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Republican Study Committee

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Legislative Bulletin……………………………………….………April 14, 2011

H.R. 1473—FY 2011 Full-Year Continuing Appropriations Act (Rogers, R-KY)

BY THE NUMBERS:

In billions

Division	FY 08	FY 10	President's Request	H.R. 1473	Savings from FY 10
Agriculture	18.1	23.3	23.1	19.9	-3.4
CJS	51.8	64.3	60.5	53.3	-11.0
Defense	459.3	508.1	530.9	513.0	4.9
Energy and Water	30.9	33.5	35.3	31.7	-1.8
Financial Services	20.6	24.2	25.3	22.0	-2.2
Homeland Security	34.9	42.5	43.6	41.7	-0.8
Interior	26.6	32.2	32.4	29.6	-2.6
Labor-HHS	144.8	163.7	170.6	157.4	-6.3
Legislative Branch	4.0	4.7	5.1	4.5	-0.2
Military Construction-VA	60.2	76.6	76.0	73.2	-3.4
State-Foreign Operations	32.8	48.8	56.6	48.2	-0.6
T-HUD	48.8	67.9	68.7	55.4	-12.5
Total Spending	**932.8**	**1,089.8**	**1,128.1**	**1,049.8**	**-40.0**

Excluding Emergency Appropriations, the Bill is:

- **$78.3 billion or 6.9% less than the President's request**
- **$40.0 billion or 3.7% less than last year**

Background: The previous Congress failed to enact a final spending plan for FY 2011. However, the President's budget proposed $478 billion of non-security spending in FY 2011. House Republicans, even before the current fiscal year had begun, countered with a proposal to spend $100 billion less than this amount by returning non-security spending to FY 2008 levels (the total in effect prior to the Obama Administration).

The bill being considered this week leads to $421.9 billion (compared to $378 billion in FY 2008) for FY 2011 non-security spending and $627.9 billion for FY 2011 security spending (compared to $554 billion in FY 2008).

Overall, this is a $78.3 billion reduction compared to the President's budget: $56.1 billion of this reduction is non-security spending, $22.2 billion is security spending. The total spending amount, while a $40.0 billion reduction compared to last year, is also the second highest spending level in U.S. history in nominal terms.

Take-Away Points

Spending Levels: The total non-emergency spending level for H.R. 1473 is **$1.05 trillion**. The bill leads to $421.9 billion (compared to $378 billion in FY 2008) for non-security spending and $627.9 billion for security spending (compared to $554 billion in FY 2008).

Savings Amount: Overall, this is a **$78.3 billion** reduction compared to the President's FY 2011 budget: $56.1 billion of this reduction is to non-security spending, $22.2 billion is to security spending. Compared to FY 2010, and counting the $12 billion in savings attached to three previous continuing resolutions, the final spending reduction amounts to **$40.0 billion**. According to the Majority Whip's office, the legislation will reduce spending projected in CBO's baseline by **$315 billion** over ten years.

Compared to FY 2008 Levels: Compared to the original House Republican goal of returning non-security spending to FY 2008 levels, the legislation is **$43.9 billion short of this target.**

Historical Perspective: The $1.05 trillion spending level is the second highest spending level for the appropriations process in U.S. history (in nominal terms). This will be the third time in U.S. history the appropriations process will wrap-up with a spending total in excess of $1 trillion (others being 2009 and 2010).

Outlays: According to CBO, the most recent CR would lead to a non-emergency outlay level of $1.286 trillion in FY 2011. This legislation would lead to a non-emergency outlay level of $1.289 trillion in FY 2011. **This is an increase of $3 billion.** The outlay impact beyond 2011 would presumably be negative, but by an amount that is unknown to RSC staff.

Potential Gimmicks: As noted in the bullet above, the bill leads to an increase in outlays for this year compared to the existing CR. This is no doubt partly due to the fact that budget authority and budget outlays never move in tandem on a yearly basis. For example, even though H.R. 1 included $61 billion worth of cuts, it would only have caused an $8.8 billion reduction to outlays in FY 2011—the remaining impact on outlays would have come in subsequent years.

However, in order for a reduction in budget authority to have an impact on the deficit, it must cause a reduction to outlays eventually. No CBO score is available for all of the cuts made by the bill. But the following cuts are, according to various reports, not likely to actually reduce spending.

- **Consumer Operated and Oriented Plan (Co-Op) Program:** The bill rescinds **$2.2 billion** of funding for this program created by Obamacare. However, according to reports, this money was not expected to be spent anyway.

- **Performance Bonus Payments:** The 2009 S-CHIP reauthorization law created performance bonuses for states that meet certain conditions. This legislation rescinds **$3.5 billion** of this funding, but according to reports, CBO did not expect the money was going to be spent anyway.

- **Highway Rescission:** The legislation rescinds **$3.1 billion** of highway contract authority that, according to reports, would not have been spent anyway.

- **Crime Victims Fund:** The legislation rescinds **$4.8 billion** for this purpose. The fund is made up of fines paid by criminals and forfeited bail bonds, and was created to compensate victims of crime.

<u>Order of Business</u>: The legislation is scheduled to be considered by the House on Thursday, April 14, 2011 under a closed rule that provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of H.R. 1473. The legislation further provides that if H.R. 1473 is passed it is in order to consider H.Con.Res 35 and H.Con.Res. 36 (see page 11 for description). Further, the rule provides that if the House receives a message from the Senate transmitting its passage of H.R. 1473 without amendment, then the Clerk shall not certify an enrollment of the bill until notified by the Speaker or by message from the Senate that the Senate has taken the question on adoption of H. Con. Res. 35 and H. Con. Res. 36 if previously adopted by the House.

<u>Summary</u>:

Division A—FY 2011 Defense Appropriations Act

The legislation provides $513.0 billion for the FY 2011 Defense bill. This is $4.9 billion (1.0%) above FY 2010. Provisions of note:

Alternative Engine: The C.R. eliminates FY 2011 funding for the Joint Strike Fighter (F-35) alternate engine program (F136). Currently, Pratt and Whitney holds the sole contract to build the primary engine, while General Electric/Rolls Royce are in a partnership attempting to become party to the contract to build a second, alternative engine (F136) for the F-35. Some conservatives believe the continuation of a competitive engine is a national security imperative because a sole source contract leaves the military vulnerable to fleet groundings. However, some conservatives disagree and contend that the alternate engine an example of a big ticket defense program. Secretary of Defense Robert Gates believes that, "the interests of the taxpayers, our military, our partner nations, and the integrity of the JSF program are best served by not pursuing a second engine."

$157.8 Billion of "Contingency Operations" Funding: The legislation appropriates $157.8 billion of "emergency" spending for war funding as follows:

Contingency Operations Funding

In Millions

Military Personnel	
Army	11,107
Navy	1,309
Marine Corps	733
Air Force	1,843
Army Reserve	268
Navy Reserve	49
Marine Reserve	45
Air Force Reserve	27
National Guard	870
Subtotal	**16,251**

Operations and Maintenance

Army	59,162
Navy	8,971
Marine Corps	4,008
Air Force	12,969
Defense-Wide	9,277
Army Reserve	207
Navy Reserve	94
Marine Reserve	30
Air Force Reserve	189
Army National Guard	498
Air National Guard	403
Afghanistan Infrastructure Fund	400
Afghanistan Security Fund	11,619
Iraq Security Forces	1,500
Subtotal	**110,127**
Procurement	
Army Aircraft	2,720
Missile	344
Weapons and Tracked Combat Vehicles	897
Procurement of Ammunition	370
Other Procurement	6,401
Navy Aircraft	1,170
Weapons Procurement, Navy	91
Ammunition, Navy and Marine Corps	558
Other, Navy	317
Marine Corps	1,589
Aircraft, Air Force	1,992
Missile, Air Force	57
Ammunition, Air Force	293
Other, Air Force	2,869
Procurement, Defense-Wide	1,262
National Guard and Reserve Equipment	850
MRAP	3,415
Subtotal	**25,194**
Research, Test, and Evaluation	
Army	143
Navy	105
Air Force	484
Defense-Wide	223
Subtotal	**955**
Revolving and Management Funds	
Defense Working Captital Funds	**485**
Health Programs	
Defense Health Program	1,422
Drug Interdiction	441
Joint Improvised Explosive Device Fund	2,794
Office of the Inspector General	11
Subtotal	**4,668**
TOTAL	**157,800**

Division B—FY 2011 Full Year Continuing Appropriations Act

Across-the-Board Cut: The legislation reduces all non-defense accounts by 0.2%. This across-the-board spending cut approach is similar in concept, though not in terms of the amount, to previous amendments offered by RSC Members (for example this amendment to H.R. 1).

Advance Appropriations: Provides advance appropriations for FY 2011 and 2012 at same levels as in FY 2012 and 2013. This means, for example, that the Corporation for Public Broadcasting is appropriated an additional $445 million in 2013.

Agriculture: The legislation provides $19.9 billion for the Agriculture bill, which is $3.4 billion (or 14.6%) below last year and $3.2 billion (or 13.9%) below the President's request. Provisions of note:

WIC Program: Funded at $6.75 billion—$504 million less than last year and $855 million less than the request.

Dairy Subsidy: Cut by $350 million. The President requested no money for this purpose and the program was meant to be one time funding. It was created in 2009 because of low milk prices.

Commerce-Justice-Science: The legislation provides $53.3 billion for the Commerce-Justice-Science bill, which is $7.2 billion (or 13.5%) below the President's request and $11.0 billion (or 17.0%) below last year. Provisions of note:

International Trade Administration: Funded at $451 million—$5 million less than last year and $93 million less than the President's request.

Economic Development Assistance Programs: Funded at $246 million—$9 million less than last year and the same as the request.

National Drug Intelligence Center: Funded at $34 million—$10 million reduction from the President's request and last year.

Legal Services Corporation: Funded at $405 million—$15 million less than last year and $30 million less than the President's request. The RSC's Spending Reduction Act would have eliminated this program.

Periodic Census: Funded at $893 million—$6.2 billion below last year and $93 million below the request. This cut is due to the Census not requiring as much money in the year *after* the decennial census is conducted.

Energy and Water: The legislation provides $31.7 billion for the Energy and Water bill, which is $3.6 billion (or 10.2%) below the President's request and $1.7 billion (or 5.1%) below last year. Provisions of note:

Appalachian Regional Commission: Funded at $68.4 million—an $8 million reduction from last year and the President's request. The RSC's Spending Reduction Act would have eliminated this program.

Denali Regional Commission: Funded at $10.7 million—a $16 million reduction from both the President's request and last year's level.

Financial Services: The legislation provides $22 billion for the Financial Services bill, which is $2.2 billion (or 9.1%) below last year and $3.3 billion (or 13.0%) below the President's request. Provisions of note:

Bureau of the Public Debt: Funded at $185 million—$7 million below last year and $1 million below the request.

Election Assistance Grants: Program eliminated—$75 million cut compared to last year (the President requested no money for this purpose).

Annual Audits of Consumer Financial Protection Bureau: The legislation requires the Bureau to conduct an annual audit of its operations and budget. The legislation also requires the GAO to conduct a study on financial regulations (per specifications described on pages 257 to 261 of the bill).

Homeland Security: The legislation provides $41.7 billion for the Homeland Security bill, which is $700 million (or 1.6%) below last year and $1.8 billion (or 4.1%) below the President's request. Provisions of note:

Border Security Fencing, Infrastructure, and Technology: Funded at $574 million—$226 million less than last year and the same as the President's request.

Customs and Border Protection, Construction: Funded at $260 million—$60 million less than last year $16 million less than the President's request.

TSA Screeners: Number of personnel capped at 46,000.

Citizenship and Immigration Services: Funded at $146.6 million—$77 million less than last year and $239 million less than the President's request. $25 million of this funding is for processing applications of asylum and refugee status, and $103.4 million is for the E-Verify program.

Violent Crime Reduction Fund: $4.8 billion rescission. The fund is made up of fines paid by criminals and forfeited bail bonds. The fund was created to compensate victims of crime.

Border Patrol Agents: The legislation requires an active duty presence of at least 21,370 agents protecting the border of the United States.

Reporting Requirement: The CR requires the Secretary of Homeland Security to submit a report on the efforts and the resources being devoted to develop more advanced integrated passenger screening, how the Transportation Security Administration is deploying its existing screener workforce in the most cost effective manner, and on labor savings from the deployment of improved technologies for passengers and baggage screening.

Interior: The legislation provides $29.6 billion for the Interior bill, which is $2.6 billion (or 8.0%) below last year and $2.8 billion (or 8.6%) below the President's request. Provisions of note:

Environmental Protection Agency (EPA): Funded at $8.4 billion, a 16% reduction compared to last year.

National Endowment for the Arts/Humanities: Together, both programs are funded at $310 million ($25 million below last year's funding level). Both programs would have been eliminated by the RSC Spending Reduction Act.

Subsidy for Woodrow Wilson Center: Funded at $11.2 million, the same as last year. The Woodrow Wilson International Center for Scholars was established by Congress in 1968 as a memorial to former President Woodrow Wilson—who many conservatives, and some liberals (see here for example), would rank as one of the very worst Presidents in U.S. history. The taxpayer subsidy goes to what is essentially a think tank. The Center does not merely spend taxpayer funds on projects duplicative of those found at countless institutes of higher education and policy research centers, but also recently honored the Foreign Minister of Turkey with their annual Public Service award shortly after Turkey supported an anti-Israel flotilla. The RSC Spending Reduction Act entirely eliminates this program.

EPA "Riders": The bill does not contain many of the amendments debated and passed during consideration of H.R. 1 that repealed many environmental regulations, including stripping the EPA of its ability to regulate greenhouse gas emissions under the Clean Air Act. However, the legislation does prohibit funds from being spent to implement, administer, or enforce Interior Secretary Ken Salazar's executive order to restrict access to hundreds of thousand of acres of public lands by designating them as Wild Lands. Additionally, the legislation removes the gray wolves from the Endangered Species list in Montana and Idaho, allowing them to be managed instead by state wildlife agencies. Finally, the EPA provisions in the bill also include approximately $49 million in reductions for programs relating to climate change, including the elimination of the position "climate czar," and prohibiting the Administration from establishing a Climate Service by the National Oceanic and Atmospheric Administration.

Labor-HHS: The legislation provides $157.4 billion for the Labor-HHS bill, which is $6.3 billion (or 3.8%) below last year and $13.2 billion (or 7.7%) below the President's request. Provisions of note:

Maximum Pell Grant: Set at $4,860 for the 2011-2012 school year, same as current level.

Institute of Museum and Library Services: Funded at $38 million—a $44 million reduction compared to last year's level, and a $28 million reduction compared to the President's request. This program sometimes shows up on lists of proposed program eliminations by conservative budget analysts (for example, see this from Brian Riedl of the Heritage Foundation).

Corporation for Public Broadcasting: The legislation eliminates $80 million of funds appropriated in the Consolidated Appropriations Act of 2010, but otherwise keeps the program running. The bill provides new appropriations in 2013 equal to $445 million.

Legislative Branch: The legislation provides $4.6 billion for the Legislative Branch bill which is $100.0 million (or 2.1%) below last year.

Military Construction-Veterans: The legislation provides $73.2 billion for the FY 2011 Military Construction-Veterans bill—$2.8 billion (3.7%) below the President's request and $3.4 billion (4.4%) below last year.

State-Foreign Operations: The legislation provides $73.2 billion for the FY 2011 Military Construction-Veterans bill—$2.8 billion (3.7%) below the President's request and $3.4 billion (4.4%) below last year.

International Fund for Ireland: Eliminated ($17 million savings). *This program elimination was included in the RSC Spending Reduction Act.* The International Fund for Ireland was established by the Irish and British governments in 1986 to promote peace in Northern Ireland. Although U.S. taxpayers have already contributed $280 million and sectarian violence in Northern Ireland has dramatically decreased, the federal government continues to contribute millions in taxpayer funds annually. Representative Jason Chaffetz (R-UT) has authored legislation to eliminate this funding (H.R. 2915 from the 111th Congress).

Israel: $3 billion under the Foreign Military Financing Program.

Egypt: $1.3 billion under the Foreign Military Financing Program.

Transportation—HUD: The legislation provides $55.5 billion for the FY 2011 Transportation-HUD bill. This is $12.2 billion (18.0%) below FY 2010 and $13.2 billion (19.2%) below the President's request.

High Speed Rail: A $2.9 billion reduction compared to FY 2010 and a $1.4 billion reduction compared to the President's request.

Highway Rescissions: $3.2 billion worth of contract authority rescissions. According to reports, this rescission does not lead to a reduction to outlays because the money was not going to actually be spent.

Division C—SOAR Act

The legislation authorizes $60 million annually for FY 2012 - 2016. This amount is to be divided as follows:

- 1/3 for the D.C. Opportunity Scholarship Program;
- 1/3 for D.C. public schools; and
- 1/3 for D.C. public charter schools.

Opportunity Scholarship Program: The Opportunity Scholarship Program (OSP) provides scholarships to eligible students to pay the tuition, fees, and transportation expenses (if any) to enable the eligible student to attend a private elementary school or secondary school of their choice beginning in the 2011-2012 school year. The Department of Education appoints "eligible entities" (commonly referred to as "scholarship funds") who distribute these scholarships to eligible students. Students go through an application process to become eligible for the OSP. "Eligible Students" must be a resident of the District of Columbia, and come from a household:

- That currently receives assistance under the supplemental nutrition assistance program; or
- Whose income does not exceed 185% of the poverty level.
    - This requirement is waived if the student was in the OSP the previous school year, and the household income had risen.

This legislation prohibits the private or secondary school from charging more to students who receive the OSP than to other students. Eligible students who have been in the OSP the preceding school year will have priority over students who have not previously been in the OSP.

Maximum scholarship levels are set as follows for eligible students:

- $8,000 for attendance in kindergarten through grade 8; and
- $12,000 for attendance in grade 9 through grade 12.

The Secretary of Education has the authority to adjust these maximum amounts annually for inflation, as measured by the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The OSP scholarship may only be used at private or secondary schools that:

- Have and maintain a valid certificate of occupancy issued by the District of Columbia;
- Make readily available to all prospective students information on its school accreditation;
- In the case of a school that has been operating for 5 years or less, they must submit to the eligible entity administering the program proof of adequate financial resources reflecting the financial sustainability of the school and the school's ability to be in operation through the school year;
- Agree to submit to site visits as determined to be necessary;
- Have financial systems, controls, policies, and procedures to ensure that funds are used according to this legislation; and
- Ensure that each teacher of core subject matter in the school has a baccalaureate degree, or equivalent degree, whether such degree was awarded in or outside of the U.S.

The Soar Act caps D.C. OSP administrative expenses at 3% of total appropriated funding, and allows an additional 2% of the appropriated funds to be used to educate parents about the program, and assist them with the application process. This legislation also allows up to 1% of the total appropriated funds to be used on tutoring students in need of academic assistance.

OSP Evaluations: The legislation requires the Mayor of D.C. and the Secretary of Education to enter into an agreement with the Institute of Education Sciences (within the Department of Education) to annually evaluate the performance of students who received scholarships under the OSP program. The Mayor and the Secretary will also be required to monitor and evaluate the use of funds authorized and appropriated for the District of Columbia public schools and the District of Columbia public charter schools.

According to the legislation, the Institute of Education Sciences of the Department of Education will use a grade appropriate, nationally norm-referenced standardized test each school year to assess participating eligible students.

OSP Reporting: The legislation requires the Secretary to annually submit a congressional report on the progress and preliminary results of the evaluation of the opportunity scholarship program. This legislation also requires a final report on the results of the evaluation of the program. These reports will be made available for public view. The Secretary may use up to 5% of the total funds appropriated to carry out these requirements.

Additionally, scholarship funds that receive funding for the D.C. OSP must submit a report to the Secretary of Education concerning:

- "The academic growth and achievement of students participating in the program;
- "The high school graduation and college admission rates of students who participate in the program, where appropriate; and
- "Parental satisfaction with the program."

These funds must also report to parents of participating students regarding:
- The student's academic achievement;
- The safety of the school, including the incidence of school violence, student suspensions, and student expulsions; and
- The accreditation status of the school.

<u>D.C. Public Schools and D.C. Public Charter Schools</u>: As a condition of receiving funding under this legislation for D.C. public schools and D.C. public charter schools, the Mayor of D.C. shall agree:
- That all D.C. public schools and all D.C. public charter schools comply with all reasonable requests for information for purposes of evaluation;
- To enter into agreement with the Secretary to monitor and evaluate the use of funds authorized and appropriated by this legislation; and
- Submit a congressional report to relevant committees as specified by the legislation.

If the Mayor is found to not be in compliance with any 1 of those requirements described above, the Secretary may withhold funding from the Mayor for D.C. public schools and D.C. charter schools.

<u>Additional Background</u>: The D.C. Opportunity Scholarship Program (OSP) was established in 2003 in accordance with the Supreme Court decision, Zelman v. Simmon-Harris. During the 111th Congress, the Democrat majority, under the leadership of then-Speaker Pelosi, prevented new eligible students from joining the OSP.

A 2010 report concluded that students who used their scholarships had a 91% graduation rate. This is 21% higher than those who were interested in the program, but did not receive a scholarship. By comparison, according data from Education Week's 2011 Quality Counts report shows that D.C. public schools have a graduation rate of 59.5%

Out of the 14 evaluations conducted by the Institute for Education Sciences (IES), the OSP was one of four that showed positive results. The Scholarships for Opportunity and Results Act (H.R. 471) passed the House on March 30, 2011, by a roll call vote of 225-195. Click here to see the RSC Legislative Bulletin on H.R. 471.

Other Provisions of Note

<u>Values Items of Note</u>: The legislation is accompanied with an enrollment correction resolution authored by Rep. Diane Black and Rep. Martha Roby. The enrollment correction resolution adds language to defund Planned Parenthood and defund Obamacare. If either enrollment correction is adopted by <u>both</u> the House and Senate, it will become part of this legislation that is sent to the President for his signature. If either enrollment correction only passes the House, and fails in the Senate, it will not be attached and will not go to the President for his signature.

The FY11 CR also contains the following:

- **Reinstates the Dornan Amendment** - The CR reinstates the D.C. Hyde amendment (Dornan amendment) to ensure that no congressionally appropriated funds (federal or local) are used to pay for elective abortion.

- **Funding Adjustments for UNFPA** - The CR reduces UNFPA funding to FY08 levels ($40 million) from FY10 levels ($55 million). UNFPA is the UN population control agency associated with China's brutal one child policy.

- **Funding Adjustments for International Family Planning** - The CR adjusts international population control/family planning funding to $575 million from $648 million originally appropriated for FY10. The CR does not reinstate the Mexico City Policy. And without the Mexico City Policy these funds can be directed to foreign non-governmental organizations that promote and perform abortion.

- **Funding Adjustments for Title X** - The CR adjusts Title X domestic family planning funding to FY08 levels ($300 million) from FY10 levels ($317 million).

Impact on Obamacare:

The Agreement provides for two enrolling resolutions per the process described above:

1. **H.Con.Res. 36** (Reps. Diane Black and Martha Roby)—it would add provisions to the continuing resolution prohibiting any of its funds from flowing to Planned Parenthood. The resolution is expected to require a 60-vote affirmative threshold in the Senate for adoption. The resolution would direct the Clerk to correct the enrollment of H.R. 1473, so that the text of the continuing resolution would prohibit funding to Planned Parenthood and its affiliate organizations "for any purpose."

2. **H.Con.Res. 35** (Rep. Rodney Alexander)—it would add provisions to the continuing resolution (H.R. 1473) prohibiting any of its funds from being used to implement Obamacare. The resolution is expected to require a 60-vote affirmative threshold for adoption. The resolution would direct the Clerk to correct the enrollment of H.R. 1473, so that the text of the continuing resolution would prohibit funding in the continuing resolution "or any previous Act" from being used to implement the Patient Protection and Affordable Care Act (PPACA, P.L. 111-148) or the health care provisions of the reconciliation Act (P.L. 111-152). The wording of the enrolling resolution would de-fund mandatory as well as discretionary spending for Obamacare implementation, but would not de-fund the education and student loan provisions included in last year's reconciliation measure.

Obamacare Provisions in the base text of H.R. 1473:

Prevention "Slush Fund": Section 1855 requires that all money transferred from the Prevention and Public Health Fund established in the Patient Protection and Affordable Care Act (Obamacare) to discretionary accounts (e.g., Centers for Disease Control, HRSA, etc.) comply with Section 503 of Division D of P.L. 111-117, which prohibits funds from being used "for publicity or propaganda purposes." The House voted to repeal of the Prevention and Public Health Fund when it considered H.R. 1217.

GAO and Related Audits: Section 1856 calls for the following audits related to Obamacare provisions:

- A GAO report listing contracts, outside firms, and consultants used to implement new authorities provided by Obamacare, due within 90 days of enactment;
- A GAO report auditing "requests for administrative waiver of the annual limit requirements" under Obamacare, including "an analysis of the number of approvals and denials of such requests and the reasons for such approval or denial," due within 60 days of enactment;
- A report by the Chief Actuary of the Centers for Medicare and Medicaid, due within 90 days of enactment, containing an estimate of the impact of certain Obamacare mandates on premiums for individuals and families with employer-sponsored health insurance. The estimate shall cover the 10-year period beginning with 2014 and shall include an estimate of the number of such individuals and families who will experience a premium increase as a result of such mandates and the number of such individuals and families who will experience a premium decrease as a result of such requirements.
- A GAO report "that includes the results of an audit of expenditures made for comparative effectiveness research funds" in the "stimulus" or Obamacare, due within 60 days of enactment.

Co-Op Rescission: Section 1857 rescinds $2.2 billion of the $6 billion in start-up funding provided for the Consumer Operated and Oriented Plan (Co-Op) program created under Section 1322 of Obamacare. In state Co-Op Programs, individuals who do not have insurance through their employers can buy health insurance. Under Obamacare, $6 billion of federal funding is provided for startup loans and grants for the creation of these not-for-profit insurance companies that many conservatives liken to the Democrat's previous "public option" proposals**.** The Co-Ops would only have to pay back the loans or grants plus interest and 110% of the aggregate amount of loans and grants received if they violate the terms of the program Otherwise, they are financed by the American taxpayer. Obamacare also gives broad regulatory powers to the Secretary of HHS in managing these Co-Ops and other state regulators. By funding and regulating these new Co-Ops, the federal government is creating a new federal health insurance program. As the Heritage Institute Center for Health Policy explains, these Co-Ops "could be a back door to a public plan flying under a different flag."

Free Choice Program: Section 1858 repeals Section 10108 of Obamacare, which provided for "free choice" vouchers for employees earning under 400% of the Federal Poverty Level whose employer-provided health insurance premiums cost between 8 percent and 9.8 percent of the employee's family income. Obamacare requires employers to provide a "Free Choice Voucher" equal to the employer's portion of the premium paid for the highest cost plan they sponsor. The voucher could only be used by the employee to purchase qualified insurance in a state-based exchange beginning in 2014.

IRS: The President's FY 2012 Budget requested a 9% increase ($13.3 billion v. $12.1 billion in actual FY2010) in funding for the Internal Revenue Service (IRS) for "costs associated with implementation of legislation"—ostensibly, this is interpreted to mean the hiring of additional IRS agents to enforce the administration's agenda on a variety of Obamacare provisions, i.e. the individual mandate. H.R. 1473 prohibits this increased funding and funds the IRS at its FY2010 level of $12.1 billion ($603 million above H.R.1).

Committee Action: The legislation has not been considered by any committee.

Potential Conservative Concerns: Many conservatives may support the legislation, since it reduces discretionary spending budget authority by $40 billion compared to last year, and reduces total (including "security" spending) spending by $78 billion compared to the President's request.

However, the following are some potential conservative concerns with the bill:

- **Does Not Defund Obamacare:** Some conservatives have raised concerns that the legislation does not completely block funding for Obamacare during the period covered by the legislation.

- **Does Not Go Back to FY 2008 Levels:** The original goal of House Republicans, first ignored by the President and congressional Democrats, and then fervently opposed during the recent negotiations, was to return non-security spending to FY 2008 levels. The legislation would lead to an FY 2011 non-security spending level that is $44 billion above FY 2008.

- **Gimmicks:** In meeting the spending levels described above, the legislation includes some spending gimmicks. See page 2 of the bulletin.

- **Second Highest Spending Level:** The $1.05 trillion spending level is the second highest spending level for the appropriations process in U.S. history (in nominal terms). This will be the third time in U.S. history the appropriations process will wrap-up with a spending total in excess of $1 trillion (others being 2009 and 2010).

Administration Position: The White House issued a Statement of Administration Policy (SAP) in favor of the bill, which may be found here.

Cost to Taxpayers: The legislation provides a non-emergency funding level of $1.05 trillion, which is $40 billion below last year. The legislation leads to a final FY 2011 level that is more than $20 billion above H.R. 1, and that is $44 billion above FY 2008.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The bill reduces federal spending.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO report containing this information is available.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No committee report is available.

Constitutional Authority: According to the sponsor:

> "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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