



THE REPUBLICAN
STUDY COMMITTEE

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MIKE JOHNSON, CHAIRMAN

H.J. Res. 31 - Making Further Additional Continuing appropriations for the Department of Homeland Security for Fiscal Year 2019 (Rep. Lowey, D-NY)

FLOOR PROCEDURE:

The House is expected to consider H.J.Res. 31, a Continuing Resolution (“CR”) for the Department of Homeland Security, on January 24, 2019 under a closed [rule](#) that was adopted by the House on [January 23, 2019](#).

The rule waived all points of order against provisions in the bill as well as against consideration of the bill.

The rule provided suspension authority through February 1, 2019, and same day authority on bills providing government funding through January 30, 2019.

TOPLINE SUMMARY:

The [bill](#) would provide funding at FY 2018 levels for the Department of Homeland Security (DHS) through February 28, 2019.

Funding for the DHS and other departments and agencies not funded under previously enacted appropriations measures for FY 2019 lapsed on December 22, 2018 pursuant to the last enacted continuing resolution, [H.J.Res 143](#).

The bill would also provide back-pay for DHS employees affected by the funding lapse.

COST:

A Congressional Budget Office (CBO) cost estimate for the bill is not available.

However, according to a Congressional Budget Office (CBO) [cost estimate](#) for H.J.Res 1, which also would have provided continuing appropriations but only through February 8, 2019, on an *annualized basis* the bill would provide for a total of \$47.99 billion in base discretionary funding for the Department of Homeland Security. This includes \$2.06 billion for base defense and \$45.93 billion for base non-defense purposes. It also includes cap-exempt funding of \$163 million for Overseas Contingency Operations (OCO) and \$7.4 billion for Disaster Relief.

CONSERVATIVE CONCERNS:

Wall Funding

For the third week in a row, Speaker Pelosi will be forcing the House to vote on appropriations measures that have no realistic chance of becoming law. Many conservatives will view this bill as a waste of time by House Democratic Leadership because it was understood by House and Senate leadership that the Senate would not consider a government funding measure until it was agreed

to by the President, notwithstanding Senate Leader McConnell's weekend pledge to put President Trump's [January 19 wall-funding/DACA proposal](#) on the Senate floor (with extra spending and immigration components) in addition to a continuing resolution. The Trump Administration [voiced its support](#) for the Senate bill based on his proposal. The Trump Administration [opposes](#) H.J.Res. 31.

Conservative members may be concerned that House Democrats have been forcing separate consideration of various appropriations measures – CR's, Omnibuses, and individual appropriations bills – in an attempt to peel off Republican members from voting 'no.' Conservatives should be resolute in understanding that votes on these funding bills represent part of a cohesive position on the FY 2019 funding debate. To date, conservative members have been unwavering in this respect. On the other hand, House Homeland Security Committee Chairman Bennie Thompson (D-Miss) is reportedly planning to send a \$5.7 billion border security [proposal](#) to President Trump by the end of the week.

Many conservatives will be concerned that appropriations are being considered without an agreement in place to provide full-year funding for the Department of Homeland Security with additional funding for a southern border wall/barrier as requested by President Trump. Currently enacted but lapsed funding ([section 230 of the FY 2018 Omnibus](#)) for the Department of Homeland Security includes \$1.571 billion for fencing and border security technology along the southern border, of which about \$1.34 billion can be used for fencing. None of that funding can be used for construction of a President Trump wall according to restrictions of that section. House Republicans passed an amended continuing resolution on December 20, 2018 prior to the lapse in discretionary funding that would have fully funded the President's wall funding request.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Section 1. Continuing Appropriations for the Department of Homeland Security

The bill would provide funding at FY 2018 levels for the Department of Homeland Security (DHS) through February 28, 2019. Funding for the DHS and other departments and agencies not funded under previously enacted appropriations measures for FY 2019 lapsed on December 22, 2018 pursuant to the last enacted continuing resolution, [H.J.Res 143](#).

The bill would also extend through the same date certain "Immigration Extensions" provided in Title II of [Division M of the FY 2018 Omnibus](#),

Section 2. Back-pay for Employees of the Department of Homeland Security

The bill would provide back-pay for employees affected by the funding lapse. It would make available amounts appropriated under the bill to satisfy the mandatory back-pay provisions of S. 24, the Government Employee Fair Treatment Act of 2019. That bill created a mandatory funding stream for federal and DC employees to get back-pay in the event of any shutdown.

States and Federal grantees that spent their own funding to administer programs funded by the bill's appropriations would be reimbursed for those expenditures plus interest.

Further, if a State or Federal grantee furloughed employees whose compensation is advanced or reimbursed in whole or in part by the Federal Government, the bill would direct that such States be reimbursed for the cost of compensating furloughed employees during the lapse in federal funding. This applies only to employees working on DHS-related programs.

ADMINISTRATION POSITION:

According to a [Statement of Administration Policy](#) for the bill:

The Administration opposes H.R. 648, the Consolidated Appropriations Act, 2019, and H.J. Res. 31, making further continuing appropriations for the Department of Homeland Security for fiscal year 2019, and for other purposes.

The Administration is committed to working with the Congress to reopen agencies affected by lapsed appropriations, but any effort to do so must address the security and humanitarian crisis on our southern border and should restore funding for all agencies affected by the lapse.

For fiscal year 2019, the Administration has clearly and repeatedly communicated the requirements for border security, including through a recent letter from the Office of Management and Budget to the House and Senate Appropriations Committees on January 6, 2019.

Presenting these bills to the President without a broader agreement to address the border crisis is unacceptable. The Administration believes the package under consideration in the Senate—the End the Shutdown and Secure the Border Act—constitutes such an agreement, and supports its passage as quickly as possible.

The Administration looks forward to working with the Congress to enact appropriations legislation that adequately addresses the crisis on our southern border and reopens the Federal Government for the American people as soon as possible.

If H.R. 648 or H.J. Res. 31 were presented to the President, his advisors would recommend that he veto the bills.

CONSTITUTIONAL AUTHORITY:

According to the bill sponsor, “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.”

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