

Legislative Bulletin.....December 10, 2009

H.R. 3288—Consolidated Appropriations Act, FY 2010

BY THE NUMBERS:

In billions

Division	FY 08	FY 09	H.R. 3288	% Increase from FY 08	% Increase from FY 09
Division A—Transportation-HUD	48.8	55.0	67.9	39.1	23.5
Division B—CJS	51.8	57.7	64.4	24.3	11.6
Division C—Financial Services	20.6	22.7	24.2	17.5	6.6
Division D—Labor-HHS	144.8	152.3	163.6	13.0	7.4
Division E—Military-Construction	60.2	72.9	78.0	29.6	7.0
Division F—State-Foreign Ops	32.8	36.6	48.8	48.8	33.3
Total Spending	359.1	397.1	446.8	24.4%	12.5

Excluding Emergency Appropriations, the Bill is:

- **\$49.7 billion or 12.5% more than last year**
- **\$87.7 billion or 24.4% more than FY 2008**

Background: More than three months into the current fiscal year, just five of the twelve FY 2009 spending bills have been enacted. This legislation includes six of the seven outstanding bills. The Defense Appropriations bill has been deliberately omitted from this legislation in order to use it as a vehicle to carry unrelated matters such as a massive debt limit increase.

The Democrat FY 2010 appropriations plan leads to \$1.09 trillion of regular appropriations spending, a \$77 billion or 7.6% increase compared to last year, which follows an \$80 billion or 8.6% increase in the previous year (per the FY 2009 omnibus). In just the last two years, Congress will have increased spending just through the regular appropriations process by **\$157 billion or 16.8%**.

H.R. 3288: Key Conservative Concerns

Take-Away Points

- \$87.7 Billion Spending Increase Compared to FY 2008.** The legislation increases FY 2010 spending by \$49.7 billion or 12.5% compared to last year, and by \$87.7 billion or 24.4% compared to FY 2008 (the pre-FY 2009 omnibus funding level in effect 15 months ago).
- No Hard Choices.** The legislation provides increases for all six bills within it, with increases ranging from 6.6% to 33.3%. This at the same time that the country is running record-setting deficits.
- More than 5,000 Earmarks.** According to a preliminary analysis from [Taxpayers for Common Sense](#), the legislation includes 5,224 earmarks at a cost to taxpayers of \$3.8 billion.
- Values Concerns.** The legislation allows the DC government to fund abortions and needle exchanges using public dollars, phases out the DC school voucher program, eliminates funding for abstinence education, and increases international family funding by nearly 20% and allows these funds to flow freely to organizations that promote and perform abortions.
- Fairness Doctrine.** The legislation does not contain the FY 2008 ban on federal funds being used to implement the “Fairness Doctrine.”

For more details on these concerns, see below.

Earmarks:

According to a preliminary analysis from [Taxpayers for Common Sense](#), there are about 5,224 disclosed earmarks in the bill at a total cost of \$3.8 billion.

Items of Note:

Division A—Transportation-HUD:

- Increases funding for the **National Railroad Passenger Corporation (Amtrak)** from \$1.45 billion to \$1.56 billion, an increase of \$110 million or 7.6% over FY 2009. The legislation also contains \$2.5 billion for **high speed rail grants**, more than double the Administration’s request.
- Increases funding for the **Federal Aviation Administration (FAA)** from \$11.96 billion to \$12.48 billion, an increase of \$520 million or 4.3% over FY 2009.
- Increases funding for the **Office of the Secretary of Transportation** from \$207.9 million to \$887.5 million, an increase of \$679.6 million or 326.9% over FY 2009.
- Increases funding for the **Native Hawaiian Housing Block Grant** from \$10.0 million to \$13.0 million, an increase of \$3 million or 30.0% over FY 2009. This program provides Native Hawaiians federal housing block grant funds for construction or reconstruction of affordable housing, down payment and closing cost assistance, direct lending or interest subsidies, housing counseling, tenant-based rental assistance and safety activities. Providing additional housing assistance to this group is not only duplicative of numerous current federal housing programs available to individuals, but is also likely unconstitutional.

- Increases funding for the **Essential Air Service** from \$123.0 million to \$150.0 million, an increase of \$27.0 million or 21.9% over FY 2009.
- Increases funding for the **National Railroad Passenger Corporation (Amtrak)** from \$1.33 billion to \$1.45 billion, an increase of \$120 million or 9% over FY 2008.
- Provides \$150 million for the **Washington Metropolitan Area Transit Authority**. No money was provided for this specific purpose last year, and none was requested. The Passenger Rail and Investment Act of 2008 provided \$1.5 billion over ten years for capital and preventative maintenance projects. This funding was authorized as part of the Passenger Rail and Investment Act of 2008. For more information on this program, see [this](#) RSC Policy Brief.
- **Handguns in Checked Amtrak Bags:** The bill contains a provision offered by Senator Roger Wicker (R-MS) requiring Amtrak to allow individuals wishing to carry a legal handgun in a checked bag on a train, the ability to do so.
- **Maine Highway Exemption:** The bill contains a provision offered by Senator Susan Collins (R-ME) that exempts trucks in the state of Maine from federal highway weight limits. The provision creates a one year pilot project to require a study to evaluate the effectiveness of permitting overweight trucks to travel on federal highways in the State. Maine allows a weight limit of up to 100,000 pounds. Since the limit for federal highways is 80,000 pounds, Senator Collins argues that the difference causes trucks traveling on state highways to divert to side roads to avoid federal highways.
- **Light Bulbs:** The legislation prohibits funds from being used to purchase light bulbs for an office building unless, to the extent practicable, the light bulb has an Energy Star or Federal Energy Management Program.
- **ACORN:** None of the funds made available under this division or any prior Act may be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, or allied organizations.

Division B—Commerce—Justice—Science (CJS):

- Increases funding for the **Economic Development Administration** from \$272.8 million to \$293.0 million—an increase of \$20.2 million or 7.4% over FY 2009.
- Increases funding for the **Census Bureau** from \$3.14 billion to \$7.32 billion—an increase of \$4.18 billion or 133.1% over FY 2009. This is on top of the \$1 billion it received in the “stimulus” to conduct the 2010 survey.
- Increases funding for the **Bureau of Alcohol, Tobacco, and Firearms (ATF)** from \$1.05 billion to \$1.11 billion—an increase of \$60.5 million or 5.8% over FY 2009.
- Increases funding for the **Federal Bureau of Investigation (FBI)** from \$7.07 billion to \$7.66 billion—an increase of \$593.0 million or 8.4% over FY 2009. This is on top of \$117.6 million received in the “stimulus.”
- Increases funding for the **Legal Services Corporation** from \$390.0 million to \$420.0 million—an increase of \$30.0 million or 7.7% over FY 2009. The Legal Services Corporation (LSC) was established by the Legal Services Corporation Act of 1974 to provide free, legal assistance to the poor in civil, non-criminal matters. Its origins lie in President Lyndon Johnson's War on Poverty, specifically with the Office of Economic Opportunity (OEO), which in 1965 began making direct grants to local legal aid organizations. Instead of focusing on this core mission, the LSC has assisted lawyers and groups engaged in lobbying, advocacy of political causes, and litigation against the federal government. The program has not been authorized since 1980. Services currently provided by the LSC are duplicated by state and local governments, bar associations, and private organizations. Various amendments were filed to reduce, or completely eliminate, funding for this program

- Increases funding for **NASA** from \$17.78 billion to \$18.72 billion—an increase of \$941.9 million or 5.3% over FY 2009. This is on top of \$1.0 billion received in the “stimulus.”
- Increases funding for the **National Science Foundation** from \$6.49 billion to \$6.93 billion—an increase of \$436.1 million or 6.7% over FY 2009. This is on top of \$3.0 billion received in the “stimulus.”
- Increases funding for the **National Oceanic and Atmospheric Administration (NOAA)** from \$4.37 billion to \$4.74 billion—an increase of \$372.0 million or 8.5% over FY 2009.
- Provides \$44.0 million for the **National Drug Intelligence Center Funding** located in Johnstown, Pennsylvania (the district of Rep. John Murtha). No money was provided for this purpose last year.
- Increases funding for **Herbert. C Hoover Building Renovation** from \$5 million to \$22.5 million—an increase of \$17.5 million or 350.0% over FY 2009. This is the the headquarters of the Commerce Department.
- **Guantanamo Bay:** The legislation allows detainees housed in the Guantanamo Bay detention facility to be brought to the U.S. forty five days after a report is submitted to Congress outlining the security risks imposed by conducting trials in civilian court. The bill permits the release of detainees into the United States and its territories or to foreign nations after the recommended reporting requirements are implemented. An amendment offered by Rep. Wolf (R-VA) to prohibit the use of funds to bring Guantanamo Detainees to the U.S. and territories for any reason was defeated by a party line vote.
- **Torture Ban:** The bill prohibits the use of funds to be used to support or justify torture by any official or contract employee of the U.S. government.
- **Outsourcing/A-76 Activities:** Prohibits funds from being used under OMB Circular A-76 (governing the federal government’s outsourcing policies) to implement any pending or future competitive sourcing for work performed by employees of the Bureau of Prisons or of Federal Prisons Industries, Incorporated. In other words, this provision would prohibit federal employees from having to compete with private-sector entities for certain non-inherently governmental functions of the agencies (like food service and lawn-mowing).
- **ACORN:** prohibits the distribution of funds contained in this division to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries and requires the Comptroller General of the United States to conduct an audit of Federal funds received by ACORN, any subsidiary or affiliate of ACORN.

Division C—Financial Services:

- Increases funding for the **Bureau of the Public Debt** from \$177.4 million to \$182.2 million—an increase of \$4.9 million, or 2.8% over FY 2009.
- Increases funding for the **Internal Revenue Service (IRS)** from \$11.60 billion to \$12.15 billion—an increase of \$543.5 million or 4.7% over FY 2009.
- Increases funding for the **Small Business Administration** from \$366.7 million to \$433.4 million—an increase of \$66.7 million or 18.2% over FY 2009.
- Increases funding for the **Securities and Exchange Commission (SEC)** from \$894.4 million to \$1.09 billion—an increase of \$200.6 million or 22.4% over FY 2009. [H.R. 4173](#), which the House is considering this week, would authorize a more than doubling of the SEC’s budget by 2015 (to \$2.25 billion).
- **Fairness Doctrine:** The legislation does NOT prohibit funds from being used to reinstate federal speech controls on broadcast radio commonly known as the “**Fairness Doctrine.**” Such a prohibition was included in the FY 2008 omnibus. The prohibition from the FY 2008 omnibus that The repeal of the “Fairness Doctrine” in the 1980s is widely seen as giving rise to the proliferation of conservative talk radio.

- **Auto Dealer Rescue:** Earlier this year, the Obama Administration pressured General Motors and Chrysler to close approximately a quarter of their dealerships as part of the government backed bail-out of the industry. The legislation establishes an arbitration process to determine whether dealers that had their franchise agreements terminated should continue to operate. A covered dealership that was not lawfully terminated before April 29, 2009, has the right to seek, through binding arbitration, continuation, reinstatement of a franchise agreement, or be added as a franchisee to the dealer network. The arbitration process consists of balancing the economic interests of the dealership, manufacturer, and the economic interest of the public at large to determine whether or not the dealership should be added to the dealer network. The arbitrator must also consider additional factors of reach dealership including profitability, business model, satisfaction of performance, local demographics, among other measures. A dealership has 40 days to determine whether it wishes to pursue action which must be concluded within 180 days after the bill is signed in to law. The arbitrator will be selected by the regional American Arbitration Association. If the arbitrator decides in favor of a dealership, the manufacturer has seven business days to provide the dealer a customary and usual letter of intent to enter into sales and service agreement.
- **Outsourcing/A-76 Activities:** Prohibits funds in the bill from being used under OMB Circular A-76 (governing the federal government's outsourcing policies) to implement any pending or future competitive sourcing for work performed by federal employees. In other words, this provision would prohibit federal employees from having to compete with private-sector entities for certain non-inherently governmental functions of the agencies (like food service and lawn-mowing).
- **Contraception:** The section requires health plans participating in the Federal Employees Health Benefits Program to provide contraceptive coverage and provides exemptions to certain religious plans.
- **Federal Pay:** Provides a 2.0% federal pay increase for FY 2010.
- **District of Columbia Provisions:** The bill *allows for publicly funded abortion* in Washington, DC. Historically, there has been a restriction on government funded abortion in DC due to the Dornan Amendment, which prohibited both federal and local appropriated funds from being used to pay for abortion. This bill contains language that only bans *federal* dollars and does not address local funding. Since Congress controls DC's entire budget, which includes all local revenues, Congress is allowing taxpayer funded abortion where it was previously prohibited. The underlying bill removes a ban on legalizing medical marijuana, providing domestic partnerships, and using federal funds to establish a needle exchange program in Washington D.C. Additionally, the bill eliminates the DC Scholarship Opportunity program, which aids low-income children by giving them scholarships of up to \$7,500 to attend private schools in Washington, D.C.

Division D—Labor-HHS:

- Increases funding for **GEAR UP** from \$313.2 million to \$323.2 million—an increase of \$10 million or 3.2% compared to FY 2009.
- Increases funding for the **Corporation for Public Broadcasting** from \$430.0 million to \$445.0 million—an increase of \$15.0 million or 3.5% compared to FY 2009.
- Increases funding for the **Corporation for National and Community Service** from \$869.9 million to \$1.15 billion—an increase of \$259.9 million or 29.9% compared to FY 2009.
- Increases funding for **TRIO** from \$848.1 million to \$853.1 million—an increase of \$5.0 million or 0.6% compared to FY 2009.

- Increases funding for **LIHEAP** from \$2.32 billion to \$5.1 billion—an increase of \$2.78 billion or 119.8% compared to FY 2009. This funding increase comes on top of \$2.8 billion of emergency-designated spending for the Low Income Home 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.
- Decreases funding for **the Centers for Disease Control and Prevention (CDC)** from \$6.95 billion to \$6.74 billion—a decrease of \$211.9 million or 3.0% compared to FY 2009.
- Increases funding for the **Health Resources and Services Administration (HRSA)** from \$7.36 billion to \$7.6 billion—an increase of \$243 million or 3.3% compared to FY 2009.
- Increases funding for the **Ryan White AIDS program** from \$2.21 billion to \$2.29 billion—an increase of \$52.9 million or 2.3% compared to FY 2009.
- **SMART Grant Program:** The bill delays \$561 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.
- **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. The conference agreement, however, strips these restrictions and instead allows the exchanges to occur anywhere unless local public health or law enforcement agencies determine an area to be inappropriate.
- **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.

Division E—Military-Construction-Veterans:

- **Advance Appropriations:** Includes \$48.2 billion of FY 2011 advance appropriations for Veterans Health Administration. No advance appropriations were provided for this purpose in the FY 2009 enacted legislation, and no advance appropriations were requested for this purpose in the President’s budget.
- **American Steel:** Prohibits funds in the bill from being used “for the procurement of steel for any construction project or activity for which American steel, producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.”
- **Property Taxes in Foreign Nations:** Prohibits funds from being used for military construction or family housing during the current fiscal year to pay for real property taxes in any foreign nation.

- **E-Commerce:** “Encourages” departments and agencies funded by the bill to expand the use of E-Commerce technologies for business practices and public service activities.

Division F—State, Foreign Operations:

- Increases funds for **international peacekeeping** from \$1.51 billion to \$2.13 billion—an increase of \$608.0 million or 40.8% compared to FY 2009. This is on top of \$871.3 million of FY 2009 emergency-designated spending.
- Increases contributions to **foreign organizations** from \$1.53 billion to \$1.68 billion—an increase of \$153 million or 10.0% over FY 2009.
- **Military Assistance to Israel:** \$2.22 billion—\$160 million or 7.2% below last year’s funding level, and \$555 million or 23.3% below the request. *However*, the funding level is equivalent to \$2.775 billion (the same as the request) when the \$555 million for military assistance to Israel included in the FY 2009 Supplemental Appropriations Act is taken into account.
- Provides \$17 million for the [International Fund for Ireland](#)—an increase of \$2 million or 13.3% compared to FY 2009. This program provides aid to the second richest country in the world (\$43,600 per capita GDP). The President requested no funding for this program.
- **Report on Transfer and Release of Guantanamo Bay Detainees:** Requires the Secretary of State to report in writing to Congress within five days when any agreement is concluded with any country that will receive, by transfer or release, Guantanamo Bay detainees.
- **Mexico City Policy:** While the legislation does not statutorily repeal a ban on providing funding for U.S. foreign aid for organizations that perform or promote abortion services, the legislation still does not expressly prohibit the Obama Administration from directing funding to overseas organizations that provide and promote abortion. The legislation increases funding for international family planning activities by \$103 million over FY 2009 for at total of \$648.5 million in FY 2010. The Mexico City policy is named for the city where President Reagan announced a ban on population aid for any foreign organization involved in abortion activities.
- **Iran:** The bill prohibits the Export-Import Bank of the United States to authorize any new guarantee, insurance, or extension of credit to any energy producer that export refined petroleum to Iran. Within 90 Days of the Act, the Secretary of State must submit a report to Congress on the status of the bilateral and multilateral efforts aimed at curtailing the pursuit by Iran of nuclear weapons technology. Sixty percent of the funding for assistance to the Russian Federation appropriated from the Assistance for Europe, Eurasia and Central Asia account will be with held until the President can certify Russia has terminated arrangements to provide Iran with technical expertise on nuclear and ballistic missile programs and allows international access to aide Chechnya refugees.

Democrat Inconsistency Alert!

--“*But we can’t keep spending good money after bad.*” -**President Obama**, March 4, 2009

--This legislation increases spending by \$49.7 billion or 12.5% compared to last year, and \$87.7 billion or 24.4% more than FY 2008. The legislation makes no hard choices, and provides increases for all six bills within it, with increases ranging from 6.6% to 33.3% (compared to FY 2009). This is at the same time that the country is running record-setting deficits.

Potential Conservative Concerns: Conservatives may have various concerns with H.R. 3288, mainly because of what the bill is not:

It's not a "minibus". "Mini" implies small, and this bill is anything but small. It's 1,085 pages of jaw-dropping spending increases. At a grand total of \$446.8 billion, this bill contains an overall 12.5% increase over FY2009 (for the same items funded by today's bill) and an overall 24.4% increase over FY2008. The spending levels under which the relevant federal agencies were operating just about 15 months ago! Plus spending for State-Foreign Ops items is up 48.8% over FY2008, spending for Transportation and Housing items is up 39.1% over FY2008, and spending for Commerce-Justice-Science is up 24.3% over FY2008.

It's not an "omnibus". This bill is not an omnibus either, not only because five stand-alone appropriations bills have already been signed into law, but more importantly because the Democrats are once again [using American military servicemembers as pawns for their leftist agenda](#). The Defense Appropriations bill has been deliberately omitted from this multibus in order to use it as a giant Christmas tree next week--onto which they'll attach a massive debt limit increase ("necessary" because of reckless, runaway spending for the last three years while revenues have plummeted), as well as various additional items that will be pitched as helping to create jobs, but that anyone who has taken an Economics 101 class knows will do nothing of the sort.

It's not family-friendly. Values issues get bludgeoned in this legislation. For example, the bill allows the DC government to fund abortions and needle exchanges using public dollars, phases out the DC school voucher program, eliminates funding for abstinence education, and increases international family planning funding by nearly 20% over last year and allows these funds to freely flow to organizations that promote and perform abortions. The list goes on....

It's not protective of free political speech. The bill does not contain the FY2008 ban on federal funds being used for the enforcement or implementation of the so-called Fairness Doctrine.

It's not earmark-free. There are 5,224 earmarks in this bill, worth a total of \$3.8 billion, according to a preliminary analysis by Taxpayers for Common Sense.

It's not the end of an open process. Don't forget that the vast, vast, vast majority of amendments submitted to the various appropriations bills earlier in the year were not made in order (not to mention all the amendments that Members did not get a chance to even offer because they thought of them after the respective Rules Committee deadlines). Not a single one of the appropriations bills was considered under an open rule, in gross violation of centuries of House precedent. To cap it all off, the text of this multibus was made available online just about 36 hours before House floor consideration--half the time the Democrats had supposedly promised they'd give for major legislation.

Outside Groups Urging a "No" Vote: At least the following groups are opposing the multibus (* = known to be scoring as of press time): American Conservative Union, Americans United for Life, Club for Growth*, Council for Citizens Against Government Waste (CCAGW)*, Concerned Women for America*, Family Research Council*, Focus on the Family*, Freedomworks*, National Right to Life Committee*, National Taxpayers Union*, and the US Conference of Catholic Bishops

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