



House Amendment to the Senate Amendment to H.R. 2028: Further Continuing and Security Assistance Appropriations Act, 2017 (Rep. Rogers, R-KY)

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FLOOR SCHEDULE:

The House Amendment to the Senate Amendment to H.R. 2028 (the Continuing Resolution) is expected to be considered on December 8, 2016 under a [rule](#).

TOPLINE SUMMARY:

[The House Amendment to the Senate Amendment to H.R. 2028](#), the Continuing Resolution (CR), would provide continuing appropriations through April 28, 2017, make several changes to current policy through anomalies, and include supplemental appropriations for Overseas Contingency Operations (OCO and for disaster relief efforts.

COST:

A report from the Congressional Budget Office (CBO) is not available at this time.

According to the House Appropriations Committee, the CR includes a total of \$1.070 trillion in base discretionary appropriations that are subject to statutory spending caps.

The CR would provide base Defense spending *below* the FY 2017 cap established by the [Bipartisan Budget Act of 2015 \(BBA15\)](#). The CR would provide base Non-Defense spending *above* the FY 2017 cap established by the [Bipartisan Budget Act of 2015 \(BBA15\)](#). Section 184 of the bill would delay the enforcement of spending caps through the term of the CR. This will allow for Non-Defense Discretionary spending to exceed its statutory limit for a majority of the current fiscal year.

The bill additionally includes significant appropriations that are exempt from the discretionary spending limits and will increase total federal spending. However, without CBO analysis or additional information from the Appropriations Committee, RSC is unable to provide an accurate estimate of how large this increase in spending will be.

CONSERVATIVE CONCERNS:

Spending Levels: Some conservatives may be concerned that the bill would appropriate funding at the higher spending levels authorized by the [Bipartisan Budget Act of 2015](#) that was only supported by [79 House Republicans](#).

Gutting Budget Control Act Enforcement: Some conservatives may be concerned that the bill would include a provision delaying the enforcement of spending caps enacted under the Budget Control Act of 2011 through the term of the CR. This will allow for Non-Defense Discretionary spending to exceed its statutory limit for a majority of the current fiscal year, and will likely increase pressure to allow for higher levels of such spending for the full year and in the future.

Hurting National Security: Some conservatives may be concerned that the CR would provide base funding for National Defense that is less than the spending level called for under the [Bipartisan Budget Act of 2015](#) for FY 2017. At the same time, the CR would allow funding above the Non-Defense cap.

Non-Offset Funding: Some conservatives may be concerned that the bill would include billions in new funding above the discretionary spending caps without being fully offset.

Miners' Health Insolvency: Some conservatives may be concerned that the bill would shift long-term funds for UMWA retiree health benefits to cover a four-month shortfall in funding immediate health care costs. This will result in the more rapid insolvency in the full program, potentially creating the need for a federal bailout.

Planned Parenthood Funding: Some conservatives may be concerned this CR would provide millions of dollars in discretionary Title X family planning funding and would fail to prevent Planned Parenthood from accessing hundreds of millions of dollars in mandatory Medicaid reimbursements.

CHIMPS: Some conservatives may be concerned that the bill relies on “changes in mandatory programs” (CHIMPS) to meet the spending level. Because of the CBO scoring conventions, an appropriations bill can offset increases in discretionary spending if it reduces mandatory spending in the first year of the budget window. These CHIMPS are often just gimmicks that shift the timing of mandatory spending, and allow increases in discretionary spending year after year using the same “offset” over and over.

Continues to Allow Thousands of Refugees From Areas Infiltrated by Terrorism Without Vetting: Some conservatives may be concerned that bill does not include a [house-passed provision](#) that would require the administration to thoroughly vet any refugee prior to the refugee being admitted into the United States. The bill also includes authority for the incoming administration to significantly increase funding for refugee resettlement operations at HHS.

Amnesty Funding: Some conservatives may be concerned that this CR would continue to allow President Obama's illegal executive amnesty actions to be carried out.

Iran: Some conservatives may be concerned that this CR would continue to allow President Obama to allow funds to flow to Iran.

Obamacare: Some conservatives may be concerned that this CR would continue to allow funding for Obamacare.

- **Expand the Size and Scope of the Federal Government?** Yes, this bill would increase spending

overall, and allow for spending above the statutory caps established by the Budget Control Act of 2011.

▪ **Encroach into State or Local Authority?** Some conservatives may believe that many of the programs and activities funded under this CR would be more appropriately handled by state and local governments, or the private sector.

▪ **Delegate Any Legislative Authority to the Executive Branch?** Some conservatives may believe that continuing resolutions delegate power to the Executive Branch.

▪ **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No, according to the [Senate Appropriations Committee](#).

DETAILED SUMMARY AND ANALYSIS:

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CONTINUING RESOLUTION

Duration: The CR would provide funding for federal agencies from December 9, 2016, until April 28, 2017 (141 days). If the government stays funded by the CR for the entire duration, the federal government will have been operating under a CR for a total of 210 days, 58 percent of the fiscal year.

Continuation of Current Policies: The CR would generally continue the current policies contained in the [FY 2016 Consolidated Appropriations Act \(Omnibus\)](#) that was signed into law last December.

The CR would prohibit the use of funds to initiate or resume any project for which funds were not available in FY 2016, and prohibit the Department of Defense from starting new programs, entering into multi-year contracts, or increasing production rates.

Anomalies:

Continuing Resolutions often include a number of changes in policy called “anomalies” and reauthorizations of expiring programs. The Obama administration requested dozens of [anomalies](#) and [authorizations](#) to be included in the government funding bill.

The CR would generally continue all the anomalies that were included in the [CR that was enacted in September](#). The CR would amend the September CR to add new sections described below:

Agricultural Credit Insurance Fund Program Account: Sec. 146 would provide funding at a rate of operations necessary for the Agricultural Credit Insurance Fund Program to fund approved loans.

Summer Electronic Benefit Transfer Demonstration Projects: Sec. 147 would allow funding at a rate of operations necessary for the Summer Electronic Benefit Transfer for Children (Summer EBT) Demonstration Projects. The [administration requested](#) a similar anomaly.

Child Nutrition Information Clearinghouse: Sec. 148 would allow continued funding for the Child Nutrition Information Clearinghouse, which provides information to nongovernmental groups that assist low-income individuals. The [administration requested](#) a similar anomaly.

Rural Telecommunications Loans: Sec. 149 would allow USDA to transfer funds to make more subsidized loans. The [administration requested](#) a similar anomaly.

Guaranteed Multi-Family Housing Loan Program: Sec. 150 would provide funding at a rate of operations necessary for approved loans for the Guaranteed Multi-Family Housing Loan Program.

Weather Satellite Acquisition: Sec. 151 would allow funding at a rate of operations necessary to maintain the planned launch schedules for the Joint Polar Satellite System (JPSS-1 and JPSS-2) weather satellites. The [administration requested](#) a similar anomaly.

Periodic Censuses and Programs: Sec. 152 would provide funding at a rate of operations necessary to meet statutory deadlines regarding the 2020 Census. The [administration requested](#) a similar anomaly.

Exploration Systems Development: Sec. 153 would allow funding for NASA at a rate of operations necessary to maintain schedules for the Space Launch System launch vehicle, exploration ground systems, and Orion Multi-Purpose Crew Vehicle. The [administration requested](#) a similar anomaly.

State and Local Law Enforcement Assistance: Sec. 154 would provide an additional \$7 million for the Edward Byrne Memorial Justice Assistance Grant program for reimbursement for overtime costs of state and local law enforcement for security related to the President-Elect until the Inauguration.

Ohio Replacement Submarine: Sec. 155 would provide a rate of operations of \$773 million for the Ohio Replacement program, which funds the development of the next generation of nuclear missile submarines. The [administration requested](#) a similar anomaly.

Multiyear Procurement Authority for AH-64E Attack Helicopter: Sec. 156 would authorize the Department of Defense to enter into contracts for multiyear procurements for AH-64E Apache Helicopters. The [administration requested](#) a similar anomaly.

KC-46A Tanker: Sec. 157 would allow funding at a rate of operations necessary to support the production rate specified in the President's Budget for the KC-46A Tanker. The [administration requested](#) a similar anomaly.

Weapons Activities Section 301(d) Waiver: Sec. 158 would allow the Department of Energy to allocate funding for Weapons Activities as it deems necessary during the period covered by the CR. The [administration requested](#) a similar anomaly.

Strategic Petroleum Reserve Drawdown: Sec. 159 would require the Secretary of Energy to sell \$375 million of crude oil from the Strategic Petroleum Reserve (SPR) in FY 2017. The bill would specify that the proceeds be deposited in the Energy Security and Infrastructure Modernization Fund and be made available for the Life Extension II project for the Strategic Petroleum Reserve. Some conservatives may be concerned by the now frequent and substantial drawdowns authorized in recent acts of Congress.

Uranium Enrichment Decontamination and Decommissioning Fund: Sec. 160 would provide for the Uranium Enrichment Decontamination and Decommissioning Fund at a rate of \$767 million. This funding increase would prevent a disruption of activities at the Portsmouth Gaseous Diffusion plant.

Former President's Pension: Sec. 161 would provide for President Obama's pension at a rate of \$157,000. The [administration requested](#) a similar anomaly.

SOAR Act: Sec. 162 would address unobligated funds which have remained from previous fiscal years for the D.C. Opportunity Scholarship Program. Created under President Bush, this program provides scholarships to low-income families in Washington, D.C. to help offset the costs of private schooling. This bill would allow eligible entities to use remaining funds to provide additional scholarships. These amounts are to remain available until expended

Homeland Security Operations: Sec. 163 would allow Homeland Security elements, including ICE, USCBP, TSA, and the Secret Service to be funded at a rate for operations necessary to sustain staffing levels and operations for ensuring border security and fulfilling enforcement priorities. The [administration requested](#) a similar anomaly.

National Gallery of Art: Sec. 164 would provide the National Gallery of Art at a rate for operations necessary to maintain recently opened galleries. The [administration requested](#) a similar anomaly.

Smithsonian Institution: Sec. 165 would provide the Smithsonian Institution at a rate for operations necessary to support at the National Museum of African American History and Culture (NMAAHC). The [administration requested](#) a similar anomaly.

Indian Health Services and Facilities: Sec. 166 would allow funding at a rate of operations necessary to support newly constructed Indian Health facilities.

Miners' Health Benefits: Sec. 167 would direct \$47 million currently set aside for the United Mine Workers of America (UMWA) to pay long-term health care benefits to cover the immediate four-month shortfall. This transfer of funds would cover benefits through April 30, 2017, and would completely decimate their health plan account leaving no money at the end of the four-month period. While the Congressional Budget Office estimates this section would save \$2 million since shoring up the fund would prevent UMWA pension plan enrollees from obtaining services in Medicare and Medicaid, it does not take into account the cliff Congress will face at the end of April when it is forced to bail out the health plan since it was depleted. This provision is short sighted and does nothing to address the root causes of why pension plans across America are failing.

The UMWA pension plan is massively underfunded, with an estimated \$5.6 billion in payments it won't be able to pay. A shrinking workforce of dues-paying members coupled with rising retiree health costs has drained the pension account. This multiemployer pension plan is not unique. The Pension Benefit Guaranty Corporation (PBGC) reported 96 percent of multiemployer plans have promised over \$600 billion more in benefits than they can pay.

Federal Employees' Compensation Act Compound Prescription Drug Action Plan: Sec. 168 would increase the rate of operations for the cost of the Special Benefits appropriation from funds already collected from the fair share entities to pay a portion of the cost of administration of the Federal Employees' Compensation Act (FECA) related to compound prescription drug fraud. The [administration requested](#) a similar anomaly.

Account Maintenance Fees Extension: Sec. 169 would continue to make account maintenance fee payments to guarantee agencies under the Federal Family Education Loan program in FY 2017.

Office of Refugee Resettlement: Sec. 170 would allow the Secretary of the Health and Human Services to transfer up to \$300 million for the Refugee and Entrant Assistance account for [assisting](#) unaccompanied alien children from the [Nonrecurring expenses fund](#) (a slush fund that allows HHS to use expired funds on a variety of uses). These transferred funds would be prohibited from being obligated prior to February 1, 2017.

After March 1, 2017, if the Secretary of HHS in consultation with the Secretary of Homeland Security, determines that the number of unaccompanied alien children is has increased by at least 40 percent above last year, the CR would provide an additional \$200 million for Refugee and Entrant Assistance.

This section would also rescind \$100 million of the unobligated balances of the Nonrecurring expenses fund.

The House FY 2017 [Labor, Health and Human Services Appropriations](#) bill would provide \$1.7 billion for the Office of Refugee Resettlement, equal to the enacted FY 2016 level.

The [administration requested](#) a similar anomaly.

Obamacare Slush Fund: Sec. 171 would continue allocations of the Obamacare Prevention and Public Health Fund in FY 2017 and reduce the amount transferred to the CDC by \$1 million.

Social Security Administration (SSA) Administrative Expenses: Sec. 172 would make an additional \$150 million available to the SSA for activities to address the hearing backlog of Disability Insurance claims. In FY 2016, these funds were allocated to construction of the SSA headquarters. As of March 2015, the SSA faced a backlog of about 1 million claims awaiting a decision, according to the [SSA Office of Inspector General](#). The [administration requested](#) a similar anomaly.

Temporary Assistance for Needy Families (TANF) Extension: Sec. 173 would continue the TANF program.

Cancer Clusters: Sec. 174 would authorize the Secretary of Health and Human Service to use discretionary appropriations to carry out a [section of the Public Health Service Act](#) related to the designation and investigation of potential cancer clusters. This would allow for implementation of Trevor's Law.

Members Pay Increases: Sec. 175 would prohibit a cost of living increase for Members of Congress in FY 2017.

O'Neil Building: Sec. 176 would transfer the O'Neil Office Building to the House of Representatives and provide authority to lease portions of it to other federal agencies.

Senate in the 115th Congress: Sec. 177 would provide for certain Senate minority leadership offices and staff in the 115th Congress.

Senate National Security Working Group: Sec. 178 would extend the Senate National Security Working Group through 2018.

Senate Consideration of Legislation regarding the Nomination of the Secretary of Defense: Sec. 179 would establish an expedited process in the Senate for the consideration of a bill that would provide a an exception to the limitation against the appointment of persons as Secretary of Defense within seven years of relief from active duty as a regular commissioned officer of the Armed Forces. This expedited process would still require a 60-vote threshold for confirmation of such an individual, but would ensure

that such a vote only occurs on the merits of the appointment and limits the amount of debate time preceding such a vote.

[10 USC 113\(a\)](#) provides that “A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force”. President-Elect Trump has [announced](#) his intention to nominate retired Marine Corps Gen. James Mattis as Secretary of Defense. General Mattis left active duty in 2013.

Hours of Service Rule: Sec. 180 would modify the provision in the FY 2016 Omnibus related to the Department of Transportation’s Hours of Service rule so that it would implement the previous rules that were in effect in 2013 if a report on the Obama administration’s new rule fail to meet statutory requirements. This would correct an oversight in a rider included in the FY16 omnibus preventing the Obama administration’s new rule from going into effect, but that failed to state that the previously existing rule would then be enforced.

Federal Aviation Administration: Sec. 181 would provide funding flexibility and provide additional funding for the FAA to avoid disruption of ongoing activities.

Merchant Marine Academy: Sec. 182 would allow the Merchant Marine Academy to use appropriations for sea training programs for midshipmen. The [administration requested](#) a similar anomaly.

Tribal HUD-Veterans Affairs Supportive Housing: Sec. 183 would provide funding flexibility to renew grants for rental assistance and administrative costs. The [administration requested](#) a similar anomaly.

Gutting Enforcement of the Non-Defense Discretionary Spending Cap: Sec. 184 would delay the issuance of a final sequestration report for FY 2017 until 15 days after the end of the CR (May 13, 2017), rather than 15 days after the end of the Congressional session, if the OMB determines that the enacted regular appropriations would not exceed a combined total of \$1.07 trillion. **This provision would have the effect of eliminating enforcement of the discretionary spending limits during the length of the CR and allowing Non-Defense spending above the legal limit.**

The Budget Control Act (BCA) established caps on Defense and Non-Defense categories of discretionary spending. These caps were raised by the Bipartisan Budget Act of 2015 (BBA15) to a total of \$1.070 trillion for Fiscal Year 2017. The Office of Management and Budget (OMB) is charged with enforcing the caps starting 15 days after the adjournment of a session of Congress through a sequestration order. It is important to note that the law requires OMB to evaluate the Non-Defense and Defense caps separately, not on a combined basis. If Congress spends more than one of these caps, then OMB’s sequestration will reduce most discretionary spending accounts only within the category by a percentage necessary to get the total level of spending within the category back down to the applicable spending cap. Additional background on the enforcement of the discretionary spending caps through the sequestration process can be found from CRS [here](#).

The CR provides funding for Non-Defense discretionary at a rate above the \$518.531 billion cap for Non-Defense discretionary established by the BBA15.

If this provision is enacted into law, it would allow Non-Defense discretionary spending to be funded above the legal level for more than half the Fiscal Year. This will give leverage to efforts to continue increased Non-Defense spending not only in FY 2017, and also to increase the Non-Defense spending caps in FY 2018 and beyond.

Under the current-law sequester mechanism, Congress could correct a sequestration order issued by the OMB simply by enacting a cap-compliant full-year appropriations bill in April. This is in contrast to the

higher spending allowed by the delay, which would likely never be reversed. Alternatively, Congress could also specify funding levels in the CR for each category that are cap-compliant.

The [administration requested](#) a similar anomaly.

Funding for Flooding and Other Disasters: The CR would provide a total of \$4.1 billion in additional funding to respond to flooding and other recent natural disasters. These funds are designated as for emergency or for disaster relief purposes, exempting them from the discretionary spending caps.

Sec. 185 would provide an additional \$103 million for the Emergency Watershed Protection Program and \$103 million for the 'Emergency Conservation program. These funds are designated as an emergency.

Sec. 186 would provide an additional \$75 million for NASA repairs to facilities damaged by Hurricane Matthew. These funds are designated as an emergency.

Sec. 187 would provide an additional \$55 million to the Army Corps for Construction. These funds are designated as an emergency.

Sec. 188 would provide an additional \$291 million to the Army Corps for Mississippi River and Tributaries. These funds are designated as an emergency.

Sec. 189 would provide an additional \$260 million to the Army Corps for Operations and Maintenance. These funds are designated as an emergency.

Sec. 190 would provide an additional \$420 million for the Army Corps for Flood Control and Coastal Emergencies. These funds are designated as an emergency.

Sec. 191 would provide an additional \$1.004 billion for the Federal Highway Emergency Relief program. These funds are designated as an emergency.

Sec. 192 would provide an additional \$1.809 billion for the Community Development Block Grant program. Of this total, \$1.4 billion is designated as for disaster relief and \$393 million is designated as an emergency. The [House Republican Budget](#) proposed elimination of the Community Development Block Grant program. The [RSC Budget](#) also proposed elimination of the CDBG, stating that "this program has been unauthorized (yet still funded) for decades and is a prime example of the federal government's difficulty prioritizing local programs. CDBG has paid for programs as diverse as doggie daycare, a local circus, and decorative sidewalks in an affluent suburb."

H.R. 5325, the [September CR](#), included an additional \$500 million for the [Community Development Block Grant \(CDBG\)](#) program as a response to floods and other natural disasters. The funds are meant to be allocated to "the most impacted and distressed areas resulting from a [major disaster declared in 2016](#), and which the disaster occurred prior to the date of enactment of this Act, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act", and awarded to state and local governments. These funds were designated as disaster relief, exempting them from the discretionary spending caps established by the Budget Control Act (BCA). The funds are available for obligation until expended. According to the [CBO](#), only \$10 million is actually projected to be spent in FY 2017. The entirety of these disaster funds are not projected to be spent until FY 2023.

On October 16, 2016, the [Department of Housing and Urban Development \(HUD\) announced](#) that it was awarding \$437.8 million of these emergency funds to Louisiana, \$45.2 million to Texas, and \$17 million to West Virginia.

On September 12, 2016, the Louisiana Congressional Delegation [wrote to President Obama](#) urging him to request supplemental appropriations request to Congress for flood relief after floods in August 2016. Also on September 12, Louisiana Governor John Edwards wrote to President Obama [requesting \\$2.8 billion](#) in federal assistance. On September 13, 2016, the OMB Director Shaun Donovan wrote to the Congress to [request \\$2.6 billion](#) in additional emergency funding for the Community Development Block Grant (CDBG). On September 14, 2016, the West Virginia Congressional Delegation [wrote to President Obama](#) urging him to include a supplemental appropriations request for West Virginia flood relief after floods in June 2016, and supporting West Virginia Governor Earl Ray Tomblin's request for \$310 million in Community Development Block Grant funding. On September 12, part of the Texas Congressional Delegation [wrote to Speaker Paul Ryan](#) to request at least \$589 million in supplemental appropriations to respond to flooding and storms in Texas over the last two years.

After the \$3.7 billion in requests from states in September, and the \$500 million in funding provided in the CR, that leaves \$3.2 billion in outstanding unfunded requests from states. The Obama administration has [urged Congress](#) to provide additional funding in the lame duck and [Republican Whip Steve Scalise](#) has called the \$500 million a "down payment."

In October, Hurricane Matthew made landfall in South Carolina, causing [disaster declarations](#) in Florida, Georgia, South Carolina, and North Carolina. Part of Florida's Congressional Delegation [wrote to President Obama](#) on November 1, to urge him to submit an emergency funding request to Congress. North Carolina Governor Pat McCrory wrote to the North Carolina Congressional delegation on November 28, 2016, to request \$586 million to respond to Hurricane Matthew.

The Budget Control Act (BCA) allows for spending above the normal discretionary spending caps for [disaster relief activities](#) carried out under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. These activities are primarily funded by appropriations to Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF).

The amount of appropriations that is permitted to be designated as cap-exempt disaster funding each year is calculated by an average of the last ten years of actual disaster spending (exempting the highest and lowest amounts). If any amount from the average calculated in the previous year is unused, then it can be applied to the next year's amount. As of [November 30, 2016](#), the Disaster Relief Fund had a balance of \$6.82 billion. On November 3, a [spokesman for FEMA](#) said "the Disaster Relief Fund remains adequately funded to support FEMA-related aid to states affected by Hurricane Matthew."

A recent [CBO report](#) found that Congress has enacted over \$1.1 trillion in supplemental appropriations since FY 2000.

Appropriations for Programs Authorized by the 21st Century Cures Act: The CR would provide total appropriations of \$872 million pursuant to authorizations in [H.R. 34, the 21st Century Cures Act](#). The Cures Act directs that the discretionary spending for these purposes are not to be scored by the CBO at the time of the appropriation. This means that the \$872 million in discretionary spending would be exempt from all budgetary enforcement, including the Budget Control Act (BCA) caps.

Sec. 193 would provide an additional \$20 million for the FDA Innovation Account.

Sec. 194 would provide an additional \$352 million for the NIH Innovation Account.

Sec. 195 would provide an additional \$500 million for the State Response to the Opioid Abuse Crisis.

Lead in Drinking Water Appropriations Pursuant to the Water and Waste Act of 2016: The CR would provide a total of \$170 million in appropriations for programs that would be authorized by the Water and Waste Act of 2016 (Title II of [S. 612, the Water Infrastructure Improvements for the Nation \(WIIN\) Act](#),

which will be considered by the House on December 8, 2016). These programs are meant to address the issue of lead in drinking water in Flint, Michigan, and other communities.

Sec. 196 would provide an additional \$100 million for additional capitalization grants to Drinking Water State Revolving Funds. These funds are for public water systems that are located in a state where the president has declared an emergency under Stafford Disaster Relief and Emergency Assistance Act as a result of the presence of lead or other contaminants in the eligible system. Only [one disaster](#) has been declared due to contaminated water, in Flint, Michigan.

Sec. 197 would provide an additional \$20 million for the Water Infrastructure Finance and Innovation Act.

Sec. 198 would provide an additional \$20 million for the Registry for Lead Exposure and Advisory Committee.

Sec. 199 would provide an additional \$15 million for childhood lead poisoning prevention programs.

Sec. 200 would provide an additional \$15 million for the Healthy Start Initiative.

CHIP Rescission: Sec. 201 would rescind \$170 million from the [Children's Health Insurance Program \(CHIP\)](#). This rescission is a change in mandatory program (CHIMP) that is often included in appropriations bills. Because of the CBO scoring conventions, an appropriations bill can offset increases in discretionary spending if it reduces mandatory spending in the first year of the budget window. These CHIMPS are often just gimmicks that shift the timing of mandatory spending, and allow increases in discretionary spending year after year using the same "offset" over and over.

Division B—Security Assistance Appropriations Act, 2017

The bill includes a total of \$9.1 billion in supplemental appropriations that are designated as Overseas Contingency Operations (OCO), exempting them from the discretionary spending caps.

The bill includes \$5.8 billion in supplemental OCO appropriations for the Department of Defense. These supplemental funds are in addition to the Defense OCO funds provided by the CR. This funding level is below the authorized Defense OCO level included in the [FY 2017 NDAA](#).

The bill includes \$4.8 billion in supplemental OCO appropriations for the Department of State and USAID. These supplemental funds are in addition to the Non-Defense OCO funds provided by the CR.

The [Bipartisan Budget Act of 2015](#) (BBA 2015) increased the maximum amount permitted for base defense discretionary spending to \$551.068 billion in FY 2017, an increase of \$15 billion above the amount that would have been permitted under the Budget Control Act of 2011. For the first time, the law [also set](#) the level at which cap-exempt Overseas Contingency Operations (OCO) accounts for defense purposes were to be funded at \$58.789 billion in FY 2017 and Non-Defense OCO for the State Department at \$14.895 billion.

If Defense OCO funding is shifted to base purposes, it is likely the BBA 2015 OCO level will be insufficient to meet actual war funding needs through the end of FY 2017. The [FY 2017 National Defense Authorization Act \(NDAA\)](#) and the [FY 2017 Defense Appropriations bills](#) included \$58.8 billion in total funding for Defense OCO. Of these OCO totals, the NDAA provided \$23.1 billion for base purposes and the appropriations bill provides \$15.7 billion for base purposes, leaving \$35.7 billion and \$43 billion, respectively, for actual OCO operations. This level of funding would support OCO requirements until about the end of [April 2017](#). At that time a supplemental appropriation would be required to further support ongoing OCO operations. The [FY 2017 State Department Appropriations bill](#) included \$14.9 billion in Non-Defense OCO funding.

The President's Budget request would shift [\\$5 billion](#) of Defense OCO funding to base purposes. An [amendment](#) to the Senate's NDAA to increase OCO funding by \$18 billion for base purposes failed to clear a 60-vote threshold in June. The [Senate Defense Appropriation](#) bill would provide \$15 billion in OCO funding for base purposes; the bill has been repeatedly filibustered by Senate Democrats.

Further exacerbating the potential shortfall is the president's decision to keep [2,900 additional troops in Afghanistan](#) and [560 more troops in Iraq](#). On November 10, 2016, the president submitted to Congress an [\\$11.6 billion request for supplemental appropriations](#). The request includes \$5.8 billion in additional Defense OCO funding for military operations in Afghanistan, Iraq, and Syria, as well as \$5.8 billion in additional Non-Defense OCO funding for State Department and USAID "efforts to implement the diplomatic engagement, governance, and stabilization components of the Administration's counter-ISIL strategy, strengthen embassy security, and respond to relief and recovery needs, as well as to provide additional humanitarian assistance for areas liberated from ISIL and other unforeseen needs."

In August, the White House [demanded](#) that "any increase in funding must be shared equally between defense and non-defense". In his request to Congress, President Obama states that "Consistent with last year's bipartisan budget agreement, these amendments would provide equal funding increases for defense and non-defense security programs." Given administration's focus on ensuring that the supplemental request is evenly divided between Defense and Non-Defense funding, some might believe that the administration's request is motivated by political purposes rather than the actual needs of the warfighters on the ground. In the past, increases in Non-Defense OCO [have been used](#) to shift activities from the base State Department budget into cap-exempt OCO, freeing up funds to be spent on other Non-Defense programs.

House Armed Services Committee Chairman Mac Thornberry [criticized the supplemental request](#) because "the amount still does not accommodate the increased pace of operations against ISIL and does nothing to begin addressing the readiness crisis."

The [FY 2017 NDAA Conference Report](#) would authorize appropriations of an additional \$9 billion in OCO funding above the BBA15 level.

COMMITTEE ACTION:

H.R. 2028 was originally introduced on April 24, 2015, as the FY 2016 Energy and Water Appropriations Act. H.R. 2028 passed the House on May 1, 2015.

In the Senate, the bill became the vehicle for the FY 2017 Energy and Water Appropriations bill. H.R. 2028 as amended passed the Senate on May 12, 2016.

The House Amendment to the Senate Amendment to H.R. 2028, the Further Continuing and Security Assistance Appropriations Act, 2017, was made publicly available on December 6, 2016.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

The original Constitutional Authority Statement for H.R. 2028 was: "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."

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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