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Legislative Bulletin.....July 24, 2009

**H.R. 3293 — FY 2010 Departments of Labor, Health and Human Services, and Education, Related Agencies Appropriations Act (and Amendments)**

**BY THE NUMBERS:**

*In Millions of Dollars*

	<b>FY09</b>	<b>FY10 Request</b>	<b>FY10 Committee</b>	<b>Cmte v. Request</b>	<b>Cmte v. FY09</b>
<b>Appropriations</b>	152,255	161,552	163,400	1,848	11,145
<i>Emergency Approps</i>	<i>137,000</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>-137,000</i>
Total	289,255	161,552	163,400	1,848	-125,855

**Excluding Emergency Appropriations, the Committee Bill is:**

- **\$1.8 billion or 1.1% more than the request**
- **\$11.1 billion or 7.3% more than last year**
- **\$18.6 billion or 12.8% more than FY 2008**

**Spending Discussion:** The bill provides a total funding level in FY 2010 of \$163.4 billion, which is **\$11.1 billion** or **7.3%** more than last year. The funding for programs under this bill comes on top of **\$137.0 billion** of emergency-designated spending in FY 2009. Compared to FY 2008 (the spending authority the federal government was operating under just nine and a half months ago), the bill is a **\$18.6 billion** or **12.8% increase**. Under the Democrats’ 302(b) allocation (which sets the spending plan for the FY 2010 appropriations process), all twelve bills will receive spending increases, with a total spending level of \$1,089.6 trillion—an increase of \$77 billion or 7.6% compared to last year.

**Order of Business:** H.R. 3293, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010 (sponsored by *Rep. Obey, D-WI*), is scheduled to be considered on the House floor on Friday, July 24, 2009 under a restrictive *structured rule* ([H.Res. 673](#)) that provides one hour of general debate, provides the bill be considered as read, and waives all points of order against the bill's consideration, except for clauses 9 (the earmark rule) and 10 (PAYGO) of Rule XXI. The rule also waives points of order against the bill itself for failures to comply with various rules for appropriations bills (such as prohibitions on appropriating funds to unauthorized programs).

The rule prohibits re-votes on amendments and allows the Chair to reduce to two minutes the time for electronic voting. Only the Appropriations Committee Chairman or his designee could offer a motion that the Committee of the Whole rise (i.e. stop considering amendments). The Minority would get one motion to recommit the bill, with or without instructions.

The structured rule makes just five amendments in order. Amendment numbers 1 and 2 would each be debatable for 20 minutes equally divided. Amendment numbers, 3, 4, and 5 would each be debatable for 10 minutes equally divided.

Total amendments submitted to the Rules Committee: **35** (11 of these were withdrawn)  
 Total allowed under this restrictive rule: **5**

The amendments made in order under the rule are *summarized beginning on page 6 of this Legislative Bulletin*.

**Funding Summaries:**

*In thousands*

	FY 2009 Enacted	FY 2010 Request	FY 2010 Cmte	Cmte Vs. FY 2009	Cmte Vs. Request	Cmte Vs. FY 2009	Cmte Vs. Request
<b>I. Department of Labor</b>							
Training and Employment Services	1,183,840	1,183,840	1,183,840	----	----	----	----
<i>Adult Training</i>	861,540	861,540	861,540	----	----	----	----
<i>Youth Training</i>	924,069	924,069	924,069	----	----	----	----
<i>Dislocated Worker Assistance</i>	335,840	335,840	321,731	-14,109	-14,109	-4.2%	-4.2%
<i>Native Americans</i>	52,758	52,758	52,758	----	----	----	----
<i>Migrant and Seasonal Farm Workers</i>	82,620	82,620	84,620	2,000	2,000	2.4%	2.4%
Community Service Employment for Older Americans	571,295	575,425	615,425	43,500	40,000	7.6%	7.0%
One Stop Career Centers	51,720	51,720	47,220	-4,500	-4,500	-8.7%	-8.7%
Employee Benefits Security Administration	143,419	156,060	154,060	10,641	-2,000	7.4%	-1.3%
Employee Standards Administration (SE)	440,267	503,456	486,756	46,489	-16,700	10.6%	-3.3%
OSHA	513,042	563,620	554,620	41,578	-9,000	8.1%	-1.6%
<i>Safety and Health Statistics</i>	17,204	19,569	19,569	2,365	----	13.7%	----
<i>Federal Enforcement</i>	197,946	227,149	221,149	23,203	-6,000	11.7%	-2.6%
<i>State Programs</i>	92,593	106,393	103,393	10,800	-3,000	11.7%	-2.8%
<i>Compliance Assistance</i>	137,190	138,178	138,178	988	----	0.7%	----
Mine Safety and Health Administration	347,003	353,693	353,193	6,190	-500	1.8%	-0.1%
Bureau of Labor Statistics	597,182	611,623	611,623	14,441	----	2.4%	----
Workforce Investment Act	5,313,649	5,543,593	5,516,922	203,273	-26,671	3.8%	-0.5%

Departmental Management, <i>Salaries and Expenses</i>	2,319,716	2,395,684	2,397,615	77,899	1,931	3.3%	0.0%
<b>II. Department of Health and Human Services</b>							
Community Health Centers	2,190,022	2,190,022	2,190,022	----	----	----	----
Free Clinic Medical Malpractice	40	40	40	----	----	----	----
National Health Service Corps	134,966	169,000	141,850	6,884	-27,150	5.1%	-16.1%
Nursing Programs	171,031	263,403	263,403	92,372	----	54.0%	----
Healthy Start	102,372	102,372	105,000	2,628	2,628	2.6%	2.6%
Universal Newborn Hearing	19,000	19,000	19,000	----	----	----	----
HIV and AIDS Bureau	2,213,421	2,267,414	2,267,414	53,993	----	2.4%	----
Rural Health Programs	148,904	124,703	130,152	-18,752	5,449	-12.6%	4.4%
Centers for Disease Control (CDC)	6,614,601	6,643,460	6,681,895	67,294	38,435	1.0%	0.6%
National Institutes of Health (NIH)	30,325,224	30,766,988	31,266,988	941,764	500,000	3.1%	1.6%
<i>Cancer Institute</i>	4,968,973	5,150,170	5,150,170	181,197	----	3.6%	----
<i>Mental Health</i>	1,450,491	1,474,676	1,502,266	51,775	27,590	3.6%	1.9%
<i>Blood Institute</i>	3,015,689	3,050,356	3,123,403	107,714	73,047	3.6%	2.4%
<i>Neurological Disorders and Strokes</i>	1,593,344	1,612,745	1,650,263	56,909	37,508	3.6%	2.3%
Mental Health Services	969,152	985,819	1,008,182	39,030	22,363	4.0%	2.3%
Substance Abuse Treatment	2,192,933	2,238,647	2,240,090	47,157	1,443	2.2%	0.0%
Substance Abuse Prevention	100,131	101,947	101,947	1,816	----	1.8%	----
LIHEAP	2,320,328	3,200,000	5,100,000	2,779,672	1,900,000	119.8%	59.4%
Refugee and Entrant Assistance	633,442	740,657	714,968	81,526	-25,689	12.9%	-3.5%
Child Care Development Block Grant	2,127,081	2,127,081	2,127,081	----	----	----	----
Head Start	7,112,786	7,234,783	7,234,783	121,997	----	1.7%	----
Development Disabilities Program	183,855	183,855	186,355	2,500	2,500	1.4%	1.4%
Grants to States for Community Services	775,313	765,313	770,025	-5,288	4,712	-0.7%	6.2%
Administration on Aging	1,493,843	1,493,843	1,530,881	37,038	37,038	2.5%	2.5%
Departmental Management	200,103	210,876	205,235	5,132	-5,641	2.6%	-2.7%
Embryo Adoption Awareness Campaign	4,200	4,200	4,200	----	----	----	----
<b>III. Department of Education</b>							
Local Education Agencies Grants	14,492,401	12,992,401	14,492,401	----	1,500,000	----	11.5%
Even Start	66,454	----	66,454	----	66,454	----	NA
Early Reading First	112,549	162,549	127,549	15,000	-35,000	13.3%	-21.5%
Striving Readers	35,371	370,371	146,000	110,629	-224,371	312.8%	-60.6%
Literary through School Libraries	19,145	19,145	19,145	----	----	----	----
Impact Aid	1,265,718	1,265,718	1,290,718	25,000	25,000	2.0%	2.0%
State Grants for Improving Teacher Quality	2,947,749	2,947,749	2,947,749	----	----	----	----
Mathematics and Science Partnership	178,978	178,978	178,978	----	----	----	----
School Improvement programs	3,680,575	3,500,740	3,558,203	-122,372	57,463	-3.3%	1.6%
Javits Gifted and Talented Education	7,463	----	7,463	----	7,463	----	NA
Troops to Teachers	14,389	14,389	14,389	----	----	----	----
Teaching of Traditional American History	118,952	118,952	100,000	-18,952	-18,952	-15.9%	-15.9%
School Leadership	19,220	29,220	29,200	10,000	----	52.0%	----
Charter School Grants	216,031	268,031	256,031	40,000	-12,000	18.5%	-4.5%
Voluntary Public School Choice	25,819	25,819	25,819	----	----	----	----
Magnet School Assistance	104,829	104,829	104,829	----	----	----	----
Teacher Incentive Fund	97,270	487,270	445,864	348,594	-41,406	358.4%	-8.5%
Ready to Learn Television	25,416	25,416	25,416	----	----	----	----
Advanced Placement	43,540	43,540	43,540	----	----	----	----
Alcohol Abuse Reduction	32,712	32,712	32,712	----	----	----	----
English Acquisition	730,000	730,000	760,000	30,000	30,000	4.1%	4.1%
Special Education	12,579,677	12,579,677	12,579,677	----	----	----	----
Rehabilitation Services and Disabilities	3,387,762	3,500,735	3,504,305	116,543	3,570	3.4%	0.1%
Vocational Education	1,271,694	1,271,694	1,271,694	----	----	----	----

Adult Education	567,468	641,567	639,567	72,099	-2,000	12.7%	-0.3%
Pell Grants	17,288,000	17,495,000	17,783,395	495,000	288,395	2.9%	1.6%
Supplemental Educational Grants	17,667,000	17,667,000	17,667,000	----	----	----	----
Federal TRIO Programs	848,089	848,089	868,089	20,000	20,000	2.4%	2.4%
GEAR UP	313,212	313,212	333,212	20,000	20,000	6.4%	6.4%
Byrd Honor Scholarships	40,642	40,642	40,642	----	----	----	----
Departmental Management	433,482	456,500	452,200	18,718	-4,300	4.3%	-0.9%
<b>Title IV. Related Agencies</b>							
Corporation for National and Community Service	889,866	1,149,016	1,059,016	169,150	-90,000	19.0%	-7.8%
AmeriCorps	271,196	372,547	331,547	60,351	-41,000	16.2%	-11.0%
Learn and Serve America	37,459	39,500	39,500	2,041	----	5.4%	----
Corporation for Public Broadcasting	420,000	430,000	430,000	10,000	----	2.4%	----
MedPac	11,403,000	11,800,000	11,800,000	397,000	----	3.5%	----
National Labor Relations Board	262,595,000	283,400,000	283,400,000	20,805,000	----	7.9%	----

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**Items of Note:**

**Planned Parenthood Funding:** The bill increases funding for Title X family planning services to \$317.5 million, an increase of \$10 million compared to FY2009. Planned Parenthood is the largest recipient of federal family planning funds under Title X. It is also the largest abortion provider in the United States.

**Abstinence Zeroed Out:** The bill not only increases funding for family planning, it zeroes out funding for the Community Based Abstinence Education (CBAE) program. Many abstinence programs which are currently receiving funding, and are expecting to receive funding in the coming year, will be forced to find it elsewhere due to the cuts in this bill.

**Needle Exchange:** The bill removes the ban on federal funding for needle exchange programs in the United States. An amendment was adopted in committee that provided the programs may not be located within 1,000 feet of a school, public swimming pool, park, playground, or most places where children may be found.

**Pro-Life Riders:** All the pro-life riders, conscience protections, and prohibitions on the destruction of human embryos for research are maintained in this bill.

**LIHEAP Expansion:** \$5.1 billion—\$2.8 billion or 119.8% above last year, and \$1.9 billion or 59.4% above the President’s request. This funding increase comes on top of \$2.8 billion of emergency-designated spending for the Low Income Housing Energy Assistance Program (LIHEAP) program in FY 2009. The bill also contains a provision that expands LIHEAP eligibility from 60% of a state’s median income to 75% of a state’s median income. Appropriations Committee Republicans point out that, in states such as Connecticut and Massachusetts, this would make a family with an income in excess of \$70,000 eligible for LIHEAP assistance.

**SMART Grant Program:** The bill delays \$511 million of mandatory spending for the SMART Grant Program until FY 2011. These savings count against the subcommittee's allocation in FY 2010. But by simply delaying, instead of altogether canceling this unnecessary spending, the subcommittee allows the same "savings" to be used again in FY 2011.

**National Institutes of Health (NIH):** \$31.3 billion—\$941.8 million or 3.1% more than last year, and \$500 million or 1.6% more than the President's request.

**GEAR UP:** \$333.2 million—\$20 million or 6.4% more than last year and the President's request.

**TRIO:** \$868.1 million—\$20 million or 2.3% more than last year and the President's request.

**Corporation for National and Community Service:** \$1.06 billion—\$169.2 million or 19.0% more than last year, and \$90.0 million or 7.8% less than the request.

**Corporation for Public Broadcasting (PBS):** \$541 million—\$51.8 million or 10.6% more than last year, and \$40 million or 8.0% more than the President's request. PBS is funded with advance appropriations, and most of the new funding provided for PBS in this bill (\$440 million of this total) is advance appropriations in 2012.

**Earmarks:** The bill includes a list of 1,151 earmarks in the [committee report](#).

**Potential Conservative Concerns:** Some conservatives may be concerned with various aspects of this legislation, including, but not limited to:

**Excess Spending.** H.R. 3293 provides a total spending level of \$163.4 billion—**\$11.1 billion** or **7.3%** more than last year. This spending comes on top of **\$137.0 billion** of emergency-designated spending in FY 2009. And compared to FY 2008—the spending authority that programs under this bill were operating under *nine and half months ago*—this legislation represents a **\$18.6 billion** or **12.8%** increase. Among other things, the bill provides \$1.06 billion for the Corporation for National and Community Service (a \$169 million or 19.0% increase), \$541 million for PBS (\$51.8 million or 10.6% above last year), and \$5.1 billion for LIHEAP (\$2.8 billion or 119.8% above last year). H.R. 3293 includes 1,151 earmarks.

**Values Concerns.** H.R. 3293 increases funding for Title X family planning services to \$317.5 million, an increase of \$10 million compared to FY2009, while eliminating funding for the Community Based Abstinence Education (CBAE) program. Planned Parenthood is the largest recipient of federal family planning funds under Title X and the largest abortion provider in the United States. The bill also removes the ban on federal funding for needle exchange programs in the United States.

## **PERFECTING AMENDMENTS MADE IN ORDER UNDER THE RULE**

**1. Obey (D-WI).** Manager's Amendment. The amendment *increases* funding (compared to the base bill) for these programs as follows:

- Health Resources and Services Administration, \$1 million.
- Centers for Disease Control and Prevention, \$1 million.
- School Improvement Programs, \$5 million.
- Awards for Charter Management Organizations, \$10 million.
- Career and Technical Education, \$1 million.

The amendment *decreases* funding (compared to the base bill) for these programs, as follows:

- Department of Labor (Departmental Management), \$1 million.
- Office of the Secretary (Department of Health of Human Resources), \$1 million.
- Innovation and Improvement, \$6 million.

The amendment prohibits funds in the bill from being used for first-class travel by employees of federal departments and agencies. The amendment also prohibits funds in the bill from being used to purchase light bulbs that are not Energy Star qualified or have the Federal Energy Management Program designation.

**2. Souder (R-IN).** Prohibits funds made available in this Act from being used to provide individuals with hypodermic needles or syringes for the supposedly clean injection of any illegal drug. Current law which allows such needle distribution ([42 U.S.C. 300ee-5](#)) is as follows:

None of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.

FRC Action (the legislative arm of Family Research Council) supports the Souder Amendment.

**3. Issa (R-CA).** Prohibits funds made available for NIH's National Institute on Drug Abuse from being used for grant number 1R21DA026324-01A1, regarding substance-use and HIV risk among Thai women (which focuses on prostitutes). Also prohibits funds made available for NIH's National Institute on Alcohol Abuse and Alcoholism from being used for grant numbers:

- 1ROIAA018090-01 (regarding venue-based HIV and alcohol-use risk-reduction among [female sex workers in China](#)); and

- 5RO1AA016059-03 (regarding HIV-prevention in hospitalized Russian alcoholics).

**4. Pence (R-IN).** The amendment would prohibit Title X family planning appropriations from going to Planned Parenthood, which is the largest abortion provider in the U.S., and also the largest recipient of Title X money. The amendment would not reduce Title X funding from the level in the bill - \$317.5 million. However, it would prohibit taxpayer dollars going to such a large abortion provider.

**Groups Scoring a “Yes” Vote on the Pence Amendment:** Americans United for Life Action, Concerned Women for America, Focus on the Family, FRC Action, Life Coalition International, National Right to Life Committee, Traditional Values Coalition.

**Groups Supporting the Pence Amendment:** American Association of Christian Schools (AACCS), American Center for Law and Justice (ACLJ), American Conservative Union, American Life League, Black Students for Life, Eagle Forum, King for America, Liberty Center for Law and Policy, Liberty Counsel, Life Educational Corporation, Life Issues Institute, Life Legal Defense Foundation, National Black Pro-Life Union, One More Soul (Dayton, Ohio), Southern Baptist, Ethics & Religious Liberty Commission, Southwest Life and Law Center, Students for Life, Susan B. Anthony List, 40 Days for Life.

**5. Wittman (R-VA)/ Broun (R-GA)/ Price (R-GA)/ Jordan (R-OH)/ Blackburn (R-TN)/ Stearns (R-FL)/ Bishop (R-UT)/ Burton (R-IN)/ Cassidy (R-LA)/ Chaffetz (R-UT)/ Conaway (R-TX)/ Goodlatte (R-VA)/ Herger (R-CA)/ Inglis (R-SC)/ Johnson (R-TX)/ Lamborn (R-CO)/ Lummis (R-WY)/ McMorris Rodgers (R-WA)/ Neugebauer (R-TX)/ Sessions (R-TX).** This RSC amendment would reduce appropriations in the bill by \$803,270,000 (still allowing an increase in spending compared to last year), which amounts to 0.5% of the overall appropriations in the bill. The amendment would not require that *every* account be trimmed. The National Taxpayers Union (NTU) supports this amendment.

**Committee Action:** H.R. 3293 was reported out of the House Appropriations Committee as an original measure on July 22, 2009.

**Cost to Taxpayers:** The bill appropriates a total of \$163.4 billion in FY 2010.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, the bill increases spending for programs in the FY 2010 bill by \$11.1 billion or 7.3% over last year.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No CBO score is available listing any possible mandates.

**Constitutional Authority:** The committee report fails to include a statement of constitutional authority.

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