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Senate Amendment to H.R. 3081—FY 2011 Continuing Appropriations Act

**Senate Amendment to H.R 3081—FY 2011 Continuing Appropriations Act
 (Lowey, D-NY)**

Key Conservative Concerns
Take-Away Points

- Too High of a Spending Level:** The legislation provides a spending level generally in line with FY 2010. This is in contrast to the RSC continuing resolution plan (as well as proposals by other House Republicans) to keep non-security spending at FY 2008 levels. This is a difference of \$84 billion. Further, the continuing resolution is a short-term extension of spending authority, with Democrats planning to subsequently enact an FY 2011 omnibus that would exceed the RSC plan by \$99 billion.
- No Prohibition on Funding for Obamacare:** Unlike the RSC continuing resolution plan, the bill does not contain any restrictions on funding for implementation of the provisions of the government health care takeover law.
- Would Require Lame Duck Congress:** The short term continuing resolution would expire in between the election and the beginning of the next Congress. This means that either there will have to be a Lame Duck Congress or the government runs out of spending authority. See [here](#) for more information on conservative opposition to a Lame Duck Congress.

For more details, see below.

Order of Business: The bill described below is expected to be considered as early as Wednesday, September 29, 2010 under a yet to be determined rule. The House is expected to take up the Senate amendment to the House-passed version of H.R. 3081. The Senate amendment will replace the FY 2010 State-Foreign Operations bill with the continuing resolution (CR) described below:

One Month Continuing Resolution: The legislation enacts a continuing resolution at FY 2010 funding levels through December 3, 2010. The CR specifies a different level than this as follows:

- **Census, Periodic Census and Programs:** Reduces the rate of operations for the Census from \$7 billion to \$964 million;
- **BRAC 2005:** Reduces the rate of operations from \$7 billion to \$2.35 billion;
- **Foreign Military Financing:** Increases the rate of operations for Foreign Military Financing by \$965 million (to include FY 2009 supplemental funding for Jordan, Israel, and Egypt);
- **Pakistan Counterinsurgency Capability Fund:** Provides a \$700 million rate of operations;
- **Diplomatic and Consular Programs:** Provides a rate of operations of \$8.6 billion for Diplomatic and Consular Programs (an increase of \$374 million);
- **Federal Air Marshals Program:** Allows the Federal Air Marshals program to maintain a higher rate of spending, specified in the bill as: “a rate of operations not exceeding that necessary sustain domestic and international flight coverage at the same level as the final quarter of FY 2010.”
- **U.S. Customs and Border Protection:** The legislation contains a similar provision to the above for U.S. Customs and Border Protection; and
- **Nuclear Modernization:** Provides \$7 billion for Department of Energy, Weapons Activities—an increase of \$624 million.

Other Provisions:

- Appropriates \$193,000 for Senator Byrd’s family (normal payment for deceased Senators and Representatives);
- Extends child nutrition programs through the earlier of either enactment of a new authorization law or December 3, 2010;
- Extends the Commanders Emergency Response Program;
- Allows the Washington DC local government to spend money out of its local budget; and
- Extends the TANF program through December 3, 2010 (at current spending levels).

Extension of Values Riders: The CR extends all of the pro-life and values riders in effect for FY 2010.

Potential Conservative Concerns: The following are potential conservative concerns:

Too High of a Spending Level: The resolution provides a spending level generally in line with FY 2010. This is in contrast to the RSC continuing resolution plan (as well as proposals by the House Appropriations Committee Republicans and other House Republicans) to keep non-security spending at FY 2008 levels. This is a difference of \$84 billion. Further, the continuing resolution is a short-term extension of spending authority, with Democrats planning to subsequently enact an FY 2011 omnibus that would exceed the RSC plan by \$99 billion.

No Prohibition on Funding for Obamacare: Unlike the RSC continuing resolution, the bill does not contain any restrictions on funding for the new health care law.

Would Require Lame Duck Congress: The short term continuing resolution would expire in between the election and the beginning of the next Congress. This means that either there will have to be a Lame Duck Congress or the government runs out of spending authority.

Background: With the next fiscal year little more than a week away, the Democrat Congress has yet to enact any of the twelve FY 2011 appropriations bills needed to keep the government running beyond this month. Consequently, congressional Democrats seek to pass a short-term continuing resolution to keep the government running. Congressional Democrats plan to follow up this action with enactment of an omnibus at some later date. The Democrats' FY 2011 appropriations plan would lead to a total of \$1.121 trillion of non-emergency discretionary spending. This would be the highest level in U.S. history and a \$30 billion increase compared to last year.

RSC CR Alternative: The RSC has introduced legislation ([H.J.Res. 96](#)) to close out this year's appropriations process by providing for a full-year continuing resolution for FY 2011 that protects defense and veterans spending, while returning all other discretionary spending to FY 2008 levels—the amounts in effect prior to this Congress's spending spree. Additionally, the plan will defund Obamacare, prohibit any FY 2011 appropriations from being used for earmarks, and protect all of the pro-life and other values riders.

Table: Domestic Savings Proposed by RSC Continuing Resolution
(In Millions of Dollars)

Bill	RSC Amendment	Democrat FY 11 Plan	Savings
Agriculture	18,093	23,304	5,211
CJS	51,803	60,536	8,733
Energy and Water	30,888	34,669	3,781
Financial Services	20,599	24,500	3,901
Interior	26,555	32,240	5,685
Labor-HHS	144,841	176,412	31,571
Legislative Branch	3,970	4,656	686
State-Foreign Ops	32,800	53,983	21,183
Transportation-HUD	48,841	67,400	18,559
Total	378,450	477,860	99,410

Committee Action: H.R. 3081 was reported out of the House Appropriations Committee as an original measure on June 26, 2009 as the Department of State, Foreign Operations, and Related Programs Appropriations Act for FY 2010. It subsequently passed the House on July 9, 2009. The Senate is currently considering the legislation and is expected to pass an amended version that the House will take up this week. The amended version will replace the House-passed version with a short-term FY 2011 continuing resolution.

Earmarks: No committee report listing earmarks is available, but the legislation does not appear to contain any earmarks.

Cost to Taxpayers: The legislation generally provides funding levels equivalent to FY 2010 through December 3, 2010. This spending will count against the Appropriations Committee allocations, and it will be later legislation that determines the final spending levels for FY 2011.

Does the Bill Expand the Size and Scope of the Federal Government?: No. However, the legislation provides a short-term continuing resolution that is higher than proposed by House Republicans.

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 version of the legislation being considered today does not include a citation of constitutional authority. Presumably, the House Appropriations Committee would cite: Clause 7 of Section 9 of Article I of the Constitution (the power of Congress to appropriate money), though this would not have covered the constitutional authority for the various spending items themselves.

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