



February 6, 2007

**Problems with the Democrats' Omnibus Appropriations Bill**

**The Beginning of Fiscal Irresponsibility**

***Executive Summary***

- This month, the Senate is expected to take up H.J.Res. 20, a bill incorrectly labeled a “continuing appropriations resolution.” H.J.Res. 20 is 137 pages long and is a de facto omnibus appropriations bill. As compared to H.J.Res. 20, a clean continuing resolution would save over \$6 billion for FY07.
- H.J.Res. 20 uses many budget gimmicks so that total discretionary spending (including that in the two enacted bills) does not exceed \$873 billion, the FY07 discretionary topline amount proposed by the President.
- Democrats underfund national defense programs to increase spending on domestic programs with the expectation of “backfilling” those accounts later. Democrats also rescind funding in empty accounts and claim them as offsets.
- While claiming H.J.Res. 20 represents a “moratorium” on earmarks, Democrats have, in fact, included an earmark provision that merely maintains current practice. Democrats did not include any provisions to remove multi-year earmarks.
- H.J.Res. 20 ignores program terminations proposed by the President and agreed to in the full House and the Senate Appropriations Committee.
- Democrats also break previous promises with respect to funding levels that were agreed upon in the National Defense Authorization Act of 2007.
- Republicans should be able to offer amendments to respond to some of these problems.

## **Introduction**

On January 31, the House of Representatives passed a bill that the Democrat leadership characterizes as a “continuing appropriations resolution.” In actuality, that bill, H.J.Res. 20, is closer to an omnibus appropriations bill that covers almost 50 percent of the federal discretionary budget at a price tag of \$463.5 billion. It runs 137 pages long with budget gimmicks, shell games, and significant funding cuts as a means to increase some of the Democrats’ favorite programs. Also, Democrats inaccurately state that this bill includes a “moratorium” on earmarks.

This paper will present an accurate description of the Democrats’ omnibus bill, describe budget gimmicks, and identify some of the bill’s earmarks. In response to these problems, Republicans should be able to offer amendments during floor debate in the Senate.

## **An Omnibus or a Continuing Resolution?**

Of the Senate’s 12 regular appropriations bills for FY07, only Defense Appropriations and Homeland Security Appropriations have been enacted. Since the start of FY07, funding for all the other programs has been covered with a series of stop-gap funding measures called continuing resolutions (CR), the most recent of which expires on February 15.

Continuing appropriations acts, commonly known as continuing resolutions, have been enacted for all but five fiscal years from FY1952 to FY2006. A CR is needed whenever an appropriations bill is incomplete at the end of a fiscal year. The duration of CRs often last from several days to a few weeks so that Congress can complete action on remaining appropriations bills. However, a full-year CR is much less common. A full-year CR has been used only once in the past 15 years—in 1992—and in that case, applied to only one of the regular appropriations bills, the Foreign Operations Appropriations Bill.

In general, CRs extend budget authority for accounts funded in the previous year’s regular appropriation acts based on some type of formula. The third—and current—FY07 continuing resolution (P.L. 109-383) generally funded each account at the lowest of the following amounts: (1) that provided in the House-passed version of the bill; (2) that provided in the Senate-passed version of the bill (which, at this time, only would apply to the Military Construction and Veterans Affairs bill); or (3) that generally available in FY06.

An omnibus appropriations bill is frequently used to complete the appropriations process by combining multiple appropriation bills into a single bill. While a CR is based upon a formula and is generally a few pages long, an omnibus appropriations bill provides specific funding for every government program and is usually hundreds, if not thousands, of pages long. Over the past 20 years, omnibus appropriations bills have been used 10 times, according to Congressional Research Service. Each of these 10 measures funded between 2 and 13 regular appropriations acts.

The Democrats essentially are offering an omnibus appropriations bill, though claiming it is a full-year CR. A clean CR, without any budget gimmicks and funding exceptions, would have saved taxpayers over \$6 billion. H.J.Res. 20 is 137 pages long and maintains the funding

level for most programs at the FY06 enacted level. However, the bill also increases funding for hundreds of programs while denying funding for others. For example:

- Democrats reduced defense funding by \$3.1 billion but added more than \$1 billion to the Energy and Water programs.
- Democrats capped the Teacher Incentive Fund (TIF) at \$200,000, down from \$99 million. TIF is a grant program that provides State-formula grants to reward effective teachers and offers incentives to highly qualified teachers in high-poverty schools.
- Democrats also prohibited funding for the Ryan White Early Diagnosis grant program—a program which was successful in reducing the number of HIV-infected infants in New York.
- H.J.Res. 20 even makes changes to the Section 8 Housing grants' formula.

Rather than applying a CR-type of formula to all spending programs, Democrats handpicked certain programs for increases and spending cuts for others. In short, this bill is much like an omnibus appropriations bill, despite the Democrats' label of a full-year CR.

Why does it matter if H.J.Res. 20 is a CR or an omnibus? The answer is process. CRs generally do not require much debate or many amendments. On the other hand, omnibus appropriation bills historically are debated for many days with numerous roll call votes.

### **A Recent Precedent: Six Days of Votes**

The current status of appropriation bills is similar to that of fiscal year 2003. In January 2003, Republicans took over the Senate faced with 11 appropriations bills not yet passed. Rather than foreclosing debate or limiting amendments, Republicans brought to the floor a consolidated appropriations bill for fiscal year 2003 (FY03) and allowed for six days of debate. Moreover, Republicans allowed for the FY03 Consolidated Appropriations Act to be heavily amended with 97 amendments agreed to by unanimous consent and voice vote, of which 55 were offered by Democrats, and 24 roll call votes, of which 16 were offered by Democrats.

Yet, this year, Democrats may block Republicans from offering any amendments to H.J.Res. 20, the Democrats' Omnibus Appropriations Bill, arguing that, without this bill, the government will be forced to shut down. However, without amendments, Republicans will not have an opportunity to correct some of the problems with H.J.Res. 20.

## **Problems with H.J.Res. 20**

### **Budget Gimmicks**

H.J.Res. 20 uses multiple budget gimmicks to increase spending on Democrat priorities while technically allowing total discretionary spending (including that provided in the two enacted bills) to remain below the \$873 billion discretionary amount, the FY07 level proposed by the President. One often-used budget gimmick is holding funding constant for critical defense spending, using those "offsets" to increase spending for Democrats' favorite programs, and ultimately "backfilling" defense spending in a supplemental funding bill. This budget gimmick works by reducing funding for critical programs during consideration of appropriations

bills and later calling for a funding increase in a supplemental. For example, Democrats are applying a CR formula to Base Realignment and Closure 2005 (BRAC), resulting in a \$3.1 billion shortfall from funding levels already agreed to in the Defense Authorization Act. Democrats then used these funds as offsets to increase spending for their favorite programs, such as Community Oriented Policing Services. Later this year, Democrats may backfill BRAC in an emergency supplemental funding bill.

As a result of this budget gimmick, BRAC funding is cut below the agreed-upon amounts in the Defense Authorization bill. Cutting BRAC funding is poor policy for three important reasons. First, \$5.6 billion in BRAC funding was agreed upon in the National Defense Authorization Act of 2007 (NDAA). By applying a CR formula to BRAC, Democrats are essentially breaking an agreement made in the NDAA, which will result in a \$3.1 billion shortfall. The second reason why cutting BRAC is poor policy is because the whole purpose of BRAC was to save money by undertaking the largest military restructuring of U.S. forces in history. Such a restructuring would have resulted in over \$20 billion in cost savings; however, forcing BRAC to operate under a CR will jeopardize those benefits. Finally, as a result of BRAC cuts in the Democrats' Omnibus bill, 12,000 troops will not be able return home in FY07. Cutting BRAC funding not only comprises national security but breaks a bipartisan agreement reached during BRAC negotiations in 2005.

In addition to raiding BRAC to pay for domestic programs, Democrats are using two additional budget gimmicks to "offset" increased spending elsewhere. First, Democrats are reducing contract authority for the Federal-Aid highway program as an "offset." Contract authority allows an agency to enter into a contract prior to an appropriation. However, the Democrats' reduction in contract authority was not accompanied by a corresponding reduction in obligation limitations, which limit the amount of outlays for most highway spending. As a result of budget rules, reducing contract authority results in "savings"—on paper—which can be used for other programs. Democrats used this gimmick to "save" \$3.5 billion.

Another frequently-used budget gimmick is identifying offsets by changing a mandatory program, such as the Crime Victims Fund (CVF). CVF is a mandatory program funded by fines collected for certain crimes. The program pays moneys to victims of certain crimes. H.J.Res. 20 places a cap on the total amount of funds that may be spent from this program, which according to budget rules is considered a savings, and spends it elsewhere. By not rescinding these funds, this budget gimmick can be played year after year.

### **No "Moratorium" on Earmarks**

Democrats proudly declared that H.J.Res. 20 would put a moratorium on earmarks. To do this, they inserted the following misleading provision (Title I, Section 112):

*Any language specifying an earmark in a committee report or statement of managers accompanying an appropriations Act for fiscal year 2006 shall have no legal effect with respect to funds appropriated by this division.*

This provision does absolutely nothing because, under current law, earmarks in committee reports or statement of managers *already* have no legal effect. Furthermore, H.J.Res. 20 fails to define the term “earmark.”

In fact, H.J.Res. 20 funds over two dozen earmarks that were included in previous appropriations bills. While the bill does not include new earmarks, multi-year earmarks from previous years will be funded because the Democrats’ Omnibus Bill does not include language to “turn off” these earmarks. As a result of Democrats’ inaction, the Department of Energy will continue to fund multi-year earmarks, such as \$3 million for the Consortium on Terrorism and Fire Science at the University of Nevada-Reno and \$2 million for Radio Analytical Services Laboratory at the UNLV Research Foundation. With an estimated 28 earmarks, Democrats’ “moratorium” on earmarks is a misnomer.

### **Ignoring Program Terminations**

Under H.J.Res. 20, programs that previously were agreed to be eliminated or significantly cut by the full House and the Senate Appropriations Committee for FY07 will be continued at the FY2006 rate. This is because the funding formula in H.J.Res. 20 maintains funding for all programs at the FY06 enacted level. For example, consider the United States Travel and Tourism Promotion program in Commerce-Justice-State Appropriations for FY07. In FY06, this program received \$3.9 million. No funding for this program was included in the President’s budget, and both the House and the Senate Appropriations Committee provided no funding. However, under H.J.Res.20, funding will continue at the \$3.9 million level. The FY07 House-passed Agriculture bill would terminate seven discretionary programs, saving \$113.7 million. Under H.J.Res.20, these programs will be continued in FY07.

### **Breaking Previous Agreements**

Programs expected to receive large increases as agreed upon in an authorization bill will not receive commensurate FY07 funding increases under H.J.Res. 20. For example, Congress acts every year on a national defense authorization bill, which authorizes programs funded in several regular appropriations measures (including the enacted Defense Appropriations Act and the Senate-passed Military Construction and Veterans Affairs Appropriations Act). Appropriations related to defense are almost always at the same level as authorized in the defense authorization bill. However, H.J.Res. 20 ignores those agreed-upon authorized levels. For example, in the National Defense Authorization Act of 2007, \$6.975 billion was authorized for Military Construction. But, in H.J.Res. 20, Democrats only provided \$6.019 billion, a shortfall of \$957 million. This is but one example of Democrats breaking a longstanding agreement of fully funding the defense authorization acts.

## **Conclusion**

Republicans should be able to offer amendments to address budget gimmicks, existing earmarks, program terminations, and broken promises. Unfortunately, Democrats may simply block Republicans’ attempts to increase defense spending, eliminate earmarks, and terminate government waste.