



# EXPLAINER

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## FY22 Appropriations Explainer

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This year's appropriations debate occurs as the U.S. continues to respond to the COVID-19 pandemic and the resulting economic recession. It also marks the first year since 2012 that appropriations will not be subject to discretionary spending caps under the Budget Control Act (BCA) of 2011 and subsequent budget agreements. This appropriations cycle also includes the reinstatement of congressionally-directed spending (i.e., earmarks), with some conditions.

This explainer covers the basics of the appropriations process, provides context on FY2022 budget caps, lays out options for increasing spending, and reviews select policy riders that Congress has attached to previous appropriations bills.

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## The Importance of Appropriations

Every year, Congress passes appropriations bills to fund the government. The appropriations bills fund the discretionary portions of the federal budget, such as education, defense, and housing. Appropriations bills do not include mandatory spending such as Medicaid, Medicare, and Social Security. The appropriations process impacts nearly every department and agency across the federal government.

### Agency Funding

The level of funding each department or agency receives is critical to the ability of the institution to function and to carry out its respective mission. Ensuring an adequate amount of funding is provided to these agencies is important for enforcement and oversight responsibilities.

For example, the Internal Revenue Service (IRS) Commissioner Charles Rettig estimated that [\\$1 trillion in legally owed taxes go uncollected annually](#) due to a lack of enforcement. Commissioner Rettig also stated that the IRS audits lower-income individuals ([who are disproportionately Black, brown, and Native](#)) at a higher rate than the wealthy due to a lack of personnel and because it is [“easier” and less costly](#). To remedy this imbalance, [President Biden has proposed a 10 percent increase](#) in funding for the IRS to hire additional staff and to target tax avoidance from the wealthy.

### Recovery Funding

In response to the crisis of COVID-19, President Biden has proposed [the Build Back Better package](#), which passed the House on November 19, 2021 and would provide nearly \$2 trillion in new spending and tax credits offset with increased taxes on wealthy individuals and corporations. However, this package only covers a subset of national priorities that have gone underfunded. Appropriators have an opportunity to provide additional funding beyond the formal Build Back Better package through the appropriations process. In FY2021, Congress similarly used emergency supplemental appropriations to fund COVID relief efforts on top of major COVID-related legislation, such as [the CARES Act](#).

### Conditions and Requirements on Programs

The end of the fiscal year is September 30. Without passage of appropriations legislation in a given fiscal year, the federal government shuts down operations, which makes appropriations legislation a “must pass” vehicle. While Congress determines the programs that are funded and their level of funding, they also have the power to impose conditions and requirements on federal agencies to expend the funds, known as [conditions, limitations, or appropriation riders](#).

Congress is also able to use the appropriations process to conduct oversight on the usage of funds. For example, H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act included [numerous oversight provisions](#) to provide Congress information on how COVID relief funds were being utilized.

Members of Congress may request that certain terms and conditions be set on federal spending through the submission of “language requests” to the Appropriations Committees. Language requests could entail prohibiting the use of funds for certain activities, directing agencies to prioritize certain programs or activities, or to conduct and publish studies and reports on the efficacy of programs, amongst others.

## Annual Appropriations Process

### 302(a) allocation

To begin their work, the House and Senate Appropriations Committees need the topline spending level they will allocate among discretionary programs. Statutorily, the President is required to send a budget proposal to the House and Senate Budget Committees by early February, however that deadline is often not adhered to. President Biden [submitted his administration’s proposed budget for FY2022 discretionary funding](#) on May 28, 2021. The Budget Committees are then supposed to mark up a concurrent budget resolution, which is not signed by the President and does not become law, but does include the total amount of spending for the Appropriations Committees. That topline number for discretionary spending is known as the 302(a) allocation after Section 302(a) of the Congressional Budget Act of 1974. 302(a) allocation is passed either through a deeming resolution or budget resolution.

For the past decade under the BCA, 302(a) allocations have generally totaled the sum of the military budget cap and [the non-defense discretionary funding cap](#). However, with the expiration of the Budget Control Act of 2011 and subsequent budget caps deals, FY2022’s appropriations process will play a larger role in determining the overall level of spending for the year. Congress has not set a statutory cap on FY2022 discretionary spending. This means that Congress has wide latitude to set budget levels in an annual budget resolution.

### 302(b) allocations

Once the House and Senate Appropriations Committees have their 302(a) allocation, they set their 302(b) allocations to divide the total amount of the discretionary spending across their 12 subcommittees. The Appropriations Committees usually do not make 302(b) allocations public until the appropriations bills are released. The following table shows how the FY2021 302(a) allocation was ultimately divided among the 12 subcommittees:

<b>Appropriations Subcommittee</b>	<b>FY2021 302(b) allocation (\$ billions)<sup>1</sup></b>
Defense	696
Labor, Health & Human Services, Education	195

<sup>1</sup> Excludes disaster funding outside budget caps.

Military Construction, Veteran Affairs	101
Transportation, Housing & Urban Development	75
Commerce, Justice, Science	75
State & Foreign Operations	55
Homeland Security	53
Energy & Water Development	52
Interior & Environment	36
Financial Services & General Government	24
Agriculture, Rural Development, FDA	23
Legislative Branch	5
<i>Total (302(a) allocation)<sup>2</sup></i>	<i>1,390</i>

**Appropriations markups**

The subcommittees then decide how to distribute funds within their 302(b) allocations among different programs and agencies. In the first few months of the year, Senators and Representatives submit their programmatic and language requests to the respective Appropriations subcommittees for individual programs and agencies. For example, a member may submit a programmatic request for an increase of funding for the National Institutes for Health or could submit a letter in general support for a program. Subcommittees then markup their individual bills, and then the full Appropriations Committee marks up each bill before reporting it to the full chamber for consideration. For FY2021, the House Appropriations Committee started subcommittee markups on June 24, 2021 and full committee markups on June 29, 2021.

**Floor consideration**

While the committees consider each subcommittee’s bill individually, multiple appropriations bills are frequently bundled together for consideration on the floor. At this point of the appropriations process, members are able to propose amendments to appropriations legislation<sup>3</sup> such as increasing programmatic funding, decreasing programmatic funding, restricting funding for certain activities, or reallocating funding from one program to another, amongst others. Bills can be packed into consolidated appropriations bills (also known as “minibuses”) or a single omnibus appropriations bill. Considering appropriations bills in an omnibus package can

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<sup>2</sup> Total may not equal the sum due to rounding.

<sup>3</sup> Subject to the rule governing floor consideration.

reduce the amount of floor time dedicated to debating and considering each of the 12 appropriations bills from each respective subcommittee. Once the House and Senate reconcile their respective bills, they send the approved legislation to the President.

While the fiscal year ends on September 30, Congress often fails to pass all 12 annual appropriations bills on time. In those cases, Congress has to pass a continuing resolution to keep the government running at current spending levels. Otherwise, the U.S. experiences a federal government shutdown.

### **Supplemental & Emergency Appropriations**

In addition to a regular appropriations cycle, Congress may pass additional “supplemental appropriations” bills outside of the annual appropriations process. Congress frequently uses supplemental appropriations in unanticipated emergency situations that require funding immediately, such as natural disasters, public health crises, or economic recession. For example, the House passed [H.R. 3237](#), the Emergency Security Supplemental to Respond to January 6th Appropriations Act, which appropriates \$1.9 billion for costs associated with the January 6th insurrection. These supplemental appropriations layer on top of funds already included in the regular appropriations for that year. They are not subject to spending caps, pay-as-you-go policies, or budgetary controls.

In addition to a major increase in mandatory spending, Congress has already used emergency supplemental appropriations four times during the COVID-19 pandemic:

- \$8.3 billion in H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act
- \$2.5 billion in Division A of H.R. 6201, the Families First Coronavirus Response Act
- \$340 billion in Division B of H.R. 748, the CARES Act
- \$75 billion in Division B of H.R. 266, the Paycheck Protection Program and Health Care Enhancement Act

### **Appropriations Requests and Earmarks**

To ensure that Members of Congress’ priorities are reflected in annual appropriations bills, the Appropriation Committees will solicit input from members to inform spending levels, add report language, or bill language to change existing law. While adding report language does not change existing law, it can be used to provide direction to departments and agencies on the distribution of funding. Members will circulate “Dear Colleague” letters to other members for their signature (effectively an endorsement) to build support for particular funding levels for the programs or general support for the programs themselves.

Congressionally-directed spending (CDS), commonly referred to as “earmarks,” is a member-requested allocation of discretionary spending for a specific project, generally within a member’s district. A moratorium on this practice had been in place since 2011, however many members - both Democratic and Republican - had supported reinstating CDS.

In the 117th Congress, both the House and the Senate Appropriations Committee Chairs indicated that they would once again begin accepting earmark requests from members, which are now called [“Community Project Funding.”](#) However, members that submit earmark requests must certify that they do not have financial interests in the projects and the [requests must be made public](#). Members are allowed to submit up to 10 funding requests and the total allocation of earmarks for the fiscal year cannot exceed 1% of discretionary spending. The funding is only eligible for government or non-profit entities. For FY2022, 300 House members [submitted 2,887 earmark requests totaling nearly \\$5.9 billion](#). The deadline for members to submit earmark requests was April 30, 2021.

## Policy Riders

Appropriations bills can be useful vehicles for policy provisions that would not otherwise get floor time. Putting restrictions and reporting requirements on funding is a major way that Congress uses the power of the purse to check the Administration. Policy riders allow members to force consideration of high-profile issues.

Unfortunately, this process has been used far more regularly by conservatives looking to sneak in damaging policy, and past appropriations bills have been littered with riders that undermine progressive priorities. Here are some of the “poison pill” riders included in past appropriations bills (listed by subcommittee):

### *Labor, Health & Human Services, Education*

- Preventing low-income women and women of color enrolled in Medicaid from accessing abortion coverage (Hyde Amendment).
- Prohibiting discrimination against “health care entities” that do not provide, pay for, or provide coverage of or refer for abortions (Weldon Amendment).

### *Commerce, Justice, Science*

- Preventing the Federal Bureau of Prisons from covering the cost of an abortion.

### *State & Foreign Operations*

- Conditioning U.S. foreign assistance for family planning on NGO certification that they will not perform, promote or refer abortions as a method of family planning or advocate for any decriminalization of abortion services (Mexico City Policy or Global Gag Rule).
- Prohibiting discrimination against international organizations that offer only “natural family planning” for religious or conscientious reasons (Livingston-Obey Amendment).
- Preventing the use of U.S. foreign assistance from paying for abortion as a method of family planning or to motivate or coerce any person to practice abortions (Helms Amendment).
- Prohibiting abortion coverage for Peace Corps workers.

### *Interior, Environment*

- Blocking rules on greenhouse gas emissions.
- Restricting use of the Endangered Species Act.
- Allowing greater commercial use of public lands.

### *Financial Services & General Government*

- Blocking transparency of political spending and the creation of clear definitions of political activity
- Preventing federal employees and their dependents from accessing abortion services (Hyde Amendment).

### *Agriculture, Rural Development, FDA*

- Weakening nutrition standards.

The FY2021 appropriations bills made some progress in rolling back “poison pill” policy riders. Nevertheless, major riders like the Hyde Amendment still remain. This year both the House and the Senate removed many of the poison pills from their base bills and the fight is on to keep the language out in the final conferenced FY22 package.

## **Conclusion**

The FY2022 appropriations bills come after a decade of statutory austerity due to the Budget Control Act. Congress now has the opportunity to increase spending to the levels necessary to adequately fund agencies and programs that provide critical relief and services to working families. Congress must also decide which policy riders to include given a broad range of high-profile issues and oversight priorities.

Appropriations bills are a critical opportunity for Congress to meet the needs of the moment, and that is especially true this year as families grapple with the ongoing effects of the pandemic.