



# Appropriations Update

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Volume 3, No. 21

16 October 2003

## CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2004 (H.J.RES. 69)

### SUMMARY

On 30 September, the President signed H.J.Res. 69 (Public Law 108-84), making continuing appropriations for fiscal year 2004. The measure brought to the House floor exceeded the applicable limits established by the budget resolution and thus violated the Congressional Budget Act. But the measure was brought up under a unanimous consent agreement that waived all points of order.

This continuing resolution [CR] provides for the ongoing operations of the government through 31 October 2003. It is necessary because appropriations have been enacted for only three of the regular appropriations bills for fiscal year 2004 – Defense, Homeland Security, and the Legislative Branch. For the programs and activities funded in 2003 through the remaining 10 appropriations bills, the CR would fund each at the same rate of operations until either: 1) the enactment of an appropriations act covering the project or activity; or 2) the expiration of the CR.

In determining the current rate of operations, the continuing resolution requires that supplemental appropriations be

added to the amounts provided in the regular 2003 appropriations measures. In addition to funding items normally covered in annual appropriations bills, the CR includes provisions that provide for certain mandatory spending. These include the continuation of child nutrition programs, the administration of programs funded through the highway trust fund, and the prohibition on collecting certain fees. These are all provisions of current law, and their costs are distributed to their respective authorizing committees. The bill also establishes a new loan program for the Czech Republic. The cost of these loans is added to the cost of this measure.

The full-year cost of this continuing resolution exceeds – by \$4.162 billion – the amount provided in the 302(b) suballocations for the 10 fiscal year 2004 appropriations bills not yet enacted. In addition, the resolution adds \$2.244 billion to the cost of fiscal year 2003 appropriations, causing them to exceed the budgeted level as well. The discussion below provides a further description of these excess spending amounts.

### COST OF THE LEGISLATION

Under congressional procedures, the cost of a short-term continuing resolution is determined on an annualized basis; that is, the estimate assumes the measure would extend for the entire fiscal year. On that assumption, the Congressional Budget Office [CBO] estimates that the CR would provide \$388.142 billion in discretionary budget authority [BA] for fiscal year 2004. That is \$11.199 billion above the fiscal year 2003 amount – not including the extraordinary costs of the fiscal year 2003 Iraq conflict supplemental, and the shift of \$2.244 billion in previously appropriated fiscal year 2004 BA into fiscal year 2003. Including the costs of the Iraq supplemental, 2003 spending is estimated to be \$388.872

billion, or \$730 million above the cost of the CR (see Table 1 on the next page).

In addition to providing continuing appropriations for fiscal year 2004, the bill increases fiscal year 2003 BA by \$2.244. It does this by making available, in fiscal year 2003, amounts for Education for the Disadvantaged that had been provided as advance appropriations for fiscal year 2004. The bill also provides \$50 million to continue administrative functions of Federal highway and transit programs, and \$2 million to continue child nutrition programs, as noted above. By agreement with the Committee on the Budget, the costs

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of these mandatory programs were counted against the allocations of their respective authorizing committees.

Finally, the CR would prohibit the collection of Environmental Protection Agency [EPA] pesticide fees,

which are considered to be revenue, at a full-year cost of \$25 million. Revenue provisions are never counted against the allocation of a House committee, but rather against the total change in revenue established in the concurrent resolution on the budget.

**Table 1: Continuing Resolution for Fiscal Year 2004**  
Excluding Defense, Homeland Security, and Legislative Branch Appropriations Bills  
(fiscal years; millions of dollars)

	2003 excl. Supp. <sup>a</sup>	2003 incl. Supp.	302 (b)s for 2004	CR
Budget Authority	376,943	388,872	383,980	388,142
Outlays	417,963	421,981	437,953	434,847

<sup>a</sup> Does not include \$9.685 billion in BA and \$4.018 billion in outlays included in the fiscal year 2003 Iraq conflict supplemental; in addition it does not include shifting \$2.244 billion of previously appropriated fiscal year 2004 education BA into fiscal year 2003 as passed in the fiscal year 2004 continuing resolution in PL 108-84.

**Table 2: Discretionary Spending Provided in the Continuing Resolution**  
**By Appropriations Subcommittee**  
(in millions of dollars)

	2004 302(b) Budget Authority <sup>a</sup>	2004 302(b) Outlays <sup>a</sup>	2004 CR Budget Authority	2004 CR Outlays	Difference BA	Difference Outlays
Agriculture	17,005	17,686	18,430	18,244	1,425	558
Commerce, Justice, State	37,914	41,009	38,363	40,626	449	-383
District of Columbia	466	464	509	514	43	50
Energy and Water Development	27,080	27,211	26,206	26,301	-874	-910
Foreign Operations	17,120	20,185	23,709	22,380	6,589	2,195
Interior	19,627	19,400	20,109	19,345	482	-55
Labor, Health and Human Services	138,036	134,766	134,471	133,929	-3,565	-837
Military Construction	9,196	10,282	10,777	10,521	1,581	239
Transportation-Treasury	27,502	71,360	28,255	70,345	753	-1,015
Veterans Affairs-Housing and Urban Development	90,034	95,590	87,313	92,642	-2,721	-2,948
<b>Total</b>	<b>383,980</b>	<b>437,953</b>	<b>388,142</b>	<b>434,847</b>	<b>4,162</b>	<b>-3,106</b>

<sup>a</sup> From House Report 108-228. Does not include outlays from emergency-designated spending enacted after adoption of the 2004 budget resolution (H.Con.Res 95).

### COMPLIANCE WITH THE BUDGET RESOLUTION

The CR does not comply with the fiscal year 2004 budget resolution (H.Con.Res. 95). In total, three Congressional Budget Act points of order would have applied to consideration of the measure.

First, as noted, the full-year cost of this continuing resolution exceeds – by \$4.162 billion – the amount provided in the 302(b) suballocations for the 10 fiscal year 2004 appropriations bills not yet enacted. The measure also

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exceeds the 302(a) allocation to the full Appropriations Committee by \$3.719 billion. These violations for exceeding the allocations stem from a realignment of the distribution of spending among the various appropriations bills, compared with last year. They could be corrected if future CRs (if needed) include language eliminating one-time spending in this measure. In addition, it is expected that final appropriations bills will come in at lower levels than the CR.

Second, accelerating the availability of previously enacted advance appropriations – and thereby increasing fiscal year 2003 appropriations – causes spending for fiscal year 2003 to exceed the allocation to the Appropriations Committee.

Third, the increase in fiscal year 2003 appropriations causes the budgetary total for that year to be exceeded as well. This violates section 311(a) of the Budget Act, which prohibits the consideration of legislation exceeding the total levels of BA and outlays established in the budget resolution.

As noted, however, the CR was brought up under unanimous consent, which waived points of order against it.

Costs of the mandatory spending provisions charged against the authorizing committee allocations, and costs of revenue provisions, are within the appropriate allocations. Hence no Budget Act points of order applied to those provisions.

### AUTHORIZATION ISSUES

Authorization issues in the CR arise both from the extension of provisions in force before the end of fiscal year 2003, and from a new program established in the bill.

The extensions of previously enacted programs for child nutrition and for the administration of highway and transit programs funded through the highway trust fund were added to ensure that these programs would continue despite the potential expiration of their authorizations. Because these continuations were simply using the CR as a vehicle for enactment, the Budget Committee (at the request of the Appropriations Committee) has scored the cost of these provisions, respectively, against the Ways and Means Committee on the Transportation and Infrastructure Committee. These committees would normally handle the reauthorizations. In the case of highway trust fund programs, a separate piece of legislation (H.R. 3087; Public

Law 108-88) was enacted to continue the program temporarily, including the administrative costs. The administrative costs in the CR were provided as a fallback.

As noted, the CR also continues to prohibit the collection of certain pesticide fees that are counted as revenue. This provision is expected to result in a revenue loss of \$25 million if continued for all of fiscal year 2004. The provision is usually included in the appropriations bill funding the Environmental Protection Agency, which is authorized to collect the fees.

Finally, the CR establishes a new loan program of up to \$550 million for the purchase of military hardware by the Czech Republic. Although this is also a mandatory program, the \$20 million 2004 cost has been charged to the Appropriations Committee.

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