the report language that accompanies those measures.

Typically, report language may be used to supplement the legislative text of a measure at either of two different stages of the legislative process. First, written reports may accompany the version of the bill that is reported by a committee to its parent chamber. The House has required that written reports accompany bills reported from committee since 1880.[5] While Senate rules do not require written reports, measures reported from committee are usually accompanied by or otherwise associated with them. Second, when resolving differences between the House and Senate, a joint explanatory statement (JES), which accompanies a conference report prior to final action by each chamber, is also a form of report language. The JES may be used to reconcile areas of disagreement between the House and Senate committee reports from earlier stages of the legislative process or to provide additional information about the agreement. For measures not reported from committee that receive congressional consideration, including when differences are resolved through an amendment exchange, explanatory text from the committee of jurisdiction is sometimes entered into the *Congressional Record* and may be regarded similarly to report language for certain purposes.[6] In addition, in some cases, report language in the JES may be enacted by reference in the appropriations law that it accompanies, giving it statutory effect.

This CRS report provides an overview of appropriations report language. It generally does not explain those report language components and related practices that are more broadly applicable to all types of legislation,[7] including the House and Senate rules that require congressionally directed spending items, or "earmarks," to be disclosed in committee reports.[8] The first section of this CRS report explains how appropriations report language is developed. The second section discusses the origins, purposes, and forms of the major report language components that are particular to appropriations measures, with illustrative examples. The third section summarizes appropriations report language issues related to congressional influence over agency budgetary decisionmaking, as well as the institutional dynamics within Congress itself.

Appropriations Report Language Development

Agency, Public, and Member Input

In general, the report language accompanying an appropriations measure is developed by the appropriations committees in each chamber. While it is a committee product, it has significant

[5] W[illia]m Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents and Procedures of the House*, 112th Cong., 1st sess. (Washington: GPO, 2011) [hereinafter, *House Practice*], ch. 11, §28. This requirement is currently codified in House Rule XIII, clause 2.

[6] For further information about resolving differences using a conference report or amendment exchange, see CRS Report 98-696, *Resolving Legislative Differences in Congress: Conference Committees and Amendments Between the Houses*, by Elizabeth Rybicki.

[7] For general information on the required components of House and Senate committee reports, see CRS Report 98-169, *House Committee Reports: Required Contents*, by Judy Schneider, and CRS Report 98-305, *Senate Committee Reports: Required Contents*, by Elizabeth Rybicki.

[8] House Rule XXI, clause 9, and Senate Rule XLIV, paragraph 3, generally require that committees disclose any congressionally directed spending items that are carried either in reported legislation or the committee reports that accompany such legislation. These disclosure requirements apply to all committees, including the House and Senate Committees on Appropriations. For further information, see CRS Report RS22866, *Earmark Disclosure Rules in the House: Member and Committee Requirements*, by Megan S. Lynch, and CRS Report RS22867, *Earmark Disclosure Rules in the Senate: Member and Committee Requirements*, by Megan S. Lynch.

importance for the congressional consideration of that appropriations measure, as well as agency budget execution once the measure becomes law. When determining the language to be included in the report, the Appropriations Committees engage in certain formal and informal practices through which they may receive input on the language. For example, a review of the agency budget justifications that are submitted after the President's budget request may inform prospective funding allocations and congressional directives contained in the report.[9] Other committee communications with the agency, both before and after the budget submission, may also help inform the language that is ultimately included. In addition, stakeholders and other interested groups outside of Congress may also choose to communicate their report language and other appropriations preferences to the Appropriations Committees through letters or other modes of communication.[10]

Members of the House and Senate may also communicate to the Appropriations Committees their preferences with regard to each of the 12 annual appropriations bills and accompanying report language. While such communications might occur throughout the budget cycle, the committees encourage Members to express their preferences for the upcoming fiscal year through the submission of so-called "programmatic and language requests." These are requests for specific funding levels or other language to be included in a particular appropriations bill or the accompanying committee report. These requests are usually due to the committees in March or April after the President's budget request has been presented to Congress.[11]

The parameters for these requests for each of the appropriations bills may be specified through Dear Colleague letters or other communications from the committee.[12] In general, both the House and Senate Appropriations Committees have discouraged programmatic requests for congressionally directed spending items (also referred to as "earmarks").[13] Once programmatic and language requests for a bill are submitted, the committee must decide whether to include the requested language in the bill or accompanying report, include a modified version of it, or not include it at all. In some instances, if language is requested for inclusion in the bill, the committee might decide to include a version of that language in the committee report instead.

Committee and Initial Floor Consideration

Each appropriations bill that is reported from committee—which, in current practice, includes regular and some supplemental appropriations bills—is usually accompanied by a written

[9] An early discussion of the role of agency budget justifications in the formulation of report language is in Jeffrey L. Pressman, *House vs. Senate: Conflict in the Appropriations Process* (New Haven: Yale University Press, 1966), p. 18.

[10] See, for example, Kate Ackley, "Appropriations Lobbying Thrives Despite Earmarks Ban," *CQ News*, May 11, 2015.

[11] Because supplemental appropriations measures are considered on an as-needed basis, there is usually not a formal process for making programmatic requests to the appropriations committees.

[12] See, for example, House of Representatives, Dear Colleague, "Members' Programmatic and Language Requests for FY 2015 Defense Appropriations Bill," February 24, 2014; House of Representatives, Dear Colleague, "Member Submissions for FY 2015 Energy and Water Development Appropriations," February 24, 2014; House of Representatives, Dear Colleague, "Member Submissions for FY2014 Transportation, Housing and Urban Development, and Related Agencies Appropriations," February 21, 2014; House of Representatives, Dear Colleague, "Member Submissions FY2015 State, Foreign Operations, and Related Programs Appropriations," February 20, 2014. Available from the author to congressional clients upon request.

[13] See, for example, ibid; U.S. Senate Committee on Appropriations, "Cochran Statement on Earmark Moratorium," press release, November 16, 2010; and U.S. Senate Committee on Appropriations, "Senate Appropriations Committee Announces Extension of Earmark Moratorium," press release, February 2, 2012. For further information about the definitions of *earmark* under House and Senate rules, see CRS Report RL34462, *House and Senate Procedural Rules Concerning Earmark Disclosure*, by Sandy Streeter.

committee report. Committee preparation of an appropriations bill for a markup also includes compiling a draft of the committee report that will accompany it. When the Appropriations Committee meets to mark up each appropriations bill, amendments to the draft report may also be offered and considered. In the House, the final version of the committee's written report is filed when the bill is reported to the chamber. In the Senate, it is typically filed at the same time the bill is reported or soon thereafter. While appropriations measures that are reported from committee typically receive formal committee reports, those regular appropriations measures that are not reported from committee are often associated with draft committee report text that is released in the context of negotiations to resolve differences.[14]

Because the written committee report is a product of that committee's deliberations rather than a legislative measure itself, it is not directly amendable during the subsequent floor consideration of the appropriations measure. However, floor amendments have previously been offered that would have the effect of directly or indirectly overriding the directives or funding allocations in the committee report language. For example, during the 109th Congress, the House Appropriations Committee report for the FY2007 Agriculture appropriations bill contained a provision that allocated "$229,000 for dairy education in Iowa" (H.Rept. 109-463, p. 56). Subsequently, an amendment was offered on the House floor that proposed to insert the provision, "None of the funds made available by this Act may be used to fund dairy education in Iowa."[15] Had that amendment become law as part of the appropriations act, it would have prevented the $229,000 in funds set aside in the committee report from being spent on that particular activity.

Resolving Differences

When congressional negotiators resolve differences between the House and Senate versions of an appropriations measure, such negotiators are usually drawn from the House and Senate Appropriations Committees. In addition to producing a final version of the measure, these negotiators also agree to further report language in the form of a JES or other explanatory text. In instances where explanatory text is entered into the *Congressional Record*, a provision of the measure usually indicates that it is to be treated by the agencies in the same way as a joint explanatory statement.[16] This explanatory text is usually considered to be the most authoritative

[14] For example, four FY2015 regular appropriations bills were not reported by the Senate Appropriations Committee during the 113th Congress. Once it was determined that these bills would not be reported from committee around the time of the August recess, three of the relevant subcommittees—the Labor, Health and Human Services, Education, and Related Agencies Subcommittee; the Energy and Water Development Subcommittee; and the Financial Services and General Government Subcommittee—released the draft bill and report language that was reported from the subcommittees but not acted on by the full committee. The fourth subcommittee, which had not held a subcommittee markup—the Interior, Environment, and Related Agencies Subcommittee—released the chairman's recommended bill text and draft report. For further information, see CRS Report R43776, *Congressional Action on FY2015 Appropriations Measures*, by Jessica Tollestrup, pp. 9-10.

[15] H.Amdt. 904 to H.R. 5384 (109th Cong.); House debate, *Congressional Record*, vol. 152, part 7 (May 23, 2006), p. H3104.

[16] For example, during the 113th Congress, differences between the chambers with regard to H.R. 83 were resolved using an amendment exchange and not a conference report. On December 11, 2014, explanatory text related to that omnibus measure was entered into the *Congressional Record* (vol. 160, no. 151, book II, December 11, 2014, pp. H9307-10003). Section 4 of H.R. 83 provided, "The explanatory statement regarding this Act, printed in the House of Representatives section of the Congressional Record on or about December 11, 2014 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of divisions A through K of this Act as if it were a joint explanatory statement of a committee of conference."

source of congressional legislative intent with regard to that measure.[17] Once the final version of the legislative text has been agreed to by the House and Senate, there are no further formal opportunities to make changes to the accompanying report language.

The explanatory text may be used to reconcile any differences between the House and Senate Appropriations Committee reports. For example, the House and Senate committee report language may address certain issues in ways that are difficult to reconcile harmoniously. In these types of instances, the explanatory text normally seeks to clarify how the affected agency is to proceed. In other cases, one committee might have included language in its report that addresses an issue to which the other committee's report is silent. If disagreement exists between the committees with regard to this report language, the explanatory statement might clarify what action the agency should take. On the other hand, if the original committee language is ultimately acceptable to both committees, the explanatory statement might be silent due to an expectation that the agency will follow the original directive.[18] As a consequence, in addition to the explanatory text, the committee reports might also provide an important indication of congressional intent even after an appropriations measure has been enacted.[19]

Continuing Resolutions

In recent years, appropriations measures that provide continuing appropriations based on a formula have typically not been accompanied by report language, even when such appropriations are for an entire fiscal year.[20] For example, for the FY2013 Consolidated and Further Continuing Appropriations Act (P.L. 113-6), which contained both regular and full-year continuing appropriations, detailed explanatory text was provided only for the accounts that received regular appropriations.[21] For full-year CRs, the committee report language from the current fiscal year that accompanies the regular appropriations covered by that CR may provide some indication of congressional intent.[22] However, the extent to which the funding provided via the CR's formula is difficult to reconcile with the allocations and directives in the relevant committee reports—and

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[17] See GAO, Office of the General Counsel, *Principles of Federal Appropriations Law* (3d ed., 2004), vol. 1 [hereinafter "Red Book"], at 2-98 and 2-99.

[18] In current practice, the explanatory statement accompanying the final version of an appropriations measure usually states this explicitly. For example, the explanatory statement accompanying the FY2015 Agriculture Appropriations Act contained the following instruction:

> The explanatory statement is silent on provisions that were in both the House Report (H.Rept. 113-468) and Senate Report (S.Rept. 113-164) that remain unchanged by this agreement, except as noted in this explanatory statement.... The House and Senate report language that is not changed by the explanatory statement is approved and indicates congressional intentions. The explanatory statement, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein." (*Congressional Record*, vol. 160, no. 151, book II, December 11, 2014, p. H9308)

[19] Red Book, at 2-99 and 2-100.

[20] Although it is not currently the practice to consider CRs in committee and provide them with report language, committees commonly considered and reported these types of measures as recently as the 102nd Congress. (See, for example, H.Rept. 102-216 and H.Rept. 102-266.) Because the form of appropriations in CRs usually differs from regular and supplemental appropriations measures, many of the report language components for the committee reports accompanying those CRs also differ from those that are discussed is this report.

[21] See Consolidated and Further Continuing Appropriations Act, *Congressional Record*, daily edition, vol. 159, no. 34 (March 11, 2013), pp. S1287-S1588.

[22] A CR typically funds activities that are usually identified with reference to unenacted appropriations measures for the current fiscal year or the appropriations enacted for a previous fiscal year. These referenced measures or laws are the CR's "coverage." For further information, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by Jessica Tollestrup.

the extent to which those committee allocations and directives conflict with one another because there is no relevant explanatory text to resolve such conflicts—may limit the report's applicability.

Appropriations Report Language Components

As previously stated, the components of report language that are specific to appropriations measures have evolved in the context of both internal and external congressional needs. In many cases, the components and related practices were developed by the House and Senate Appropriations Committees to better enable their oversight of the agencies. In other cases, the components came about as a result of chamber rules to require information to facilitate congressional consideration of appropriations measures. This has led to the development of certain categories of report language that are used in many or all of the appropriations committee reports each fiscal year and, in some cases, the JES that resolves differences between those reports. This section describes the origin, purposes, and current forms of these report language components.

Overview of Accounts and Other Directives

The bulk of the House and Senate reports on appropriations bills are devoted to an overview of each account in the bill. This derives from the general practice that reports accompanying legislation summarize each section or title of the measure, which is often referred to as a "section-by-section" (or "title-by-title") summary. Because appropriations bills are organized by unnumbered headings, with each heading generally corresponding to an account, section-by-section summaries of the appropriations bills are organized by account and also include a short description of other provisions included in the bill that are not part of the appropriations accounts.[23] Such provisions include "administrative provisions" that are specific to particular accounts or agencies, as well as "general provisions" that are more broadly applicable to all funds in the bill (or a specified title of the bill).

The account-by-account summary is intended primarily to explain the purpose of the account and what it funds. It is typically framed as a justification of the funding levels proposed for that account compared to those provided the previous fiscal year, as well as those proposed in the President's budget request. Senate Appropriations Committee reports also compare proposed levels to those that were proposed by the House Appropriations Committee, if applicable. These committee justifications of recommended funding levels can provide helpful context for Members as they evaluate the measure and potential floor amendments.

The account summaries in the reports also give the appropriations committees the opportunity to provide additional directives to the agencies funded therein and guidance concerning congressional intent for their use of funds. This guidance varies in intensity—from encouragement or support for a specified action to concerns and requirements for an agency to engage in or refrain from particular actions. Three examples, from the House Appropriations Committee report accompanying the FY2015 Agriculture appropriations bill (H.Rept. 113-468), are illustrative. In the first example, which applies to the Agricultural Programs—Office of Inspector General (OIG) account, the committee indicates support of action that is currently being undertaken:

[23] Some reports also include policy or program highlights that address multiple accounts prior to the account-by-account summary. See, for example, H.Rept. 113-417, pp. 2-3; H.Rept. 113-551, pp. 4-8; S.Rept. 113-71, pp. 8-15; and S.Rept. 113-195, pp. 11-16.

> The Committee appreciates OIG's continued efforts to raise public awareness of successful Federal investigations of fraud. Such efforts are intended to deter participants from engaging in the misuse of taxpayer dollars and to maintain a high level of integrity in all of USDA's programs. The Committee encourages OIG to continue its efforts to work with all of USDA's agencies to deter fraud, waste, and abuse in the Department's programs. (p. 9)

In the second example, which applies to the Agricultural Programs—Office of the Under Secretary for Farm and Foreign Agricultural Services account, the committee requires that a specific action be taken:

> The Committee is concerned about waste, fraud, and abuse in programs administered by the Farm Service Agency (FSA) and the Risk Management Agency (RMA). Therefore, the Secretary is directed to certify that any newly approved payment, loan, grant, subsidy, or insurance claim from a program administered by FSA or RMA does not include individuals or entities that have been permanently debarred from participating in USDA programs. (p. 28)

In the third example, which applies to the Agricultural Programs—Office of the Under Secretary for Research, Education, and Economics, the committee directs the agency to refrain from taking an action until certain conditions are met:

> The Committee is concerned about the Foundation for Food and Agriculture Research created by the 2014 farm bill and reports that the Department intends to obligate $200,000,000 in mandatory funds to the Foundation by the end of the fiscal year but before the Foundation has been established and any matching funds have been received as required by law. The Committee directs USDA not to expend any funds except those related to the appointment of members of the board and the preparation of by-laws, conflict of interest policies, and standards of conduct until the Committee receives and approves these documents. The Committee directs USDA to report to it no later than January 1, 2015. (p. 11)

In many instances, additional directives to agencies in report language also include more detail on the allocation of funds than what is provided in the bill itself. For example, the FY2015 Department of Homeland Security appropriations bill included an account for Departmental Management and Operations—Office of the Secretary and Executive Management. In the Senate Appropriations Committee–reported version of the measure (S. 2534), a lump sum of $124,571,000 was provided for the entire account with no further allocation of the funds in the statute (except for a limitation on official reception and representation expenses). However, the accompanying committee report divided the amount in that account into specific allocations for certain purposes:

Figure 1.: Detailed Funds Allocation

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

[In thousands of dollars]

	Fiscal year 2014 enacted	Fiscal year 2015 budget request	Committee recommendations
Immediate Office of the Secretary	4,050	3,950	3,939
Immediate Office of the Deputy Secretary	1,750	1,751	1,740
Office of the Chief of Staff	2,050	2,112	2,062
Executive Secretary	7,400	7,719	7,477
Office of Policy	36,500	38,470	37,559
Office of Public Affairs	8,550	8,741	8,591
Office of Legislative Affairs	5,350	5,583	5,403
Office of Intergovernmental Affairs	2,250	2,429	2,273
Office of General Counsel	19,750	21,310	19,950
Office for Civil Rights and Civil Liberties	21,500	22,003	21,719
Citizenship and Immigration Services Ombudsman	5,250	6,428	5,825
Privacy Officer	7,950	8,273	8,033
Total, Office of the Secretary and Executive Management	122,350	128,769	124,571

Source: S.Rept. 113-198, p. 12.

Even though funding and other directives (such as these additional allocations illustrated above) that are only in report language are not legally binding, the Appropriations Committees expect that the agencies will adhere to them.[24]

Comparative Statement of New Budget Authority

Tables in appropriations reports that summarize the appropriations in the bill, the budgetary effects of other provisions, and certain additional allocations in the report have been in use for at least the past century.[25] These tables assist with the congressional evaluation of the amounts in the bill, as well as some of the additional allocations of those amounts in the report.[26] In current practice, the specific categories of information displayed and compared in the summary table depend on the chamber and stage of action but may include amounts for:

- the prior fiscal year,
- the President's budget request (or "budget estimate"),
- the other chamber ("allowance"), and
- the committee recommendation.

The JES will list the final funding levels for the relevant accounts and other activities that were agreed to when differences were resolved on the measure.

[24] In the event that an agency wishes to deviate from the directives in report language as to the allocation of funds, it might seek to alter that allocation through a "reprogramming." This topic is discussed further in the section of this report, "Reprogramming Guidelines."

[25] For some early examples of these tables, see H.Rept. 59-1106, pp. 1-3; H.Rept. 59-927, pp. 3-4; H.Rept. 59-2171, pp. 11-26; and S.Rept. 59-1782, pp. 2-3. In current practice, these tables are variously titled "Comparative Statement of New Budget Authority," "Comparative Statement of Budget Authority," or "Comparative Statement of New (Obligational) Budget Authority."

[26] In some cases, the table might also list budgetary resources that are made available to the agency outside the annual appropriations process to provide additional context for appropriations decisionmaking. See, for example, the amounts for "fee accounts" listed for the U.S. Customs and Border Protection in S.Rept. 113-198, p. 178.

The example below is from the Senate Appropriations Committee report accompanying the FY2015 Military Construction-Veterans Affairs appropriations bill (S.Rept. 113-174, p. 109). It includes all of the categories of information listed above.

Figure 2: Comparative Statement of New Budget Authority

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 2014 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 2015

[In thousands of dollars]

Item	2014 appropriation	Budget estimate	House allowance	Committee recommendation	Senate Committee recommendation compared with (+ or −)		
					2014 appropriation	Budget estimate	House allowance
TITLE I—DEPARTMENT OF DEFENSE							
Military construction, Army	1,104,875	539,427	526,427	539,427	−565,448		+13,000
Military construction, Navy and Marine Corps	1,629,690	1,018,772	998,772	1,018,772	−610,918		+20,000
Military construction, Air Force	1,052,796	811,774	719,551	811,774	−241,022		+92,223
Military construction, Defense-Wide	3,445,423	2,061,890	2,021,690	1,961,890	−1,483,533	−100,000	−59,800
Total, Active components	7,232,784	4,431,863	4,266,440	4,331,863	−2,900,921	−100,000	+65,423

Source: S.Rept. 113-174, p. 109.

General Directives Related to Budget Preparation and Budget Execution

In addition to the instructions that are included in the account summaries, general directives that apply to budget preparation and budget execution are often also included in appropriations report language. Such directives, which typically relate to many or all of the accounts in the bill, are usually in the first pages of the report and may specify the form of budget justifications for future fiscal years, other reporting guidelines and committee initiatives, "program, project, or activity" (PPA) definitions, and reprogramming guidelines.

Form of Budget Justifications

Congressional budget justifications supplement the President's budget request with additional information for the appropriations committees. Agencies provide this information to the committees soon after the President's budget request has been submitted.[27] The description of budgetary accounts in these budget justifications, such as the types of agency activities conducted with funds in the account, is much more detailed than the budget submission.[28] This additional information helps the appropriations committees better evaluate the budgetary resources that have been requested for the upcoming fiscal year.

The form of the budget justifications and the information contained therein is generally the result of consultations between the agency and appropriations committees.[29] Instructions from the appropriations committees as to the content of budget justifications for future fiscal years, however, are also often included in report language. These instructions may include the level of detail that should be provided for each account, as well as specific directions for certain programs

[27] Agency budget justifications are also typically made available on agency websites. For information on recent budget justifications, see CRS Report R43470, *Selected Agency Budget Justifications for FY2016*, by Justin Murray.

[28] For further information on budget justifications generally, see CRS Report RS20268, *Agency Justification of the President's Budget*, by Michelle D. Christensen.

[29] The Office of Management and Budget (OMB) has generally instructed agencies to consult with the committees ahead of modifications to the form of the budget justifications. See OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*, July 2014, revised November 2014, §§22.6 and 240.4.

or activities.[30] In some instances, the agencies funded in the bill may be told how to address certain informational deficiencies in the future, such as by providing more detail about grants or staffing changes.[31] An agency might also be more generally directed to coordinate the content of certain analytical materials with the committee in advance of the submission.[32] For example, the Senate committee report that accompanied the FY2015 State-Foreign Operations appropriations bill included the following directives (S.Rept. 113-195):

> Timely budget information in the congressional budget justification [CBJ] that is clearly, concisely, and accurately presented must be a priority of the administration. The Committee expects the Department of State, USAID, and other agencies funded by this act to submit CBJs within 4 weeks of the release of the President's fiscal year 2016 budget request. The Committee also directs the Department of State, USAID, and other agencies to include detailed information on all reimbursable agreements....
>
> The Committee directs that CBJs include estimated savings from any proposed office or mission closing and actual prior year representation expenses for each department and agency that is authorized such expenses. (p. 9)

Other Reporting Guidelines and Committee Initiatives

Although reporting requirements that are for specific accounts are primarily located in the relevant account summaries, language elsewhere in committee reports may provide general guidance about the timing or form of agency reports to be provided. For example, the Senate Appropriations Committee report that accompanied the FY2015 Agriculture appropriations bill included the following instructions related to agency reports (S.Rept. 113-164):[33]

> The Committee has, throughout this report, requested agencies to provide studies and reports on various issues. The Committee utilizes these reports to evaluate program performance and make decisions on future appropriations. The Committee directs that all studies and reports be provided to the Committee as electronic documents in an agreed upon format within 120 days after the date of enactment, unless an alternative submission schedule is specifically stated in the report request. (p. 6)

"Program, Project, or Activity" Definitions

A PPA is an element in a budget account.[34] As was previously mentioned, budget accounts generally correspond to the paragraph headings in appropriations acts. Such accounts generally provide a lump sum for the purposes of the account and may also "set aside" specific amounts within that lump sum for certain purposes. In addition to those statutory set-asides, it has been the practice for a number of decades that specific elements in these budget accounts, including PPAs, have been identified in report language (and also in the congressional budget justifications that correspond to that act).[35] For example, the House Appropriations Committee report accompanying the FY2015 Department of Homeland Security appropriations bill identified four

[30] See, for example, S.Rept. 113-181, pp. 7-8.

[31] See, for example, H.Rept. 113-464, pp. 3-4; and S.Rept. 113-80, p. 7.

[32] See, for example, S.Rept. 113-182, pp. 5-6.

[33] See also S.Rept. 113-80, pp. 6-7; S.Rept. 113-195, p. 10-11; and H.Rept. 113-486, p. 12.

[34] GAO, *Glossary of Terms*, p. 80.

[35] OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*, July 2014, revised November 2014, §22.6.

PPAs in the Customs and Border Protection (CBP) Automation Modernization account, which funds information technology support for CBP personnel (H.Rept. 113-481, p. 43):[36]

1. information technology,
2. automated targeting systems,
3. the Automated Commercial Environment/International Trade Data System, and
4. current operations protection and processing support.

As with other funding allocations in report language, the PPAs that are identified for each account allow Congress to provide direction as to the amounts to be expended for particular activities in which the agency is engaged. The PPAs are also significant for "reprogramming," which is discussed further in the report section entitled "Reprogramming Guidelines."

The PPAs that are identified for each account are also significant for the sequestration budget enforcement mechanism under the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; P.L. 99-177). If such a sequestration is required for a fiscal year, budgetary resources for affected accounts must be reduced on a largely across-the-board basis. The BBEDCA further requires that these reductions must be proportionately implemented by the agencies, within each affected account, at the PPA level.[37]

Starting in FY1987, the first full fiscal year after the sequestration mechanism was in effect for discretionary spending, some House Appropriations Committee reports included PPA definitions for the purposes of the BBEDCA.[38] PPA definitions have continued to be included in appropriations reports during the periods since FY1987, during which sequestration could potentially affect discretionary spending.[39] Such report language might be used to clarify what a PPA is for the purposes of the BBEDCA or impose a different definition of PPA than would otherwise be in effect. For example, the Senate Appropriations Committee report accompanying the FY2014 Financial Services and General Government appropriations bill provided the following instructions (S.Rept. 113-80):

> During fiscal year 2014, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), as amended, with respect to appropriations contained in the accompanying bill, the terms 'program, project, and activity' [PPA] shall mean any item for which a dollar amount is contained in appropriations acts (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. (p. 5)

This language directed that only the items identified in the listed sources, which do not include additional items identified in the FY2014 budget justification (if any), should be considered to be a PPA for the purposes of any BBEDCA sequestration of discretionary spending in FY2014.[40]

[36] These PPAs had also been identified in the Department of Homeland Security FY2015 Budget Justification, p. 458, available at http://www.dhs.gov/sites/default/files/publications/DHS-Congressional-Budget-Justification-FY2015.pdf.

[37] BBEDCA, §256(k).

[38] For early examples of this report language, see H.Rept. 99-669, p. 8; H.Rept. 99-686, p. 127; and H.Rept. 99-675, p. 71.

[39] Most recently, this is due to the enactment of the statutory discretionary spending limits in the Budget Control Act of 2011 (P.L. 112-25).

[40] For other recent examples PPA definitions in Appropriations Committee reports, see S.Rept. 113-182, p. 4; S.Rept. 113-198, p. 150; S.Rept. 113-211, p. 6; and H.Rept. 113-464, pp. 1-2.

Reprogramming Guidelines

Agencies are generally required to carry out the terms of appropriations laws as enacted, including the statutory allocation of funds therein. As previously discussed, both report language and the congressional budget justifications further allocate funds below the account level into PPAs. In general, when funds are moved between PPAs in the same account, this is referred to as "reprogramming."[41] Agencies are generally permitted to reprogram funds, subject to restrictions in law. This is in contrast to a "transfer"—moving funds between accounts—which requires a statutory authorization in order to occur.[42]

The level of detail regarding the purposes and amounts for funds in annual appropriations acts has changed considerably over two centuries.[43] Prior to the early 20th century, the statutory language for appropriations accounts tended to include numerous line items specifying particular purposes and amounts therein. Over the next few decades, the appropriations committees determined that the activities in which the government was engaged, such as World War II, required that certain agencies be given more budgetary flexibility.[44] In addition, as authorization acts began to contain more detailed statutory instructions to agencies, appropriations acts began to provide more general lump sums for those authorized purposes, with detailed allocations generally being provided through nonstatutory means such as report language.[45] As agencies were transitioned to accounts with lump-sum appropriations, an understanding was reached that the Appropriations Committee would be consulted when agencies reprogrammed the amounts for items in those accounts that had not been specified in law.[46]

In current practice, statutory restrictions on reprogramming are usually carried in the general or administrative provisions of appropriations acts. These restrictions often prohibit reprogramming that meets certain criteria or that is above a certain spending threshold unless certain requirements related to congressional notification have been met. For example, the FY2015 State-Foreign Operations Appropriations Act prohibits reprogramming that:

- creates new programs;
- eliminates a program, project, or activity;
- increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- relocates an office or employees;
- closes or opens a mission or post;
- creates, closes, reorganizes, or renames bureaus, centers, or offices;
- reorganizes programs or activities; or

[41] For further information with regard to reprogramming, see CRS Report R43098, *Transfer and Reprogramming of Appropriations: An Overview of Authorities, Limitations, and Procedures*, by Michelle D. Christensen.

[42] Red Book, at 2-24 and 2-30.

[43] For a detailed discussion of this evolution, see CRS Report R43862, *Changes in the Purposes and Frequency of Authorizations of Appropriations*, by Jessica Tollestrup.

[44] Stephen Horn, *Unused Power: The Work of the Senate Committee on Appropriations* (Washington, D.C.: Brookings Institution, 1970), pp. 192-198.

[45] Alan Schick, *Legislation, Appropriations, and Budgets: The Development of Spending Decision-Making in Congress*, Congressional Research Service, May 1984, p. 31.

[46] Louis Fisher, *Presidential Spending Power* (Princeton, N.J.: Princeton University Press, 1975), pp. 76-77, 81-84.

- contracts out or privatizes any functions or activities presently performed by federal employees.[47]

Section 7015 further provides that such reprogramming would be allowable if the appropriations committees are notified 15 days in advance. Once appropriations are enacted for a fiscal year, agencies typically submit a "spending" or "operating" plan to the appropriations committees to establish a baseline for the application of reprogramming and transfer authorities for that fiscal year.[48]

In addition to the requirements in appropriations acts, guidance on the specific reprogramming procedures that are to be followed is often provided in report language. Such guidance could include the level of detail that triggers notification requirements or special procedures for certain accounts.[49] The form of notification and approval, the information that the committee requires from the agency in order to evaluate the reprogramming request, and a final deadline for all such requests during the fiscal year might also be addressed.[50] For example, the Senate Appropriations Committee report that accompanied the FY2015 State-Foreign Operations bill included the following instructions that supplemented the statutory guidance discussed above (S.Rept. 113-195):

> The Committee directs the Department of State and other agencies funded by this act to notify the Committee of reprogrammings of funds as required by section 7015 and 7019 of this act at the most detailed level of either the CBJ, the act, or the report accompanying this act, and the Committee expects to be notified of any significant departure from the CBJ or of any commitment that will require significant funding in future years. The Committee directs that staffing levels and future year impacts of reprogrammings be included with such notifications. (p. 10)

Additional guidance in report language, such as the example above, could be provided annually or on a standing basis.[51]

Comparison with the Budget Resolution

The level of budget authority provided in appropriations measures is procedurally limited by the budget resolution, which is subject to enforcement in the House and Senate.[52] Through the budget resolution, the Appropriations Committee in each chamber receives a procedural limit on the total amount of discretionary budget authority for the upcoming fiscal year, which is referred to as a 302(a) allocation.[53] The Appropriations Committees subsequently divide this allocation among their 12 subcommittees. These are referred to as 302(b) suballocations.[54] The 302(b) suballocation for a subcommittee restricts the amount of budget authority available for the agencies, projects, and activities under its jurisdiction, effectively acting as a procedural cap on the amount of

[47] P.L. 113-235, Division J, Title VII, §7015.

[48] See, for example, H.R. 5016 (113th Cong.), §608, for a statutory requirement for an operation plan and additional specifications as to the contents. Such requirements and specifications may also be provided by report language. See, for example, S.Rept. 113-182, p. 4; S.Rept. 113-182, p. 4; S.Rept. 113-195, p. 10; and H.Rept. 113-508, pp. 5-6.

[49] See, for example, S.Rept. 113-182, p. 4; S.Rept. 113-181, pp. 6-7; and H.Rept. 113-551, pp. 8-10.

[50] See H.Rept. 113-448, p. 6; H.Rept. 113-464, pp. 2-3; and H.Rept. 113-508, pp. 5-6.

[51] See, for example, S.Rept. 113-211, p. 7, which notes that the standing guidance with regard to reprogramming that was previously provided in H.Rept. 110-279 continues to be in effect.

[52] As provided under the Congressional Budget Act of 1974 (P.L. 93-344; 88 Stat. 297; 2 U.S.C. §§601-688).

[53] Congressional Budget Act, §302(a).

[54] Ibid., §302(b).

spending in each of the 12 regular appropriations bills. Enforcement of the 302(a) allocation and 302(b) suballocations occurs through Budget Act points of order.[55]

The Budget Act was intended to provide a framework for Congress to evaluate the future effects of budgetary decisions that had already been made, as well as those that were currently under consideration. To support this end, the Budget Act also required the inclusion of certain information in reports accompanying any legislation "providing new budget authority or tax expenditures" that would be relevant to such budgetary decisionmaking.[56] In addition to these general requirements, for regular and supplemental appropriations measures (but not CRs), the Budget Act mandates that committee reports include a statement comparing levels in the measure to the applicable 302(b) suballocations.[57] This statement must also be included in a conference report, if available in a timely manner, and is to be provided after consultation with the Congressional Budget Office.[58]

The information required by the Budget Act is usually provided in a separate section of House and Senate appropriations reports, as illustrated by the excerpt below from the House report accompanying the FY2015 Military Construction-Veterans Affairs appropriations bill:

Figure 2.: Comparison with the Budget Resolution

COMPARISON WITH THE BUDGET RESOLUTION

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1)(A) of the Congressional Budget Act of 1974, the following table compares the levels of new budget authority provided in the bill with the appropriate allocation under section 302(b) of the Budget Act.

[In millions of dollars]

	302(b) allocation		This bill	
	Budget authority	Outlays	Budget Authority	Outlays
Mandatory	85,315	85,070	85,315	[1] 85,070
Discretionary	71,499	77,455	71,499	76,101

[1] Includes outlays from prior-year authority.

Source: H.Rept. 113-416, p. 71.

Language Changing Existing Law

Both the House and the Senate have internal rules that promote the separation of money and policy decisions. These rules are derived from the principle that the debates and decisions about

[55] Primarily, these allocations are enforced through points of order under the Congressional Budget Act, §302(f) and §311. Enforcement of the statutory spending caps may occur through points of order that are raised during House or Senate floor consideration under the Congressional Budget Act, §314(f). For further information with regard to points of order in the congressional budget process, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by James V. Saturno.

[56] For example, whenever a committee reports such a measure, the committee must include in the accompanying report certain budgetary information, including an estimate by the CBO of the five-year outlay projections associated with the budget authority in the bill, if timely submitted before such report is filed (Congressional Budget Act, §308(a)(1)(B)). If the committee reports a committee amendment, that information must be provided in a statement. This information must also be included in a conference report if available in a timely manner. These requirements do not apply to continuing appropriations.

[57] Congressional Budget Act, §308(a)(1)(A).

[58] The House reiterated this Budget Act requirement in Rule XIII, clause 3(c)(2).

the activities of government should be distinct from the debates and decisions about the level at which those activities are funded. As a result of those rules and long-standing practices, Congress differentiates between the authorization process—where government entities, activities, or programs are established—and the appropriations process—where those entities, activities, and programs are to be funded.

The rules of the House and Senate typically prohibit legislative provisions from being included in appropriations measures. These rules were formally established in both chambers in the mid-19th century to address concern that the inclusion of extraneous legislative matters was leading to delays in the appropriations process.[59] As currently provided in House Rule XXI, clause 2, the House prohibits legislative provisions in general appropriations bills and amendments thereto.[60] Senate Rule XVI prohibits amendments to general appropriations measures that propose legislative language not contained in existing law, except under certain circumstances.[61] Proper "limitations," however, which restrict or prohibit the use of funds for certain purposes without being legislative, are allowable under House and Senate Rules.[62]

Beginning in the 1930s, a number of the House Appropriations subcommittees began to include either lists of legislation and limitations in appropriations measures (or statements to the effect that the measure contains no new legislative provisions or limitations) in their accompanying committee reports.[63] However, the form and level of detail in those lists was highly variable. In order to provide the House with more consistent information about the legislation that the committee was including in general appropriations measures, the House added a requirement in 1974 that the Appropriations Committee reports include "a concise statement describing the effect of any provision of the accompanying bill that directly or indirectly changes the application of existing law."[64] This requirement, which encompasses legislative language, is currently codified in House Rule XIII, clause 3(f)(1)(A).[65] An example of this list is provided by the report accompanying the FY2015 Agriculture appropriations bill excerpted below:

[59] Asher C. Hinds, *Hinds' Precedents of the House of Representatives of the United States* (Washington: GPO, 1907-1908), vol. 4, §3578; Schick, *Legislation, Appropriations, and Budgets*, pp. 14-19.

[60] In the House, general appropriations bills are the annual appropriations acts (or any combination thereof) and any supplemental appropriations acts that cover more than one agency. CRs are not considered to be general appropriations bills. *House Practice*, ch. 4, §3.

[61] In the Senate, general appropriations bills are the annual appropriations acts (or any combination thereof) and any supplemental or continuing appropriations acts that cover more than one agency or purpose. See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992) [hereafter *Riddick's Senate Procedure*], pp. 159.

[62] For further information about these general principles, including what constitutes legislative provisions in appropriations laws, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by Jessica Tollestrup.

[63] For early examples of these lists, see H.Rept. 73-1195, pp. 17-21; H.Rept. 73-335, p. 15; H.Rept. 73-449, pp. 27-28.

[64] H.Res. 988, 93rd Cong. For further information on the purpose of this requirement, see House debate, *Congressional Record*, vol. 120, part 26 (October 8, 1974), pp. 34416-34419.

[65] In addition to the requirement for a summary of changes in existing law, House Rule XIII, clause 3(e)(1)—sometimes referred to as the "Ramseyer Rule"—requires that all committee reports include a comparative print of language in the bill "proposing to repeal or amend a statute or part thereof." Any legislative language that would repeal or amend existing law would also be included in that comparative display.

Figure 3.: Changes in the Application of Existing Law

CHANGES IN THE APPLICATION OF EXISTING LAW

Pursuant to clause 3(f)(1)(A) of rule XIII of the Rules of the House of Representatives, the following statements are submitted describing the effect of provisions in the accompanying bill that directly or indirectly change the application of existing law.

The bill includes a number of provisions which place limitations on the use of funds in the bill or change existing limitations and which might, under some circumstances, be construed as changing the application of existing law:

1. Office of the Secretary.—Language is included to limit the amount of funds for official reception and representation expenses, as determined by the Secretary.

2. Departmental Administration.—Language is included to reimburse the agency for travel expenses incident to the holding of hearings.

Source: H.Rept. 113-468, pp. 68.

In the Senate, there is no similar rule that requires the Senate Appropriations Committee to include in committee reports a list or description of legislative provisions in the appropriations measures or committee amendments thereto reported from the committee. However, Senate Rule XXVI, paragraph 12, sometimes referred to as the "Cordon Rule," requires that the committee report include a comparative print of language "repealing or amending any statute." Any legislative language that would directly repeal or amend existing law would be included in that comparative display.

Appropriations Not Authorized by Law

As previously mentioned, the rules of the House and Senate distinguish between authorizations and appropriations. These rules also require that an agency, program, or activity be authorized by law prior to when appropriations are provided. The authorization for subsequent appropriations may be explicit (i.e., "there is hereby authorized to be appropriated") or implied by the statutory authority that creates and governs the entity.[66] An appropriation is said to be "unauthorized" when such an authorization (explicit or implicit) has never been enacted or, if previously enacted, has terminated or expired.

Congressional concern related to the advisability of providing appropriations not authorized by law is long-standing.[67] Like the prohibitions on legislative language discussed above, formal rules in the House and Senate that restrict appropriations not authorized by law have been in effect for more than a century—dating back to 1837 in the House and 1850 in the Senate.[68] House Rule XXI, clause 2, prohibits appropriations not authorized by law in general appropriations measures and amendments thereto. In contrast, the prohibition on unauthorized appropriations in Senate Rule XVI, paragraph 2, applies in a comparatively more narrow set of circumstances and most

[66] In the absence of an explicit authorization of appropriations, it is generally understood that statutory authority to administer a program or engage in an activity, sometimes referred to as organic or enabling legislation, also provides implicit authorization to appropriate for such program or activity (Red Book, at 2-41).

[67] For a summary of congressional practices related to the form of authorizations and their effect on the occurrence and frequency of unauthorized appropriations, see CRS Report R43862, *Changes in the Purposes and Frequency of Authorizations of Appropriations*, by Jessica Tollestrup.

[68] Schick, *Legislation, Appropriations, and Budgets*, pp. 16-17.

significantly to amendments offered by individual Senators during consideration of general appropriations measures.[69]

Notwithstanding these congressional rules, appropriations not authorized by law have been provided for certain purposes for more than a century, although with increasing frequency over the past several decades. In response to concerns that insufficient information about such appropriations was available during their congressional consideration, both the House and Senate adopted rules requiring that committee reports for general appropriations measures identify the unauthorized appropriations contained therein.[70] In the Senate, these requirements were initially adopted in 1970 and are currently in Senate Rule XVI, paragraph 7.[71] This rule provides that the Senate Appropriations Committee report must "identify each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session." Even when the committee reports an original Senate bill and not an amendment to a House bill, it usually includes the list of unauthorized appropriations that the committee has included in the bill. An example of this Senate list is provided by the report accompanying the FY2015 Transportation-Housing and Urban Development appropriations bill excerpted below:

Figure 4.: Senate List of Appropriations Not Authorized by Law

COMPLIANCE WITH PARAGRAPH 7, RULE XVI, OF THE STANDING RULES OF THE SENATE

Paragraph 7 of rule XVI requires that Committee reports on general appropriations bills identify each Committee amendment to the House bill "which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session."

The Committee is filing an original bill, which is not covered under this rule, but reports this information in the spirit of full disclosure.

The Committee recommends funding for the following programs or activities which currently lack authorization for fiscal year 2015:

TITLE I—DEPARTMENT OF TRANSPORTATION

National Infrastructure Investments
Federal Highway Administration
Federal Motor Carrier Safety Administration
National Highway Traffic Safety Administration

Source: S.Rept. 113-182, p. 159.

In the House, prior to the adoption of a formal rule, the lists of legislation and limitations in committee reports that were discussed in the section above occasionally included unauthorized appropriations.[72] In 1995, at the beginning of the 104th Congress, the House amended its rules to explicitly require that Appropriations Committee reports accompanying regular appropriations bills include a list of appropriations not currently authorized by law.[73] Six years later, at the

[69] For further information on congressional rules that restrict appropriations not authorized by law, see CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

[70] See footnotes 57 and 58 for an explanation of what constitutes a general appropriations bill under the rules of the House and Senate.

[71] S.Res. 413, 91st Cong. For an explanation of the specific context that led to the adoption of this rule, see *Congressional Record*, vol. 116, part 25 (September 25, 1970), p. 33785.

[72] See, for example, H.Rept. 93-1132, pp. 41-42; H.Rept. 99-747, pp. 100-115; H.Rept. 103-190, pp. 168-171.

[73] H.Res. 6, 104th Cong. The requirements in this rule do not apply to classified intelligence or national security

beginning of the 107th Congress, this rule was expanded to require more detailed information, including:[74]

- the last year for which such appropriations were authorized,
- the level of appropriations authorized for that year,
- the actual level of appropriations for that year, and
- the level of appropriations in the bill.

This requirement is currently codified in House Rule XIII, clause 3(f)(1)(B).

The House's rationale for this list also relates to issues that can arise between the authorizing and appropriations committees with regard to unauthorized appropriations and legislative provisions when such provisions are included in appropriations bills by the House Appropriations Committee. For the past few decades, special rules have been used to waive points of order against unauthorized appropriations and legislative provisions that are in the committee version of the bill.[75] However, if the authorizing committee of jurisdiction objects to any of those provisions, the Rules Committee will often choose to leave them unprotected by the waiver in the special rule. The House has recognized this practice as the "Armey Protocol"[76] since the 104th Congress. The requirement for this list that was also adopted at that time may serve a purpose related to that protocol: providing relevant information to the authorization committees—and also the Rules Committee—as to the unauthorized appropriations or legislative provisions in the measure.

A recent example of the House list of Appropriations Not Authorized by Law is provided by the report accompanying the FY2015 Transportation-Housing and Urban Development appropriations bill (H.Rept. 113-464, pp. 127-129), which is excerpted below:

Figure 6: House List of Appropriations Not Authorized by Law

Appropriations Not Authorized by Law and Expiring Authorizations
[Dollars in Thousands]

Program	Last year of authorization	Authorization Level	Appropriations in last year of authorization	Appropriations in this bill
Title I - Department of Transportation				
Federal Highway Administration				
Federal-aid Highways	2014	$40,995,000	$40,995,000	$40,995,000
Federal Motor Carrier Safety Administration 2/				
Motor Carrier Safety Operations & Programs	2014	$259,000	$259,000	$259,000
Motor Carrier Safety Grants	2014	$313,000	$313,000	$313,000
National Highway Traffic Safety Administration				
Operations and Research -- Highway Trust Fund	2014	$118,500	$123,500	$128,500
Highway Traffic Safety Grants	2014	$561,500	$561,500	$561,500

Source: H.Rept. 113-464, pp. 128.

Rescissions and Transfers

A rescission is a provision of law that cancels previously enacted budget authority. Such provisions are used to cancel funds for programs or projects that are no longer priorities.

programs, projects, or activities.

[74] H.Res. 5, 107th Cong.

[75] For further information, see CRS Report R42933, *Regular Appropriations Bills: Terms of Initial Consideration and Amendment in the House, FY1996-FY2015*, by Jessica Tollestrup.

[76] House Committee on Rules, "Open Rules and Appropriations Bills," May 1, 2009, http://rules-republicans.house.gov/Media/PDF/BT-OpenRules.pdf.

Rescissions of unexpired budget authority carried in appropriations acts may also serve to offset increases in funding elsewhere in the bill relative to the applicable 302(a) and 302(b) allocations, as well as the statutory discretionary spending limits.[77]

As previously mentioned, a transfer occurs when funds are moved between accounts. Transfers require explicit statutory authority in order to be allowable. Such transfer authority may be provided in authorizing laws or in annual appropriations acts and may be permissive—allowing a transfer up to a certain amount or percentage—or mandate that the transfer occur.

In general, the House Appropriations Committee does not have jurisdiction over legislative language.[78] Because rescissions and transfers change existing law, they are considered to be legislative.[79] However, to provide greater flexibility in the appropriations process, the jurisdiction of the House Appropriations Committee was expanded by the Committee Reform Amendments of 1974 to include transfers and rescissions of funds previously provided in appropriations acts.[80] At the same time, in order to provide greater transparency to Congress as to the extent to which rescissions and transfers were being proposed by the Appropriations Committee, a new House rule was adopted to require that general appropriations bills have separate headings for "Rescissions" and "Transfers of Unexpended Balances."[81] In addition, committee reports accompanying those bills must have a separate section that lists all such rescissions and transfers. This requirement is currently codified in House Rule XIII, clause 3(f)(2).

For example, in the report accompanying the FY2015 Department of Homeland Security appropriations bill, the following lists were included:

[77] See scorekeeping rule 8 in H.Rept. 105-217.

[78] The current jurisdiction of the House Appropriations Committee is codified in House Rule X, clause 1(b).

[79] *House Manual, One Hundred Thirteenth Congress*, H. Doc. 112-161, 112th Cong., 2nd sess., compiled by Thomas J. Wickham, Parliamentarian (Washington: GPO, 2013), §1063, p. 884.

[80] H.Res. 988, 93rd Cong. The rationale for this change is discussed more extensively in H.Rept. 93-916, part II, pp. 29-30.

[81] H.Res. 988, 93rd Cong., H.Rept. 93-916, part II, pp. 29-30.

Figure 5.: Rescissions and Transfers

RESCISSION OF FUNDS

Pursuant to clause 3(f)(2) of rule XIII of the Rules of the House of Representatives, the following table is submitted describing the rescissions recommended in the accompanying bill:

Account/Activity	*Rescissions*
Public Law 112–10, Coast Guard, AC&I—Reduction of Unobligated Balances	$2,550,000
Public Law 112–74, Coast Guard, AC&I—Reduction of Unobligated Balances	4,095,000
Public Law 113–6, Coast Guard, AC&I—Reduction of Unobligated Balances	16,892,000
Public Law 113–76, CBP, OAM—Reduction of Unobligated Balances	8,000,000
Public Law 113–76, TSA, Aviation Security, Screener PC&B	20,000,000
Public Law 113–76, Coast Guard, AC&I—Reduction of Unobligated Balances	52,905,000
S&T, Research, Development, Acquisition, & Operations (70 × 0800)	14,000,000
Treasury Asset Forfeiture Fund	200,000,000
Legacy Balances, CBP, Salaries and Expenses	1,362,000
FEMA, Disaster Relief Fund (70–X–0702)	388,511,000

TRANSFER OF FUNDS

Pursuant to clause 3(f)(2), rule XIII of the Rules of the House of Representatives, the following is submitted describing the transfer of funds provided in the accompanying bill.

The table shows, by title, department and agency, the appropriations affected by such transfers:

Appropriation Transfers Recommended in the Bill

Account to which transfer is to be made	Amount	Account from which transfer is to be made	Amount
Office of Inspector General	$24,000,000	FEMA—Disaster Relief Fund	$24,000,000

Source: H.Rept. 113-481, p. 132.

In the Senate, transfers and rescissions are also considered to be legislative language,[82] but only rescissions are in the jurisdiction of the Senate Appropriations Committee.[83] However, there is no requirement that such provisions be separately identified in the committee report accompanying an appropriations measure.

Issues for Congress

A previous section of this report discusses the origins and purposes of the main components of appropriations report language. In some instances, these components were developed to improve the ability of Congress to control or influence the execution of budget laws by federal agencies. In others, they were intended to address the need for certain budget process information during the congressional consideration of appropriations measures each fiscal year. The choice of these components and the form they take in a particular context raise certain issues for Congress. These issues are summarized below.

[82] *Riddick's Senate Procedure*, p. 176.

[83] The current jurisdiction of the Senate Appropriations Committee is codified in Senate Rule XXV, paragraph 1(b)(2).

Congressional Influence over Budgetary Decisionmaking

There is a long-existing tension between the executive and legislative branch over the appropriate level of detail for annual appropriations laws and related congressional directives. While some have argued that the details of budgetary decisionmaking should be left to the executive, others have asserted that Congress should have a significant role in those decisions.[84] Over the course of the 20th century, as Congress has increasingly chosen to appropriate lump sum amounts with few statutory allocations within those amounts, report language has gradually become more detailed.[85] In particular, this more detailed report language has enabled Congress—and the appropriations committees in particular—to weigh in on these spending decisions without "tying the agency's hands with inflexible statutory language."[86] This use of appropriations report language can also obviate the need for Congress to later consider laws to amend detailed statutory requirements that have subsequently been determined to be inappropriate or unworkable.[87]

In each particular instance, decisions about the appropriate level of detail to provide in the statutory text for an agency, as opposed to the accompanying committee report, are based on factors such as:

- the oversight relationship of the committee with the agency,
- the purpose and time frame of spending provided,
- the extent to which the needs that may arise during the fiscal year are readily anticipated, and
- the extent to which unforeseen circumstances have the potential to alter what is feasible or desirable for the agency from the perspective of Congress.

The level of detail from year to year may also change depending on the committee's assessment of other issues. For example, the House report accompanying the FY2015 Commerce-Justice-Science appropriations bill noted (H.Rept. 113-448):

> In the absence of comity and respect for the prerogatives of the Appropriations Committees and the Congress in general, the Committee may opt to include specific program limitations and details in legislation and remove language providing the flexibility to reallocate funds. Under these circumstances, programs, projects and activities become absolutes and the executive branch shall lose the ability to propose changes in the use of appropriated funds except through legislative action. (p. 6)

The judgment of the committee that is applied in a given context takes into account both the perceived success of previous approaches to these issues and whether different circumstances are likely to materialize in the future.

[84] For an overview of this historical debate, see Allen Schick, "Politics Through Law: Congressional Limitations on Executive Discretion," in *Both Ends of the Avenue: The Presidency, the Executive Branch, and Congress in the 1980s*, ed. Anthony King (Washington, D.C.: American Enterprise Institute, 1983), pp. 154-184; Louis Fisher, *Presidential Spending Power* (Princeton, N.J.: Princeton University Press, 1975), pp. 61-66.

[85] Stephen Horn, *Unused Power: The Work of the Senate Committee on Appropriations* (Washington, D.C.: Brookings Institution, 1970), pp. 186-192.

[86] Ibid, p. 187.

[87] Richard Munson, *The Cardinals of Capitol Hill* (New York: Grove Press, 1993), pp. 72-73.

The Congressional Budget Process Context for Appropriations Decisionmaking

While the report language components that are externally directed have generally been implemented at the initiative of the Appropriations Committees, both the House and the Senate have chosen to require that certain additional information also be included in the appropriations reports. This additional information tends to relate to the budget process context in which appropriations measures are considered. In some cases, the requirement for a particular component was in response to an existing budget process issue. For example, as certain Members of the House and Senate became concerned about the committee's repeated inclusion of appropriations not authorized by law in appropriations measures, both chambers ultimately adopted rules to require that such appropriations be identified in appropriations report language.[88] In other instances, requirements for appropriations report language were implemented proactively in anticipation of potential issues in the future. For example, the requirement that the applicable appropriations allocations under Section 302(b) of the Budget Act be evaluated relative to the amounts in the bill was imposed at the same time that process was first implemented.[89] Likewise, the requirement that rescissions and transfers be listed in House Appropriations Committee reports occurred concurrently with the committee gaining jurisdiction over those items.[90]

Sometimes the chambers choose to take different approaches to similar issues. For example, although House and Senate rules separating authorizations and appropriations have been in effect since the mid-19th century, legislative language was often included in the reported version of general appropriations bills.[91] In 1974, the House chose to require that legislative language included in a general appropriations measure be listed and explained in the committee report accompanying it.[92] In contrast, the Senate has not chosen to formally require that such information be included in the committee report.[93] In such instances, divergent approaches might be due to differing levels of concern about the issue or whether requiring certain appropriations report language is the appropriate solution to it.

The extent to which the House and Senate continue the current requirements for report language or alter them in the future may depend on whether the current form of these components is judged to provide information that is adequate for its purposes. In addition, if new issues arise through the adoption of new rules and procedures—or in the exercise of those that are currently in effect—further changes in the content of appropriations report language might occur.

[88] For further information, see the section of this report titled "Appropriations Not Authorized by Law."

[89] For further information, see the section of this report titled "Comparison with the Budget Resolution."

[90] For further information, see the section of this report titled, "Rescissions and Transfers."

[91] For a discussion of this issue and information on the waivers of Rule XXI, clause 2, that have been routinely provided for regular appropriations measures prior to their floor consideration, see CRS Report R42933, *Regular Appropriations Bills: Terms of Initial Consideration and Amendment in the House, FY1996-FY2015*, by Jessica Tollestrup.

[92] For further information, see the section of this report titled "Language Changing Existing Law."

[93] As previously mentioned, Senate Rule XXVI, paragraph 12, sometimes referred to as the "Cordon Rule," requires that the committee report include a comparative print of language "repealing or amending any statute." Any legislative language that would directly repeal or amend existing law would be included in that comparative display.

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