

CRS Report for Congress

Received through the CRS Web

Across-the-Board Spending Cuts in Omnibus Appropriations Acts

Updated August 10, 2004

Robert Keith
Specialist in American National Government
Government and Finance Division

Across-the-Board Spending Cuts in Omnibus Appropriations Acts

Summary

In four of the past five fiscal years (FY2000, FY2001, FY2003, and FY2004), Congress and the President brought action on the regular appropriations acts for the fiscal year to a close by incorporating unfinished acts into an omnibus appropriations measure. Each of the four omnibus acts included an across-the-board spending cut to offset part of the measure's cost. Media reports indicate that an omnibus appropriations may be used to conclude the regular appropriations cycle for FY2005.

The four across-the-board spending cuts enacted previously ranged in size from 0.22% to 0.65% of covered appropriations, and \$1.1 billion to \$2.8 billion in savings:

- the 0.38% cut for FY2000 in P.L. 106-113 saved \$2.4 billion in budget authority;
- the 0.22% cut for FY2001 in P.L. 106-554 saved \$1.1 billion in budget authority;
- the 0.65% cut for FY2003 in P.L. 108-7 saved \$2.6 billion in budget authority; and
- the 0.59% cut for FY2004 in P.L. 108-199 saved \$2.8 billion in budget authority.

In addition to the 0.59% cut for FY2004 (applicable to nondefense spending), P.L. 108-199 required defense rescissions amounting to \$1.8 billion to be made by September 30, 2004. This requirement was repealed by Section 9003(c) of the Defense Appropriations Act for FY2005 (P.L. 108-287).

The across-the-board cuts may be compared in several ways. First, the range of appropriations subject to the spending cuts varied under each provision because of variations in the number of regular appropriations acts covered and the specification of particular exemptions. Second, the reductions imposed by the percentage cuts had to be made subject to a percentage limitation or a proportionality requirement. For example, the FY2000 cut required that Defense accounts be reduced uniformly; with regard to nondefense accounts, proportional cuts were not required, but no program, project, or activity (PPA) within an account could be reduced by more than 15%. Third, the size of the percentage cut was reduced significantly during the course of legislative action in two of the cases.

The significance of the spending cuts differed with regard to budget enforcement: (1) the FY2000 cut was needed to avoid a sequester; (2) the FY2001 cut was not needed to avoid a sequester, but it contributed to overall discretionary spending being below the statutory limits; (3) the FY2003 cut was needed to adhere to an informal limit reached between congressional leaders and President Bush in the absence of a budget resolution and the expiration of the statutory limits on discretionary spending; and (4) the FY2004 cut contributed to adherence to the discretionary spending levels assumed in the FY2004 budget resolution.

This report will be updated as developments warrant.

Contents

Background	1
Discretionary Spending and Annual Appropriations Acts	1
Constraints on Discretionary Spending	2
Across-the-Board Spending Cuts in FY2000-FY2004	3
Similarities and Differences in the Four Provisions	4
FY2000	6
Budgetary Context	6
Legislative Action	7
Design and Implementation of the 0.38% Spending Cut	11
FY2001	14
Budgetary Context	14
Legislative Action	15
Design and Implementation of the 0.22% Spending Cut	16
FY2003	17
Budgetary Context	17
Legislative Action	19
Design and Implementation of the 0.65% Spending Cut	22
FY2004	24
Budgetary Context	24
Legislative Action	24
Design and Implementation of the 0.59% Spending Cut	25
Appendix A. Text of the Across-the-Board Spending Cut Provisions	28
FY2000	28
FY2001	29
FY2003	30
FY2004	31

List of Tables

Table 1. Summary of Across-the-Board Spending Cuts in Omnibus Appropriations Acts for FY2000-FY2004	4
Table 2. Exemptions From Across-the-Board Spending Cuts for FY2000-FY2004	5
Table 3. FY2000 Rescissions Made Under the 0.38% Cut	13
Table 4. FY2001 Rescissions Made Under the 0.22% Cut	18
Table 5. FY2003 Rescissions Made Under the 0.65% Cut	23
Table 6. FY2004 Rescissions Made Under the 0.59% Cut	27

Across-the-Board Spending Cuts in Omnibus Appropriations Acts

In four of the past five fiscal years (FY2000, FY2001, FY2003, and FY2004), Congress and the President brought action on the regular appropriations acts for the fiscal year to a close by incorporating unfinished acts into an omnibus appropriations measure.¹ Each of the four omnibus appropriations acts included an across-the-board spending cut, in the form of rescissions, to offset part of the measure's cost.²

According to media reports, congressional leaders have endorsed using an omnibus appropriations measure later in the session to conclude the regular appropriations cycle for FY2005.

This report examines the use of across-the-board spending cuts in omnibus appropriations acts for FY2000-FY2004, assessing the budgetary context leading to the spending cut, recounting the legislative action on the spending cut provision, and reviewing the provision's design and implementation.

Background

Discretionary Spending and Annual Appropriations Acts

Discretionary spending, which accounts for roughly one-third of total federal spending, is spending that is under the control of the House and Senate Appropriations Committees and is provided in annual appropriations acts. For the most part, discretionary spending funds the routine operations of the federal government, including the "salaries and expenses" accounts of most agencies.

Discretionary spending is distinguished from *direct spending* (also referred to as *mandatory spending*), which is controlled by the legislative committees of the House and Senate through substantive law and funds entitlement and other mandatory programs, such as Medicare, federal military and civilian retirement, and unemployment compensation. Discretionary spending and direct spending together make up total federal spending.

¹ For more information on this topic, see CRS Report RL32473, *Omnibus Appropriations Acts: Overview of Recent Practices*, by Robert Keith.

² The spending cuts also required reductions in obligation limitations for accounts where this was appropriate.

Each year, Congress and the President enact discretionary spending in the form of 13 regular appropriations acts, as well as continuing and supplemental appropriations acts. If action is not completed on all of the regular appropriations acts toward the end of a congressional session, Congress sometimes will combine the unfinished appropriations acts into an omnibus measure. An omnibus appropriations act may set forth the full text of each of the regular appropriations acts included therein, or it may enact them individually by cross-reference. In addition, significant portions of omnibus appropriations acts may deal with substantive legislation rather than appropriations issues.³

Constraints on Discretionary Spending

The House and Senate consider annual appropriations acts, and other budgetary legislation, within constraints established in a yearly budget resolution required by the Congressional Budget Act of 1974, as amended.⁴ Budget resolution policies are enforced by points of order that may be raised during House and Senate consideration of spending, revenue, and debt-limit legislation. On occasion, budget policies may be modified by agreements reached between congressional leaders and the President; such modifications may be accommodated during legislative action through the use of waivers of points of order, emergency spending designations, and other budgetary or procedural devices.

During the period covering FY1991-FY2002, legislative action on annual appropriations acts also was subject to limits on discretionary spending established by the Budget Enforcement Act (BEA) of 1990 (which amended an underlying law, the Balanced Budget and Emergency Deficit Control Act of 1985).⁵ Under this statutory mechanism, separate discretionary spending limits were applied to two different measurements of spending — budget authority and outlays. *Budget authority* represents the legal authority for agencies to incur obligations. Annual appropriations are perhaps the most well known form of budget authority. *Outlays* represent the liquidation of the obligation, usually in the form of an electronic funds transfer or the issuance of a check by the Treasury Department.

The discretionary spending limits were enforced by the sequestration process.⁶ A sequester involved automatic, largely across-the-board reductions in discretionary spending in order to eliminate any breach of the limits. A separate sequestration

³ For more information on this topic, see CRS Report RL30619, *Examples of Legislative Provisions in Omnibus Appropriations Acts*, by Robert Keith.

⁴ The Congressional Budget Act of 1974 is Titles I-IX of P.L. 93-344 (July 12, 1974); see 88 Stat. 297. For a general discussion of budget enforcement procedures, see CRS Report 98-721, *Introduction to the Federal Budget Process*, by Robert Keith and Allen Schick.

⁵ The BEA of 1990 is Title XIII of P.L. 101-508 (Nov. 5, 1990), the Omnibus Budget Reconciliation Act of 1990; see 104 Stat. 1388-573 through 628. The 1985 act is Title II of P.L. 99-177 (Dec. 12, 1985), a measure increasing the public debt limit; see 99 Stat. 1037-1101.

⁶ The sequestration process is discussed in detail in CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by Robert Keith.

process entailed automatic reductions in mandatory spending if the enactment of revenue or mandatory spending measures caused a violation of a “pay-as-you-go” (PAYGO) requirement. Under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, the director of the Office of Management and Budget (OMB) was charged with determining within 15 days after the close of a congressional session whether a sequester of either kind was required for the fiscal year.

In order to adhere to restraints imposed by congressional budget resolutions, the discretionary spending limits, and ad hoc budget agreements between congressional leaders and the President, or to meet other purposes, Congress and the President from time to time incorporate across-the-board cuts in discretionary budget authority into annual appropriations acts. While this report addresses across-the-board spending cuts in omnibus appropriations acts, the device has been included in other types of appropriations acts as well. For example, Section 1403 (116 Stat. 898-899) of the Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, 2002 (P.L. 107-206; August 2, 2002), required a \$350 million cut in prior appropriations throughout the executive branch for administrative and travel expenses.⁷

Across-the-Board Spending Cuts in FY2000-FY2004

During the period covering FY2000-FY2004, Congress passed and the President enacted four omnibus appropriations acts containing across-the-board spending cuts into law.⁸

As shown in **Table 1**, the four acts included across-the-board spending cuts ranging in size from 0.22% to 0.65% of covered appropriations, and \$1.1 billion to \$2.8 billion in savings:

- the 0.38% cut in P.L. 106-113, the Consolidated Appropriations Act for FY2000, saved \$2.4 billion in budget authority;
- the 0.22% cut in P.L. 106-554, the Consolidated Appropriations Act for FY2001, saved \$1.1 billion in budget authority;
- the 0.65% cut for in P.L. 108-7, the Consolidated Appropriations Resolution for FY2003, saved \$2.6 billion in budget authority; and
- the 0.59% cut in P.L. 108-199, the Consolidated Appropriations Act for FY2004, saved \$2.8 billion in budget authority.

⁷ For further information on this spending cut, see OMB Bulletin 02-05 (July 29, 2002), *Rescissions of Funds in Administrative and Travel Accounts*.

⁸ Another measure, which may be considered an “omnibus” appropriations act, was enacted into law during this period. P.L. 106-377 combined the FY2001 VA-HUD Appropriations Act with the FY2001 Energy and Water Development Appropriations Act. The measure is excluded from this analysis because it did not include an across-the-board cut.

Table 1. Summary of Across-the-Board Spending Cuts in Omnibus Appropriations Acts for FY2000-FY2004

Congress/ Session	Fiscal Year	Public Law Number	Date Enacted	Percentage Reduction	Total Savings (BA in \$ billions) ^a
106 th /1	2000	P.L. 106-113	11/29/99	0.38%	2.4
106 th /2	2001	P.L. 106-554	12/21/00	0.22%	1.1
107 th /2 ^b	2003	P.L. 108-7	02/20/03	0.65%	2.6
108 th /1	2004	P.L. 108-199	01/23/04	0.59%	2.8

- a “BA” refers to *budget authority*. Savings amounts were obtained from the following Office of Management and Budget “Appropriations 7-Day-After Reports” to Congress, available on the OMB website at [<http://www.whitehouse.gov/omb/legislative/7day/index.html>]: (1) P.L. 106-113, January 3, 2000; (2) P.L. 106-554, January 15, 2001; and (3) P.L. 108-7, March 27, 2003; and, for FY2004, from the Congressional Budget Office.
- b. Action on the regular appropriations acts for FY2003 occurred mainly during the second session of the 107th Congress, but the omnibus appropriations act bringing the process to a close for that fiscal year was considered and enacted into law during the first weeks of the 108th Congress.

Following a brief discussion of the similarities and differences between the four spending-cut provisions, each of them is discussed in more detail below.

Similarities and Differences in the Four Provisions

In addition to the size of the percentage cut and the total amount of savings, the four across-the-board spending cuts may be compared in other ways.

First, the range of appropriations subject to the spending cuts vary under each provision. The FY2000, FY2001, and FY2004 cuts were made applicable to the budget authority provided for the relevant fiscal year “in this or any other Act” or a similar formulation (that is, all of the regular appropriations acts for that year, including those enacted as freestanding laws). The FY2003 cuts, however, were made applicable to the 11 regular appropriations acts included in the omnibus measure, but not to the two measures enacted earlier as freestanding laws (the Defense and Military Construction Appropriations Acts).⁹

The coverage was then modified in all four instances by the specification of appropriations acts or accounts/programs exempted from the cuts. The acts and accounts/programs exempted under each of the four cuts are summarized in **Table 2**. (Although the across-the-board spending cut required by the Consolidated

⁹ The FY2003 cut also was made applicable to advance appropriations for FY2003 enacted in appropriations laws for prior fiscal years.

Appropriations Act for FY2004 did not apply to defense spending, such spending was subject to a requirement elsewhere in the act to rescind \$1.8 billion.)

Table 2. Exemptions From Across-the-Board Spending Cuts for FY2000-FY2004

Fiscal Year	Public Law Number	Appropriations Acts Exempted	Accounts/Pprograms Exempted
2000	P.L. 106-113	[none]	•Military personnel accounts
2001	P.L. 106-554	•Labor-HHS-Education	•Military personnel accounts •Specified supplementals for FY2000
2003	P.L. 108-7	•Defense •Military Construction	•Women, Infants, and Children program •Head Start •veterans' medical care •NASA's space shuttle program
2004	P.L. 108-199	•Defense •Military Construction	•Supplementals for FY2004

Second, the reductions imposed by the percentage cuts were made subject to a percentage limitation or a proportionality requirement. The FY2000 cut required that defense accounts be reduced uniformly; with regard to nondefense accounts, proportional cuts were not required, but no program, project, or activity (PPA) within an account could be reduced by more than 15%. The FY2001, FY2003, and FY2004 cuts required proportional reductions to all accounts and PPAs.

Third, the size of the percentage cut was reduced during the course of legislative action in two instances. For FY2000, President Clinton first vetoed an appropriations act providing for a 0.97% cut before agreeing to the omnibus legislation requiring a 0.38% cut. During consideration of the FY2003 omnibus legislation, the Senate at one point had endorsed a 2.9% cut, which ultimately was reduced to 0.65%.

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

Finally, the FY2000 and FY2001 cuts instructed the OMB director to report to Congress (in the President's annual budget submission) on the implementation of the reductions, while the FY2004 cut instructed the OMB director to report such information to the House and Senate Appropriations Committees within 30 days after enactment. The FY2003 cut did not include any reporting requirement.

FY2000

Budgetary Context. As the federal budget process for FY2000 unfolded in 1999, during the first session of the 106th Congress, a policy emerged of keeping the level of discretionary spending within the statutory limits while at the same time not “using” the Social Security surplus (i.e., incurring an on-budget deficit).¹⁰ One of the purposes in adhering to the discretionary spending limits was to avoid a sequester at the end of the session.¹¹

In order to enhance its efforts in trying to stay within the discretionary spending limits, Congress and President Clinton used various budgetary devices and techniques, including emergency spending designations, advance appropriations, rescissions, offsets in mandatory programs, obligation and payment delays, and directed scoring.¹² These devices either resulted in upward adjustments in the limits, as was the case with the emergency spending designations, or were counted as savings for the fiscal year. According to OMB, the adjustments and savings from these devices amounted to tens of billions of dollars and averted the need for a sequester; in the aggregate, discretionary spending enacted for FY2000 was \$1.6 billion under the budget authority limit and \$3.5 billion under the outlay limit.¹³

The Congressional Budget Office (CBO) also issued sequestration estimates, but they were only advisory in nature; only the determinations made by the OMB director could have triggered a sequester. For FY2000, CBO indicated that discretionary spending exceeded the limits by \$6.7 billion in budget authority and \$15.2 billion in outlays, which would have necessitated an across-the-board cut of about 4%.¹⁴

One of the devices used to prevent the violation of the discretionary spending limits was the inclusion of an across-the-board cut in the omnibus appropriations act

¹⁰ This issue is discussed in more depth in CRS Report RL30353, *Discretionary Spending Limits and the Social Security Surplus*, by Robert Keith.

¹¹ The application of the process for this fiscal year is explained in detail in CRS Report RL30363, *The Sequestration Process and Across-the-Board Spending Cuts for FY2000*, by Robert Keith.

¹² These budgetary devices and techniques are discussed in (1) U.S. Congressional Budget Office, *The Economic and Budget Outlook: Fiscal Years 2001-2010* (Washington: Jan. 2000), pp. 76-77; and (2) U.S. Executive Office of the President, Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2000* (Washington: Jan. 25, 2000), see especially Table 2 on pp. 4-6.

¹³ *OMB Final Sequestration Report*, *ibid.*, Table 6, pp. 13-14.

¹⁴ U.S. Congressional Budget Office, *Final Sequestration Report for Fiscal Year 2000* (Washington: Dec. 2, 1999), p. 1.

used to wrap up consideration of the regular appropriations acts for FY2000. According to estimates made by OMB following the measure's enactment, the 0.38% cut was expected to yield savings of \$2.351 billion in budget authority and \$1.356 billion in outlays for the fiscal year.¹⁵ (In the *Final Sequestration Report* for FY2000, OMB increased its estimate of the savings in budget authority to \$2.357 billion.)

The provision requiring an across-the-board spending cut was included in a "miscellaneous appropriations" portion of the omnibus appropriations act that contained other offsets. Savings from the across-the-board cut, combined with the savings from the other offsets, amounted to \$6.827 billion in budget authority and \$9.465 billion in outlays for FY2000.

Without the enactment of the 0.38% spending cut (or comparable offsets), the FY2000 limit for discretionary budget authority would have been exceeded by about \$0.8 billion and a sequester would have occurred.

Legislative Action. House and Senate interest in an across-the-board spending cut surfaced relatively late in the session, after much of the annual appropriations process had been completed. Legislative action on across-the-board cut proposals encompassed several different annual appropriations measures, beginning with S. 1650 and including H.R. 3064 and H.R. 3194. The formulation of the proposal evolved through the different stages of legislative action, from a sense-of-the-Senate statement, to a 0.97% cut, and finally to a 0.38% cut.

S. 1650. On September 29, 1999, the Senate began consideration of S. 1650, its initial version of the Labor-HHS-Education Appropriations Act for FY2000. On October 1, Senator Don Nickles, the assistant majority leader, offered an amendment (number 1851) to the bill stating the sense of the Senate that an across-the-board cut in appropriations should be adopted, if necessary, to avoid incurring an on-budget deficit. On October 6, he offered a further amendment (number 1889) to his underlying amendment. Amendment number 1889 was similar to the underlying amendment and focused on "protecting Social Security surpluses," stating the sense of the Senate that

Congress should ensure that the fiscal year 2000 appropriations measures do not result in an on-budget deficit (excluding the surpluses generated by the Social Security trust funds) by adopting an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit if necessary.¹⁶

In describing his amendments, Senator Nickles indicated that an across-the-board cut of 1% of discretionary appropriations might be needed to eliminate an estimated overage of about \$5 billion; other Senators provided estimates that the

¹⁵ See the Office of Management and Budget's "Appropriations 7-Day-After Report" to Congress on P.L. 106-113, available on the OMB website at [<http://www.whitehouse.gov/omb/legislative/7day/index.html>]

¹⁶ The text of amendments number 1851 and 1889, and the accompanying remarks of Senator Nickles, are found in the *Congressional Record* of Oct. 1, 1999, pp. S11774-S11780 and S11808.

verage might be much larger and that a cut of 5.5% might be needed. On October 6, the Senate adopted amendment number 1889 by a vote of 54-46. After tabling another amendment dealing with the issue, offered by Senator Frank Lautenberg, Senator Nickles withdrew his underlying amendment. The Senate passed the bill the next day without an across-the-board cut provision.

H.R. 3064. Following a veto by President Clinton on September 28 of the first District of Columbia Appropriations Act for FY2000, the House and Senate developed a second version, H.R. 3064, which also included the Labor-HHS-Education appropriations for FY2000. The conferees on the measure inserted an across-the-board cut provision in Section 1001 of Division C of the act. The House agreed to the conference report on the measure on October 28 by a vote of 218-211; the Senate agreed to it on November 2 by a vote of 49-48.

Unlike the language that the Senate had considered earlier, Section 1001 set in place the requirement for a specific cut in discretionary appropriations — 0.97% of the total provided for each account. The section also provided that the pay of Members of Congress, a permanent rather than an annual appropriation, would be subject to the cut. (Under the sequestration process, the pay of Members of Congress was not subject to reduction.)

Senator Ted Stevens, chairman of the Senate Appropriations Committee, described the provision as a placeholder — in the face of a certain veto — until the final necessary reductions could be negotiated with the Clinton Administration:

We have included ... against my best wishes, an across-the-board cut. That is primarily because only the administration can identify some of the areas we can reduce safely without harming the programs, and I am confident when we come to what we call the final period to devise a bill, we will work out with the administration some offsets that will take care of the bill. I am hopeful we will have no across-the-board cut, but if it comes, it will not be as large as the one in this bill right now.¹⁷

President Clinton vetoed H.R. 3064 on November 3.¹⁸ In his veto message to Congress, he stated:

I am vetoing H.R. 3064 because the bill, including the offsets section, is deeply flawed. It includes a misguided 0.97 percent across-the-board reduction that will hurt everything from national defense to education and environmental programs ... The bill is clearly unacceptable. I have submitted a budget that would fund these priorities without spending the Social Security surplus, and I am committed to working with the Congress to identify acceptable offsets for additional spending for programs that are important to all Americans.

¹⁷ See the remarks of Senator Ted Stevens in the *Congressional Record* of Nov. 2, 1999, p. S13623.

¹⁸ See *District of Columbia Appropriations Act, 2000 — Veto Message From the President of the United States* (H.Doc.No. 106-154) in the *Congressional Record* of Nov. 3, 1999 (No. 153), pp. H11441-H11443.

H.R. 3194 (P.L. 106-113). The House's third version of a measure providing FY2000 appropriations for the District of Columbia, H.R. 3194, became, in conference, a vehicle for four additional regular appropriations acts and several legislative measures. In addition to dramatically expanding the scope of H.R. 3194, the conferees changed its title to the Consolidated Appropriations Act for FY2000.¹⁹

The House adopted the conference report on November 18, 1999, by a vote of 296-135; the Senate adopted it the next day by a vote of 74-24. President Clinton signed the measure into law on November 29 as P.L. 106-113 (113 Stat. 1501-1537).²⁰

P.L. 106-113 was divided into two parts. Division A set forth the full text of the FY2000 appropriations for the District of Columbia. Division B provided appropriations for the remaining four regular appropriations acts (in Section 1000(a)). Instead of including the full text of each act, however, the subsection enacted individual measures by cross-reference. Each of the four acts, in a form reflecting the final budget agreement reached between President Clinton and Congress, was introduced as a separate bill on November 17, 1999; these four bills were cross-referenced as introduced on that date.

Section 1000(a) of Division B also enacted five other measures by cross-reference. Each of these measures also was introduced as a separate bill on November 17. The first of these other cross-referenced measures, H.R. 3425, dealt with "miscellaneous appropriations" and included in Title III (Fiscal Year 2000 Offsets and Rescissions) many of the savings required by the budget agreement. In particular, Section 301 of H.R. 3425 (113 Stat. 1501A-303 and 304) required a government-wide cut of 0.38% in discretionary appropriations.

The remaining cross-referenced measures dealt with (1) amendments to the Balanced Budget Act of 1997 pertaining to Medicare and related programs; (2) authorizations for the State Department; (3) the federal Milk Marketing Orders program; and (4) the Intellectual Property and Communications Omnibus Reform Act of 1999.

While the across-the-board cut provision sparked some strong criticism during House and Senate floor debate on the conference report, its legislative history is relatively sparse. The joint explanatory statement accompanying the conference report on the measure merely indicated: "The conference agreement includes several offsets and rescissions."²¹

¹⁹ For more detailed information on the contents and structure of the act, see CRS Report RS20403, *FY2000 Consolidated Appropriations Act: Reference Guide*, by Robert Keith.

²⁰ On November 19, the House and Senate both passed H.Con.Res. 239, a measure making a technical correction in the enrollment of the Consolidated Appropriations Act. The correction dealt solely with a portion of H.R. 3194 containing State Department authorizations.

²¹ See H.Rept. 106-479 in the *Congressional Record* of Nov. 17, 1999 (Part II), pp. H12230-H12609 (especially p. H12503).

In the House, Speaker Dennis Hastert and other House leaders discussed it briefly in the context of reducing waste, fraud, and abuse:

- Speaker Dennis Hastert

This bill also takes a very important first step in eliminating government waste. Every year our government spends billions and billions of dollars, and we are saying in this bill, let us take 38 cents out of every \$100 that the Federal Government spends and find waste and abuse. I think that is doable, and I think next year we ought to do the same thing, over and over again, because that is what the American people expect us to do.

The across-the-board spending cut in this bill will force the agencies of government to take a close look at their budget and see what frivolous spending can be eliminated. Taxpayers deserve to have their money spent responsibly, and this bill will save the American taxpayers from over \$1 billion in excess spending. (*Congressional Record*, Nov. 18, 1999 (No. 164), p. H12800.)

- Majority Leader Richard Arme

Beginning in 1998, fiscal year 1999, and now with this budget agreement in fiscal year 2000, we will have retired a third of a trillion dollars' worth of debt for the American people. We will have stopped the raid on Social Security forever. We will have enforced this with an across-the-board spending reduction that acknowledges truly it is time now to be disciplined to eliminate waste, inefficiency, fraud in the use of the taxpayers' dollars. A new commitment of good government in government. (*Congressional Record*, Nov. 18, 1999 (No. 164), p. H12766.)

- Majority Whip Tom DeLay

We tried to cut waste by just suggesting a 1 percent across-the-board cut. Incredibly, the Democrats maintain that a measly 1 percent of waste could not be found in the Federal Government. Well, even the President eventually agreed with us. Now we have an across-the-board spending cut. (*Congressional Record*, Nov. 18, 1999 (No. 164), p. H12767.)

Representative David Obey, the ranking minority member of the House Appropriations Committee, was sharply critical of the provision. In the course of asserting that the FY2000 appropriations measures involved about \$45 billion in "gimmicks," he observed:

Another issue at the center of negotiations was whether to include a small across-the-board cut. This cut was not necessary to reach the offset targets to make sure the bill was paid for; more than enough money was available from other sources. It is simply an attempt by the majority to create a symbol that could be used to pretend that in the midst of this orgy of gimmickry in spending, that they are continuing to be fiscally responsible. (*Congressional Record*, Nov. 18, 1999 (No. 164), p. H12742.)

There was hardly any discussion of the provision during Senate consideration of the conference report. Senator John McCain suggested that it represented an abdication of budgetary responsibility: "It resorts to an across-the-board budget cut

to avoid dipping into the Social Security surplus, rather than making the hard choices among other spending priorities.”²²

In his statement made upon signing H.R. 3194 into law on November 29, President Clinton did not make any reference to the across-the-board cut.²³

Design and Implementation of the 0.38% Spending Cut. In fashioning the 0.38% spending cut, Congress included several important features (the text of the provision is provided in **Appendix A**). First, reductions made pursuant to the provision were to take the form of rescissions of FY2000 budget authority (i.e., appropriations and offsetting collections). Rescissions permanently cancel budget authority.

Second, the required spending cuts were to be applied only to the total *discretionary* budget authority made available to each department and agency. Any *mandatory* resources made available to a department or agency (e.g., permanent appropriations to fund an entitlement program) would not be affected by the requirement.

Third, reductions were to be applied uniformly to each account for the Department of Defense (and the defense activities of the Department of Energy), except that no reductions were to be made in military personnel accounts. With regard to nondefense activities, there was no stated requirement that reductions be applied uniformly to each department’s or agency’s accounts. However, there was a requirement that no “program, project, or activity” (PPA) within an account be reduced by more than 15%.²⁴

Finally, the OMB director was instructed to include in the President’s budget for FY2001 a report specifying the reductions made to each account under the requirement.

Unlike the earlier provision in H.R. 3064 providing for a 0.97% cut, pay for Members of Congress was not made subject to the reductions.

On November 24, 1999, OMB issued Bulletin 00-01, *Rescission of FY2000 Discretionary Budget Authority*, providing guidance to agencies in how to comply with the requirement for the 0.38% cut. OMB advised agencies to observe the following guidelines beyond those specified in the act:

- Reductions should be taken from the least critical funding available to the agency;

²² See the remarks of Senator John McCain in the *Congressional Record* of Nov. 19, 1999 (Part II), p. S15036.

²³ See his statement in the *Weekly Compilation of Presidential Documents* (vol. 35, no. 48), Dec. 6, 1999, pp. 2458-2465.

²⁴ In the case of accounts funded by annual appropriations acts, the PPAs are defined in the acts and accompanying reports. Generally, PPAs are listed in the President’s budget under the “Program and Financing” schedule for each account.

- Reductions should be considered from enacted funding above the President's request;
- Wherever possible, no reductions should be taken that would require reductions-in-force; and
- Agencies should make targeted recommendations rather than an across-the-board funding cut.

The report required of the OMB director was part of the budget that President Clinton submitted to Congress on February 7, 2000. The 17-page report was included in the *Analytical Perspectives* volume as a separate chapter.²⁵

According to the report, a total of \$2,356,909,000 in discretionary budget authority was rescinded in 492 accounts (see **Table 3**). This included \$9.7 million for the legislative branch and \$14.0 million for the judicial branch.

Reductions in individual accounts ranged from \$2 thousand for the "U.S. Commission for the Preservation of America's Heritage Abroad" account, to \$116.4 million for the "Operation and Maintenance, Navy" account. The largest share of the cuts, amounting to \$1.055 billion and involving 70 accounts, was allocated to military activities of the Department of Defense. The other departments with cuts in excess of \$100 million included the Departments of Transportation (\$179.6 million), Health and Human Services (\$166.8 million), and Education (\$108.6 million).

On January 10, 2000, the OMB communications office issued a fact sheet giving a preliminary assessment regarding implementation of the cuts at the sub-account level. According to media reports based on the fact sheet, OMB indicated that the cuts would be applied to three broad areas: (1) programmatic cuts amounting to \$1.7 billion; (2) reductions in 2,372 congressional earmarks amounting to \$478 million; and (3) cuts in salaries and expenses amounting to \$193 million.²⁶ The three agencies with the largest numbers of cuts to earmarked projects were the Department of Transportation (nearly 600 projects amounting to \$61 million), the Environmental Protection Agency (more than 300 projects amounting to \$23 million), and the Department of Housing and Urban Development (nearly 500 projects amounting to \$19 million).

The OMB factsheet indicated that agencies intended to avail themselves of the authority to cut individual programs and projects within accounts by as much as 15% in order to spare others from any reduction and to target less-critical ones. Programs expected to be completely protected from reduction included the Head Start pre-school program; the Women, Infants, and Children (WIC) program; Superfund, the Lands Legacy program; and the Clean Water Action Plan, among others. In making many of the cuts in the Department of Transportation, infrastructure programs were

²⁵ See the section in U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2001, Analytical Perspectives* (Washington: Feb. 2000), Section 21, "Report on the Government-Wide Rescissions in the Consolidated Appropriations Act, 2000 (P.L. 106-113)," pp. 381-397.

²⁶ BNA, Inc., "Appropriations: White House Cuts Under FY2000 Budget Trim Spending by 0.38% or \$2.35 Billion," *Daily Report for Executives*, Tue., Jan. 11, 2000.

expected to be cut in order to protect safety-sensitive programs, including operations of the Federal Aviation Administration and the Coast Guard. Cuts to 180 highway projects were expected to range from 5% to 12%, while 409 transit projects were expected to be cut uniformly by 0.38%.²⁷

Table 3. FY2000 Rescissions Made Under the 0.38% Cut

Category	Number of Accounts	Rescissions (\$ millions)
Legislative branch	21	9.733
Judicial branch	9	13.961
Department of Agriculture	33	95.927
Department of Commerce	18	32.691
Department of Defense — Military	70	1,054.939
Department of Education	9	108.643
Department of Energy	21	66.340
Department of Health and Human Services	45	166.847
Department of Housing and Urban Development	2	91.040
Department of the Interior	31	31.346
Department of Justice	15	70.344
Department of Labor	9	33.219
Department of State	25	25.441
Department of Transportation	16	179.638
Department of the Treasury	17	47.117
Department of Veterans' Affairs	1	79.519
Corps of Engineers	1	15.690
Environmental Protection Agency	7	28.848
Executive Office of the President	15	1.151
Federal Emergency Management Agency	4	12.734
General Services Administration	1	20.022
International Assistance Programs	20	52.495

²⁷ See *Daily Report for Executives*, *ibid.*, and, in the same issue, "Transportation: OMB Targets 590 Earmarked Projects For Cuts as Part of 0.38 Percent Reduction."

Category	Number of Accounts	Rescissions (\$ millions)
National Aeronautics and Space Administration	3	51.881
National Science Foundation	4	14.866
Small Business Administration	2	3.280
Social Security Administration	3	24.083
All other accounts	90	25.114
Total	492	2,356.909

Source: U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2001, Analytical Perspectives* (Washington: February 2000), Section 21, "Report on the Government-Wide Rescissions in the Consolidated Appropriations Act, 2000 (P.L. 106-113)," pp. 381-397.

FY2001

Budgetary Context. During the second session of the 106th Congress, President Clinton and Congress began the budget cycle for FY2001 by recommending discretionary spending levels well above the existing statutory limits.²⁸ The assumption was made that the statutory limits eventually would be raised to accommodate the new levels. The positions reflected in part the fact that spending for the prior fiscal year, FY2000, was expected to exceed the existing limits for FY2001 by a substantial margin, and that estimates of the on-budget surplus for FY2001 and subsequent years were larger than first anticipated.

The FY2001 budget resolution, adopted by the House and Senate in April 2000, envisioned total discretionary spending for the fiscal year at about \$600 billion in budget authority and \$625 billion in outlays. During the following six months, Congress considered the regular appropriations acts for FY2001 without enacting the necessary revisions in the discretionary spending limits. On October 18, 2000, the Republican leadership in Congress proposed increasing the FY2001 limits in order to accommodate total discretionary spending of \$637 billion in budget authority and \$645 billion in outlays, considerably more than had been envisioned by the budget resolution. After a brief period of negotiation between the parties, the proposal was incorporated into the conference report on the Foreign Operations Appropriations Act for FY2001, which President Clinton signed into law on November 6 (P.L. 106-429).

The Foreign Operations Appropriations Act was the eighth of the 13 regular appropriations acts to be enacted for the fiscal year. The increase in the limits provided by P.L. 106-249 provided sufficient leeway for the House and Senate to consider the remaining appropriations measures, particularly the Labor-HHS-Education Appropriations Act, which was transformed into an omnibus

²⁸ Legislative action on discretionary spending for FY2001 is discussed in detail in CRS Report RL30696, *Discretionary Spending Limits for FY2001: A Procedural Perspective*, by Robert Keith.

appropriations act (the Consolidated Appropriations Act for FY2001). The 106th Congress adjourned on December 15, 2000, having completed the annual appropriations process for FY2001.

The final sequestration report for FY2001, issued by the OMB director on January 16, 2001, indicated that discretionary spending in total was \$6.545 billion in budget authority and \$2.487 billion in outlays below the limits and that no sequester was necessary.²⁹ CBO's advisory final sequestration report, issued on December 29, 2000, also indicated that no sequester was necessary.³⁰

The Consolidated Appropriations Act for FY2001 included an across-the-board cut of 0.22%, yielding savings of about \$1.1 billion in budget authority. Unlike the year before, the cut was not necessary in order to avoid sequestration.

Legislative Action. The annual appropriations process in 2000 was brought to a close by incorporating three of the 13 regular appropriations acts for FY2001, as well as a number of legislative measures, into an omnibus bill.³¹ The Consolidated Appropriations Act for FY2001, H.R. 4577, enacted the Labor-HHS-Education, Legislative Branch, and Treasury-Postal Service appropriations acts by cross-reference. In addition, H.R. 4577 enacted by cross-reference a Miscellaneous Appropriations Act and the following legislative measures: the Commodity Futures Modernization Act of 2000 (H.R. 5660); the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (H.R. 5661); the Community Renewal Tax Relief Act of 2000 (H.R. 5662); the New Markets Venture Capital Program Act of 2000 (H.R. 5663); and the Small Business Reauthorization Act of 2000 (H.R. 5667).

President Clinton signed the Consolidated Appropriations Act for FY2001 into law on December 21, 2000 (P.L. 106-554; 114 Stat. 2763-64). The House had agreed to the conference report on the measure on December 15, 2000, by a vote of 292-60; the Senate had agreed to it the same day by voice vote.

As initially sent to conference, H.R. 4577 provided FY2001 appropriations only for the Departments of Labor, Health and Human Services, and Education. In conference, the coverage of the bill was expanded to cover the Legislative Branch and Treasury-Postal Service appropriations bills. Prior to the national election, negotiators from Congress and the Clinton Administration reached a tentative agreement on total spending included in the bill, including a funding level for Labor-HHS-Education programs well in excess of the President's request. Legislative consideration of the measure was delayed, however, in part because of lingering

²⁹ See U.S. Executive Office of the President, Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress For Fiscal Year 2001* (Washington: Jan. 16, 2001), especially Table 4 on pp. 9 and 10.

³⁰ See Congressional Budget Office, *Final Sequestration Report for Fiscal Year 2001* (Washington: Dec. 29, 2000), 13 pp.; it also was released as H.Doc. 107-7 (Jan. 3, 2001).

³¹ For more information, see CRS Report RS20756, *FY2001 Consolidated Appropriations Act: Reference Guide*, by Robert Keith (archived; available from author).

disagreement over an associated provision dealing with the promulgation of an ergonomics regulation by the Department of Labor.

When House and Senate conferees resumed their negotiations on H.R. 4577 after the election break, they faced mounting concern over the cost of the bill and the level of FY2001 appropriations generally. Although the discretionary spending limits for FY2001 had been raised earlier in the session to accommodate FY2001 spending of about \$640 billion, many Members expressed a desire to hold total appropriations well below this level.³² In response to this concern, the negotiators scaled back total appropriations by several billion dollars, including significant reductions in appropriations for Labor-HHS-Education programs. As Representative David Obey, ranking minority member of the House Appropriations Committee, noted during House consideration of the conference report on H.R. 4577:

To get an agreement in the last week, we had to cut \$3.7 billion from the earlier agreement, we had to take \$1.4 billion from advance funding for LIHEAP, we had to take \$257 million out of handicapped education, \$127 million out of efforts to reduce class size, \$180 million out of after-school programs and \$200 million out of biomedical research.³³

An important part of the reductions in FY2001 appropriations was the across-the-board cut of 0.22%. The provision was included in one of the measures enacted by cross-reference, H.R. 5666 (the Miscellaneous Appropriations Act), which also included other savings provisions. The conference report on the Consolidated Appropriations Act made only a brief reference to the spending-cut provision,³⁴ and the provision was not discussed during floor consideration in the House and Senate. President Clinton did not refer to the spending cut in his remarks upon signing the bill into law.³⁵

Design and Implementation of the 0.22% Spending Cut. Section 1403 of H.R. 5666 applied the cut, in the form of rescissions, to all discretionary appropriations except for military personnel spending provided in Title I of P.L. 106-259 (the Defense Appropriations Act for FY2001), activities funded under the Labor-HHS-Education Appropriations Act for FY2001, and defense and nondefense emergency supplemental appropriations for FY2000 provided in Division B of P.L. 106-246 (the Military Construction Appropriations Act for FY2001).

³² For information on actions pertaining to the discretionary spending limits for FY2001, see CRS Report RL30696, *Discretionary Spending Limits: A Procedural Assessment*, by Robert Keith.

³³ See the remarks of Representative Obey in the *Congressional Record* of Dec. 15, 2000 (Part II), pp. H12444-12445.

³⁴ See the reference, under the heading "Chapter 14," in H.Rept. 106-1033 (Dec. 15, 2000), p. 621.

³⁵ See his statement in the *Weekly Compilation of Presidential Documents* (vol. 36, no. 52), Dec. 22, 2000, pp. 3167-3174.

According to preliminary estimates prepared at the time of enactment by the Office of Management and Budget (OMB), the provision was expected to save \$1.1 billion. Roughly half of the cuts had to be made in defense spending.

Under Section 1403, the cuts were to be applied on a pro rata basis to each applicable program, project, and activity. The section instructed the OMB director to report on these reductions in the President's budget submission for FY2002. (The text of Section 1403 is provided in **Appendix A**.)

On January 5, 2001, OMB issued Bulletin 01-03, *Rescission of FY2001 Discretionary Budget Authority*, providing guidance to agencies in how to comply with the requirement for the 0.22% cut.

The report required of the OMB director was part of the budget that President Bush submitted to Congress on April 9, 2001. The 20-page report was included in the *Analytical Perspectives* volume as a separate chapter.³⁶

According to the OMB report, a total of \$1,088.962 million in discretionary spending was rescinded in 632 accounts (see **Table 4**). This included \$5.941 million for the legislative branch and \$8.763 million for the judicial branch.

Reductions in individual accounts ranged from \$2 thousand for the "White House repair and restoration" account to \$51.234 million for the "Operation and Maintenance, Navy" account. The largest share of the cuts, amounting to \$487.6 million and involving 67 accounts, was allocated to military activities of the Department of Defense. The other departments with cuts in excess of \$50 million included the Departments of Transportation (\$125.1 million) and Housing and Urban Development (\$68.8 million).

FY2003

Budgetary Context. The budgetary context for FY2003 differed quite markedly in two key respects from the ones in effect for FY2000 and FY2001. First, the statutory limits on discretionary spending expired at the end of FY2002. For the first time in more than a decade, Congress and the President did not have to contend with the threat of a discretionary spending sequester at the end of the session.

³⁶ See the section in U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2002, Analytical Perspectives* (Washington: Apr. 2001), Section 21, "FY2001 Government-Wide Rescission, Consolidated Appropriations Act," pp. 339-358.

Table 4. FY2001 Rescissions Made Under the 0.22% Cut

Category	Number of Accounts	Rescissions (\$ millions)
Legislative branch	28	5.941
Judicial branch	11	8.763
Department of Agriculture	70	42.589
Department of Commerce	24	11.712
Department of Defense — Military	67	487.594
Department of Education	0	0
Department of Energy	28	44.503
Department of Health and Human Services	7	8.642
Department of Housing and Urban Development	25	68.753
Department of the Interior	50	22.547
Department of Justice	34	46.212
Department of Labor	0	0
Department of State	23	16.573
Department of Transportation	55	125.143
Department of the Treasury	30	30.925
Department of Veterans' Affairs	14	49.337
Corps of Engineers	8	10.013
Environmental Protection Agency	8	17.222
Executive Office of the President	15	0.658
Federal Emergency Management Agency	9	5.368
General Services Administration	7	1.470
International Assistance Programs	32	29.070
National Aeronautics and Space Administration	4	31.430
National Science Foundation	5	9.736
Office of Personnel Management	5	0.462
Small Business Administration	4	1.983
Export-Import Bank of the United States	1	2.039
Smithsonian Institution	9	1.270
All other accounts	59	9.007
Total	632	1,088.962

Source: U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2002, Analytical Perspectives* (Washington: April 2001), Section 21, "FY2001 Government-Wide Rescission, Consolidated Appropriations Act," pp. 339-358.

Second, the House and Senate were unable to agree on a budget resolution for FY2003. This marked only the second time in the history of the congressional budget process that the House and Senate had failed to agree on a budget resolution. Although the House put a “deeming resolution” into effect as a basis for the enforcement of discretionary spending and other budgetary levels, the Senate took no comparable action.³⁷

Differences regarding the appropriate level of discretionary spending for FY2003 — the Senate advocated spending about \$9 billion more for discretionary programs than did the House — helped stymie action on most of the regular appropriations acts during the 2002 session. Following the November elections, which signaled that the Republicans would regain control of the Senate in 2003, congressional leaders worked out a plan with the administration to complete the appropriations process for FY2003 early in 2003, at the beginning of the next Congress.³⁸

Legislative Action. Toward the beginning of the first session of the 108th Congress, the House and Senate brought the consideration of the regular appropriations acts for FY2003 to a close by incorporating the remaining 11 bills into a single bill, H.J.Res. 2, the Consolidated Appropriations Resolution for FY2003.³⁹ Two of the regular appropriations acts for that fiscal year were enacted in 2002, during the second session of the 107th Congress, just after the start of the fiscal year.⁴⁰ In its final form, H.J.Res. 2 provided \$397.4 billion in discretionary budget authority.⁴¹

The House passed H.J.Res. 2 by voice vote on January 8, 2003. In its House-passed form, H.J.Res. 2 was a continuing resolution for FY2003 providing for the continuation of stop-gap funding through January 31, 2003. It was anticipated, however, that the Senate would use the measure as a vehicle for incorporating the remaining regular appropriations acts. The Senate did so, and passed the measure as amended on January 23 by a vote of 69-29. The House and Senate agreed to the conference report (H.Rept. 108-10) on February 13, by votes of 338-83 and 76-20, respectively. H.J.Res. 2 was presented to President Bush on February 19 and he signed it into law on February 20, as P.L. 108-7 (117 Stat. 11-554).

³⁷ House and Senate practices regarding the use of a “deeming resolution” as a substitute for a budget resolution are discussed in CRS Report RL31443, *The “Deeming Resolution”: A Budget Enforcement Tool*, by Robert Keith.

³⁸ BNA, Inc. *Daily Report for Executives*, “Republican Appropriators Begin Work of Paring Down FY2003 Spending Bills,” by Adam Wasch, Wed., Dec. 4, 2002.

³⁹ For more information, see CRS Report RS21433, *FY2003 Consolidated Appropriations Resolution: Reference Guide*, by Robert Keith.

⁴⁰ The Department of Defense Appropriations Act for FY2003 (P.L. 107-248) and the Military Construction Appropriation Act for FY2003 (P.L. 107-249) were enacted into law on Oct. 23, 2002.

⁴¹ See the remarks of Representative C.W. Bill Young, the chairman of the House Appropriations Committee, during consideration of H.J.Res. 2 in the *Congressional Record* of Feb. 13, 2003, pp. H558-H559.

The act was organized by division, with each division (A through K) corresponding to one of the regular appropriations acts. Further, there were five other divisions (L through P), which involved such matters as additional emergency funding, amendments to the Homeland Security Act of 2002 and the Price-Anderson Act, and the United States-China Economic and Security Review Commission.

In order to offset part of the costs of the act, an across-the-board cut of 0.65% was included in Section 601 of Division N (the Division is referred to as the Miscellaneous Appropriations Act for FY2003). In final form, the cut was expected to yield \$2.647 billion in savings.⁴²

The across-the-board cut provision originated on January 15, 2003, during the first day of Senate consideration of H.J.Res. 2. It was included as part of a substitute amendment offered by Appropriations Committee Chairman Stevens and agreed to by unanimous consent.⁴³ In its initial form, the provision required an across-the-board cut of 1.6%.

The following day, January 16, the Senate adopted Gregg Amendment number 19, providing additional funds to finance innovative State and local programs dealing with education and other matters. Part of the amendment provided a mechanism for increasing the across-the-board cut in Section 601 of Division N by an amount sufficient to offset the additional funds.⁴⁴ Senator Ted Kennedy, one of the sponsors of the amendment, indicated that it would increase the across-the-board cut by another 1.3%, resulting in a total across-the-board cut of 2.9%.⁴⁵

The 2.9% cut generated considerable controversy during Senate consideration of the measure. On January 17, Senator Robert Byrd, ranking minority member of the Senate Appropriations Committee, offered an amendment (number 36) to strike it. Chairman Stevens explained that the purpose of the spending cut was to accommodate two unforeseen needs while staying within the overall limit agreed to earlier with President Bush:

The offsets listed in title VI, which Senator Byrd would strike, are offsets that are necessary to achieve basically two things: One is the full funding for the amount that can be spent of the election reform bill in the 7½ to 8 months that are remaining, a bill that is absolutely necessary to be funded and put into place if

⁴² See the table inserted by Representative C.W. Bill Young, the chairman of the House Appropriations Committee, in the *Congressional Record* of Feb. 13, 2003, p. H658. The Senate included an across-the-board cut of nearly 3% in the version of H.J.Res. 2 which it passed on Jan. 23, 2003. According to the table on page H658, the larger cut would have yielded savings of \$11.392 billion.

⁴³ The text of Stevens Amendment number 1 is set forth in the *Congressional Record* of Jan. 15, 2003, pp. S867-S992. The across-the-board spending cut, contained in Section 601 of Division N of the amendment, may be found at page S992.

⁴⁴ The text of the amendment may be found in the *Congressional Record* of Jan. 16, 2003, p. S1036.

⁴⁵ See the remarks of Senator Kennedy in the *Congressional Record* of Jan. 16, 2003, pp. S1037-S1037.

we are to avoid, or at least try to avoid the problems of the election in the year 2000 ...

Secondly, the tremendous drought disaster areas of the country demand help. We faced a problem of how to deal with that, so we added the monies for drought and disaster to this bill and we offset it by an across-the-board cut in all programs.⁴⁶

Senator Byrd explained that his objection to the across-the-board cut stemmed from his concern about its impact on a wide range of domestic programs and his concern that discretionary spending should not be reduced to offset increases in mandatory spending included in the omnibus appropriations act:

This country is faced with a cut of 2.9 percent, or \$11.4 billion, in domestic spending. This is no technical adjustment. This is a real cut. Nor can it be characterized as capturing the savings from agencies operating under a continuing resolution for 4 months. Don't you believe that. The President's budget for fiscal year 2003 was simply inadequate when it came to critical domestic programs ...

Approximately \$4 billion of the \$11.4 billion across-the-board cut is included in the bill to pay for increased mandatory spending in Medicare, in assistance for needy families, and for drought relief ...

Once we start down this road of paying for increases in mandatory programs by cutting domestic funding, where will it stop?⁴⁷

On February 13, 2003, the House and Senate agreed to the conference report on H.J.Res. 2.⁴⁸ During consideration of the conference report, House Members did not address the across-the-board cut. In the Senate, Chairman Stevens indicated that various concessions had been made that allowed the across-the-board cut to be reduced from 2.9% down to 0.65% while retaining increased spending for several crucial items, including aid for agricultural disasters. He further indicated that the 0.65% cut was necessary to keep the cost of the measure within the limit negotiated with President Bush, thereby avoiding a veto:

There is a .65 percent across-the-board cut to all discretionary accounts in this bill to assure that the total remains within the top line that was agreed to by myself, House Chairman Bill Young, and the President. This is [an] arbitrary line, I will admit, but in order to get the bill signed, if we joined them together, it was my judgment we could not risk a final veto from the President of the United States after working so hard to put them all through in one package. So

⁴⁶ See the remarks of Senator Stevens in the *Congressional Record* of Jan. 17, 2003, pp. S1108-S1109.

⁴⁷ See the remarks of Senator Byrd in the *Congressional Record* of Jan. 17, 2003, pp. S1106-S1107.

⁴⁸ See H.Rept. 108-10 (Feb. 13, 2003), which includes a brief description of the across-the-board cut on page 1504.

we have worked as closely as possible with all concerned to try and make certain that the bills will be in a form the President could sign it.⁴⁹

In the statement made upon signing H.J.Res. 2 into law, President Bush expressed concern about excessive spending in several components of the measure but did not specifically comment on the across-the-board cut.⁵⁰

Design and Implementation of the 0.65% Spending Cut. Section 601(a) imposed the cut on the regular appropriations provided in Divisions A-K, as well as to advance appropriations for FY2003 that were enacted in prior appropriations acts. The text of Section 601 is provided in **Appendix A**.

Section 601(b) provided that the 0.65% cut be applied on a proportionate basis to each account, and to each program, project, and activity within an account.

Finally, Section 601(c) exempted from the reductions the budget authority provided in the act for specified programs in the following amounts:

- \$4.696 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);
- \$6.668 billion for the Head Start program;
- \$23.889 billion for the Veterans' Medical Care program; and
- \$3.836 billion for NASA's space shuttle program.

Unlike the across-the-board spending cut provisions for FY2000 and FY2001, Section 601 did not impose a reporting requirement on the OMB director.

On February 21, 2003, OMB issued Bulletin 03-02, *Across-the-Board Rescission in H.J.Res. 2*, providing guidance to agencies on how to comply with the requirement for the 0.65% cut.

Although the OMB director was not required to report to Congress on the implementation of the spending cut, data furnished by OMB indicate that a total of \$2,225 million in discretionary spending was rescinded (see **Table 5**). This included \$21 million for the legislative branch and less than \$0.5 million for the judicial branch. Reductions ranged from \$1 million for the National Endowment for the Humanities and several other agencies to \$395 million for the Department of Health and Human Services.

⁴⁹ See the remarks of Senator Stevens in the *Congressional Record* of Feb. 13, 2003, pp. S2428-S2429.

⁵⁰ See his statement in the *Weekly Compilation of Presidential Documents* (vol. 39, no.8), Feb. 20, 2003, pp. 227-228.

Table 5. FY2003 Rescissions Made Under the 0.65% Cut

Category	Rescissions (\$ millions)
Legislative Branch	21
Judicial Branch	0
Department of Agriculture	100
Department of Commerce	33
Department of Education	334
Department of Energy	150
Department of Health and Human Services	395
Department of Housing and Urban Development	234
Department of Justice	130
Department of Labor	76
Department of State	57
Department of the Interior	151
Department of the Treasury	70
Department of Transportation	98
Department of Veterans Affairs	19
Broadcasting Board of Governors	3
Corporation for National and Community Service	5
Corporation for Public Broadcasting	3
Corps of Engineers-Civil Works	30
Environmental Protection Agency	52
Export-Import Bank of the United States	4
General Services Administration	3
International Assistance Programs	93
National Aeronautics and Space Administration	75
National Science Foundation	35
Small Business Administration	4
Smithsonian Institution	5
Social Security Administration	39
All others	6
Total	2,225

Source: Table derived from unpublished data furnished by the Office of Management and Budget.

FY2004

Budgetary Context. The budgetary context for FY2004 differed from the context in effect for the preceding year. As was the case for the FY2003, the statutory discretionary spending limits had previously expired; however, unlike FY2003, the House and Senate reached agreement on a budget resolution for the fiscal year.

The conference report on the FY2004 budget resolution was agreed to by the House and Senate on April 11, 2003.⁵¹ The measure assumed a level of discretionary budget authority of about \$785 billion for FY2004, the level requested by the Bush Administration.⁵² As the legislative strategy for consideration of the regular appropriations acts for FY2004 developed, congressional leaders reached an agreement with administration officials to modify the allocation of defense and nondefense discretionary spending for the year. By shifting funds between fiscal years, the agreement effectively accommodated roughly \$5 billion dollars in additional nondefense appropriations for FY2004 without raising the overall limit.⁵³

In developing the omnibus appropriations act for FY2004, congressional leaders and administration officials agreed to accommodate about \$4.5 billion dollars in additional initiatives and to offset their costs, thereby abiding by the overall limit on discretionary spending agreed to earlier, with \$1.8 billion in rescissions of defense spending and across-the-board cuts in nondefense discretionary spending amounting to about \$2.8 billion.⁵⁴ According to a press release of the House Appropriations Committee, some of the additional initiatives included:

... \$350 million for the Millenium Challenge Corporation, \$1 billion for Election Reform, \$1.3 billion for Veteran's Medical Care, \$1.65 billion for priority education programs and \$50 million for security expenses at the national party conventions in Boston and New York City.⁵⁵

Legislative Action. In the waning days of the first session of the 108th Congress, the House and Senate had cleared six of the 13 regular appropriations acts

⁵¹ See the report to accompany H.Con.Res. 95, H.Rept. 108-71, Apr. 10, 2003.

⁵² See "With Budget Completed, Action on Spending Bills Will Take Center Stage," by Joseph J. Schatz, in *CQ Today*, Apr. 24, 2003.

⁵³ See (1) "Bush Tentatively Backs Adding \$5.2 Billion to Get Spending Process Started," by Andrew Taylor and Joseph J. Schatz, in *CQ Today*, June 10, 2003; and (2) "After Getting Green Light, Appropriators Release 302(b) Allocations," by Cheryl Bolen, in *BNA's Daily Report for Executives*, June 12, 2003.

⁵⁴ The Congressional Budget Office estimated that the 0.59% across-the-board spending cut will yield savings for FY2004 of \$2.761 billion in budget authority and \$1.407 billion in outlays.

⁵⁵ See the Nov. 25, 2003 press release of the House Appropriations Committee, "Highlights of the FY04 Consolidated Appropriations," available at [<http://appropriations.house.gov>].

for FY2004 and President Bush had signed them into law.⁵⁶ Congressional leaders decided to bring action on the remaining seven regular appropriations acts for FY2004 to a close by incorporating them into a single bill, H.R. 2673, the Consolidated Appropriations Act for FY2004. The act, which passed the House on July 14, 2003, and the Senate on November 6, initially provided appropriations only for the Department of Agriculture and related agencies. It was expanded at the conference stage to cover the other six regular appropriations acts (see the conference report, H.Rept. 108-401, Nov. 25, 2003).

The House passed the conference report on H.R. 2673 on the last day of the session, December 8, 2003, by a vote of 242-176. The Senate considered the conference report the next day, but did not complete action on the matter. Final Senate action was delayed until the following month, after the start of the second session of the 108th Congress. The Senate resumed consideration of the conference report on January 20, 2004, and agreed to it on January 22, by a vote of 65-28. President signed the measure into law on January 23 (P.L. 108-199; 118 Stat. 3-457).

The Consolidated Appropriations Act for FY2004 provided \$328 billion in discretionary spending. In addition, \$492 billion in mandatory spending was provided by the act, bringing the total spending in the measure to \$820 billion.⁵⁷

The act was organized into eight divisions, with each of the first seven divisions (A through G) corresponding to one of the unfinished regular appropriations acts. The last division, Division H, pertained to "Miscellaneous Appropriations and Offsets." As mentioned previously, the costs of some initiatives in the act were offset by requirements for rescissions in both defense and nondefense spending. These requirements were set out in Section 168 of Division H.

Design and Implementation of the 0.59% Spending Cut. Section 168(b) required an across-the-board cut of 0.59% in all FY2004 appropriations, except for funding provided in the Defense and Military Construction Appropriations Acts and supplemental appropriations acts. In addition, the cut applied to advance appropriations for FY2004 provided in prior appropriations acts and certain contract authority. According to an estimate made by the Congressional Budget Office, the 0.59% cut was expected to yield about \$2.8 billion in savings.

Rescissions made under the 0.59% across-the-board cut had to be made proportionately at the account and PPA level (Section 168(c)). Additionally, the OMB director was required to submit a report to the House and Senate Appropriations Committees "specifying the account and amount of each rescission" made pursuant to the requirement for the across-the-board cut (Section 168(d)). The

⁵⁶ The FY2004 regular appropriations acts signed into law are as follows: (1) Legislative Branch, P.L. 108-83 (Sept. 30, 2003); (2) Defense, P.L. 108-87 (Sept. 30, 2003); (3) Homeland Security, P.L. 108-90 (Oct. 1, 2003); (4) Interior, P.L. 108-108 (Nov. 10, 2003); (5) Military Construction, P.L. 108-132 (Nov. 22, 2003); and (6) Energy and Water Development, P.L. 108-137 (Dec. 1, 2003).

⁵⁷ House Appropriations Committee, Nov. 25, 2003 press release, *ibid*.

OMB report was due within 30 days after enactment of the Consolidated Appropriations Act.

In addition to the across-the-board cut in nondefense spending required by Section 168(b) of the act, Section 168(a) required that rescissions of \$1.8 billion be made in Defense appropriations, including unobligated balances made available in two prior appropriations acts, P.L. 107-38 (the emergency supplemental appropriations act enacted into law three days after the terrorist attacks of September 11, 2001) and P.L. 107-117 (the Defense Appropriations Act for FY2002). The subsection exempted from this requirement funds for disaster recovery and assistance for New York, Virginia, and Pennsylvania relating to the terrorist attacks provided in P.L. 107-38 (“by the seventh proviso under the heading ‘Emergency Response Fund’”). All rescissions were required to take effect no later than September 30, 2004, the last day of the fiscal year. Section 168(a) was repealed by Section 9003(c) of the Defense Appropriations Act for FY2005, which President Bush signed into law on August 5, 2004, as P.L. 108-287 (118 Stat. 951 et. seq.).

Pursuant to Section 168(a), the director of the Office of Management and Budget, in consultation with the House and Senate Appropriations Committees and the Secretary of Defense, was required to determine the amounts to be rescinded from each affected account; unlike the reductions in nondefense spending, the defense reductions did not have to be made uniformly. Further, the director was required to notify the Appropriations Committees 30 days prior to making the rescissions, indicating which programs, projects, and activities (PPAs) were to have been cut.

The text of Section 168 is provided in **Appendix A**.

On January 29, 2004, OMB issued Bulletin 04-02, *Guidance on Implementing Across-the-Board Reductions in the Consolidated Appropriations Act, 2004 (H.R. 2673)*, providing guidance to agencies on how to comply with the requirement for the 0.59% cut.

On March 4, 2004, the OMB director submitted the required report to the House and Senate Appropriations Committees regarding the implementation of the spending cut. The OMB report indicated that a total of \$2,674.691 million in discretionary spending was rescinded (see **Table 6**).⁵⁸ The spending reductions in accounts, grouped in the OMB report by appropriations act, ranged from \$2.751 million for the Legislative Branch Appropriations Act to \$821.974 million for the Labor-HHS-Education Appropriations Act.

⁵⁸ The OMB estimate of total spending reductions is \$87 million less than the CBO estimate, which may be explained largely by the omission of some accounts from the OMB report; for example, the General Accounting Office was the only entity for which cuts were identified under the Legislative Branch Appropriations Act although other legislative entities reported cuts in subsequent budget submissions.

Table 6. FY2004 Rescissions Made Under the 0.59% Cut

Category	Rescissions (\$ millions)
Agriculture and Rural Development Appropriations	105.032
Commerce, Justice, State Appropriations	210.442
District of Columbia Appropriations	3.208
Energy and Water Development Appropriations	158.414
Foreign Operations Appropriations	35.265
Homeland Security Appropriations	217.163
Interior Appropriations	124.032
Labor-HHS-Education Appropriations	821.974
Legislative Branch Appropriations	2.751
Treasury-Transportation Appropriations	418.485
VA-HUD Appropriations	577.926
Total	2,674.691

Appendix A. Text of the Across-the-Board Spending Cut Provisions

FY2000

Sec. 301 of H.R. 3425, as Cross-Referenced in P.L. 106-113, the Consolidated Appropriations Act for FY2000 (113 Stat. 1501A-303 and 304)

Sec. 301. (a) Government-Wide Rescissions. — There is hereby rescinded an amount equal to 0.38 percent of the discretionary budget authority provided (or obligation limit imposed) for FY2000 in this or any other Act for each department, agency, instrumentality or entity of the Federal Government.

(b) Restrictions. — In carrying out the rescissions made by subsection (a),

—

(1) no program, project or activity of any department, agency, instrumentality or entity may be reduced by more than 15 percent (with “programs, projects, and activities” as delineated in the appropriations Act or accompanying report for the relevant account, or for accounts and items not included in appropriations Acts, as delineated in the most recently submitted President’s budget),

(2) no reduction shall be taken from any military personnel account, and

(3) the reduction for the Department of Defense and Department of Energy Defense Activities shall be applied proportionately to all Defense accounts.

(c) Report. — The Director of the Office of Management and Budget shall include in the President’s budget submitted for FY2001 a report specifying the reductions made to each account pursuant to this section.

FY2001**Division A, Section 1403 of H.R. 5666, as Cross-Referenced in P.L. 106-554, the Consolidated Appropriations Act for FY2001
(114 Stat. 2763A-214)**

Sec. 1403. (a) Government-Wide Rescissions. — There is hereby rescinded an amount equal to 0.22 percent of the discretionary budget authority provided (or obligation limit imposed) for FY2001 in this or any other Act for each department, agency, instrumentality, or entity of the Federal Government, except for those programs, projects, and activities which are specifically exempted elsewhere in this provision: *Provided*, That this exact reduction percentage shall be applied on a pro rata basis only to each program, project, and activity subject to the rescission.

(b) Restrictions. — This reduction shall not be applied to the amounts appropriated in Title I of Public Law 106-259: *Provided*, That this reduction shall not be applied to the amounts appropriated in Division B of Public Law 106-246: *Provided further*, That this reduction shall not be applied to the amounts appropriated under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as contained in this act, or in prior Acts.

(c) Report. — The Director of the Office of Management and Budget shall include in the President's budget submitted for FY2002 a report specifying the reductions made to each account pursuant to this section.

FY2003**Division N, Section 601 of P.L. 108-7, the Consolidated Appropriations Resolution for FY2003
(117 Stat. 550-551)**

Sec. 601. (a) ACROSS-THE-BOARD RESCISSIONS. — There is hereby rescinded an amount equal to 0.65 percent of —

(1) the budget authority provided (or obligation limitation imposed) for FY2003 for any discretionary account in divisions A through K of this joint resolution;

(2) the budget authority provided in any advance appropriation for FY2003 for any discretionary account in any prior fiscal year appropriations Act; and

(3) the contract authority provided in FY2003 for any program subject to limitation contained in this joint resolution.

(b) PROPORTIONATE APPLICATION. — Any rescission made by subsection (a) shall be applied proportionately —

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(c) The rescission in subsection (a) shall not apply to budget authority appropriated or otherwise made available by this joint resolution in the following amounts in the following activities or accounts:

\$4,696,000,000 provided for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in the Department of Agriculture in division A;

\$6,667,533,000 provided for the Head Start Act in the Department of Education in division G;

\$23,889,304,000 provided for medical care in the Department of Veterans Affairs in division K; and

\$3,836,000,000 provided for the Shuttle program in the National Aeronautics and Space Administration in division K.

FY2004**Division H, Section 168 of P.L. 108-199, the Consolidated Appropriations Act for FY2004
(118 Stat. 456-457)**

Sec. 168(a). Rescissions. — From unobligated balances of amounts made available in Public Law 107-38, and in Public Law 107-117, and in appropriations Acts for the Department of Defense, \$1,800,000,000 is hereby rescinded: *Provided*, That the Director of the Office of Management and Budget, after consultation with the Committees on Appropriations of the House and Senate and the Secretary of Defense, shall determine the amounts to be rescinded from each account that is to be so reduced: *Provided further*, That the rescissions shall take effect no later than September 30, 2004: *Provided further*, That the Director of the Office of Management and Budget shall notify the Committees on Appropriations of the House and Senate 30 days prior to rescinding such amounts: *Provided further*, That such notification shall include the accounts, programs, projects and activities from which the funds will be rescinded: *Provided further*, That this section shall not apply to any amounts appropriated or otherwise made available by the seventh proviso under the heading “Emergency Response Fund” in Public Law 107-38.

(b) Across-the-Board Rescissions. — There is hereby rescinded an amount equal to 0.59 percent of —

(1) the budget authority provided (or obligation limitation imposed) for FY2004 for any discretionary account in divisions A through H of this act and in any other FY2004 appropriation Act (except any FY2004 supplemental appropriation Act, the Department of Defense Appropriations Act, 2004, or the Military Construction Appropriations Act, 2004);

(2) the budget authority provided in any advance appropriation for FY2004 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in FY2004 for any program subject to limitation contained in any division or appropriation Act subject to paragraph (1).

(c) Proportionate Application. — Any rescission made by subsection (b) shall be applied proportionately —

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

(d) OMB Report. — Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to subsection (b).