

Appropriations Amendments — A Basic Guide

Based on information distributed by the Rules Committee Republican staff

The House is scheduled to consider the continuing resolution during the week of February 14, 2011. In light of the way in which the bill is being drafted and considered, along with recent rule changes related to Appropriations bills, this document is intended to assist Members and their staff with basic questions that could arise as offices consider whether to draft amendments and in what form.

However, the most important advice is to consult early with the Office of Legislative Counsel regarding the drafting of the amendment, and the Congressional Budget Office (CBO) on the amendment's budgetary effects and the Office of the Parliamentarian regarding compliance with the Rules of the House.

READING APPROPRIATIONS BILLS FOR AMENDMENT Traditionally, when appropriations bills are considered for amendment, they are read "paragraph-by-paragraph." When reading the bill for amendment, it is only in order to offer the amendment at the appropriate point in the reading. Once the Clerk has read past the point at which the amendment first amends the bill, the amendment is no longer in order. It is very important that Members wishing to offer amendments be attentive to the reading. The Democratic Cloakroom (x5-7330) is the best source for information on the portion of the bill currently under consideration. Amendments will likely be debated under the 5-minute rule, meaning that each Member may seek recognition to speak one time for up to 5 minutes on a particular amendment.

GENERAL PROHIBITIONS ON AMENDMENTS TO APPROPRIATIONS BILLS Amendments to general appropriations bills must comply with numerous requirements in the Rules of the House and the Budget Act. Rule XXI of the Rules of the House describes many of the restrictions on amendments to appropriations bills. Specifically, amendments—

- May not be offered if the amendment is drafted to a point in the bill that ***has already been read***;
- May not ***legislate or authorize*** new or existing programs or otherwise make changes in existing law (clause 2(c) of rule XXI);
- May not cause the total amount of ***budget authority*** to exceed the overall limitations established for budget enforcement purposes (§§ 302(f) and 311 of the Congressional Budget Act);
- Must be ***germane*** to both the bill and the paragraph being amended (clause 7 of rule XVI);
- May not provide appropriations to ***unauthorized programs*** or appropriate funds in excess of an explicit authorization (clause 2(a)(1) of rule XXI); and
- May not ***reappropriate*** funds which have already been appropriated in a prior fiscal year (clause 2(a)(2) of rule XXI).

Any amendment that violates any one of these rules is subject to a point of order against its consideration.

TRANSFERS AND "REACH BACKS." Clause 2(f) of rule XXI provides an exception to the general principle that amendments may only be offered at the specific point in the reading of the bill for amendment. This rule allows a Member to offer two "transfer amendments" en bloc, or as two amendments in one, one decreasing spending and

the other increasing spending by an equal amount. These amendments must be offered when the first amended account is reached in the reading of the bill and are not subject to a call for division. However, to be in order the amendments must be neutral in terms of both budget authority and outlays. Depending on the program being cut and the program being increased, the amounts of the decrease and increase may be different, depending on spending rates of the individual programs. In this particular case, it is important to ensure that the amendment does not violate the particular subcommittee allocation, even if performing a transfer. Thus, it is important to check with the Appropriations Committee or the Congressional Budget Office to ensure that the amendment is drafted correctly.

“Reach-back” or “fetch-back” amendments are new paragraphs inserted to change amounts contained in previous paragraphs and change funding amounts in the pending bill by reference. These amendments are typically offered at the end of the bill. For instance, an across the board cut is considered a reach-back amendment.

“Across-the-board cuts” should reduce each account in the measure by the same amount. If individual accounts are not specifically amended with a specific dollar reduction, the Appropriations Committee has no direction as to which accounts to reduce in order to reduce the overall spending in the bill and the amendment is not scored as achieving measurable savings.

LIMITATION AMENDMENTS *Limitation amendments* come at the end of the bill and limit the use of the funds appropriated in the bill. These amendments may limit spending within the bill, but only when the effect does not directly change existing law. The basic theory of limitations is that, just as the House may decline to appropriate for a purpose authorized by law, it may by limitation prohibit the use of the funds for part of the purpose while appropriating the remainder of it. The limitation cannot change existing law but may negatively restrict the use of funds for an authorized purpose or project.

SPENDING REDUCTION AMENDMENTS New for the 112th Congress, each general appropriation bill will include a **“spending reduction” account** at the end of the bill. Pursuant to the standing order contained in section 3(j) of H.Res. 5, Members may offer amendments much like a 2(f) transfer amendment, but the amounts reduced may be placed in the spending reduction account in order to demonstrate that those funds are no longer available for further appropriation during consideration of the bill. If the bill contains a rescission, the amount of the rescission cannot be increased and that amount dedicated to the spending reduction account. Finally, it is not in order to offer an amendment to reduce the amount of the spending reduction account. En bloc amendments offered pursuant to this standing order are not divisible.

For a complete discussion of the appropriations amendment process, see chapter 4 of *House Practice*.

CONTACTS

Members considering amendments to H.R. 1 should consult early with the following to make sure that their amendment is properly drafted and comports with the Rules of the House and the requirements of the Budget Act:

- The Office of Legislative Counsel (x5-6060)
- The Congressional Budget Office (Email: Janet.airis@cbo.gov or Teri.gullo@cbo.gov)
- The Office of the Parliamentarian (x5-7373)
- The Committee on Appropriations Democratic Staff (x5-3481)