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Legislative Bulletin.....December 1, 2010

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H.J.Res. 101—Making further continuing appropriations for fiscal year 2011

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(Obey, D-WI)**

Key Conservative Concerns
Take-Away Points

- Too High of a Spending Level:** The legislation provides spending authority through December 18, 2010 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 the House Democrats' FY 2011 spending plan exceeding 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.

For more details, see below.

Order of Business: The legislation is scheduled to be considered on Wednesday, December 1, 2010 under a closed rule. The rule provides 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations, and waives all points of order against consideration of the joint resolution except those arising under clause 9 or 10 of rule XXI (the earmark rule and PAYGO).

Summary: The legislation extends the current continuing resolution, otherwise set to expire on December 3, 2010, through December 18, 2010. The continuing resolution is generally set at FY 2010 funding levels. 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 date of the continuing resolution;
- 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 the date of the continuing resolution.

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 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 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.

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.

Background: Two months into FY 2011, 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 this second continuing resolution to keep the federal government running. 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. For more information, see [here](#).

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

Bill	RSC Plan	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: The legislation has not been considered by any committee.

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 for the period covering December 3, 2010-December 18, 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 an extension of 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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