



Legislative Bulletin.....September 13, 2012

Contents:

H.J.Res. 117—Continuing Appropriations Resolution, 2013

**H.J.Res. 117—Continuing Appropriations Resolution, 2013
(Rogers, R-KY)**

Order of Business: The legislation is scheduled to be considered on Thursday, September 13, 2012, under a closed rule providing one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

Summary:

Spending Discussion

The legislation enacts a continuing resolution (CR) at a total non-emergency spending level equivalent to \$1.047 trillion (on an annualized basis) through **March 27, 2013**. The current fiscal year ends on October 1, 2012. The legislation generally provides funding at FY 2012 levels plus 0.612%.

The \$1.047 trillion spending level would be:

- **\$4 billion** above FY 2012;
- The **same** level as the spending cap for FY 2012 in the Budget Control Act;
- **\$19 billion** above the House-passed FY 2013 budget resolution; and
- **\$116 billion** above the FY 2013 RSC budget resolution.

The legislation also provides a \$99.9 billion annualized level for overseas contingency operations (compared to \$126.5 billion last year) and \$6.9 billion for other disaster-designated and program integrity spending (compared to \$10.9 billion last year). Should the final FY 2013 appropriations process end with these spending levels, **total** appropriations spending would be \$26.7 billion below last year. This is mostly due to declining war spending. Not counting war spending, total annualized spending would be \$52 million below last year. Final disaster-designated spending could end up at a higher or lower level than what is provided by this CR depending on subsequent legislation.

The final spending levels for the FY 2013 appropriations process will be determined by subsequent appropriations bills enacted in the next Congress.

Other Provisions of Note

TANF Extension: The legislation extends the Temporary Assistance for Needy Families (TANF) Program through March of next year. The program would otherwise expire on September 30, 2012. The funding level provided in the legislation is the same as the baseline, \$16.5 billion on an annualized basis. The program is extended without including H.R. 6140, the [Preserving Work Requirements for Welfare Programs Act](#), which would prohibit the Obama Administration from weakening the work requirements that were a critical element of the welfare reform law enacted in 1996.

Obamacare: The legislation maintains FY2012 funding levels for agencies that are charged with implementing Obamacare, namely the Department of Health and Human Services (HHS), the IRS, and the Centers for Medicare and Medicaid (within HHS).

Values Provisions: H.J.Res. 117 retains all pro-life limitation riders, maintains funding for abstinence education, and includes funding for the DC Opportunity Scholarships Program (\$20.1 million annualized funding). Some conservatives may be concerned that providing conscience protection (the Abortion Non-Discrimination Act), eliminating funding for abortion and abortion coverage under the Affordable Care Act, defunding Planned Parenthood and reinstating the Mexico City Policy are not included in H.J.Res. 117. Some conservatives may also be concerned that the legislation continues to fund programs that many conservatives believe should be eliminated, such as the United Nations Population Fund (UNFPA), Title X (a funding source for Planned Parenthood), and comprehensive sex education.

Payment to Heirs of Donald Payne: Under current practice, the Congress provides, out of the U.S. Treasury, a death benefit equal to one year's salary payable to the survivors of a Member who dies in office. Accordingly, the CR provides the traditional death gratuity payment of \$174,000 (equal to one year of salary) to the heirs of Donald Payne. Some conservatives have argued that these payments should be discontinued. Representative Bill Posey has introduced H.R. 3127 to prohibit the payment of a death gratuity for Members of Congress (see [here](#) for more information).

Commodity Assistance Program: The legislation provides a rate for operations of \$253.9 million for the Food and Nutrition Service—Commodity Assistance Program.

National Nuclear Security Administration: The legislation provides a rate for operations of \$7.6 billion for the National Nuclear Security Administration—Weapons Activities. The legislation also provides a rate for operations of \$100 million for the National Nuclear Security Administration—Defense Nuclear Proliferation.

Federal Pay Freeze/Member Pay Freeze: The legislation continues the freeze on federal worker/Member pay.

Federal Payment for Emergency Planning and Security in DC: The legislation provides a rate for operations of \$24.7 million for this purpose.

General Services Administration—Presidential Transition: The legislation provides a rate of operations of \$8.9 million for this purpose.

Federal Communications Commission—Salaries and Expenses: The legislation provides a rate for operations of \$98.7 million for this purpose.

Office of Government Ethics: The legislation provides a rate of operations of \$18.6 million for the Office of Government Ethics. \$5.0 million of this amount is for the development and deployment of the centralized, publicly accessible database required in the STOCK Act.

Small Business Administration, Business Loans Program Account: The legislation sets a rate of operations of \$333.6 million for the Small Business Loans Program Account.

Refugee and Entrant Assistance: The legislation provides a rate of operation of \$900 million for this program.

Veterans Benefits Administration: The legislation provides a rate of operations of \$2.2 billion for this program.

Restructuring the Use of Abandoned Mine Lands (AML) Program Funds: The section caps payments to certified states under the AML program (Wyoming, Texas, Montana, and the Hopi and Crow Tribes) at \$15 million annually. Wyoming is the only state that receives more than \$15 million.

Cybersecurity: Section 137 provides a total operating rate of \$1.17 billion for cyber network protection. It does not include any funding limitation on the President's expected cybersecurity executive order, which many conservatives oppose and believe is unconstitutional. See [here](#) for information on that expected executive order.

Possible Conservative Concerns/Supporting Arguments: Given the position of Senate Democrats and the President, conservatives may have different views about what the appropriate House strategy should be on appropriations bills. This 6-month CR provides a spending level that is higher than what most conservatives desire, and does not include various other policy provisions conservatives seek, such as [defunding Obamacare](#). On the other hand, it sets no floor on final FY 2013 spending levels (beyond what will have been spent), so it allows the next Congress to consider what the final spending levels will be, and with what conditions, without the "crisis" atmosphere of a looming government shutdown.

Most conservatives would probably not want a *full* year's CR at these spending levels and conditions. Many conservatives argue that this bill makes possible a conservative FY 2013 appropriations process finalization in the next Congress.

[Potential Conservative Arguments in Favor of H.J.Res. 117](#)

Prevents Appropriations Bills From Hanging Over the Lame Duck: By providing a CR through March 27, 2013, it is unlikely appropriations bills will be considered during any potential lame duck session. It may be argued that the next Congress is more likely to produce a

more conservative product than what would otherwise come out of the lame duck. In addition, by wrapping up the appropriations process for this Congress, it can be argued that the possibility of other legislation conservatives might object to being considered during the lame duck is reduced.

At Budget Control Act Levels: The Budget Control Act (Public Law 112-25) caps non-emergency spending at \$1.047 trillion in FY 2013. This CR does not exceed this cap. The legislation also provides a \$99.9 billion annualized level for overseas contingency operations (compared to \$126.5 billion last year) and \$6.9 billion for other “emergency” spending (compared to \$10.9 billion last year). Should the final FY 2013 appropriations process end with these spending levels, **total** appropriations spending would be \$26.7 billion below last year. This is mostly due to declining war spending. Not counting war spending, total annualized spending would be \$52 million below last year.

Maintains Funding for Troops: The legislation provides funding for troops in Iraq and Afghanistan within the continuing resolution. This is a notable contrast to how House Democrats treated troop funding in previous CRs. For example, see [H.J.Res. 69](#) from 2007.

[Potential Conservative Concerns with H.J.Res. 117](#)

Funding Above House-Passed Budget: Some conservatives may be concerned that the legislation provides an annualized spending level that is \$19 billion above the [House-passed budget resolution](#), and \$116 billion above the RSC budget resolution. The non-emergency annualized spending rate is also \$4 billion above last year, which is achieved by a 0.612% across-the-board spending increase. The usual precedent, even in past years when the 302(a) allocation called for substantial spending increases, is for a continuing resolution to hold most spending flat while final spending decisions are worked out. However, enactment of this CR would still allow the next Congress to set spending levels lower.

Temporary Assistance For Needy Families (TANF) Extension: Some conservatives may be concerned that the program is extended without blocking the Administration’s regulations weakening work requirements.

Does Not Defund Obamacare: Some conservatives may be concerned that the legislation does not block funding for Obamacare during the period covered by the legislation.

Does Not Include Other Policies Many Conservatives Have Advocated: The legislation does not include many other “riders” that conservatives have advocated during the appropriations process. This includes a ban on funding for abortion providers, prohibiting funds for various new environmental regulations, and limiting funds to the Egyptian government. The legislation provides the same funding formula for most programs, with final funding levels left to subsequent legislation. This means that the CR continues to provide funding for many programs that conservatives would object to, such as NPR, the Palestinian Authority, and the Legal Services Corporation. On the other hand, this has been standard procedure for a short-term CR. Enactment of this CR would still allow the next Congress to adopt any of these policies.

Groups:

Groups Opposing:

Club for Growth
Tea Party Patriots

Other Analysis:

The Heritage Foundation analysis (see [here](#)) argued: “Although the stopgap spending bill will usefully avoid a lame-duck spending debacle—which would likely produce an even worse result—it is in fact just another omnibus, spend-as-you-go measure that extends the federal government’s incoherent fiscal policy.”

Committee Action: The legislation was introduced on September 10, 2012. The legislation was referred to the Committee on Appropriations, and in addition to the Committee on the Budget, neither of which took any further action.

Administration Position: The Administration supports the bill. See the Statement of Administration Policy (SAP) [here](#).

Cost to Taxpayers: The legislation provides an annualized spending level of \$1.047 trillion (equal to Budget Control Act). This is \$4 billion more than last year. The legislation also provides a \$99.9 billion annualized level for overseas contingency operations (\$26.6 billion less than last year) and \$6.9 billion for disaster-designated and other program integrity spending (compared to \$10.9 billion last year). Should the final FY 2013 appropriations process end with these spending levels, **total** appropriations spending would be \$26.7 billion below last year. This is mostly due to declining war spending. Not counting war spending, total annualized spending would be \$52 million below last year. Final non-OCO spending could end up at a higher or lower level than what is provided by this CR depending on subsequent legislation.

Does the Bill Expand the Size and Scope of the Federal Government?: See above analysis in terms of how the spending in this bill compares to last year.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO report with this information is available.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not appear to contain any earmarks.

Constitutional Authority: The sponsor states constitutional authority is derived from:

“Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. . . .’ In addition, clause 1 of Section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States. . . .’ Together, these specific

constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

No constitutional authority is cited for the individual items funded in the CR.

RSC Staff Contact: Brad Watson, brad.watson@mail.house.gov, (202) 226-9719