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Overview of Further Continuing Appropriations for FY2017 (H.R. 2028)

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Summary

This report is an analysis of the provisions in H.R. 2028, which provides further continuing appropriations for FY2017 through April 28, 2017. The measure also included appropriations for the remainder of the fiscal year for Overseas Contingency Operations in the Security Assistance Appropriations Act (Division B). On December 10, 2016, the President signed H.R. 2028 into law (P.L. 114-254).

Division A of H.R. 2028 was termed a "continuing resolution" (CR) because it provided temporary authority for federal agencies and programs to continue spending in FY2017 in the same manner as a separately enacted CR. It provides temporary funding for the programs and activities covered by the remaining 11 regular appropriations bills that had not been enacted previously. These provisions provide continuing budget authority for projects and activities funded in FY2016 by that fiscal year's regular appropriations acts, with some exceptions. Funding under the terms of the CR is effective from enactment on December 10, 2016, through April 28, 2017—a period of 20 weeks.

The CR generally provides budget authority for FY2017 for projects and activities at the rate at which they were funded during FY2016. Most projects and activities funded by the CR, however, are also subject to an across-the-board decrease of 0.1901% for the period covered (pursuant to Section 101(2) of Division A).

According to the cost estimate prepared by the Congressional Budget Office (CBO), the total amount annualized budget authority for the 11 regular appropriations covered in Division A that are subject to the statutory discretionary spending limits totals to approximately $987,273 million. When spending in the act that is effectively not subject to those limits (Overseas Contingency Operations, disaster relief, emergency requirements and program integrity adjustments) is included in the CBO estimate, the annualized total is $1,083,798 million.

In addition to the general provisions that establish the coverage, duration, and rate of spending, CRs usually include provisions that are specific to certain agencies, accounts, or programs. These include provisions that designate exceptions to the formula and purpose for which any referenced funding is extended (referred to as "anomalies") as well as provisions that have the effect of creating new law or changing existing law (often used to renew expiring provisions of law). The CR includes a number of such provisions, each of which is briefly summarized in this report. CRS appropriations process experts for each of these provisions are listed in **Table 1**.

For information on the first CR for FY2017, see CRS Report R44653, *Overview of Continuing Appropriations for FY2017 (H.R. 5325)*, coordinated by James V. Saturno. For general information on the content of CRs and historical data on CRs enacted between FY1977 and FY2016, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

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Introduction

Congress uses an annual appropriations process to fund discretionary spending, which supports the projects and activities of most federal government agencies.[1] This process anticipates the enactment of 12 regular appropriations bills each fiscal year.[2] If regular appropriations are not enacted prior to the start of the fiscal year (October 1), continuing appropriations may be used to provide temporary funding until the annual appropriations process can be concluded. Continuing appropriations acts are often referred to as "continuing resolutions" or "CRs," because they are typically enacted in the form of a joint resolution. CRs may be enacted for a period of days, weeks, or months. If any of the 12 regular appropriations bills are not enacted by the time the first CR for a fiscal year expires, further extensions of that CR might be enacted until all regular appropriations bills have been completed or the fiscal year ends.

None of the FY2017 regular appropriations bills was enacted prior to the enactment of the first CR for FY2017 (H.R. 5325).[3] As enacted, Division C of that measure provides continuing appropriations for projects and activities covered by 11 of the 12 regular appropriations bills for the period covering the beginning of the fiscal year, October 1, 2016, through December 9, 2016. It also provided appropriations covering the Military Construction and Veterans Affairs Appropriations Act for all of FY2017 (Division A), as well as emergency funds to combat the Zika virus and provide relief for flood victims in Louisiana and other affected states (Division B). H.R. 5325 was passed by the Senate and House on September 28, 2016, and signed into law by the President on September 29 (P.L. 114-223).

In December 2016, the House and Senate passed a measure providing further continuing appropriations for FY2017 (H.R. 2028) for projects and activities covered by the 11 regular appropriations that were covered by the previous CR, P.L. 114-223, but extending the period of availability through April 28, 2017 (Division A) and adding additional provisions to be added to the text of P.L. 114-223 following Section 145 of Division C. In addition, funding was provided for Overseas Contingency Operations for the entire fiscal year (Division B, entitled the Security Assistance Act, 2017).

The purpose of this report is to provide an analysis of the additional provisions in Division A concerning continuing appropriations added to those from Division C of P.L. 114-223 (Sections 145-201), including the provision establishing an expedited procedure for Senate consideration of a waiver concerning the nomination of James N. Mattis to be Secretary of Defense.[4] The first two sections summarize the overall funding provided ("Coverage, Duration, and Rate") and budget enforcement issues associated with the statutory discretionary spending limits ("The CR and the Statutory Discretionary Spending Limits"). The third section of this report provides short summaries of the provisions in this CR that are agency-, account-, or program-specific. These

[1] The federal budget process distinguishes between discretionary spending, which is controlled through annual appropriations acts, and direct (or mandatory) spending, which is controlled through authorizing laws. For further information on the types of spending in the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by James V. Saturno. For further information on the appropriations process, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, coordinated by James V. Saturno.

[2] Under current practice, each House and Senate Appropriations subcommittee typically drafts one regular appropriations bill for the activities under its jurisdiction, for a total of 12 bills each fiscal year. The full Appropriations Committee subsequently considers and reports each bill to its respective parent chamber.

[3] For a discussion of this measure see CRS Report R44653, *Overview of Continuing Appropriations for FY2017 (H.R. 5325)*, coordinated by James V. Saturno.

[4] Provisions concerning the Security Assistance Act (Division B) are examined in other CRS reports.

summaries are organized by appropriations act title. In some instances, additional information about those appropriations and how they operate under a CR is provided.

For general information on the content of CRs and historical data on CRs enacted between FY1977 and FY2016, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

Coverage, Duration, and Rate

This section of the report discusses the three components of a CR that generally establish the purpose, duration, and amount of funds provided by the act:

- A CR's "coverage" relates to the purposes for which funds are provided. The projects and activities funded by a CR are typically specified with reference to regular (and, occasionally, supplemental) appropriations acts from the previous fiscal year. When a CR refers to one of those appropriations acts and provides funds for the projects and activities included in such an act, the CR is often referred to as "covering" that act.[5]
- The "duration" of a CR refers to the period of time for which budget authority[6] is provided for covered activities.
- CRs usually fund projects and activities using a "rate for operations" or "funding rate" to provide budget authority at a restricted level but do not prescribe a specified dollar amount. The funding rate for a project or activity is based on the total amount of budget authority that would be available annually for that project or activity under the referenced appropriations acts and is pro-rated based on the fraction of a year for which the CR is in effect.

Coverage

Division A provides further continuing budget authority for projects and activities funded in the first continuing appropriations measure for FY2017. These are specified in P.L. 114-223 as the projects and activities funded in FY2016 by that fiscal year's regular appropriations acts for 11 of the 12 regular annual appropriations bills—Divisions A-L (except for Division J covering the Military Construction and Veterans Affairs Appropriations Act) of the FY2016 Consolidated Appropriations Act (P.L. 114-113), with some exceptions.[7]

Statutory limits on discretionary spending are in effect for FY2017, as established by the Budget Control Act of 2011 (BCA; P.L. 112-25) and modified most recently by the Bipartisan Budget Act of 2015 (P.L. 114-74). The CR includes both budget authority that is subject to those limits and also budget authority that is effectively exempt from those limits. Budget authority that is

[5] For further information on the concept of "coverage," see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

[6] Appropriations bills provide agencies with budget authority, which is defined as authority provided by federal law to enter into contracts or other financial obligations that will result in immediate or future expenditures (or outlays) involving federal government funds. For explanations of these terms, see Government Accountability Office (GAO), A *Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 2005, pp. 20-21. For the purposes of this report, the terms budget authority and funding are used interchangeably.

[7] Those exceptions, as provided in Section 101 of P.L. 114-223, are Section 728 of Division A; Title IX of Division K; and Section 420 of Division L.

effectively exempt includes that designated or otherwise provided as "Overseas Contingency Operations/Global War on Terrorism" (OCO/GWOT), "continuing disability reviews and redeterminations," "health care fraud and abuse control," "disaster relief," and "emergency requirements."[8]

Budget authority is provided in this CR under the same terms and conditions as the referenced FY2016 appropriations acts. Effectively, this requirement extends many of the provisions in the FY2016 acts that stipulated or limited agency authorities during FY2016. In addition, in general none of the funds may be used to initiate or resume an activity for which budget authority was not available in FY2016. A goal of these and similar provisions in other CRs, as well as many of the other provisions discussed in the sections below, is to protect Congress's constitutional authority to provide annual funding in the manner it chooses.

Duration

Section 101 provides that funding in the CR is effective through April 28, 2017—a period extending funding for FY2017 for an additional 20 weeks. The CR provides that, in general, budget authority for some or all projects and activities could be superseded by the enactment of the applicable regular appropriations act or another CR prior to April 28.[9] For projects and activities funded in the CR that a subsequent appropriations act does not fund, budget authority would immediately cease upon such enactment, even if prior to April 28.

Rate

The CR provides budget authority for projects and activities funded in the 11 FY2016 appropriations acts covered by the CR at a rate based on the amount of funding provided in those acts for the duration of the CR (through April 28). The rate is based on the actual amounts made available in FY2016 and so would be the net of all funding provisions, including those that had the effect of reducing FY2016 budget authority. For entitlement and other mandatory spending provided in regular appropriations acts, funding is provided at the rate sufficient to maintain program levels under current law as provided in Section 111 of P.L. 114-223.

Most projects and activities funded in the CR are subject to an across-the-board decrease that would have the effect of reducing the rate by 0.1901% below the level of FY2016 funding.[10] Because this decrease did not apply to appropriations designated or otherwise provided as OCO/GWOT, continuing disability reviews and redeterminations, health care fraud and abuse control, disaster relief, and emergency requirements under Section 111 of P.L. 114-223, they would continue to be unaffected. This decrease does apply, however, to advance appropriations enacted in previous fiscal years that first became available in FY2017.[11]

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[8] Section 101 of P.L. 112-25.

[9] The subsequent enactment of a regular appropriations bill would also supersede the level of funding provided in the CR. Section 107 of P.L. 114-223 provided that obligations and expenditures made between October 1 and the enactment of any subsequent full-year appropriations would be charged to the applicable appropriation.

[10] Section 101(2) of P.L. 114-254.

[11] Section 115 of P.L. 114-223. Advance appropriations are budget authority that becomes available one or more fiscal years after the fiscal year covered by the appropriations act. For further information, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup.

The CR and the Statutory Discretionary Spending Limits

Background

Appropriations for FY2017 are subject to statutory discretionary spending limits on categories of spending designated as "defense" and "nondefense" spending pursuant to the BCA. The defense category includes all discretionary spending under budget function 050 (defense); the nondefense category includes discretionary spending in the other budget functions.[12] If discretionary spending is enacted in excess of a statutory limit in either category, the BCA requires the level of spending to be brought into conformance through "sequestration," which involves primarily across-the-board cuts to non-exempt spending in the category of the limit that was breached (i.e., defense or nondefense). The Office of Management and Budget (OMB) provides a preview report at the beginning of the calendar year calculating any adjustments to the existing statutory spending limits.[13] For FY2017, the adjusted discretionary spending caps are $551.068 billion for defense and $518.531 billion for nondefense. After the end of the congressional session, OMB evaluates discretionary spending relative to the spending limits and determines whether sequestration is necessary. Under the BCA, the first such evaluation (and any necessary enforcement) is scheduled to occur within 15 calendar days after Congress adjourns *sine die*,[14] and for any discretionary spending that becomes law after the session ends, the OMB evaluation and any enforcement of the limits would occur 15 days after enactment.[15] As described below, however, Section 184 of P.L. 114-254 provides an adjusted schedule and process for FY2017.

FY2017

The Congressional Budget Office (CBO) estimates the budgetary effects of interim CRs on an "annualized" basis, meaning that the effects are measured as if the CR were providing budget authority for the remainder of the fiscal year. According to CBO,[16] when the funding provided in Division A of P.L. 114-223 (the Military Construction and Veterans Affairs Appropriations Act) is added to the annualized amount for the 11 appropriations acts covered by continuing appropriations provisions, the total amount of annualized discretionary budget authority for regular appropriations subject to the BCA limits (including projects and activities funded at the rate for operations and anomalies) is $1,069.599 billion, approximately the amount of the

[12] For further information with regard to budget functions, see CRS Report 98-280, *Functional Categories of the Federal Budget*, by Bill Heniff Jr.

[13] The preview report for FY2017 is available at https://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/sequestration_preview_report_fy17_house.pdf.

[14] Section 251(a)(1) of the Balanced Budget and Emergency Deficit Control Act. In general, an adjournment *sine die* terminates an annual session of Congress. Unless otherwise specified by law, the latest this adjournment can occur is January 3 each year. For further information with regard to *sine die* adjournments of a congressional session, see CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen.

[15] Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act. This requirement is in effect for spending enacted after the end of the congressional session but before July 1. For spending enacted between July 1 and the end of the fiscal year, Section 251(a)(5) provides for "look-back" budget enforcement, through which the relevant spending limit for the following fiscal year would be reduced by the amount of the breach of the current year limit.

[16] The CBO cost estimate provided for committee print 114-70 of the House Rules Committee, providing the text of the House amendment to the Senate amendment to H.R. 2028, is available at https://www.cbo.gov/publication/52321.

combined statutory discretionary spending limits for FY2017. In most circumstances, the BCA provides that a breach in one category may not be offset by savings in the other.[17]

CBO estimates that under P.L. 114-254 defense spending would total $548.122 billion, which is about $2.9 billion below the defense limit, and nondefense spending is estimated to total $521.477 billion, which is about $2.9 billion above the nondefense limit. The provisions of Section 184 adjust the timetable for action to enforce the statutory spending limits. OMB is required to make a determination by the 10th day after the end of the second session of the 114th Congress[18] regarding the total of enacted appropriations for FY2017 subject to those limits. If that total does not exceed the sum of the spending limits, then the final sequestration reports would not be issued by CBO until 10 days after the end of the period covered by the CR and by OMB 15 days after. These projected totals may be affected by further appropriations legislation for FY2017.

When spending effectively not subject to those limits—because it was designated or otherwise provided as OCO/GWOT, continuing disability reviews and redeterminations, health care fraud and abuse control, disaster relief, and emergency requirements—is included, CBO estimates total annualized budget authority resulting from this CR and prior appropriations (including amounts for the Military Construction and Veterans Affairs Appropriations Act in P.L. 114-223) for FY2017 to be $1,166.296 billion.

Agency-, Account-, and Program-Specific Provisions

In addition to the general provisions that establish the coverage, duration, and rate, CRs typically include provisions that are specific to certain agencies, accounts, or programs. These provisions are generally of two types. First, certain provisions designate exceptions to the formula and purpose for which any referenced funding is extended. These are often referred to as "anomalies."[19] The purpose of anomalies is to preserve Congress's constitutional prerogative to provide appropriations in the manner it sees fit, even in instances when only short-term funding is provided.[20] Second, certain provisions may have the effect of creating new law or changing existing law. Most typically, these provisions are used to renew expiring provisions of law or extend the scope of certain existing statutory requirements to the funds provided in the CR. Substantive provisions that establish major new policies have also been included on occasion.[21] Unless otherwise indicated, such provisions are temporary in nature and expire when the CR sunsets.

These anomalies and provisions that change law may be included at the request of the President. Congress may accept, reject, or modify these proposals in the course of drafting and considering appropriations measures that provide continuing appropriations. In addition, Members may

[17] Section 184, however, provides for the postponement of final sequestration reports from CBO and OMB for approximately four months if the combined amounts for defense and nondefense do not exceed the combined statutory limits.

[18] In the absence of a concurrent resolution providing for the adjournment *sine die* of the 114th Congress, the end of the 114th Congress would be considered January 3, 2017, the same date on which the 115th Congress begins.

[19] For a discussion of the concept of "anomalies," see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

[20] Article 1, Section 9, of the U.S. Constitution grants Congress the "power of the purse" by prohibiting expenditures "but in Consequence of Appropriations made by Law."

[21] For example, the first FY2015 CR (P.L. 113-164, Section 149) included provisions that authorized the President to arm and train "vetted elements" of Syrian opposition groups and provided for the potential use of funds for those purposes.

identify or initiate any other anomalies and provisions changing law that they wish to be included in the CR.

This section of the report summarizes provisions in this CR that are agency-, account-, or program-specific, alphabetically organized by appropriations act title for 10 of the 11 regular appropriations acts covered in Section 101. (There are no anomalies concerning items funded in the State Foreign Operations, and Related Programs Appropriations Act.) The summaries generally provide brief explanations of the provisions. In some cases they include additional information, such as whether a provision was requested by the President or included in prior year CRs. For additional information on specific provisions in the CR, contact the CRS appropriations experts listed in **Table 2** at the end of the report.

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Section 146—Farm Loan Program[22]

This section permits OMB to apportion funding to the Department of Agriculture's Farm Loan Program at the rate necessary to fund loans that are approved during the CR. Direct and guaranteed farm loan demand in 2017 may be higher than the usual pace because of low farm income. Operating loan activity, in particular, may be necessary for planting of spring crops. The anomaly does not provide additional funds but potentially makes available the entire FY2016 amount that is continued by the CR. This is a new provision in the CR, although the farm loan program used internal transfers and received additional loan authority to meet demand in FY2016.

Section 147—Summer Electronic Benefit Transfer (EBT) Demonstration Projects[23]

This provision permits OMB to apportion funding for the U.S. Department of Agriculture's (USDA) Food and Nutrition Service's (FNS) Summer Electronic Benefits Transfer (EBT) demonstration projects at a rate that ensures that the program can fully operate by May 2017. These projects, which have operated in select states since FY2011, provide EBT benefits over the summer months to low-income households with school-age children.[24] The Administration requested this anomaly to ensure adequate funding in March 2017 to prepare for summer operations.[25]

[22] This section was authored by Jim Monke, Specialist in Agricultural Policy.

[23] This section was authored by Randy Alison Aussenberg, Specialist in Nutrition Assistance Policy.

[24] For more information on this program, an alternative to the Summer Food Service Program, see CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*, by Randy Alison Aussenberg.

[25] See CQ Hot Docs, "FY 2017 Continuing Resolution (CR) Appropriations Issues (anomalies required for a CR through March)," November 29, 2016, pp. 3-4, http://www.cq.com/pdf/govdoc-4994368.

Section 148—Child Nutrition Information Clearinghouse[26]

This provision funds the USDA National Hunger Clearinghouse for FY2017.[27] Since FY2010, the Richard B. Russell National School Lunch Act has provided $250,000 annually in mandatory funding. While Congress worked on reauthorizing this act, the Clearinghouse funding was extended in FY2016 appropriations (P.L. 114-113) and then expired September 30, 2016.[28] Since that time, but prior to enactment of this provision, the FNS had been funding the clearinghouse using carryover balances. Accordingly, the Administration requested this anomaly.[29]

Section 149—Rural Telecommunications Loans[30]

This section permits the Rural Utilities Service (RUS) to transfer budget authority between accounts to support increased subsidy costs of the Treasury direct telecommunication loan (7 U.S.C. §935). The program's FY2016 subsidy rate of 0.03% will increase to 0.89% in FY2017. The average loan size for this program is $12 million, and RUS currently has 10 loans for which there will not be funds in the absence of the approval for transfer of the necessary budget authority. The FY2016 budget authority level would support $11.7 million in loan authority—about one average-sized loan. By permitting a transfer of budget authority from RUS programs with lower subsidy costs, the CR will allow for support of the Treasury direct loan level as needed. RUS is estimated to transfer about $1.08 million to support a loan level of $120 million, or about 10 loans.

Section 150—Rural Housing[31]

This provision permits OMB to apportion funds for the Section 538 Guaranteed Multi-Family Housing Loan Program at a higher rate than would normally be permitted under the standard terms of the CR as described earlier in this report, up to the rate necessary to fund approved loans. This program offers loan guarantees for the development of affordable rental housing for low- and moderate-income families in rural areas. This is a new provision in the CR.

Section 185—Emergency Land Rehabilitation Programs[32]

This provision provides emergency funding for two USDA land rehabilitation programs—the Emergency Conservation Program ($103 million) and the Emergency Watershed Protection Program ($103 million).[33] Funding is not directed to a specific disaster, event, or geographic region. Previous funding for the programs have required that all or a portion of the funds be used for activities carried out pursuant to the Robert T. Stafford Disaster Relief and Emergency Act (P.L. 93-288). This provision does not include the Stafford Act's requirement; therefore the funds may be used according to the authorities of the program. This is a new provision for this CR,

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[26] This section was authored by Randy Alison Aussenberg, Specialist in Nutrition Assistance Policy.

[27] See USDA National Hunger Clearinghouse at http://www.nhc.fns.usda.gov/nhc/nhc-main-page.

[28] For more on child nutrition reauthorization, see CRS Report R44373, *Tracking the Next Child Nutrition Reauthorization: An Overview*, by Randy Alison Aussenberg.

[29] See CQ Hot Docs, "FY 2017 Continuing Resolution (CR) Appropriations Issues," p. 3.

[30] This section was authored by Tadlock Cowan, Analyst in Natural Resources and Rural Development.

[31] This section was authored by Maggie McCarty, Specialist in Housing Policy.

[32] This section was authored by Megan Stubbs, Specialist in Agricultural Conservation and Natural Resources Policy.

[33] For additional information about these two programs, see CRS Report R42854, *Emergency Assistance for Agricultural Land Rehabilitation*, by Megan Stubbs.

however the programs are typically appropriated funding on an ad hoc basis and can vary from year to year.

Section 193—FDA Innovation Account[34]

This section provides to the Food and Drug Administration (FDA) an additional $20 million for FY2017 pursuant to the 21st Century Cures Act (P.L. 114-255), which establishes an FDA Innovation account to help fund the agency's activities and programs authorized in Division A of the act (e.g., changes to the drug and device FDA approval pathways).[35] The Cures Act authorizes a total of $500 million to be transferred to the FDA Innovation account over a nine-year period (FY2017-FY2025); the release of funds from the account is controlled through the annual appropriations process.[36] The $20 million provided by this section is in addition to the amount provided by the continuing appropriations authority provided under Section 101.

Commerce, Justice, Science, and Related Agencies

Section 151—Joint Polar Satellite System[37]

Section 151 allows the National Oceanic and Atmospheric Administration to apportion the procurement, acquisition, and construction account up to the rate necessary to maintain the planned launch schedules for the Joint Polar Satellite System (JPSS). Maintaining launch schedules is critical for sustaining satellite coverage that is needed to collect data used for weather forecasts.

Polar-orbiting satellites constantly circle the earth in an approximately north-south orbit and provide the primary inputs for weather prediction models. The existing polar-orbiting satellite systems are nearing the end of their design life. JPSS will replace current coverage with the launch of JPSS-1 in 2017 and JPSS-2 in 2021. An ongoing concern is whether there will be a gap in satellite coverage before JPSS becomes operational.[38] JPSS will provide global environmental data such as cloud imagery, sea surface temperature, atmospheric profiles of temperature and moisture, atmospheric ozone concentrations, Arctic sea ice monitoring, and search and rescue. Previous CRs have included similar provisions to provide flexibility for maintaining launch schedules of JPSS.[39]

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[34] This section was authored by Agata Dabrowska, Analyst in Health Policy.

[35] For examples of authorized activities and programs, see CRS Report R44071, *H.R. 6: The 21st Century Cures Act*, coordinated by Judith A. Johnson, Susan Thaul, and Erin Bagalman; and CRS Report R44502, *Senate Medical Innovation Bills: Overview and Comparison with the 21st Century Cures Act (H.R. 6)*, coordinated by C. Stephen Redhead and Amanda K. Sarata.

[36] For each of FY2017 through FY2025, the following amounts are authorized to be transferred to the FDA Innovation Account: $20 million in FY2017, $60 million in FY2018, $70 million in FY2019, $75 million in FY2020, $70 million in FY2021, $50 million in FY2022, $50 million in FY2023, $50 million in FY2024, and $55 million in FY2025.

[37] This section was authored by Harold F. Upton, Analyst in Natural Resources Policy.

[38] GAO, *Weather Satellites NOAA faces challenges and uncertainties that could affect the availability of critical weather data*, GAO-16-773T, July 7, 2016, http://www.gao.gov/assets/680/678255.pdf.

[39] See CRS Report R44335, *Minding the Data Gap: NOAA's Polar-Orbiting Weather Satellites and Strategies for Data Continuity*, by Peter Folger.

Section 152—2020 Decennial Census[40]

Section 152 allows the Census Bureau to draw on money from the Periodic Censuses and Programs account—which includes the decennial census and other major programs such as the economic census, the census of governments, and intercensal demographic estimates, together with geographic and data-processing support—at the rate necessary to maintain the 2020 census schedule. This is in addition to amounts provided by the continuing appropriations authority provided under Section 101 for the Current Surveys and Programs account and the Periodic Censuses and Programs account.

Section 153—Projects for Space Exploration Beyond Earth[41]

Section 153 permits the National Aeronautics and Space Administration (NASA) to spend at a rate faster than the CR would otherwise allow in order to maintain the planned launch schedules for the Space Launch System (SLS) rocket, the Orion crew capsule, and related ground systems. NASA is developing these systems for future human space exploration beyond earth orbit. The first launch of the SLS carrying Orion (but no crew) is currently scheduled for late 2018. The first launch with a crew on board is scheduled for no later than 2023. (NASA's internal target date is 2021.)

Section 154—Security for the President-Elect[42]

Section 154 provides $7 million for the Edward Byrne Memorial Justice Assistance Grant (JAG) program to reimburse overtime costs associated with providing security for President-elect Donald Trump. Funds can be used only to compensate state and local law enforcement for overtime that is over and above normal law enforcement operations and directly attributable to security for the President-elect.

JAG is a formula grant program that provides funding to state and local governments for initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and criminal justice information systems in one or more of seven purpose areas: (1) law enforcement programs; (2) prosecution and court programs; (3) prevention and education programs; (4) corrections and community corrections programs; (5) drug treatment programs; (6) planning, evaluation, and technology improvement programs; and (7) crime victim and witness programs (other than compensation). In the past, Congress has set aside funding from the JAG program for specific purposes, including compensation for law enforcement agencies that provided security at presidential nominating conventions.[43]

Section 186—Repairs for Damaged NASA Facilities[44]

Section 186 provides $75 million for repairs at NASA facilities damaged by Hurricane Matthew. NASA has reported that Matthew resulted in roof and water damage to support buildings at the Kennedy Space Center in Florida.

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[40] This section was authored by Jennifer D. Williams, Specialist in American National Government.

[41] This section was authored by Daniel Morgan, Specialist in Science and Technology Policy.

[42] This section was authored by Nathan James, Analyst in Crime Policy.

[43] For more information on set-asides from the JAG program see CRS Report RS22416, *Edward Byrne Memorial Justice Assistance Grant (JAG) Program: In Brief*, by Nathan James.

[44] This section was authored by Daniel Morgan, Specialist in Science and Technology Policy.

Department of Defense

Sections 155-157—Department of Defense Procurement[45]

The language providing continuing appropriations generally does not allow for the initiation of new projects or multi-year procurement contracts.[46] As a consequence P.L. 114-254 includes provisions pertaining to three major weapons programs that would allow the Department of Defense to take certain actions that would otherwise not have been allowed.

- Section 155 provides as requested $773.1 million, the first increment of procurement funding, for the first ship of a new class of missile-launching submarines. These submarines are slated to replace the current fleet of Ohio-class missile subs, the first of which was commissioned in 1984. Navy officials had said that, if they were unable to begin the design work the FY2017 request would fund, the first of the new ships might not be ready to enter service as planned in October 2030.[47]
- Section 156 allows the U.S. Army to sign multi-year contracts (FY2017-FY2021) for the planned upgrade of AH-64 Apache attack helicopters and the planned purchases of UH-60 Black Hawk troop carrying helicopters. Army budget documents estimate that the upgrades and purchases planned over the five-year period would cost nearly $1 billion more if funded through annual contracts than through five-year contracts.
- Section 157 exempts the Air Force's KC-46A tanker program from the CR's general prohibition on increasing the rate of production for weapons programs. Thus, the provision would allow the Air Force to buy 15 KC-46As in FY2017, as requested, rather than 12, which was the number funded in FY2016. Air Force Secretary Deborah James warned that if the service did not buy 15 of the planes in FY2017, it could incur a $331 million contract penalty.

Energy and Water Development and Related Agencies

Section 158—National Nuclear Security Administration—Atomic Energy Defense Activities[48]

Section 158 allows funding for the National Nuclear Security Administration's Atomic Energy Defense Activities to differ from the levels specified in the Consolidated Appropriations Act of 2016 (P.L. 114-113). It states that the FY2016 funding levels will not apply to Atomic Energy Defense Activities in FY2017 provided that the Secretary of Energy informs the House and Senate Appropriations Committees when funds "are allotted to a Department of Energy program, project, or activity" at a rate that differs from the FY2016 appropriation by more than $5,000,000 or 10%.

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[45] This section was authored by Pat Towell, Specialist in U.S. Defense Policy and Budget.

[46] See GAO, Office of the General Counsel, *Principles of Federal Appropriations Law*, (3d ed. 2004), vol. II, ch. 8, pp. 8-21-27.

[47] See CRS Report R41129, *Navy Columbia Class (Ohio Replacement) Ballistic Missile Submarine (SSBN[X]) Program: Background and Issues for Congress*, by Ronald O'Rourke.

[48] This section was authored by Amy Woolf, Specialist in Nuclear Weapons Policy.

Section 159—Strategic Petroleum Reserve[49]

Section 159 directs the Secretary of Energy as authorized by the Bipartisan Budget Act of 2015 (P.L. 114-74; 42 U.S.C. 6239 note) to draw down and sell not more than $375.4 million of crude oil from the Strategic Petroleum Reserve in FY2017. The drawdown and sale of this crude oil shall be deposited in the "Energy Security and Infrastructure Modernization Fund" and shall be expended for carrying out the Life Extension II project for the Strategic Petroleum Reserve.

Section 160—Department of Energy—Uranium Enrichment Decontamination and Decommissioning Fund[50]

Section 160 provides an annual funding rate of $767.0 million for the Uranium Enrichment Decontamination and Decommissioning Fund. The programs, projects, and activities under this account may not be reprogrammed below the levels specified in the "Final Bill" column in the funding table for the explanatory statement of P.L. 114-113, the Consolidated Appropriations Act of 2016. This section supersedes Section 123 of the Continuing Appropriations Act, 2017 (P.L. 114-223), which will no longer be in effect. That section had allowed for the apportionment of funding under the Uranium Enrichment Decontamination and Decommissioning Fund as necessary "to avoid disruption of continuing projects or activities funded in this appropriation."

Sections 187-190—Corps of Engineers[51]

These sections provide approximately $1.025 billion in funding for efforts to address damages to Corps of Engineers Civil Works projects caused by natural disasters. These sections do not specify limits in regards to which natural disaster response efforts should be prioritized for funding. The bill funds four Corps accounts that are used for different types of Corps activities, including:

- Section 187 provides $54.8 million to the Corps Construction account to address emergency situations and repair damages to Corps projects. The Corps Construction account can be used to assist projects that are already authorized and under construction, including ongoing coastal protection projects and partially or fully unconstructed projects.
- Section 188 provides $290.7 million to the Mississippi River and Tributaries account to dredge Corps navigation projects affected by natural disasters and authorized to receive funding from this account. This account is limited to projects for navigation and flood control on the lower Mississippi River.
- Section 189 provides $259.6 million to the Operations and Maintenance account to dredge federal navigation projects and repair damages to Corps projects caused by natural disasters. This account is limited to those operations and maintenance activities that are a Corps responsibility.
- Section 190 provides $419.9 million to the Corps Flood Control and Coastal Emergencies account to prepare for and respond to flood, hurricanes, and other natural disasters, in accordance with P.L. 84-99 (33 U.S.C. §701n). This account is used to repair flood control works that participate in the Corps' Rehabilitation and Inspection Program, as well as to fund flood fighting activities. Some coastal

[49] This section was authored by Robert Pirog, Specialist in Energy Economics.

[50] This section was authored by David Bearden, Specialist in Environmental Policy.

[51] This section was authored by Charles V. Stern, Specialist in Natural Resources Policy.

storm damage reduction activities, such as certain emergency beach nourishment, may be funded through this account.

Financial Services and General Government

Section 161—Allowances and Office Staff for Former Presidents[52]

This section provides additional funds for General Services Administration to execute the requirements of the Former Presidents Act (FPA).[53] Under Section 101, the FPA account would be funded under the same terms and conditions as FY2016, but beginning on January 20, 2017, President Barack Obama is slated to exit office. Pursuant to the FPA, former Presidents currently receive a pension that is equal to pay for Cabinet secretaries (Executive Level I).

Section 162—SOAR Funding Availability Act

This section amends Section 3007 of the Scholarships for Opportunity and Results Act[54] to establish a new requirement concerning the use of unobligated funds from prior fiscal years.

Department of Homeland Security

Section 163—Department of Homeland Security—Operations and Support Apportionment[55]

In recent years, anomalies providing flexibility in the apportionment of funds to maintain staffing of U.S. Customs and Border Protection (CBP) personnel have frequently been included in CRs, including the initial CR for FY2017. The anomaly in Section 163 is broader in both the components to which it applies and the flexibility it provides. The Administration requested flexibility not only to maintain staffing levels of CBP and U.S. Immigration and Customs Enforcement but also to maintain border security and fulfill immigration enforcement priorities. In their request, they specifically noted that this flexibility was for both salaries and non-pay expenses and needed to "respond to unpredictable surges in migration."[56] Congress chose to broaden the requested flexibility, extending it to the Transportation Security Administration and U.S. Secret Service "to ensure border security, fulfill immigration enforcement priorities, maintain aviation security activities, and carry out the mission associated with the protection of the President-elect."

[52] This section was authored by Wendy Ginsberg, Analyst in American National Government.

[53] 3 U.S.C. §102 note.

[54] §38-1853.07 DC Official Code.

[55] This section was authored by William L. Painter, Specialist in Emergency Management and Homeland Security Policy.

[56] OMB, "FY 2017 Continuing Resolution (CR) Appropriations Issues (anomalies required for a CR through March)," p. 8.

Department of the Interior, Environment and Related Agencies

Section 164—National Gallery of Art[57]

This provision authorizes the apportionment of appropriations that are provided by the CR up to the rate that is necessary for staffing, maintenance, security, and administrative expenses of recently reopened galleries of the National Gallery of Art. A renovation of the East Building of the National Gallery, completed in 2016, included the addition of 12,250 square feet of exhibition space for modern and contemporary art, including two tower galleries and a roof terrace.

Section 165—Smithsonian Institution—National Museum of African American History and Culture[58]

This provision authorizes the apportionment of appropriations that are provided by the CR up to the rate that is necessary for maintenance and operation of facilities, security, and support at the National Museum of African American History and Culture. This new Smithsonian museum, which opened to the public on September 24, 2016, has drawn large numbers of visitors to its collections on African American life, history, and culture.

Section 166—Indian Health Service[59]

This provision authorizes the apportionment of appropriations that are provided by the CR up to the rate that is necessary for operating and staffing newly constructed Indian Health Service (IHS) facilities. It pertains to funding under the two IHS accounts, namely Indian Health Services and Indian Health Facilities. The provision allows for higher rates of funding than would otherwise be provided under the CR to operate and provide health services at newly constructed facilities (e.g., at new medical facilities), as newly opened facilities may need additional resources to begin operations (i.e., to hire staff and obtain equipment).

Section 196—Environmental Protection Agency (EPA)—Drinking Water State Revolving Funds for Addressing Lead and Other Contaminants[60]

Section 196(a) provides an additional $100 million within EPA's State and Tribal Assistance Grants appropriations account for making capitalization grants for the Drinking Water State Revolving Fund (DWSRF) pursuant to Section 2201 of the Water and Waste Act of 2016.[61] Section 2201 authorizes funding to be made available to a state—subject to a presidential emergency declaration regarding lead or other contaminants in drinking water—to provide assistance to an eligible water system to address such contamination (e.g., Flint, Michigan).[62]

Section 196(b) amends Division G of the Consolidated Appropriations Act of 2016 (P.L. 114-113) to allow states to use DWSRF funding to provide additional subsidies (e.g., grants and forgiveness of principal) to water systems for debt incurred prior to the enactment of P.L. 114-113 where (1) a state determines, with EPA concurrence, that funds "could be used to help address a

[57] This section was authored by Shannon S. Loane, Senior Research Librarian.

[58] This section was authored by Shannon S. Loane, Senior Research Librarian.

[59] This section was authored by Elayne J. Heisler, Specialist in Health Services.

[60] This section was authored by Robert Esworthy, Specialist in Environmental Policy.

[61] P.L. 114-322, Water Infrastructure Improvements for the Nation Act, Title II, Water and Waste Act of 2016.

[62] See CRS In Focus IF10536, *Water Infrastructure Improvements for the Nation Act (WIIN)*, by Nicole T. Carter et al.

threat to public health from heightened exposure to lead in drinking water" or (2) "a Federal or State emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply." Section 196(b) further authorizes the state in which such an emergency declaration has been issued to use more than 20% of DWSRF capitalization grants to provide additional subsidies to eligible recipients.

Section 197—Environmental Protection Agency—Water Infrastructure Finance and Innovation Program Account[63]

This provision appropriates $20 million to EPA for the cost[64] of direct loans and guaranteed loans for water infrastructure projects as authorized under the Water Infrastructure Finance and Innovation Act (WIFIA) of 2014, which authorized EPA's WIFIA program.[65] Additionally, Section 197 requires fees collected pursuant to Sections 5929 and 5030 of WIFIA[66] to be credited to the appropriations made by this section. The WIFIA program is new and has not previously received funding to provide credit support to borrowers.[67]

Departments of Labor, Health and Human Services, and Education, and Related Agencies

Section 168—Office of Workers' Compensation Programs-Special Benefits[68]

This provision increases the total amount of revenue from "fair share" collections transferred to the Office of Workers' Compensation Programs (OWCP) for certain specified administrative activities related to the Federal Employees Compensation Act (FECA).[69] Under FECA, the U.S. Postal Service and certain other non-appropriated federal entitles are required to pay for their share of FECA administrative costs (known as the fair share).

Increases in the total amount of fair share collections set aside for specific administrative functions were proposed in the Department of Labor's FY2017 budget submission and the Obama Administration's requested anomalies for this second FY2017 CR.[70] In its anomalies request, the Administration states that this increase is necessary to combat fraud and abuse related to the prescription and use of costly compound drugs in the FECA program.

Specifically, this section makes increases to the portion of the fair share collections transferred to OWCP for the following specific administrative activities as provided in **Table 1**.

[63] This section was authored by Robert Esworthy, Specialist in Environmental Policy.

[64] Such costs, including the cost of modifying these loans, are as defined in Section 502 of the Congressional Budget Act of 1974 (2 U.S.C. §661a).

[65] P.L. 113-121, Water Resources Reform and Development Act of 2014, Title V, Subtitle C. 33 U.S.C. §3901 et seq.

[66] 22 U.S.C. §§3908-3909.

[67] See CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*, by Claudia Copeland.

[68] This section was authored by Scott Szymendera, Analyst in Disability Policy.

[69] For additional information on FECA see CRS Report R42107, *The Federal Employees' Compensation Act (FECA): Workers' Compensation for Federal Employees*, by Scott D. Szymendera.

[70] See CQ Hot Docs, "FY2017 Continuing Resolution (CR) Appropriations Issues," p. 12.

Table 1. FECA Fair Share Allocations for Specified Activities

FY2016 Appropriations, FY2017 Requests and Second Continuing Resolution (H.R. 2028)

Activity	FY2016 Appropriation	FY2017 DOL Budget Request	Administration Anomaly Request	Second Continuing Resolution (H.R. 2028)
Total for all specified activities	*$62,170,00*	*$63,975,000*	*$66,675,000*	*$66,675,000*
Enhancement and maintenance of data processing and telecommunication systems	21,140,000	22,740,000	22,740,000	22,2740,000
Automated workload processing operations	22,968,000	22,968,000	No request	22,968,000[a]
Periodic roll disability management and medical review	16,688,000	16,866,000	16,866,000	16,866,000
Program integrity	1,394,000	1,401,000	4,101,000	4,101,000

Source: Congressional Research Service with data from P.L. 114-113; Department of Labor, *FY2017 Congressional Budget Justification*, Office of Workers' Compensation Programs: Special Benefits, February 9, 2016, pp. OWCP-SB-1-OWCP-SB-2; CQ Hot Docs, "FY2017 Continuing Resolution (CR) Appropriations Issues (anomalies required for a CR through March)," November 29, 2016, p 12; and H.R. 2068.

a. Section 168 as added by the continuing resolution does not include a specific amount for this activity; thus the FY2016 amount is continued for FY2017.

Section 169—Account Maintenance Fees[71]

Section 169 extends mandatory budget authority for the Secretary of Education to pay account maintenance fees to guaranty agencies under the Federal Family Education Loan (FFEL) program for the duration of this CR. Under FFEL, state or national nonprofit guaranty agencies administer the federal loan insurance that protects holders of loans against loss arising from borrower default or loan discharge due to death or disability and provide a variety of administrative services to lenders. The Higher Education Act (P.L. 89-329)Section 458(a)(4) provides mandatory budget authority to expend funds paid as account maintenance fees to guaranty agencies as compensation for various tasks they perform while administering the federal loan guarantees. Account maintenance fees are equal to 0.06% of the original principal balance of FFEL loans that remain outstanding and are paid quarterly by the Secretary of Education to guaranty agencies. Although authority to originate new FFEL loans terminated on July 1, 2010, many FFEL program loans remaining outstanding, and, thus, guaranty agencies continue to perform administrative tasks associated with those loans.

[71] This section was authored by Alexandra Hegji, Analyst in Social Policy.

Section 170—Refugee and Entrant Assistance and the Nonrecurring Expenses Fund[72]

Section 170(a) authorizes the Department of Health and Human Services (HHS) to transfer up to $300 million to Refugee and Entrant Assistance programs dedicated to unaccompanied alien children (UAC). These programs provide for the custody and care of unaccompanied alien minors who have been apprehended by federal agencies. The UAC program has experienced an increased caseload in recent months, due to growing numbers of unaccompanied children from Central American countries who have been apprehended at the U.S.-Mexico border.[73] The CR specifies that funds transferred to this account must come from the HHS Nonrecurring Expenses Fund (NEF), which typically supports capital acquisitions across HHS, such as facilities infrastructure and information technology.[74] The CR also states that funds from this transfer shall not be made available for obligation before February 1, 2017. Section 170(c) of the CR requires HHS to notify the Appropriations Committees at least 15 days in advance of such a transfer.

Under Section 170(b) of the CR, an additional $200 million would be appropriated after March 1, 2017, if the UAC caseload for FY2017 at that point exceeds by at least 40% the UAC caseload for the comparable FY2016 period. Section 170(d) rescinds $100 million from the NEF.

Section 171—Prevention and Public Health Fund Transfers[75]

This section requires the HHS Secretary, within 10 days of enactment, to transfer funds previously appropriated to the Prevention and Public Health Fund (PPHF)[76] for FY2017 to HHS agencies in the same amounts as per the comparable transfer of FY2016 appropriations, except that the amount transferred to the Centers for Disease Control and Prevention (CDC) shall be $1 million less than the amount transferred for FY2016.[77] (The $1 million reduction reflects the higher FY2017 sequestration percentage of 6.9% for nonexempt nondefense mandatory spending under the Balanced Budget and Emergency Deficit Control Act of1985, compared with 6.8% for FY2016.)

[72] This section was authored by William Kandel, Analyst in Immigration Policy, and Karen Lynch, Specialist in Social Policy.

[73] The Administration requested that the second FY2017 CR provide a higher operating level for this account due, in part, to the increased UAC caseload. Specifically, the Administration requested that the CR fund the Refugee and Entrant Assistance account at an annual rate of $3.874 billion, of which $2.823 billion would be used for UACs. However, the Administration separately noted that it might be possible to meet caseload demands at a lower level than requested, indicating that, at a minimum, this would require $500 million for the account through the end of March, of which $430 million would be used for UACs, as well as additional transfer authority in the event of higher than anticipated costs. See CQ Hot Docs, "FY2017 Continuing Resolution (CR) Appropriations Issues," p. 12.

[74] The NEF was created by the Consolidated Appropriations Act, 2008 (P.L. 110-161, Division G, Title II, section 223) to enable the HHS Secretary to collect certain unobligated balances of expired discretionary funds appropriated to HHS from the General Fund.

[75] This section was authored by Sarah A. Lister, Specialist in Public Health and Epidemiology.

[76] As established in Section 4002 of the Patient Protection and Affordable Care Act, P.L. 111-148, 42 U.S.C. §300u-11.

[77] The FY2016 PPHF distribution is provided in Appendix B, Table B-1 in CRS Report R44505, *Public Health Service Agencies: Overview and Funding (FY2015-FY2017)*, coordinated by C. Stephen Redhead and Agata Dabrowska.

Section 172—Social Security Administration (SSA)—Hearings Backlog[78]

Section 172 sets aside $150 million in the limitation on administrative expenses (LAE) account to address the hearings backlog within SSA's Office of Disability Adjudication and Review (ODAR). At the end of FY2016, the number of pending Social Security and Supplemental Security Income disability cases at the hearing level of the administrative appeals process stood at 1.1 million.[79] SSA's plan to address the backlog centers on hiring additional administrative law judges and support staff to adjudicate hearings.[80]

The background on this set-aside is that the FY2016 appropriation for the LAE account set aside $150 million to cover the cost of renovating and modernizing the Arthur J. Altmeyer Building at the agency's headquarters campus in Woodlawn, Maryland.[81] Under the terms and conditions of the FY2017 CR, the LAE appropriation for FY2017 would also have contained a new $150 million set aside (on an annualized basis) for the Altmeyer Building. Instead, Section 172 repurposes that $150 million for activities to address the ODAR hearings backlog.

Section 173—Extension of the Temporary Assistance for Needy Families (TANF) Block Grant and Related Funding[82]

This section extends mandatory funding and program authority through April 28, 2017 for the TANF block grant, the Child Care Entitlement to States, and matching grants to the territories for TANF and child welfare activities.

Section 174—Clarification Regarding Use of Funds to Investigate Cancer Clusters[83]

This section clarifies that the HHS Secretary may use discretionary amounts appropriated to the Department to carry out Section 399V-6 of the Public Health Service Act, which requires the Secretary to develop criteria and guidelines for the investigation of possible cancer clusters and to assist states and localities in such investigations.

Section 194—NIH Innovation Account[84]

In addition to amounts for FY2017 provided elsewhere by the CR, Section 194 appropriates $352 million in the National Institutes of Health (NIH) Innovation account for necessary expenses to carry out the four NIH Innovation Projects as described in Section 1001(b)(4) of the 21st Century Cures Act (P.L. 114-255). (This $352 million is available until expended.) Because the Cures Act

[78] This section was authored by William R. Morton, Analyst in Income Security.

[79] SSA, "Hearings and Appeals," https://www.ssa.gov/appeals/.

[80] SSA, *Leading the Hearings and Appeals Process into the Future: A Plan for Compassionate and Responsive Service (CARES)*, January 13, 2016, https://www.ssa.gov/legislation/testimony_051216_AttachmentA.pdf. See also CQ Hot Docs, "FY 2017 Continuing Resolution (CR) Appropriations Issues," p. 13.

[81] Title IV of Division H of the Consolidated Appropriations Act, 2016 (P.L. 114-113). See CRS Report R44645, *Social Security Administration (SSA): FY2017 Appropriations and Recent Trends*, by William R. Morton.

[82] This section was authored by Gene Falk, Specialist in Social Policy.

[83] This section was authored by Sarah A. Lister, Specialist in Public Health and Epidemiology.

[84] This section was authored by Judith A. Johnson, Specialist in Biomedical Policy.

provides that funds in this account must be appropriated in order to be available for expenditure, the appropriation in Section 194 of the CR was necessary to fulfill this requirement.[85]

The four projects authorized by the Cures Act are the Precision Medicine Initiative ($40 million for FY2017), the Brain Research through Advancing Innovative Neurotechnologies Initiative ($10 million for FY2017), cancer research ($300 million for FY2017), and regenerative medicine using adult stem cells ($2 million for FY2017). The NIH director may transfer these amounts from the NIH Innovation account to other NIH accounts but only for the purposes specified in the Cures Act. If the NIH director determines that the funds for any of the four Innovation Projects are not necessary, the amounts may be transferred back to the NIH Innovation account. This transfer authority is in addition to other transfer authorities provided by law.

Section 195—Account for the State Response to the Opioid Abuse Crisis[86]

Section 195 appropriates $500 million to the HHS Secretary, in addition to amounts otherwise provided by Section 101 (and notwithstanding any other provision of the act), for use as grants to support state responses to opioid abuse pursuant to Section 1003 of the 21st Century Cures Act (P.L. 114-255). The appropriations provided by Section 195 are to remain available until expended or until the HHS Secretary determines that such funds are not necessary for the specified purposes.

Section 1003 of the Cures Act creates an account and authorizes appropriations from it to support (1) grants to states "for the purpose of addressing the opioid abuse crisis" and (2) grants to states for activities that supplement opioid-related activities undertaken by the state agency that administers the substance abuse block grant.[87] Because the funds in this account must be appropriated in order to be available for expenditure, the appropriation in Section 195 of the CR was necessary to fulfill this requirement.[88]

Sections 198-200—Responses to Lead Exposure in Water[89]

These three sections provide appropriations for specific HHS activities authorized in the Water and Waste Act of 2016 and Title II of the Water Infrastructure Improvements for the Nation Act

[85] Notably, under Section 1001(b)(3) of the Cures Act, the amounts subsequently appropriated for NIH Innovation Projects (i.e., the budget authority and the resulting outlays), up to a certain amount for FY2017 through FY2026, are to be subtracted from any cost estimates provided for purposes of budget controls. Effectively, the appropriations from the account will not be counted against any spending limits, such as the statutory discretionary spending limits; that is, the amounts appropriated from the account will be considered outside those limits for each of FY2017 through FY2026.

[86] This section was authored by Erin Bagalman, Analyst in Health Policy.

[87] The Substance Abuse Prevention and Treatment Block Grant (SABG) program provides funds to all 50 states, the District of Columbia, specified territories, and one tribal entity according to a formula. The states, in turn, may distribute SABG funds to local government entities and nonprofit organizations to support services to prevent and treat substance use disorders.

[88] Notably, under Section 1003(b)(3) of the Cures Act, the amounts subsequently appropriated under the heading "Account For the State Response to the Opioid Abuse Crisis" for the grant program described in subsection 1003(c) (i.e., the budget authority and the resulting outlays), up to a certain amount for FY2017 and FY2018, are to be subtracted from any cost estimates provided for purposes of budget controls. Effectively, the appropriations from the account will not be counted against any spending limits, such as the statutory discretionary spending limits; that is, the amounts appropriated from the account will be considered outside those limits for FY2017 and FY2018.

[89] This section was authored by Sarah A. Lister, Specialist in Public Health and Epidemiology; Elayne J. Heisler, Specialist in Health Services; and Victoria Elliott, Analyst in Health Policy.

(WIIN Act, P.L. 114-322)[90] in addition to amounts appropriated to the recipient agencies in Section 101.

- Section 198 appropriates an additional $20 million to the CDC Environmental Health account to carry out Section 2203 of the WIIN Act, to remain available until September 30, 2020. Section 2203 applies to a city exposed to lead contamination in the local drinking water system. It requires the HHS Secretary to establish a voluntary registry of city residents who may have been exposed to lead and establish an advisory committee (with specified parameters) to review and advise on federal lead poisoning prevention activities. Of the funds provided, $17.5 million shall be for the registry, and $2.5 million shall be for the advisory committee. The Secretary may transfer funds to the Agency for Toxic Substances and Disease Registry, an agency administered by the CDC, as appropriate to carry out Section 198.
- Section 199 appropriates an additional $20 million to the CDC Environmental Health account pursuant to Section 2204(a) of the WIIN Act, to remain available until September 30, 2018, for childhood lead poisoning prevention programs authorized under Section 317A of the Public Health Service Act.[91]
- Section 200 appropriates an additional $15 million, to remain available until September 30, 2018, to carry out activities included in Section 2204(b) of the WIIN Act. Section 2204(b) authorizes new funds for the Healthy Start Program (42 U.S.C. §254c-8). The Healthy Start Program provides grants to address a variety of family, maternal, and child health issues, including the expansion of health care services in areas with high infant mortality rates. This program is administered by the HHS Health Resources and Services Administration, Maternal and Child Health Bureau.

Section 201—State Children's Health Insurance Program (CHIP)[92]

Section 201 rescinds $170 million of mandatory spending from amounts previously appropriated for FY2017 CHIP allotments to states.[93] Funds for FY2017 had previously been appropriated by Sections 301(a) and 301(b)(3) of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA).[94] First, Section 301(a) of MACRA provided two semi-annual appropriations of $2.85 billion for the first and second halves of FY2017, respectively.[95] Second, Section 301(b)(3) of MACRA appropriated an additional $14.7 billion for the first half of FY2017, and this funding remains available until expended.[96] Section 201 rescinds $170 million from the additional appropriation in Section 301(b)(3) of MACRA, reducing that appropriation to $14.53 billion.[97]

[90] The WIIN Act is described in CRS In Focus IF10536, *Water Infrastructure Improvements for the Nation Act (WIIN)*, by Nicole T. Carter et al.

[91] See CDC, "CDC's Childhood Lead Poisoning Prevention Program," https://www.cdc.gov/nceh/lead/about/program.htm.

[92] This section was authored by Alison Mitchell, Specialist in Health Care Financing.

[93] For more information about CHIP financing, see CRS Report R43949, *Federal Financing for the State Children's Health Insurance Program (CHIP)*, by Alison Mitchell.

[94] P.L. 114-10, Sections 301(a) (amending 42 U.S.C. §§1397dd(a)), and 301(b)(3).

[95] 42 U.S.C. §1397dd(a)(20).

[96] P.L. 114-10, §301(b)(3).

[97] Section 201(b) provides that the budgetary effects of this provision (e.g., the reduction in the mandatory spending

Legislative Branch[98]

Section 175—Salaries of Members of Congress

This section prohibits an increase in salaries for Members of Congress during FY2017. The salary level, which was last adjusted in January 2009, will remain $174,000.

Pursuant to the Ethics Reform Act of 1989, Members of Congress receive an automatic adjustment each year unless it is either denied or modified statutorily by Congress or limited by the General Schedule base pay adjustment, since the percentage increase in Member pay is limited by law to the GS base pay percentage increase. The adjustment is determined based on changes in private sector wages as measured by the Employment Cost Index. The maximum potential January 2017 member pay adjustment was 1.6%, or $2,800.[99] Both the House-passed (H.R. 5325) and Senate-reported (S. 2955) versions of the FY2017 legislative branch appropriations bill previously contained this prohibition.[100]

Section 176—Transfer of the O'Neill Building to the House of Representatives

This section transfers the O'Neill Building to the House of Representatives. Custody, control, and administrative jurisdiction, which were previously provided by the General Services Administration, will be exercised by the Architect of the Capitol, subject to the direction of the House Office Building Commission.

The section contains conforming provisions related to the definition of "Capitol Grounds" for security and administrative purposes. It also authorizes the Architect of the Capitol to lease space in the building to departments and agencies of the federal government, subject to the approval of the House Office Building Commission. A "House Office Buildings Fund" was established in the Treasury to receive funds transferred from these leases, and the section contains language governing the use and availability of these funds.

The building, previously known as Federal Office Building 8, was designated the Thomas P. O'Neill Jr. Federal Building by P.L. 112-237 on December 28, 2012. It is located on 2nd Street, SW, between C and D Streets, SW, Washington, DC. After extensive renovations, the building reopened in late 2013.[101]

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accomplished by the rescission) shall not count for the purposes of Section 3103(b) of S.Con.Res. 11, the FY2016 budget resolution. Section 3103 prohibits the consideration of a full-year appropriations measure that includes a change in a mandatory program producing a net change in such spending (in full-year appropriations measures for the applicable fiscal year) that would be in excess of a specified amount (for FY2017, $19.1 billion).

[98] These sections were authored by Ida A. Brudnick, Specialist on the Congress.

[99] The potential Member pay adjustment was determined by a formula using the Employment Cost Index (private industry wages and salaries, not seasonally adjusted), based on the 12-month percentage change reported for the quarter ending December 31, minus 0.5%. The 1.6% adjustment was determined by taking the percentage increase in the Index between the quarters ending December 2014 and December 2015, which was 2.1%, and subtracting 0.5%. U.S. Department of Labor, Bureau of Labor Statistics, Employment Cost Index—December 2015 (Washington: January 29, 2016), p. 3. Pursuant to 2 U.S.C. 4501(2)(A), this amount is "rounded to the nearest multiple of $100."

[100] For additional information, see CRS Report 97-1011, *Salaries of Members of Congress: Recent Actions and Historical Tables*, by Ida A. Brudnick.

[101] Office of House Speaker Paul Ryan, "Federal Building in Nation's Capital to Be Named for Former House Speaker Tip O'Neill," press release, November 27, 2012, http://www.speaker.gov/press-release/federal-building-nation-s-capital-be-named-former-house-speaker-tip-o-neill.

Section 177—Senate Leadership Offices

This section makes funds otherwise available for the Office of the Secretary of the Conference of the Minority available for the Office of the Assistant Minority Leader of the Senate during the 115th Congress. The section also contains corresponding changes, during the 115th Congress, in authority to incur expenses, appoint and compensate staff, and travel; in post-employment restrictions; and in other employment and administrative provisions.

Section 178—Continuation of the Senate National Security Working Group

This section continues the Senate National Security Working Group for the 115th Congress. The working group previously had been reconstituted and revised for the 113th and 114th Congresses by Section 21 of S.Res. 64 (113th Congress), which was agreed to on March 5, 2013.[102]

Transportation, Housing and Urban Development, and Related Agencies

Section 180—Commercial Trucking Hours of Service[103]

This provision suspends two changes to the Federal Motor Carrier Safety Administration's hours of service rules for commercial truck drivers that took effect in June 2013. Previously, commercial drivers were required to take at least 34 hours off duty after working for 60 hours in a seven-day period (or 70 hours in an eight-day period). This was referred to as the "34-hour restart requirement." The 2013 rule change required that the 34-hour off-duty period must cover two consecutive 1 a.m.-5 a.m. periods, and drivers were limited to taking this 34-hour "restart" once in a 168-hour (seven-day) span. (Drivers who work no more than 60 hours in a seven-day period do not need to take a restart break.) The purpose of the 2013 changes was to promote highway safety by reducing the risk of driver fatigue. This provision extends a suspension of enforcement of the 2013 changes that Congress enacted in FY2015 and again in FY2016, pending a study of the costs and benefits of the changes.

Section 181—Federal Aviation Administration Funding[104]

This provision has two parts: Part (a) allows funds made available for the Federal Aviation Administration (FAA)'s Operations account to be apportioned as necessary to avoid disruption of continuing projects or activities funded by this account, and part (b) shifts $9.4 million in funding within FAA's Facilities and Equipment account from one period of eligibility to another. (The Administration reportedly requested this provision.[105]) These are new provisions in the CR.

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[102] Section 21(d) of the resolution from the 113th Congress addressed the working group's duties, composition, foreign travel, staffing, and expenses. See also debate on S.Amdt. 25 (113th Congress). The working group had previously been authorized by S.Res. 19 and S.Res. 86 (99th Congress), S.Res. 30 and S.Res. 466 (100th Congress), S.Res. 105 (101st Congress), S.Res. 149 (103rd Congress), S.Res. 75 and S.Res. 383 (106th Congress), S.Res. 355 (107th Congress), S.Res. 480 (108th Congress), S.Res. 625 (109th Congress), S.Res. 715 (110th Congress), and S.Res. 706 (111th Congress). Prior to the 106th Congress, it was known as the Senate Arms Control Observer Group.

[103] This section was authored by David Randall Peterman, Analyst in Transportation Policy.

[104] This section was authored by David Randall Peterman, Analyst in Transportation Policy.

[105] Jeff Davis, "CR Through April 28 Finalized," *Eno Transportation Weekly*, December 7, 2016, p. 3.

Section 182—Maritime Administration[106]

This provision has two parts: Part (a) allows the Maritime Administration to reprogram funding to cover costs associated with the midshipmen Sea Year training program, a mandatory requirement for graduation from the U.S. Merchant Marine Academy. (The Administration reportedly requested a provision to accomplish this goal.[107]) Part (b) deletes a requirement in the FY2017 DOT appropriations act that withheld a portion of funding for the Merchant Marine Academy until DOT submitted a plan to Congress detailing how the funding will be used at the academy. These are new provisions in the CR.

Section 183—HUD Tenant-Based Rental Assistance[108]

The President reportedly requested this provision,[109] which permits OMB to apportion funding to the Department of Housing and Urban Development (HUD) Tenant-Based Rental Assistance account at a higher rate than would normally be permitted under the standard terms of the CR as described earlier in this report. According to the Administration, this provision is necessary to allow HUD to maintain its Tribal HUD-Veterans Affairs Supportive Housing program during the term of the CR. The program provides rental assistance to some Native American veterans who are homeless or at risk of homelessness living on or near a reservation. This is a new provision in the CR.

Section 191—DOT Emergency Relief Program[110]

This provision appropriates $1.0 billion to the Federal Highway Administration's Emergency Relief Program to enable DOT to provide funds to states to repair damage caused to their highway infrastructure from flooding. This is a new provision in the CR.

Section 192—HUD Community Development Fund[111]

This provision appropriates an additional $1,808,976,000 for FY2017 for Community Development Block Grant-Disaster Relief (CDBG-DR) related activities to be used for disaster relief and long-term recovery efforts in communities and states that received a presidential disaster declaration as a result of severe weather events during 2016 before enactment of the CR. CDBG-DR funds allocated to states and local governments are to be awarded to the most impacted and distressed areas to address housing, infrastructure, and economic recovery and resilience efforts. The act designates $1,416,000,000 of the amount appropriated as disaster relief and the remaining $392,976,000 as an emergency requirement, meaning that the entire amount does not count against the discretionary spending limits laid out in the Budget Control Act. The act sets aside $3,000,000 of this amount for salaries and expenses to cover the cost associated with overseeing the obligation and expenditure of CDBG-DR funds. A similar provision was included in P.L. 114-223. That provision appropriated $500,000,000 in CDBG-DR funds to be awarded to communities and states that received a presidential disaster declaration during 2016 and before enactment of the act (P.L. 114-223).

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[106] This section was authored by David Randall Peterman, Analyst in Transportation Policy.

[107] CQ Hot Docs, "FY2017 Continuing Resolution (CR) Appropriations Issues," p 16.

[108] This section was authored by Maggie McCarty, Specialist in Housing Policy.

[109] CQ Hot Docs, "FY2017 Continuing Resolution (CR) Appropriations Issues," p. 15.

[110] This section was authored by David Randall Peterman, Analyst in Transportation Policy.

[111] This section was authored by Eugene Boyd, Analyst in Federalism and Economic Development Policy.

Other Provisions

In addition to the agency-, account-, and program-specific provisions discussed above, Sections 167 and 179 of P.L. 114-254 establish other authorities that are not directly related to any of the 12 appropriations acts. These are summarized below.

Section 167—Miners Health Benefits[112]

This provision expands eligibility in calendar year 2017 for an existing multiemployer health care plan for United Mine Workers of America retirees. The newly eligible retirees are those whose employers were part of a bituminous coal industry wage agreement and whose health benefits would be reduced or eliminated as a result of a bankruptcy that commenced in 2012 or 2015.[113] The health care plan has two sources of funds: (1) contributions from employers and (2) transfers from the federal government if the contributions from employers are insufficient to cover benefits. The provision transfers funds from the federal government from January 1, 2017, to April 30, 2017, for both existing and the newly eligible participants in the plan. In addition, the provision requires the transfers of funds from a Voluntary Employee Beneficiary Association that covers the newly eligible workers to the multiemployer health plan.[114]

Section 179—Expedited Senate Consideration of Legislation Waiving a Restriction Related to the Military Service of the Secretary of Defense[115]

This provision establishes expedited parliamentary procedures governing Senate consideration of legislation that would waive a legal restriction related to the prior military service of the Secretary of Defense. Section 113(a) of Title 10 of the *U.S. Code* establishes that an individual "may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force."[116] Unless waived, this restriction would bar retired Marine Corp General James N. Mattis, who has been selected by President-elect Donald J. Trump to be Secretary of Defense, from serving in that capacity. General Mattis retired from active duty in 2013.

In order to qualify for the expedited procedures, waiver legislation must be introduced during a 30-calendar day period that begins on the date that the 115th Congress convenes. The legislation may be introduced by the Senate majority leader, the minority leader, or their respective designees or by the chair or ranking minority member of the Committee on Armed Services. Both the title of the legislation and the matter after the enacting (or resolving) clause are stipulated. Once introduced, the legislation is to be referred to the Senate Committee on Armed Services. If the committee has not reported the waiver legislation within five session days after the date of its referral, it is automatically discharged of further consideration of the measure.

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[112] This section was authored by John J. Topoleski, Analyst in Income Security.

[113] The newly eligible workers were employed by Patriot Coal, Alpha Natural Resources, or Walter Energy.

[114] CBO estimated that Section 167 would decrease the deficit on net by -$2 million in FY2017. See CBO, *CBO Estimate for Section 167 of Division A of* H.R. 2028—*Miners Health Benefits—House Rules Committee Print 114-70 For* H.R. 2028, Table 3, December 7, 2016, https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr2028.pdf. Section 167(d) specifies how the budgetary effects of this provision shall be classified and treated for various budget enforcement purposes and that those budgetary effects shall not be entered as savings on the statutory or Senate PAYGO scorecards.

[115] This section was authored by Christopher Davis, Analyst on Congress and the Legislative Process.

[116] For more information on this statutory provision, see CRS Insight IN10613, *Statutory Restrictions Relating to Prior Military Service of the Secretary of Defense*, coordinated by Kathleen J. McInnis.

Once pending on the Senate Calendar of Business (either by being reported or by the committee being discharged), it is in order to make a non-debatable motion to proceed to consider the legislation. This motion may be repeated if it has previously been disagreed to. All points of order against the waiver legislation and its consideration are waived.

If the Senate adopts the motion to proceed, the waiver legislation would be pending and the Senate would consider the measure until it has disposed of it. There would be up to 10 hours of debate, divided and controlled by the party floor leaders or their designees. A non-debatable motion to further limit debate is in order. Amendments and potentially dilatory motions are barred. At the conclusion of debate, and after an optional quorum call, the Senate would automatically vote on passage of the waiver legislation. Passage of the waiver legislation in the Senate requires an affirmative vote of three-fifths of Members chosen and sworn—60 votes if there are no vacancies in the Senate—the same threshold required for cloture on most legislation. Should waiver legislation be subsequently vetoed, Senate consideration of a veto message would be limited to up to 10 hours.

Because these "fast track" procedures are enacted as a Senate rule in law, the Senate could adjust the provisions described above in whole or in part by unanimous consent.

Section 179 does not establish any expedited procedures providing for House consideration of waiver legislation. Presumably such legislation would come to the House floor under the terms of a special rule reported by the House Committee on Rules or, depending on its level of support, under the suspension of the rules procedure.

Table 2. Selected CRS Appropriations Experts

Appropriations Title	Topic	CR Section	CRS Expert(s)
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies	Farm Loan Program	146	Jim Monke
	Food and Nutrition Service Summer Electronic Benefits Transfer Program	147	Randy Aussenberg
	Child Nutrition Information Clearinghouse	148	Randy Aussenberg
	Rural Telecommunications Loans	149	Tadlock Cowan
	Rural Housing	150	Maggie McCarty
	Emergency Land Rehabilitation Programs	185	Megan Stubbs
	Food and Drug Administration Innovation Account	193	Agata Dabrowska
Commerce, Justice, Science, and Related Agencies	National Oceanic and Atmospheric Administration Joint Polar Satellite System	151	Harold F. Upton
	2020 Decennial Census	152	Jennifer D. Williams
	National Aeronautics and Space Administration (NASA) Space Exploration	153	Daniel Morgan
	Security for the President-elect	154	Nathan James
	Repairs for Damaged NASA Facilities	186	Daniel Morgan
Department of Defense	Department of Defense Procurement	155-157	Pat Towell
Energy and Water Development and Related Agencies	National Nuclear Security Administration	158	Amy Woolf
	Strategic Petroleum Reserve	159	Robert Pirog
	Uranium Enrichment Decontamination and Decommissioning Fund	160	David M. Bearden
	Corps of Engineers	187-190	Charles V. Stern
Financial Services and General Government	Allowances and Office Staff for Former Presidents	161	Wendy Ginsberg
	Use of Funds for DC Scholarships for Opportunity and Results	162	Eugene Boyd
Department of Homeland Security	Department of Homeland Security Operations and Support Apportionment	163	William L. Painter
Department of the Interior, Environment, and Related Agencies	National Gallery of Art	164	Shannon S. Loane
	National Museum of African American History and Culture	165	Shannon S. Loane
	Indian Health Service	166	Elayne J. Heisler

Appropriations Title	Topic	CR Section	CRS Expert(s)
	Environmental Protection Agency (EPA) Drinking Water State Revolving Funds	196	Mary Tiemann
	EPA Water Infrastructure Finance and Innovation Program	197	Mary Tiemann
Departments of Labor, Health and Human Services, and Education, and Related Agencies	Office of Workers' Compensation Programs	168	Scott Szymendera
	Department of Education—Federal Family Education Loan Account Maintenance Fees	169	Alexandra Hegji
	Department of Health and Human Services (HHS)—Refugee and Entrant Assistance Transfers	170	William Kandel Karen Lynch
	HHS—Prevention and Public Health Transfers	171	Sarah A. Lister
	Social Security Administration Backlog	172	William R. Morton
	Extension of Temporary Assistance for Needy Families	173	Gene Falk
	HHS—Use of Funds to Investigate Cancer Clusters	174	Sarah A. Lister
	National Institutes of Health Innovation Account	194	Judith A. Johnson
	HHS—State Response to the Opioid Abuse Crisis	195	Erin Bagalman
	Responses to Lead Exposure in Water	198-200	Sarah A. Lister Elayne J. Heisler Victoria Elliott
	State Children's Health Insurance Program	201	Alison Mitchell
Legislative Branch	Salaries of Members of Congress	175	Ida A. Brudnick
	Transfer of the O'Neill Building to the House of Representatives	176	Ida A. Brudnick
	Senate Leadership Offices	177	Ida A. Brudnick
	Senate National Security Working Group	178	Ida A. Brudnick
	Expedited Senate Consideration of Legislation Waiving Restriction on Military Service of the Secretary of Defense	179	Christopher Davis
	Commercial Trucking Hours of Service	180	Randy Peterman
Transportation, Housing and Urban Development, and Related Agencies	Federal Aviation Administration	181	Rachel Y. Tang

Appropriations Title	Topic	CR Section	CRS Expert(s)
	Maritime Administration	182	John Frittelli, 7-7033
	Department of Housing and Urban Development (HUD)—Tenant-Based Rental Assistance	183	Maggie McCarty
	DOT—Emergency Relief Program	191	Robert S. Kirk
	HUD—Community Development Fund	192	Eugene Boyd
Other Provisions	United Mine Workers of America Health Benefits	167	John J. Topoleski
	Expedited Senate Consideration of Legislation Waiving a Restriction Related to the Military Service of the Secretary of Defense	179	Christopher Davis

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