



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, SECOND SESSION

Vol. 164

WASHINGTON, THURSDAY, MARCH 22, 2018

No. 50—Book II

House of Representatives

EXPLANATORY STATEMENT SUBMITTED BY MR. FRELINGHUYSEN, CHAIRMAN OF THE HOUSE COMMITTEE ON APPROPRIATIONS, REGARDING THE HOUSE AMENDMENT TO SENATE AMENDMENT ON H.R. 1625

The following is an explanation of the Consolidated Appropriations Act, 2018.

This Act includes 12 regular appropriations bills for fiscal year 2018. The divisions contained in the Act are as follows:

- Division A—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2018
- Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, 2018
- Division C—Department of Defense Appropriations Act, 2018
- Division D—Energy and Water Development and Related Agencies Appropriations Act, 2018
- Division E—Financial Services and General Government Appropriations Act, 2018
- Division F—Department of Homeland Security Appropriations Act, 2018
- Division G—Department of the Interior, Environment, and Related Agencies Appropriations Act, 2018
- Division H—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2018
- Division I—Legislative Branch Appropriations Act, 2018
- Division J—Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018
- Division K—Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018
- Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2018
- Division M—Extensions
- Division N—BUILD ACT
- Division O—Wildfire Suppression Funding and Forest Management Activities Act
- Division P—Ray Baum's Act of 2018
- Division Q—Kevin and Avonte's Law
- Division R—TARGET Act (This is the original subject matter of H.R. 1625.)
- Division S—Other Matter
- Division T—Revenue Provisions
- Division U—Tax Technical Corrections

• Division V—CLOUD Act

Section 1 of the Act is the short title of the bill.

Section 2 of the Act displays a table of contents.

Section 3 of the Act states that, unless expressly provided otherwise, any reference to "this Act" contained in any division shall be treated as referring only to the provisions of that division.

Section 4 of the Act states that this explanatory statement shall have the same effect with respect to the allocation of funds and implementation of this legislation as if it were a joint explanatory statement of a committee of conference.

Section 5 of the Act provides a statement of appropriations.

Section 6 of the Act states that each amount designated by Congress as being for Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT) is contingent on the President so designating all such OCO/GWOT amounts and transmitting such designations to Congress. The provision is consistent with the requirements in the Budget Control Act of 2011.

Section 7 of the Act addresses salaries and compensation rates and provides for a death gratuity.

The Act does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined by clause 9 of rule XXI of the Rules of the House of Representatives.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

CONGRESSIONAL DIRECTIVES

The explanatory statement is silent on provisions that were in both the House Report (H. Rpt. 115-232) and Senate Report (S. Rpt. 115-131) that remain unchanged by this agreement, except as noted in this explanatory statement.

The agreement restates that executive branch wishes cannot substitute for Congress's own statements as to the best evidence of congressional intentions, which are the official reports of the Congress. The agreement further points out that funds in this Act must be used for the purposes for which appropriated, as required by section 1301 of title 31 of the United States Code, which provides: "Appropriations shall be applied only to the objects for which the appro-

priations were made except as otherwise provided by law."

The House and Senate report language that is not changed by the explanatory statement is approved and indicates congressional intentions. The explanatory statement, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

In cases in which the House or the Senate have directed the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations no later than 60 days after enactment of this Act, unless otherwise directed.

Hereafter, in division A of this statement, the term the Committees' refers to the Committees on Appropriations of the House of Representatives and the Senate.

For the appropriations provided by this Act and previous Acts, the departments and agencies funded by this agreement are reminded that the Committees use the definitions for transfer, reprogramming, and program, project, and activity as defined by the Government Accountability Office (GAO) in GAO-04-261SP Appropriations Law—Vol. I and GAO-05-734SP Budget Glossary.

A transfer is the shifting of funds between appropriations. It applies to (1) transfers from one agency to another, (2) transfers from one account to another within the same agency, and (3) transfers to an interagency or intra-agency working fund. In each instance, statutory authority is required.

Reprogramming is the utilization of funds in an appropriation account for purposes other than those contemplated at the time of appropriation. It is the shifting of funds from one object to another within an appropriation.

A program, project, or activity (PPA) is an element within a budget account. PPAs are identified by reference to include the most specific level of budget items identified in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 2018, accompanying Committee reports, explanatory statements, the Statement of Managers, and budget justifications. Program activity structures are intended to provide a meaningful representation of the operations financed by a specific budget account by project, activity, or organization.

For fiscal year 2018, the Committees continue to include bill language requiring advanced notification of certain agency actions. Notification will be required at least

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H2045

DIVISION G—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

The following statement is an explanation of the effects of Division G, which makes appropriations for the Department of the Interior, the Environmental Protection Agency (EPA), the Forest Service, the Indian Health Service, and related agencies for fiscal year 2018.

The joint explanatory statement accompanying this division is approved and indicates congressional intent. Unless otherwise noted, the language set forth in House Report 115-238 carries the same weight as language included in this joint explanatory statement and should be complied with unless specifically addressed to the contrary in this joint explanatory statement. While some language is repeated for emphasis, it is not intended to negate the language referred to above unless expressly provided herein.

In instances where the House report speaks more broadly to policy issues or offers views that are subject to interpretation, such views remain those of the House and are not affirmed by this explanatory statement unless repeated herein. In cases where the House report or this explanatory statement directs the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations. Where this explanatory statement refers to the Committees or the Committees on Appropriations, unless otherwise noted, this reference is to the House Subcommittee on Interior, Environment, and Related Agencies and the Senate Subcommittee on Interior, Environment, and Related Agencies.

The Committees direct each department and agency funded in this Act to follow the directions set forth in this Act and the accompanying statement, and not reallocate resources or reorganize activities except as provided herein or otherwise approved by the Committees through the reprogramming process as referenced in this explanatory statement. This explanatory statement addresses only those agencies and accounts for which there is a need for greater explanation than provided in the Act itself. Funding levels for appropriations by account, program, and activity, with comparisons to the fiscal year 2017 enacted level and the fiscal year 2018 budget request, can be found in the table at the end of this division.

Unless expressly stated otherwise, any reference to "this Act" or "at the end of this

statement" shall be treated as referring only to the provisions of this division.

Committee Directives.—The Department of the Interior and Forest Service are directed to continue the directions included in the Explanatory Statement accompanying the Consolidated Appropriations Act, 2017 (P.L. 115-31) relating to Vacant Grazing Allotments; State Wildlife Data; Bighorn Sheep; Land Grants, Acequias, and Community Ditches; and Public Access.

Recreation Fee Authority.—The one-year extension of recreation fee authority for the Department of the Interior and U.S. Forest Service contained in the budget request and included in both fiscal year 2018 House and Senate Interior, Environment, and Related Agencies Appropriations bills was included in the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56).

Making Litigation Costs Transparent.—The Department of the Interior, EPA, and the Forest Service are directed to provide to the House and Senate Committees on Appropriations, and to make publicly available no later than 60 days after enactment of this Act, detailed Equal Access to Justice Act (EAJA) fee information as specified in the explanatory statement accompanying Division G of the Consolidated Appropriations Act, 2017 (Public Law 115-31).

White-Nose Syndrome.—The four Federal land management agencies and the U.S. Geological Survey are expected to continue to prioritize research on, and efforts to address, white-nose syndrome in bats and to work with other Federal, State, and non-governmental partners to implement the North American Bat Monitoring Program.

Multi-Agency Transparency.—The Committees support increasing transparency within all agencies of the Department of the Interior, the Forest Service and the Environmental Protection Agency. These agencies are encouraged to disclose costs associated with analyses required by the National Environmental Policy Act.

Paper Reduction Efforts.—The Committees urge the Department of the Interior, EPA, Forest Service, and Indian Health Service to work with the Office of Management and Budget to reduce printing and reproduction costs and direct each agency to report to the Committees within 90 days of enactment of this Act on steps being undertaken to

achieve this goal and how much each agency expects to save by implementing these measures.

Alaska National Interest Lands Conservation Act (ANILCA) Training.—The Department of the Interior and the Forest Service shall follow the directive in Senate Report 114-281 regarding ANILCA training for agency employees.

Transparency of Information.—The Committees expect that Federal agencies funded under this Act shall, to the extent practicable, clearly state within materials used for advertising or educational purposes that the communication is funded by taxpayer dollars.

Fleet Management Practices.—Agencies shall provide supporting documentation on their methods for determining their optimal fleet inventories and justification for any deviation from the General Services Administration's Federal Property Management Regulations upon request of the Committees. Agency inspectors general shall provide results from audits of fleet management practices and make them publicly available.

Invasive Species.—The Department of the Interior is directed to provide a written report to the Committees within 180 days of enactment of this Act, detailing the funds appropriated and expended, actions taken, and outputs achieved for the early detection of and rapid response to invasive species, as prescribed in the National Invasive Species Council Management Plan, 2016-2018.

Delivery of Reports and Correspondence.—All reports, correspondence, and reprogramming requests from the agencies to the Committees shall be provided in both physical and electronic formats.

Youth Partnership Programs.—The Secretary of the Interior and the Secretary of Agriculture are encouraged to utilize, where practicable, youth partnership programs like the Public Lands Corps, Youth Conservation Corps, Student Conservation Association, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.

Land and Water Conservation Fund.—The agreement includes \$425,000,000 derived from the Land and Water Conservation Fund (LWCF) for programs consistent with chapter 2003 of title 54 of the United States Code, as identified in the table below.

	FY 2017 Enacted	Budget Request	This Bill
Land and Water Conservation Fund	\$400,000,000	\$84,040,000	\$425,000,000
State, Local and Forest Legacy Programs	211,151,000	11,524,000	224,731,000
National Park Service State Assistance	110,006,000	3,043,000	124,066,000
Coop. Endangered Species Conservation Fund	30,800,000	0	19,638,000
American Battlefield Protection Act	10,000,000	\$,481,000	10,000,000
Highlands Conservation Act	10,000,000	0	10,000,000
Forest Legacy Program	62,347,000	0	67,025,000
Recession	-12,062,000	0	-5,938,000
Federal Land Acquisition	188,849,000	\$2,516,000	200,269,000
Bureau of Land Management	31,416,000	3,609,000	24,916,000
Fish and Wildlife Service	49,995,000	17,051,000	53,839,000
National Park Service	42,023,000	14,856,000	46,935,000
Forest Service	54,415,000	7,008,000	64,337,000
Department of the Interior Valuation Services	11,000,000	10,000,000	10,242,000

There is bipartisan support for the Land and Water Conservation Fund and this agreement includes funding for State assistance and new land acquisition projects. The Committees expect the agencies to move forward with all projects specifically identified and funded through this agreement and those funded in previous fiscal years; to utilize funding in a timely manner; and to seek Congressional approval for reprogramming unobligated balances if applicable. Agencies are directed to continue their longstanding process of identifying and prioritizing potential Federal land acquisition projects in anticipation of program appropriations as consistent

with previous years. Within 30 days of enactment of this Act, each agency is directed to submit to the Committees a prioritized list of projects for fiscal year 2019 consideration. In future years, the agencies are directed to submit their lists within 30 days of the President's budget submission to Congress.

The Committees believe increasing access to our public lands for hunting, fishing, and other recreational activities is important and again include funding for these projects. The Committees expect recreational access projects to be selected based on their role in meeting key recreation needs and the agencies should work with their respective re-

gions, State offices, and/or management units to identify potential projects. The Committees are to be informed about the selection process and how the agencies are meeting the outlined objectives prior to proceeding with projects. Further, the agencies are again directed to include in future budget justifications an explanation of the process used for allocating funds for recreational access in the previous year.

National Ocean Policy.—The Committees direct the Department of the Interior to identify by agency and account, and submit no later than 60 days after enactment of this Act, all funding and associated actions in the

President's budget submission for fiscal year 2019, proposed for the implementation of the coastal and marine spatial planning and ecosystem-based management components of the National Ocean Policy developed under Executive Order 13547.

REPROGRAMMING GUIDELINES

The following are the procedures governing reprogramming actions for programs and activities funded in the Department of the Interior, Environment, and Related Agencies Appropriations Act. The Committees remind the agencies funded in this Act that these reprogramming guidelines are in effect, and must be complied with, until such time as the Committees modify them through bill or report language.

Definitions.—"Reprogramming," as defined in these procedures, includes the reallocation of funds from one budget activity, budget line-item, or program area, to another within any appropriation funded in this Act. In cases where either the House or Senate Committee report displays an allocation of an appropriation below that level, that more detailed level shall be the basis for reprogramming.

For construction, land acquisition, and forest legacy accounts, a reprogramming constitutes the reallocation of funds, including unobligated balances, from one construction, land acquisition, or forest legacy project to another such project.

A reprogramming shall also consist of any significant departure from the program described in the agency's budget justifications. This includes proposed reorganizations, especially those of significant national or regional importance, even without a change in funding. Any change to the organization table presented in the budget justification shall be subject to this requirement.

The Committees are aware that agencies funded by this Act are currently working to implement Executive Order 13781, a Comprehensive Plan for Reorganizing the Executive Branch, and have included in the fiscal year 2019 budget request a number of significant reorganization proposals for the Committees' consideration. The Committees are also aware of reports that agencies funded by this Act may be weighing additional organizational changes during the remainder of this fiscal year. Agencies are reminded that this agreement continues longstanding General Guidelines for Reprogramming that require agencies funded by this Act to submit reorganization proposals for Committee review prior to their implementation. It is noted that such reprogramming guidelines apply to proposed reorganizations, workforce restructure, reshaping or transfer of functions presented in the budget justifications, or bureau-wide downsizing, especially those of significant national or regional importance, and include closures, consolidations, and relocations of offices, facilities, and laboratories presented in the budget justifications. In addition, no agency shall implement any part of a reorganization that modifies regional or State boundaries for agencies or bureaus that were in effect as of the date of enactment of this Act unless approved consistent with the General Guidelines for Reprogramming procedures specified herein. Any such reprogramming request submitted to the Committees on Appropriations shall include a description of anticipated benefits, including anticipated efficiencies and cost-savings, as well as a description of anticipated personnel impacts and funding changes anticipated to implement the proposal.

General Guidelines for Reprogramming.—(a) A reprogramming should be made only when an unforeseen situation arises, and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage.

(b) Any project or activity, which may be deferred through reprogramming, shall not later be accomplished by means of further reprogramming, but instead, funds should again be sought for the deferred project or activity through the regular appropriations process.

(c) Except under the most urgent situations, reprogramming should not be employed to initiate new programs or increase allocations specifically denied or limited by Congress, or to decrease allocations specifically increased by the Congress.

(d) Reprogramming proposals submitted to the House and Senate Committees on Appropriations for approval shall be considered approved 30 calendar days after receipt if the Committees have posed no objection. However, agencies will be expected to extend the approval deadline if specifically requested by either Committee.

Criteria and Exceptions.—A reprogramming must be submitted to the Committees in writing prior to implementation if it exceeds \$1,000,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs or projects, whichever amount is less, with the following exceptions:

(a) With regard to the tribal priority allocations of the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), there is no restriction on reprogrammings among these programs. However, the Bureaus shall report on all reprogrammings made during a given fiscal year no later than 60 days after the end of the fiscal year.

(b) With regard to the EPA, the Committees do not require reprogramming requests associated with the States and Tribes Partnership Grants, or up to a cumulative total of \$30,000,000 from carryover balances among the individual program areas delineated in the Environmental Programs and Management account. No funds, however, shall be reallocated from Individual Geographic Programs.

Assessments.—"Assessment" as defined in these procedures shall refer to any charges, reserves, or holdbacks applied to a budget activity or budget line item for costs associated with general agency administrative costs, overhead costs, working capital expenses, or contingencies.

(a) No assessment shall be levied against any program, budget activity, subactivity, budget line item, or project funded by the Interior, Environment, and Related Agencies Appropriations Act unless such assessment and the basis therefor are presented to the Committees on Appropriations in the budget justifications and are subsequently approved by the Committees. The explanation for any assessment in the budget justification shall show the amount of the assessment, the activities assessed, and the purpose of the funds.

(b) Proposed changes to estimated assessments, as such estimates were presented in annual budget justifications, shall be submitted through the reprogramming process and shall be subject to the same dollar and reporting criteria as any other reprogramming.

(c) The Committees direct that each agency or bureau which utilizes assessments shall submit an annual report to the Committees which provides details on the use of all funds assessed from any other budget activity, line item, subactivity, or project.

(d) In no case shall contingency funds or assessments be used to finance projects and activities disapproved or limited by Congress, or to finance programs or activities that could be foreseen and included in the normal budget review process.

(e) New programs requested in the budget should not be initiated before enactment of

the bill without notification to, and the approval of, the Committees on Appropriations. This restriction applies to all such actions regardless of whether a formal reprogramming of funds is required to begin the program.

Quarterly Reports.—All reprogrammings between budget activities, budget line-items, program areas, or the more detailed activity levels shown in this agreement, including those below the monetary thresholds established above, shall be reported to the Committees within 60 days of the end of each quarter and shall include cumulative totals for each budget activity, budget line item, or construction, land acquisition, or forest legacy project.

Land Acquisitions, Easements, and Forest Legacy.—Lands shall not be acquired for more than the approved appraised value (as addressed in section 301(3) of Public Law 91-646), unless such acquisitions are submitted to the Committees on Appropriations for approval in compliance with these procedures.

Land Exchanges.—Land exchanges, wherein the estimated value of the Federal lands to be exchanged is greater than \$1,000,000, shall not be consummated until the Committees have had a 30-day period in which to examine the proposed exchange. In addition, the Committees shall be provided advance notification of exchanges valued between \$500,000 and \$1,000,000.

Budget Structure.—The budget activity or line item structure for any agency appropriation account shall not be altered without advance approval of the House and Senate Committees on Appropriations.

Fiscal Year 2019 Process.—Historically, the Interior, Environment, and Related Agencies Appropriations Act has not included reprogramming direction in bill language. However, this historical practice is not consistent with the majority of other Appropriations subcommittees' bills. Therefore, the Committees plan to consider including bill language in fiscal year 2019. The agencies are therefore strongly encouraged to work collaboratively with the Committees to develop language in order to avoid any barriers to implementation.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Bureau of Land Management Directives.—The Bureau is reminded of the importance of the directives included in House Report 115-238 not addressed herein, as well as the new directives in this explanatory statement, including the front matter.

The agreement provides \$1,166,043,000 for Management of Lands and Resources. Within this amount, the agreement includes an additional \$50,000,000 for deferred maintenance. The Committees direct that the Bureau provide a report no later than October 1, 2018, on the projects to be funded with this funding. The Committees also note that there is \$5,465,000 in unobligated balances in the Construction appropriation, which was discontinued in fiscal year 2014. To augment the new funds for deferred maintenance, the Bureau is directed to utilize these Construction funds for deferred maintenance projects and to submit a reprogramming request to the Committees, as necessary, to fully obligate the prior year balances in fiscal year 2018.

In addition to the funding allocation table at the end of this explanatory statement, the agreement includes the following instructions:

Wild Horses and Burros.—The Committees are extremely disappointed that the Department has failed to provide a comprehensive plan, as directed by the Consolidated Appropriations Act, 2017 (P.L. 115-31) to address