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House Amendments to H.R. 4899—FY 2010 Supplemental Appropriations Act

Key Conservative Concerns

Take-Away Points

- The Rule:** Would adopt the Democrats’ “deeming resolution,” which represents the first time the House has failed to consider a budget since the modern process began. The deeming resolution would not set most of the basic numerical levels required of a budget resolution each year, including: total outlays, total federal revenue, total proposed changes to revenue, total deficit levels, and total debt levels. The deeming resolution would, however, set *non-emergency* FY 2011 discretionary spending at \$1.121 trillion—a \$30 billion increase from last year, and the highest level in U.S. history.
- House Amendment 1:** Would attach *at least* \$4 billion (no score is available, which means the actual figure could be substantially different) of new domestic spending to the Senate-passed supplemental (all of it unrelated to funding the troops), and would include tax increases on Grantor Retained Annuity Trusts and making crude tall oil ineligible for the cellulosic biofuel producer credit (no score is available to determine what these tax increases would cost the American people at press time). The amendment also includes a corporate tax shifting gimmick.
- **House Amendment 2:** Adds approximately \$17 billion of new spending to the war (most of it domestic). Within this amount is \$10 billion for the “Teacher Fund”—which is bailout of state and local governments for irresponsible spending practices over the previous decade. The majority will assert that this spending is “paid for.” However, House conservatives have proposed to use many of these rescissions (cancelling “stimulus” spending) to reduce the unsustainable deficit, not to create new spending. The bill also includes language (similar to H.R. 413, the Public Safety Employer-Employee Cooperation Act) that would preempt state authority to regulate the collective bargaining rights of its state and local public safety employees – essentially unionizing them.
- House Amendment 3:** Eliminates the war funding in the underlying bill. Many conservatives would object to denying our troops funding while they are fighting a war.

--House Amendment 4: Puts strict limitations on what war funds in Afghanistan may be used for, which would prevent victory in Afghanistan. Many conservatives would object to withdrawing without victory from Afghanistan.

--House Amendment 5: Among other things, prevents DoD funds from being used in a way that is inconsistent with “orderly withdrawal” from Afghanistan by July 1, 2011. Many conservatives would object to arbitrarily withdrawing without victory from Afghanistan.

For more details on these concerns, see below.

House Amendments to H.R. 4899—FY 2010 Supplemental Appropriations Act *(Rep. Obey, D-WI)*

Order of Business: The bill is scheduled to be considered on July 1, 2010 under a yet to be determined rule—though presumably making in order the five amendments described below, as well as (presumably) adopting the FY 2010 “deeming resolution.”

Summary:

Deeming Resolution (adopted upon passage of rule):

FY 2011 Spending Level: The resolution sets the 302(a) level at \$1.121 billion. This is the non-emergency discretionary spending level the Appropriations Committee can use to divide spending authority between subcommittees. This is the highest 302(a) allocation in U.S. history, and a \$32 billion increase compared to FY 2010. For perspective, the FY 2008 spending level was set at \$933 billion.

Spending Enforcement Provisions: The deeming resolution extends by one year the discretionary spending enforcement provisions from the FY 2010 budget resolution.

Reserve Fund for Deficit Reduction: The legislation provides a reserve fund for “deficit reduction” for any enacted legislation resulting from the recommendations of the National Commission on Fiscal Responsibility and Reform. The stated intent of this reserve fund is to prevent any deficit reduction from being used to offset any future spending.

What the Deeming Budget Resolution Does NOT Do:

Fulfill the Basic Criteria of a Budget Resolution: Budget Committee Republicans [note](#) that the deeming resolution fails to satisfy the criteria for a budget resolution, as required by the 1974 Budget Act, in at least the following ways:

- It is not concurrent (i.e. adopted by both the House and Senate)

- It applies for only one year—the Budget Act requires at least a five year budget resolution. The reason that the budget resolution does not extend further is to avoid shedding further light on the impact of Democrat budget policies.
- It is missing most of the numerical levels required of a budget resolution, including such basic numbers as: total outlays, total federal revenue, total proposed changes to revenue, total deficit levels, and total debt levels.

To see what a budget resolution looks like, see the text of the RSC balanced budget resolution (H.Con.Res. 281) available at this [site](#).

Does Nothing to Improve Budget Outlook: The deeming resolution does nothing to reform entitlement spending. Although the budget resolution contains a Sense of the Congress that the deficit in 2015 should not exceed net interest payments in that year (in other words the goal is to have a deficit in that year of \$520 billion, higher than any amount from 1789-2008)—it does absolutely nothing whatsoever to bring about that result.

Amendment 1:

Black Farmer Discrimination Claims: Appropriates **\$1.15 billion** to the Secretary of the Agriculture to carry out the terms of the Black Farmers Discrimination Litigation Settlement.

Summer Employment for Youth: Appropriates **\$1 billion** for Department of Labor, Training and Employment Services for grants to states for youth activities including summer employment for youth.

Individual Indian Money Account Litigation Settlement: **\$2 billion** for the Trust Land Consolidation Fund.

Tax Increases: The amendment increases taxes on Grantor Retained Annuity Trusts, and also makes crude tall oil ineligible for the cellulosic biofuel producer credit.

Corporate Tax Shift Gimmick: This provision would increase the estimated tax payments that certain corporations must remit to the federal government. This legislation would increase the payment due for the third quarter of calendar-year 2015 by 5.25 percentage points. The payment due for the fourth quarter of calendar-year 2015 would be reduced accordingly. This provision is merely a revenue timing shift, a gimmick used to comply with the House’s PAYGO rule, yet would have real-world implications, as it forces certain companies to pay more of their tax payments earlier. Given the time value of money, earlier payments harm the bottom line of employers.

Amendment 2:

Domestic Spending, FY 2010 Funding Levels:

In millions

	House Amendment
Energy	
Energy Loans	180
Departmental Administration	12
Homeland Security	
Border Protection	356
Border Fencing	14
Air and Marine Interdiction	32
Construction	9
Immigration and Customs Salary	30
FEMA	50
Law Enforcement Training	8
Education	10,000
Pell Grants	4,950
Defense	
Military Construction, Army	17
Other	
Emergency Food Assistance	50
Labor	
Employment and Training Administration	55
Treasury	
IRS	245
Health and Human Services	
Health Fraud and Abuse Account	250

Rescissions:

- **Department of Agriculture:** \$706.2 million
- **Broadband Grants:** \$602 million
- **Digital Television:** \$112 million
- **National Institutes of Standards and Technology (NIST):** \$15 million
- **Department of Defense:** \$3.242 billion
- **Army Corps:** \$237 million
- **Department of Education discretionary grants awards:** \$800 million
- **Department of Energy:** \$329 million
- **Nuclear Regulatory Commission:** \$18 million
- **General Services Administration:** \$100 million
- **Department of Health and Human Services:** \$6 million
- **Pandemic Flu:** \$2 billion
- **DHS border efforts:** \$200 million
- **FEMA:** \$36 million
- **Coast Guard:** \$7 million
- **Domestic Nuclear Detection Office:** \$53.8 million
- **Transportation Security Administration (TSA):** \$6.6 million
- **Department of Interior, EPA, and Forest Service:** \$80 million
- **National Park Service and Fish and Wildlife Service:** \$33 million

- **Department of Judiciary:** \$2.7 million
- **Federal Highway Administration:** \$11 million
- **Federal Aviation Administration:** \$8 million
- **Hurricanes Ike and Gustav and Midwest Floods:** \$312 million
- **CDBG money for Hurricane Katrina:** \$400 million
- **Highway Contract Authority:** \$2 billion
- **Cash for Clunkers:** \$44 million
- **State Department:** \$40 million
- **Millennium Challenge Corporation:** \$150 million
- **USAID for Civilization Stabilization Initiative:** \$70 million
- **Department of Veterans Affairs:** \$6 million
- **Architect of the Capitol:** \$5 million

Other Mandatory Spending Items:

Medicaid AMP Computation: The legislation amends the Patient Protection and Affordable Care Act to change manufacturer rebates for outpatient drugs purchased by the Medicaid program. Specifically, the legislation states that the exclusion of rebates – except in the case of inhalation, infusion or injectable drugs that is not dispensed through a retail community pharmacy - will not apply to payments from and rebates and discounts provided to, distributors or hospitals, clinic, doctors and other entities directly dispensing the drug. According to Appropriations Committee Majority, this change will save \$2.1 billion over ten years.

Generic Drugs: The legislation gives the FTC new authority to restrict payments by non-generic drugs to manufacturers that act as an incentive to delay production of generic drugs. According to the Appropriations Committee Majority, this change will save \$2.4 billion over ten years.

Items of Note:

Education Jobs Fund: The bill includes \$10 billion for an “Education Jobs Fund” which may be used for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services. This money will not just be used for teachers, but for other staff such as bus drivers and custodians. The funds do nothing to address underlying education reform. It’s a band-aid on a much larger problem of too much spending on education but not enough results in the classroom. As the *Washington Post* recently stated in an editorial on the issue (emphasis added), “**The jobs bill’s stimulative effect has been exaggerated**, as has been the need for it. When the bill was first advanced, its advocates warned about looming layoffs of some 300,000 teachers. However, school districts across the country are finding other cost-cutting ways -- freezing pay, increasing class size, consolidating administrative functions -- to save jobs...Instead, **Mr. Obey would penalize the precious few programs that do foster needed change**. If his measure is approved, fewer states will get funds to reward high-performing teachers who work with at-risk students, there will be less money to help effective charter networks like KIPP (Knowledge Is Power Program) and there will be no incentive for states to enact reforms.”

A very small part of this \$10 billion will be paid for by diverting already appropriated funds for the Race to the Top (\$500 million), the Teacher Incentive Fund (\$200 million), and charter schools (\$100 million). Many conservatives might have problems with the idea that \$100 million (from \$256 million to \$156 million) will be taken from the Charter Schools Program, in particular, which conservatives support as a method of school choice.

Public Employer Bargaining: The bill includes language (similar to H.R. 413, the Public Safety Employer-Employee Cooperation Act) that would preempt state authority to regulate the collective bargaining rights of its state and local public safety employees – essentially unionizing them. If a state doesn't match or exceed what the federal government wants, it will be preempted. This could come at the expense of public safety because efforts will be focused on dealing with wages and hours, and other issues apart from actual public safety. The language will impose a permanent, one-size-fits all approach to an area that is typically left up to the states, because they know best how what public safety officers address at a local level. The North Carolina Chamber of Commerce has written a letter in opposition to this provision, along with the National Association of Counties, the National League of Cities, the International City/County Management Association, the National Sheriff's Association, the International Public Management Association for Human Resources, the International Municipal Lawyers Association, the National Public Employer Labor Relations Association, and the National Association of Towns and Townships.

Innovative Technology Loan Guarantee Program: The legislation makes available \$18 billion of loans for the innovation technology loan guarantee program--\$9 billion for nuclear energy, and \$9 billion for renewable energy programs. The cost of this loan authority to taxpayers is estimated at \$180 million.

Amendment 3:

The amendment would strike the war funding from the Senate bill.

Amendment 4:

The amendment states that funds for the continued military operations in Afghanistan may only be used to:

- Provide for the continued protection of members of the Armed Forces and civilian and contractor personnel of the federal government who are in Afghanistan; and
- Begin the safe and orderly withdrawal from Afghanistan of all members of the Armed Forces and Department of Defense contractor personnel who are in Afghanistan.

Amendment 5:

The amendment requires the Director of National Intelligence to submit to the President a new national intelligence estimate on security and stability in Afghanistan and Pakistan.

The amendment further requires, by April 4, 2011, the President to submit to Congress a “plan for the safe, orderly, and expeditious redeployment of the Armed Forces from Afghanistan, including military and security-related contractors, together with a timetable for the completion of that redeployment and information regarding variables that could alter that timetable.”

Every 90 days after submittal of this plan, the President would be required to submit to Congress a report on the current status of plans to redeploy out of Afghanistan.

The amendment further prohibits Department of Defense funds from being spent in a manner that is inconsistent with an “orderly withdrawal” beginning July 1, 2011—absent approval of a joint resolution by the Congress.

Spending Provisions in Senate-Passed Bill:

- **War Funding:** \$37.1 billion
- **FEMA Disaster Relief:** \$5.1 billion
- **Veterans:** \$13.377 billion (mandatory spending)
- **Haiti:** \$2.93 billion
- **Farm Loans:** \$31.5 million
- **Disaster Assistance:** \$100 million
- **Mine Safety:** \$22 million
- **Financial Crisis Inquiry Commission:** \$2 million
- **Capitol Police:** \$13 million
- **Port of Guam:** \$50 million
- **Highway Safety:** \$15 million
- **Army Corps Engineers:** \$178 million
- **Mississippi River and Tributaries:** \$18.6 million
- **Emergency Drought Relief:** \$10 million
- **Flood Control and Coastal Emergencies:** \$20 million
- **Fisheries Disasters:** \$26 million
- **Economic Development Administration:** \$49 million
- **Emergency Forest Restoration:** \$18 million provided in the Senate bill.
- **Coast Guard:** \$16 million

Committee Action: A very dissimilar version of the legislation previously passed by the House on March 24, 2010 by a vote of [239-175](#). The Senate passed its version of the bill on May 27, 2010 by a vote of [67-28](#).

Administration Position: No Statement of Administration Policy (SAP) is available for the version of the legislation that the House will be voting on today. However, the Administration previously released a SAP in support of the Senate-passed version (see [here](#)).

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill increases federal spending (amount depending on which amendments pass).

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The House Appropriations Committee lists three earmarks on its website (see [here](#)). They are part of amendment 2.

Constitutional Authority: No statement of constitutional authority is available.

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