



H.R. 2029: Consolidated Appropriations Act, 2016 (Rep. Rogers, R-KY)

CONTACT: [Matt Dickerson](#), 202-226-9718, [Brittan Specht](#), 202-226-9143

This Bulletin includes *preliminary* analysis of the omnibus. Additional analysis will be released as it becomes available.

FLOOR SCHEDULE:

H.R. 2029 is expected to be considered on December 18, 2015, under a [rule](#).

The rule is expected to make in order two House amendments to the Senate amendment to H.R. 2029.

The first House amendment consists of 12 appropriations bills, an intelligence reauthorization, a cyber security bill, a provision lifting the crude export ban, a reauthorization of 9/11 benefits, a small number of tax provisions, and other legislation. This amendment includes Divisions A through P.

The second House amendment includes several tax provisions, including making some tax extenders permanent. This amendment includes Divisions Q through

The rule is expected to provide for separate periods of debate and separate votes on each of the two House amendments. Assuming both amendments are agreed to, the Senate would consider both together as House amendments to the Senate amendments to the House passed bill.

TOPLINE SUMMARY:

The House amendment to the Senate amendment to H.R. 2029 would provide funding for appropriated programs for the remainder of Fiscal Year 2016.

The bill also includes several pieces of authorizing legislation and the permanent and temporary extension of several expiring or expired provisions of the tax code.

The bill text can be found [here](#) and the explanatory statements can be found [here](#).

COST:

No Congressional Budget Office (CBO) estimate was not yet available at press time.

The following table outlines the budget authority authorized under the Bipartisan Budget Act of 2015:

| | Base Defense | Defense OCO | Total Defense | Base Non-Defense | Non-Defense OCO | Total Non-Defense | Total Base | Total OCO | Total |
|--------------------|--------------|-------------|---------------|------------------|-----------------|-------------------|------------|-----------|-----------|
| Current FY 2016 CR | 520.385 | 65.501 | 585.886 | 496.197 | 9.257 | 505.454 | 1,016.582 | 74.758 | 1,091.340 |
| BBA FY2016 | 548.091 | 58.798 | 606.889 | 518.491 | 14.895 | 533.386 | 1,066.58 | 73.693 | 1,140.28 |
| Deal vs. Current | + 27.706 | - 6.703 | + 21.003 | + 22.294 | + 5.638 | + 27.932 | + 49.998 | - 1.065 | + 48.940 |

1. The Current FY 2016 OCO levels reflect the currently appropriated levels in the [Fiscal Year 2016 Continuing Appropriations Act](#). The President's Budget requested \$51 billion for Defense OCO and \$7 billion for Non-Defense OCO in FY 2016.

CONSERVATIVE VIEWPOINTS:

Read the Bill: The bill's 2242 pages of legislative text and over 1000 pages of explanatory material were made publicly available in two tranches: Extenders at 11:57 pm on December 15, 2015; Omnibus at 1:34 AM or later on December 16, 2015. Voting on Extenders on December 17, and the Omnibus on December 18, does technically comply with the 3-day rule. However some conservatives may be concerned that Members, staff, and the public are being given a very limited time to review the legislation of this scope and scale prior to a vote.

Spending Levels: Some conservatives may be concerned that the bill would spend above the levels agreed to in the Budget Control Act of 2011, the Fiscal Year 2016 Budget Resolution passed by the House and Senate earlier this year, and the appropriations bills passed by the House and Senate Appropriations Committees and on the House floor.

Some conservatives may be concerned that \$9 billion of the \$25 billion in additional Non-Defense funding is allocated to the appropriations bill for the departments of Labor, Health and Human Services, and Education.

OCO/Base Budget Shifting: Some conservatives may be concerned that the bill uses the increased funding for non-defense OCO to shift activities of the State Department that would normally be funded by base appropriations (subject to the caps) into OCO (exempt from the caps), which frees additional non-defense funds to spend on Democrat priorities.

Syria: Some conservatives may be concerned that the bill does not include a provision to restrict the resettlement of refugees from Syria into American neighborhoods until thorough background checks can be

conducted.

Planned Parenthood Funding: Some conservatives may be concerned this bill would provide millions of dollars in discretionary Title X family planning funding and would fail to prevent hundreds of millions of mandatory Medicaid dollars to go to Planned Parenthood, the nation's largest abortion provider that has been documented in a series of videos appearing to be illegally and immorally trafficking in the organs and body parts of aborted children.

Amnesty Funding: Some conservatives may be concerned that this bill fails to include authorizing legislation to limit or reverse President Obama's illegal executive amnesty actions to be carried out.

Iran: Some conservatives may be concerned that this bill would fail to prevent President Obama lifting sanctions on Iran.

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

CHIMPS: Some conservatives may be concerned that the bill relies on billions of dollars of "changes in mandatory programs" (CHIMPS) to meet the spending caps. 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.

Wind PTC and Solar ITC: Some conservatives may be concerned that the bill extends the Production Tax Credit and expands the solar Investment Tax Credit.

Extends Stimulus Level Tax Credits: Some conservatives may be concerned that the bill extends several enhanced refundable tax credits, including the EITC, CTC, and AOC.

Tax Integrity Measures: *Some conservatives may be pleased the bill includes provisions to improve the integrity of the EITC, CTC, and AOC tax credits and to prevent these credits from easily being claimed by illegal immigrants on a retroactive basis.*

Crude Oil Exports: *Some conservatives may be pleased that the bill includes lifting the ban on exporting domestic crude oil.*

- **Expand the Size and Scope of the Federal Government?** This bill would increase funding for appropriations above current levels to caps enacted in the Bipartisan Budget Act of 2015. It also includes numerous authorizing provisions that expand or create new discretionary or mandatory programs.
- **Encroach into State or Local Authority?** Some conservatives may believe that many of the programs funded by the bill encroach into state and local authority.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

SUMMARY AND ANALYSIS:

| Funding Changes Between House Appropriations Bills and Omnibus Dollar figures are in billions and represent base 302(b) levels Totals may not add due to rounding | | | |
|--|------------------|------------------|----------------------------------|
| | House FY 2016 | Omnibus FY 2016 | Change from Original House Level |
| Agriculture | 20.650 | 21.75 | 1.100 |
| Commerce-Justice-Science | 51.374 | 55.7 | 4.326 |
| Defense | 490.226 | 514.2 | 23.976 |
| Energy-Water | 35.402 | 37.2 | 1.798 |
| Financial Services and General Government | 20.250 | 23.2 | 2.95 |
| Homeland Security | 39.333 | 40.96 | 1.627 |
| Interior-Environment | 30.170 | 32.159 | 1.989 |
| Labor-HHS-Education | 153.052 | 162.1 | 9.048 |
| Legislative Branch (including Senate) | 4.300 | 4.363 | .063 |
| Military Construction-Veterans Affairs | 76.056 | 79.9 | 3.844 |
| State-Foreign Operations | 40.500 | 38.2 | - 2.3 |
| Transportation-HUD | 55.269 | 57.6 | 2.331 |
| Total | 1,016.582 | 1,067.334 | 50 |

Select Appropriations Policy Riders:

Many conservatives hoped that these high-priority provisions (most of which were included in the bills originally reported by the House Appropriations Committee) would be included in the bill:

Conscience

L-HHS-ED: The text of the “Health Care Conscience Rights Act” which includes the Abortion Non-Discrimination Act (ANDA).

- The bill *does not* include this provision.

State: Cap funding for international family planning funding.

- The bill *does not* include this provision.

Security

Homeland: Prohibit the use of funds for President's executive action on immigration for the duration of ongoing legal proceedings on the issue.

- The bill *does not* include this provision.

DOD/MilCon-VA/CJS/Homeland/State: Prohibit funds to close Guantanamo Bay (*Current law provision*).

- The bill includes this provision.

Pause refugee resettlement from Syria unless they can be vetted and fix the Visa Waiver Program.

- The bill does not include the provision on Syrian refugees, but does include reforms for the Visa Waiver Program.

Economy

Interior: Prohibit the EPA from implementing new ozone standards until at least 85 percent of counties in nonattainment achieve compliance with existing standards.

- The bill *does not* include this provision.

Interior: Prohibit the EPA from implementing greenhouse gas regulations for new and existing power plants.

- The bill *does not* include this provision.

CJS: Prohibit funds for the National Telecommunications and Information Administration to relinquish its responsibility over the Internet's domain name system functions (*Current law provision*).

- The bill includes this provision.

Interior/E&W: Prohibit funds to change the definition of "navigable waters" under the Clean Water Act.

- The bill *does not* include this provision, but does include a current law provision relating to the applicability of the Clean Water Act in agricultural areas.

L-HHS-ED: Prohibit funds to make Obamacare Risk Corridor payments (*Current law provision*).

- The bill includes this provision.

FSGG: Prohibit funds for the FCC to implement net neutrality until court challenges are resolved.

- The bill *does not* include this provision.

L-HHS-ED: Prohibit issuing new NLRB joint-employer standards.

- The bill *does not* include this provision.

Fix the Federal Reserve paid-in capital dividend cut included, that was used as a pay-for in the highway bill.

- The bill *does not* include this provision.

Lift the ban on Crude Oil Exports.

- The bill includes this provision.

Authorizing Legislation:

Intel Reauthorization: The bill includes a reauthorization of intelligence agencies for FY 2016.

Cybersecurity Act of 2015: The bill includes language similar to that in S. 754, H.R. 1560, and H.R. 1731, relating to cybersecurity. The bill would require the intelligence community and the Departments of Defense and Homeland Security to develop procedures to share cybersecurity threat information with private entities and non-federal government entities. The bill would: authorize private and non-federal entities to implement defensive cyber measures; establish procedures for private and non-federal entities to share cyber threat information with the federal government; protect information shared with the federal government from disclosure; and, indemnify private firms against any cause of action pursuant to cyber network monitoring or information sharing with the federal government. The bill would also require federal agencies to improve their own cybersecurity and address shortcomings in the federal cybersecurity workforce.

Crude Oil Exports: The bill would remove restrictions on exporting domestically produced crude oil by repealing section 103 of the Energy Policy and Conservation Act of 1975, which allows the President to restrict the export of coal, petroleum products, natural gas, or petrochemical feedstocks. The House passed [this provision](#) by a [261 - 159](#) vote on October 9, 2015.

Visa Waiver Program Reform: The bill includes the text of H.R. 158, the Visa Waiver Program Improvement Act of 2015, which would reform the Visa Waiver program. H.R. 158 passed the House by a [407 - 19](#) vote on December 8, 2015.

9/11 First Responders Program: The bill would reauthorize and modify the [James Zadroga 9/11 Health and Compensation Act](#), which provides funding for health benefits for first responders, residents, and survivors of the terrorist attacks on 9/11. The World Trade Center Health Program Fund would be reauthorized through 2090.

Medicare and Medicaid Provisions: The bill includes several provisions relating to Medicare and Medicaid which are intended to serve as pay-fors for the 9/11 provisions. These provisions deal with the Medicare Improvements Fund, reimbursements for imaging, Durable Medical Equipment (DME) rates, and disposable devices.

Bailout for Puerto Rico: The bill would modify Medicare inpatient hospital rates for Puerto Rico hospitals and would make other changes to the Medicare program in Puerto Rico. The bill does not include access to Chapter 9 municipal bankruptcy for Puerto Rico.

Financial Services: The bill includes several provisions related to financial services.

Limitation on GSE Preferred Stock Sales: The bill would limit the sale of Fannie Mae and Freddie Mac preferred stock by the Secretary of the Treasury until 2018.

Disclosure of Political Activities: The bill would prohibit the SEC from requiring companies to disclose political contributions, contributions to tax exempt organizations, or dues to trade associations.

Housing Programs: The bill would extend the Hardest Hit Fund through 2017 and would terminate the Making Home Affordable initiative beginning in 2017.

The bill also includes provisions related to confidentiality of information shared between state and local regulators, FACA, affiliate transactions, insurance policyholders, and a reporting requirement.

Reauthorization of Land Water Conservation Fund: The bill includes a three year reauthorization of the LWCF without meaningful reforms for the program.

National Oceans and Coastal Security: The bill includes a National Oceans and Coastal Security Act that would establish a new National Oceans and Coastal Security Fund to “better understand and utilize ocean and coastal resources.”

Budgetary Provisions: The bill would provide that the budgetary effects of Divisions O and P of the bill shall not be entered on the PAYGO scorecards under the Statutory Pay As You Go Act.

The bill would allow the Chairman of the Budget Committee to adjust the allocations, aggregates, and levels of the Budget Resolution to be consistent with the Bipartisan budget Act of 2015.

Iraq Loan Authority: The bill would provide \$2.7 billion in direct loan authority for Iraq under the Arms Export Control Act.

Tax Provisions:

Delay in Cadillac Tax: Beginning in 2018, Obamacare imposes an excise tax on certain high-cost, employment-based health insurance plans. The bill would delay Obamacare’s so-called Cadillac Tax for 2 years (until 2020). Repealing the cadillac tax is a [priority for Democrats](#).

Tax on Health Insurers: Obamacare imposed a [tax](#) on health insurers that is projected to raise \$142 billion over the next decade. The bill would place a moratorium on the tax in 2017.

Extension of the Wind Production Tax Credit (PTC): The bill would extend the Wind PTC through 2019 and would reduce the value of the credit over that five year extension.

Extension and Expansion of the Solar Energy Credit: The bill would extend and expand the Solar Investment Tax Credit (ITC) for projects that “commence construction” (rather than the current placed in service standard) through 2021. The value of the credit would be reduced over the five year extension.

Transportation Costs for Refiners: The bill would provide a deduction for independent refiners.

Division Q: Protecting Americans from Tax Hikes Act

CONTACT: [Matt Dickerson](#), 202-226-9718, [Brittan Specht](#), 202-226-9143

This Bulletin includes *preliminary* analysis of the tax extenders package. Additional analysis will be released as it becomes available. Additional tax provisions are included in Division P of the bill.

SUMMARY AND ANALYSIS:

The bill would make the following currently temporary provisions of the tax code permanent:

Corporate Tax Provisions

- Research and Development Credit (Similar to House-passed H.R. 808)
- Section 179 expensing (Included in House-passed H.R. 636)
- 15-year depreciation for leaseholds and improvements
- Active finance exemption
- Employer wage credit for employees on active duty
- 5-year built-in gains tax for subchapter S corporation stock (Included in House-passed H.R. 636)
- Registered Investment Company foreign investor pass-through

Individual Tax Provisions

- Enhanced Earned Income Tax Credit
- Enhanced American Opportunity Credit
- Enhanced Child Tax Credit
- Deduction for teacher classroom expenses
- Parity for exclusion of mass transit and parking benefits
- 100% Exclusion on gains from the sale of small business stock
- State and local sales tax deductions (Similar to House-passed H.R. 622)
- Low-Income Housing Tax Credit minimum rates
- Exclusion of military housing allowance from income test for low-income housing credits

Charitable Giving Provisions (Similar to the provisions of House-passed H.R. 644, the America Gives More Act)

- Food inventory deduction
- Conservation easement deduction
- IRA charitable rollover
- Exemption for payments to an exempt organization
- Adjustment to basis of S corporation stock for charitable donations (Included in House-passed H.R. 636)

The bill includes extensions through 2019 of the following provisions:

- Bonus depreciation would be extended at 50% for 2015-17, 30% in 2018, and 40% in 2019
- Work Opportunity Credit
- New Markets Credit
- Look-through treatment for payments between related foreign controlled corporations

The bill includes extensions through 2016 of the following provisions:

- Mortgage debt forgiveness
- Treatment of mortgage insurance premiums as mortgage interest
- Deduction for tuition and related expenses
- Indian employment credit
- Railroad track maintenance credit
- Mine rescue team training credit
- Qualified zone academy bonds
- 3-year recovery period for race horses
- 7-year recovery period for motorsports complexes
- Expensing of mine safety equipment
- Special expensing for film and television productions
- Deduction of income from production activities in Puerto Rico
- Empowerment zone incentives
- Puerto Rican and Virgin Islands rum excise tax credit
- American Samoa economic development credit

The bill extends the following energy and conservation provisions through 2016:

- Renewables Production Tax Credit
- Nonbusiness energy property credit
- Alternative fuel vehicle refueling property credit
- 2-wheeled electric vehicle credit
- Fuel cell motor vehicles credit
- Cellulosic biofuels credit
- Bonus depreciation for cellulosic biofuel facilities
- Biodiesel and renewable diesel credits and fuel excise tax credit
- Alternative fuel excise tax credit
- Indian coal facilities credit
- Energy efficient home manufacturer credit
- Commercial building energy efficiency improvements deduction

Program Integrity Requirements

The bill includes a number of changes to existing law intended to improve the integrity of the administration of certain tax credits, especially the EITC, CTC, and AOC. These reforms would prohibit an individual from making retroactive claims for any of these credits for any year in which the individual, or, in the case of the CTC, the child, did not have a social security number for the purposes of the EITC, or an IRS taxpayer identification number for the purposes of the CTC or AOC. These reforms are intended to prevent illegal immigrants from claiming retroactive, refundable tax credits.

The bill also increases penalties for paid preparers who are found to have been involved in or failed to exercise due diligence in preventing fraud and abuse, as well as penalties and disqualification periods for individuals who fraudulently claim credits.

Tax Administration Provisions

The bill includes a number of provisions intended to better protect taxpayers from abuse and ensure IRS employees are acting in compliance with the law and in the best interest of the taxpayers. Several of these provisions were components in House-passed legislation during 2015, including: explicitly establishing the duty of IRS employees to taxpayers; allowing IRS employees to be terminated for taking political actions in their official capacity; and, reforming to process for recognition of tax-exempt organizations.

Medical Device Tax Moratorium

Section 174 would impose a two-year moratorium (through calendar year 2017) of the Obamacare 2.3% medical device excise tax.

Budgetary Provisions: The bill would provide that the budgetary effects of Divisions Q of the bill shall not be entered on the PAYGO scorecards under the Statutory Pay As You Go Act.

OUTSIDE GROUPS:

Heritage Action: [Congress dumps \\$1.1 trillion omnibus on lawmakers, American people at 2 am](#)

Heritage Foundation:

- [Important Policy Riders for the FY 2016 Appropriations Bills](#)
- [Why Isn't There More Talk About Out-of-Control Spending With the Government Funding Deadline So Close?](#)
- [Ending the Crude Oil Ban Already Has Bipartisan Support. GOP Doesn't Need to Fight for It in Spending Debate.](#)

National Taxpayers Union: [End-of-Year Spending Bill Presents Opportunities for Taxpayers](#)

COMMITTEE ACTION:

The House Appropriations Committee marked up H.R. 2029 as the [Fiscal Year 2016 Military Construction and Veterans Affairs Appropriations](#) on [April 22, 2015](#), and approved the bill by a voice vote. The House passed H.R. 2029 on April 30, 2015, by a [255 - 163](#) vote. The Senate amended and passed H.R. 2029, the Military Construction and Veterans Affairs bill on November 11, 2015, by a [93 - 0](#) vote.

Previous Action on Appropriations Measures:

The House passed six of the 12 appropriations bills for FY 2016:

- H.R. 2578, the [Commerce, Justice, and Science](#) bill passed the House on June 3, 2015, by a [242 - 183](#) vote.

- H.R. 2685, the [Defense](#) bill passed the House on June 9, 2015, by a [278 – 149](#) vote.
- H.R. 2028, the [Energy and Water](#) bill passed the House on May 1, 2015, by a [240 – 177](#) vote.
- H.R. 2250, the [Legislative Branch](#) bill passed the House on May 19, 2015, by a [357 – 67](#) vote.
- H.R. 2029, the [Military Construction and Veterans Affairs](#) bill passed the House on April 30, 2015, by a [255 – 163](#) vote.
- H.R. 2577, the [Transportation, Housing, and Urban Development](#) bill passed the House on June 9, 2015, by a [216 – 210](#) vote.

H.R. 2822, the [Interior and Environment](#) bill was also considered in the House, but a vote on passage was not held.

In contrast, the Senate did not pass a single appropriations bill before the start of the fiscal year. In July, [Senate Democrats vowed to filibuster all appropriations](#) measures in order to push for more spending, a strategy that was ultimately successful.

Appropriations were extended through December 11, 2015, by [H.R. 719, the Continuing Appropriations Act, 2016](#), which passed the House on September 30, 2015, by a [277 – 151](#) vote.

The discretionary spending caps agreed to in 2011 under the Budget Control Act were increased by [H.R. 1314, the Bipartisan Budget Act of 2015](#), which passed the House on October 28, 2015, by a [266 – 167](#) vote.

The Senate was able to pass H.R. 2029, the Military Construction and Veterans Affairs bill on November 11, 2015, by a [93 – 0](#) vote. This was the first appropriations bill passed by the Senate in 5 years.

Appropriations were extended through December 16, 2015, by H.R. 2250, which passed the House on December 11, 2015, by a voice vote.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

“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.*

###