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September 24, 2008

Appropriations Policy Brief

H.R. 2638—The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act

BY THE NUMBERS:

In Millions of Dollars

| | FY08 | FY08 Bush Request | H.R. 2638 | H.R. 2638 v. Request | H.R. 2638 v. FY08 |
|---------------------|----------------|--------------------------|------------------|-----------------------------|--------------------------|
| Division C—Defense | 459,332 | 491,737 | 487,737 | -4,000 | 28,405 |
| Division D—Homeland | 37,562 | 37,662 | 40,070 | 2,408 | 2,516 |
| Division E—MilCon | 63,905 | 69,346 | 72,948 | 3,602 | 9,043 |
| TOTAL | 560,799 | 598,745 | 600,366 | 2,010 | 39,964 |

Excluding Emergency Appropriations, the three individual appropriations bills are:

- **\$2.0 billion or 0.3% more than the request**
- **\$40.0 billion or 7.1% more than last year**

Division A—CR: \$10.8 billion of total emergency-designated spending, including: \$2.8 billion increased LIHEAP spending, \$250 million for weatherization assistance, \$7.51 billion for loans to automakers, and \$198 million for the Filipino Veterans Equity Compensation Fund. The CR also includes higher spending rates for numerous programs.

Division B—Supplemental: \$22.9 billion of emergency-designated spending.

Spending Discussion: No CBO score is available, but according to the estimates above, it is possible that both the Homeland Security and Military Construction-Veterans bills exceed their respective 302(b) allocations. H.Res. 1488 protects the legislation from this point of order. The three regular appropriations bills exceed last year’s spending levels by \$40.0 billion, and the CR/supplemental includes a total of \$33.7 billion in new spending.

DIVISION A: FY 2009 CONTINUING RESOLUTION

Continuing Resolution through March 6th: The legislation enacts a continuing resolution for all twelve spending bills that fund the government through March 6, 2009. The formula used to determine spending levels is based on the non-emergency FY 2008 spending levels, with some exceptions noted below.

The CR counts FY 2008 emergency spending as part of the operating rate for the following programs:

- \$150 million for Food and Drug Administration (FDA) Salaries and Expenses, as provided in the Supplemental Appropriations Act of 2008 (PL 110-252).
- \$143.5 million for FBI, Salaries and Expenses, as provided by the FY 2008 omnibus (PL 110-161).
- \$110 million for the Department of Labor, Employment and Training Administration, as provided in the Supplemental Appropriations Act of 2008 (PL 110-252).
- \$272 million (out of the \$575 million provided by the FY 2008 omnibus) for Diplomatic and Consular Programs.
- \$76.7 million for Embassy Security as provided in the Supplemental Appropriations Act of 2008 (PL 110-252).

The CR specifies a different operating rate than non-emergency FY 2008 funding for several programs, including:

- WIC: \$6.7 billion, \$638 million or 9.6% above last year.
- Rental Service Program: \$997 million, \$524.3 million or 110.9% above last year.
- Department of Agriculture Commodity Assistance Program: \$234 million.
- Department of Commerce: \$2.906 billion for the Bureau of the Census—Periodic Censuses and Programs. This is a \$1.879 billion increase or 183% above last year.
- Bureau of Prison—Salaries and Expenses: \$5.4 billion.
- Federal Office of Detention Trustee: \$1.246 billion, \$20 million or 1.6% more than last year.
- GSA Presidential Transition Expenses: \$8.52 million
- Postal Rate Commission: \$14 million
- Postal Service, IG: \$233 million
- Corporation for National and Community Service: \$23.8 million
- Pell Grants: \$18.6 billion, \$2.5 billion or 15.5% above last year.
- Voting Rights Act Federal Observers: \$3.4 million
- IRS Taxpayer Services: \$67.9 million
- Executive Office of President, Email Restoration: \$5.7 million
- Presidential Transition Administrative Support: \$8 million
- DTV Transition: \$200 million for digital-to-analog converter box program.
- DC Emergency and Security Costs: \$15 million

Auto Loans: Appropriates \$7.51 billion for \$25 billion of direct loans to automakers (as authorized by section 136 of PL 110-140). Up to \$10 million of this amount may be used for administrative expenses related to carrying out the program. The CBO Director [estimates](#) that this loan program carries a cost of \$7.5 billion, the equivalent of a 30% subsidy cost, for two reasons. First, the program allows automakers to defer making payments on principal and interest for five years. Second, CBO notes that credit conditions for automakers have deteriorated.

LIHEAP: Appropriates \$5.1 billion for LIHEAP in FY 2009. The CR also includes language to *increase eligibility to individuals earning up to 75% of a state's median income*, as compared to the 60% under current law. The FY 2008 Consolidated Appropriations Act included \$2.57 billion for contingency funds (\$1.98 billion for regular funds and \$590 million for contingency funds), a funding level which exceeded the President's budget by \$788 million or 44.3%. From FY 2002 to FY 2008, LIHEAP funding increased by \$670 million or 37.2%.

Expiring Provisions: The CR extends a number of provisions in current law that are set to expire—so-called “anomalies.” These include the Appalachian Regional Commission, the E-Verify program, the EB-5 Investor Visa program, the flood insurance program, and the Trade Adjustment Assistance (TAA) program.

Other Provisions:

- Appropriates to the heirs of Rep. Stephanie Tubbs Jones \$169,300.
- Increases federal pay by 3.9%.
- Provides a \$250 million appropriation for Department of Energy weatherization assistance.
- Provide a \$198 million appropriation for Filipino Veterans Equity Compensation Fund.
- Provides an operating rate of \$8.76 billion for FAA operations.
- The CR **maintains** the current prohibition on the Federal Communications Commission implementing the Fairness Doctrine (federal speech prescriptions for broadcasters), or any other regulations having the same substance.

Victory for American Energy!

Key Take-Away: The Continuing Resolution includes a **huge victory** for the development of American energy by allowing the moratoria on oil and gas leasing on most of the Outer Continental Shelf and on oil shale leasing on federal lands to expire.

Background: The omnibus appropriations law for fiscal year 2008 (Public Law 110-161), under which we are currently operating (until midnight on October 1, 2008), includes moratoria on energy development on most of the Outer Continental Shelf and on oil shale throughout the American interior. The key sections are as follows:

Division F, Title IV: SEC. 433. None of the funds made available by this Act shall be used to prepare or publish final regulations regarding a commercial leasing program for oil shale resources on public lands pursuant to section 369(d) of the Energy Policy Act of 2005 (Public Law 109-58) or to conduct an oil shale lease sale pursuant to subsection 369(e) of such Act.

Division F, Title I: SEC. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

Division F, Title I: SEC. 105. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

The Eastern Gulf of Mexico is under moratoria until 2022, under the “Lease 181” law.

At midnight on October 1, 2008, because it’s the start of a new fiscal year, the provisions above will expire, and thus the current prohibitions on oil and gas leasing on most of the Outer Continental Shelf and on oil shale leasing on federal lands will expire, unless Congress takes affirmative action to the contrary.

Estimates from the Minerals Management Service and the Bureau of Land Management indicate that there are upwards of 18 billion barrels of recoverable crude oil on the currently off-limit areas of the Outer Continental Shelf, as well as more than 55 trillion cubic feet of natural gas. Estimates of American oil shale vary widely but range from the hundreds of billions of barrels to trillions of barrels of oil.

Taking advantage of American resources will increase the worldwide supply of petroleum and bring down prices at the pump. The very *access* to these resources will send powerful price-reduction signals to the futures markets, providing immediate price relief, even if the actual leasing does not commence for months.

What the CR Does on Energy: The CR specifies that the three provisions above will not be in effect under the CR—thus allowing the OCS and oil shale moratoria to expire. The Eastern Gulf moratorium would remain in effect. This section of the CR also notes that the expiration of these moratoria cannot be construed as amending the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or any other related law or regulation. In other words, this section restates the applicability of current law regarding public comment periods, environmental regulations, and other such hurdles. No changes to these current laws would be made, and the drilling restrictions passed by the House as part of the Comprehensive American Energy Security and Consumer Protection Act ([H.R. 6899](#)) on September 16, 2008, are NOT included.

American Energy Freedom Day: Earlier this month, RSC Chairman Jeb Hensarling (R-TX) and former RSC Chairman John Shadegg (R-AZ) sent a letter to House Democrat leadership, urging them to let the OCS and oil shale moratoria expire and encouraging the President to veto any legislation that failed to do so. If such moratoria are allowed to expire on October 1st as scheduled, then that day would be “American Energy Freedom Day,” a victory for all Americans and world energy markets.

If this energy section of the CR is signed into law, then American Energy Freedom Day would happen as scheduled.

To read the text of the letter and the 155 signatures of House Members (more than enough to sustain a presidential veto), go [here](#).

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Additional Background on CR: To date, none of the FY 2008 appropriations bills have been signed into law, and none have been sent to the President for approval. Only one of the twelve

bills (Military Construction-Veterans) has been considered by the full House. None of the appropriations bills have been considered on the Senate floor.

Without this continuing resolution, the portions of the federal government covered by any of the twelve appropriations bills could not operate past September 30, 2008.

The House Appropriations Committee approved 302(b) allocations for the twelve FY 2009 appropriations bills. Under this spending path, all twelve of the FY 2009 spending bills will exceed last year's level, and nine of the twelve would exceed the President's request.

House FY 2009 Appropriations Subcommittee 302(b) Allocations
In Millions of Dollars

| Bill | FY 08 | FY 09 Request | House 302(b) | Increase from FY 08 | % Increase from FY 08 |
|-----------------------|----------------|----------------|------------------|---------------------|-----------------------|
| Homeland Security | 37,562 | 37,662 | 39,900 | 2,338 | 6.2% |
| Military Construction | 63,905 | 69,346 | 72,729 | 8,824 | 13.8% |
| State-Foreign Ops | 32,800 | 38,220 | 36,620 | 3,820 | 11.6% |
| Legislative Branch | 3,970 | 4,751 | 4,404 | 434 | 10.9% |
| Interior | 26,555 | 25,762 | 27,867 | 1,312 | 4.9% |
| Financial Services | 20,849 | 22,240 | 22,390 | 1,541 | 7.4% |
| Energy and Water | 30,888 | 31,358 | 33,265 | 2,377 | 7.7% |
| Labor-HHS | 145,148 | 145,356 | 153,121 | 7,973 | 5.5% |
| THUD | 48,821 | 50,624 | 54,997 | 6,176 | 12.7% |
| CJS | 51,989 | 53,685 | 56,858 | 4,869 | 9.4% |
| Agriculture | 18,493 | 18,744 | 20,623 | 2,130 | 11.5% |
| Defense | 459,332 | 491,737 | 487,737 | 28,405 | 6.2% |
| <i>Total</i> | 940,312 | 991,620 | 1,012,686 | 72,374 | 7.7% |

The \$1.013 trillion overall spending level is \$24 billion more than the President's request (including \$3.3 billion of advance appropriations above the President's request) and \$72 billion or 7.7% above last year.

DIVISION B: FY 2008 SUPPLEMENTAL

Earmarks: Six earmarks are listed on p. 2 of the [Joint Explanatory Statement](#).

Funding Summaries: Appropriates emergency-designated funding levels as follows:

In Thousands

| | H.R. 2638 |
|----------------------------------------|------------------|
| Department of Agriculture | |
| Agriculture, Inspector General | 5,000 |
| Agriculture Research Service | 5,000 |
| Natural Resources Conservation Service | 5,000 |
| Watershed Protection | 100,000 |
| Rural Development Programs | 188,000 |
| Department of Commerce | |
| Economic Development Assistance | 400,000 |
| NOAA | 92,000 |
| NASA | 30,000 |
| Army Corps | |
| Construction | 1,538,800 |
| MS River and Tributaries | 82,400 |

| | |
|------------------------------------------------|-------------------|
| Operations and Maintenance | 740,000 |
| Flood Control and Coastal | 415,600 |
| GSA | |
| Construction and Acquisition | 182,000 |
| SBA | 981,000 |
| Department of Homeland Security | |
| FEMA | 7,960,000 |
| Coast Guard | 300,000 |
| Red Cross | 100,000 |
| Department of Interior | |
| Fire Management | 135,000 |
| U.S. Fish and Wildlife | 75,000 |
| Department of Agriculture | |
| Fire Management | 775,000 |
| Capital Improvement and Maintenance | 30,000 |
| Department of Health and Human Services | |
| Social Services Block Grant | 600,000 |
| Department of Education | |
| School Improvement Program | 15,000 |
| Higher Education Disaster Relief | 15,000 |
| Department of Defense | 25,000 |
| Department of State | |
| International Boundary and Water Commission | 37,500 |
| Inspector General | 9,000 |
| Economic Support Fund | 465,000 |
| Bill Emerson Humanitarian Trust | 100,000 |
| Department of Transportation | |
| FHA | 850,000 |
| Railroad Rehabilitation and Repair | 20,000 |
| Department of HUD | |
| Tenant-based Rental Assistance | 85,000 |
| Project-based Rental Assistance | 50,000 |
| Public Housing Capital Fund | 15,000 |
| Community Development Fund | 6,650 |
| Grand Total | 22,859,300 |

DIVISION C: FY 2009 DEFENSE

Earmarks: Includes a list of hundreds of earmarks beginning on page 462 of the [Joint Explanatory Statement](#). These earmarks have never previously been considered by the full House—where they would be subject to amendment and debate—or even by the full Appropriations Committee.

Items of Note:

Circular A-76: The DoD Appropriations section restricts the timeframes of public-private competitions (under OMB Circular A-76) that could occur at the Defense Department for non-inherently-governmental functions (such as lawn-mowing and janitorial services).”

Missile Defense: Prohibits funds in this Act from being used for research, development, testing, evaluation, procurement, or deployment of nuclear armed interceptors of a missile defense system.

Prohibition on political/psychological activities: Section 8022 prohibits “funds appropriated by this Act for the Defense Media Activity shall not be used for any national or international political or psychological activities.”

Funding Summaries:

Dollars in Thousands

| | FY 2008 Enacted | FY 2008 Request | FY 2009 Cmte | Cmte Vs. FY 2008 | Conf Vs. Request | % Over FY 2008 | % Over Request |
|----------------------------------------------|----------------------------|----------------------------|-------------------------|-----------------------------|-----------------------------|---------------------------|---------------------------|
| Military Personnel, Total..... | 105,292,237 | 114,896,340 | 114,443,890 | 9,151,000 | -452,450 | 8.7% | -0.4% |
| Operations and Maintenance, Total..... | 140,062,158 | 154,847,272 | 152,949,705 | 12,887,000 | -1,897,567 | 9.2% | -1.2% |
| Procurement, Total..... | 98,201,598 | 102,132,287 | 101,051,708 | 2,850,000 | -1,080,579 | 2.9% | -1.1% |
| Research, Develop., Test & Evaluation, Total | 77,271,482 | 79,615,941 | 80,520,837 | 3,249,000 | 904,896 | 4.2% | 1.1% |
| Revolving and Management Funds..... | 2,701,840 | 3,473,487 | 3,155,806 | 454,000 | -317,681 | 16.8% | -9.1% |
| Chemical Agents..... | 1,512,724 | 1,485,634 | 1,505,634 | -7,090 | 20,000 | -0.5% | -1.3% |
| Drug Interdiction..... | 984,779 | 1,060,463 | 1,096,743 | 111,964 | 36,280 | 11.4% | 3.4% |
| Related Agencies (intelligence, etc.)..... | 988,026 | 964,242 | 989,242 | 1,216 | 25,000 | 0.1% | 2.6% |

DIVISION D: FY 2009 HOMELAND SECURITY

Earmarks: Includes a list of dozens of earmarks beginning on page 647 of the [Joint Explanatory Statement](#). These earmarks have never previously been considered by the full House—where they would be subject to amendment and debate.

Items of Note:

Buy America: Requires none of the funds be used in violation of the Buy America Act.

Outsourcing/A-76 Activities: Prohibits funds from being used under OMB Circular A-76 (governing the federal government’s outsourcing policies) “to process or approve a competition” with regard to the Coast Guard National Vessel Documentation Center.

Funding Summaries:

In Thousands

| | FY08 Enacted | FY09 Request | FY09 Cmte | Cmte vs. FY08 | Cmte vs Request | % vs. FY08 | % vs. Request |
|-----------------------------------------------------|-------------------------|-------------------------|----------------------|--------------------------|----------------------------|-----------------------|--------------------------|
| Departmental Operations..... | 871,391 | 1,084,533 | 970,026 | 98,635 | -114,507 | 11.3% | -10.6% |
| Office of the Fed. Coord. For Gulf Coast Rebuilding | 2,700 | 1,280 | 1,900 | -800 | 620 | -29.6% | 48.4% |
| Inspector General..... | 92,711 | 101,013 | 98,513 | 5,802 | 13,500 | 6.3% | 13.4% |
| Immigration and Customs Enforcement..... | 4,734,717 | 4,747,905 | 4,989,210 | 254,493 | 241,305 | 5.4% | 5.1% |
| Aviation Security..... | 2,598,466 | 2,183,535 | 2,434,518 | -163,948 | 250,983 | -6.3% | 11.5% |
| Transportation Security Administration..... | 4,020,684 | 4,065,553 | 4,367,358 | 346,674 | 301,805 | 8.6% | 7.4% |
| U.S. Coast Guard..... | 7,336,975 | 7,834,641 | 8,124,307 | 787,332 | 289,666 | 10.7% | 3.7% |
| U.S. Secret Service..... | 1,385,496 | 1,414,346 | 1,412,954 | 27,458 | -1,392 | 2.0% | 0.0% |
| Firefighter Assistance Grants..... | 560,000 | 300,000 | 565,000 | 5,000 | 265,000 | 0.9% | 88.3% |
| U.S. Fire Administration..... | 43,300 | ---- | 44,979 | 1,679 | 44,979 | 3.9% | ---- |
| Total, Preparedness..... | 7,731,046 | 7,028,150 | 8,303,360 | 572,314 | 1,275,210 | 7.4% | 18.1% |
| Total, FEMA..... | 6,712,470 | 5,553,711 | 6,987,906 | 275,436 | 1,434,195 | 4.1% | 25.8% |
| Citizenship and Immigration Services..... | 2,539,845 | 2,689,726 | 2,640,926 | 21,081 | -48,800 | 0.8% | -1.8% |
| Science and Technology..... | 830,335 | 868,837 | 932,587 | 102,252 | 63,750 | 12.3% | 7.3% |

DIVISION E: MILITARY CONSTRUCTION-VETERANS

Earmarks: Includes a list of earmarks beginning on page 696 of the [Joint Explanatory Statement](#).

Funding Summaries:

In Thousands

| | FY 08 Enacted | FY 09 Request | FY 09 Cmte | Cmte Over FY08 | Cmte Over Request | % Over FY08 | % Over Request |
|---------------------------------------------|--------------------------|--------------------------|-------------------|---------------------------|------------------------------|------------------------|---------------------------|
| Department of Defense | | | | | | | |
| Military Construction, Army | 3,927,893 | 4,615,920 | 4,692,648 | 756,065 | 76,728 | 19.2% | 1.6% |
| Military Construction, Navy | 2,187,837 | 3,096,399 | 3,333,369 | 1,134,975 | 236,970 | 51.8% | 7.6% |
| Military Construction, Air Force | 1,149,277 | 934,892 | 1,096,925 | -451,979 | 162,033 | -39.3% | 17.3% |
| Military Construction, Defense-Wide | 1,599,404 | 1,783,998 | 1,691,615 | -79,710 | -92,383 | -4.9% | -5.2% |
| Military Construction, Reserve Components | 1,062,046 | 931,667 | 1,354,451 | 292,405 | 422,784 | 27.5% | 45.3% |
| NATO Security Investment | 201,400 | 240,867 | 230,867 | 29,467 | -10,000 | 14.4% | -4.1% |
| Family Housing, Total | 2,866,724 | 3,203,455 | 3,163,800 | 277,517 | -39,655 | 9.7% | -1.2% |
| Base Realignment & Closure | 7,531,280 | 9,458,763 | 9,223,990 | 1,692,710 | -234,773 | 22.5% | -2.5% |
| Chemical Demilitarization Construction | 104,176 | 134,278 | 144,278 | 40,102 | 10,000 | 38.5% | 7.5% |
| Total, Dept of Defense | 20,692,574 | 24,400,239 | 25,132,753 | 4,440,179 | 732,514 | 21.5% | 3.0% |
| Department of Veterans Affairs | | | | | | | |
| Compensation and Pensions | 41,236,322 | 43,111,681 | 43,111,681 | 1,875,359 | ---- | 4.5% | ---- |
| Medical Services | 27,167,671 | 34,075,503 | 30,969,903 | 3,802,232 | -3,105,600 | 14.0% | -9.1% |
| Medical Administration | 3,442,000 | ---- | 4,450,000 | 1,008,000 | 4,450,000 | 29.2% | ---- |
| Medical Facilities | 4,100,000 | 4,661,000 | 5,029,000 | 929,000 | 368,000 | 22.7% | 7.9% |
| Medical and Prosthetic Research | 411,000 | 442,000 | 510,000 | 99,000 | 68,000 | 24.1% | 15.4% |
| General Operating Expenses | 1,471,837 | 1,699,867 | 1,801,867 | 330,030 | 102,000 | 22.4% | 6.0% |
| National Cemetery Administration | 166,809 | 180,959 | 230,000 | 63,191 | 49,041 | 37.9% | 27.2% |
| Information technology systems | 1,859,217 | 2,442,066 | 2,489,391 | 630,174 | 47,325 | 33.9% | 1.9% |
| Inspector General | 72,599 | 76,500 | 87,818 | 15,219 | 11,318 | 21.0% | 14.8% |
| Construction, Major Projects | 727,400 | 581,582 | 923,382 | 195,982 | 341,800 | 26.9% | 58.8% |
| Construction, Minor Projects | 233,396 | 329,418 | 741,534 | 110,999 | 412,116 | 47.6% | 125.2% |
| Grants, Construct State Extended Facilities | 85,000 | 85,000 | 175,000 | 90,000 | 90,000 | 105.9% | 105.9% |
| Grants, Construct State Veterans Cemeteries | 32,000 | 32,000 | 42,000 | 10,000 | 10,000 | 31.3% | 31.3% |
| Total, Dept of Veterans Affairs* | 88,111,519 | 90,761,057 | 94,351,057 | 6,239,538 | 3,590,000 | 7.1% | 4.0% |
| Related Agencies | | | | | | | |
| American Battle Monuments Commission | 55,600 | 64,570 | 76,570 | 20,970 | 12,000 | 37.7% | 18.6% |
| U.S. Court of Appeals for Veterans Claims | 22,717 | 23,975 | 30,975 | 8,258 | 7,000 | 36.4% | 29.2% |
| Armed Forces Retirement Home | 56,524 | 63,010 | 63,010 | 6,486 | ---- | 11.5% | ---- |
| DOD Civil Cemeteries Expenses (Army) | 31,230 | 31,230 | 36,730 | 5,500 | 5,500 | 17.6% | 17.6% |
| Total, Related Agencies | 166,071 | 182,785 | 207,285 | 41,214 | 24,500 | 24.8% | 13.4% |

*Note: This includes \$46 billion of mandatory spending, which does not count toward the subcommittee's spending allocation, as this spending is not subject to appropriation.