

between the State and the tribe. I understand that the Attorney General of Colorado, Ken Salazar, has been a key negotiator in negotiating this agreement. Without his work, it would not have happened. The State of Colorado, the tribe, and the Attorney General's Office are to be commended for this effort. I urge my colleagues to support Senate 551.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the Senate bill, S. 551.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 18 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1617

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 4 o'clock and 17 minutes p.m.

CLARIFICATION OF TREATMENT OF SUPPLEMENTAL APPROPRIATIONS IN CALCULATING RATE FOR OPERATIONS FOR CONTINUING APPROPRIATIONS

Mr. YOUNG of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5202) to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005.

The Clerk read as follows:

H.R. 5202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF SUPPLEMENTAL APPROPRIATIONS IN CALCULATING RATE FOR OPERATIONS.

For purposes of the application of section 103 of Public Law 108-309, supplemental appropriations shall be included in the calculation of the rate for operations only in accordance with the attachments to Office of Management and Budget Bulletin No. 04-05 entitled "Apportionment of the Continuing Resolution(s) for Fiscal Year 2005".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5202.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the legislation before the House, H.R. 5202, is to assist the Members of the House in understanding scoring relevant to the continuing resolution that we passed last week.

As my colleagues know, the current CR expires on November 20, 2004. As I explained last week, the CR continues all ongoing activities at current rates, including supplemental funding, under the same terms and conditions as fiscal year 2004. As in past CRs, it does not allow new starts, and it restricts obligations on high initial spend-out programs. So the annualized funding levels in this bill will not impinge on our final budget deliberations.

As a courtesy to those in this body who do not understand how OMB determines the rate of operations, I have been asked to put this bill on the floor today to clarify that the term "rate for operations" for 2004 supplementals will be apportioned pursuant to OMB Bulletin Number 04-05.

So, in reality, this bill does not change anything. However, some believe it is needed to clarify for CBO the amount of money the executive branch intends to spend during the period of the CR.

The deficit will not change by one dime as a result of this bill. How much money the government spends will not change by one dime as a result of this bill.

CBO's and the Committee on the Budget's job under the Budget Act is to provide an estimate of bills that are being considered and then are enacted into law. Let me emphasize the word estimate, which is based on a set of assumptions made at the time. Those estimates are sometimes good, and sometimes, they are off. An example where they were off was the Medicare bill.

But thankfully, these estimates do not become the actual balance in our checkbook. That is a real number, based on the checks actually issued by the U.S. Treasury. That is the real number that drives the surplus or deficit.

CBO scoring is only relevant to keep a scorecard on how Congress is doing relative to the budget assumptions. As we all know, during the year, we often wait for a revision by CBO of its scoring to determine the level of a deficit.

This revision comes when CBO marries its numbers with the reality that is driven by actual spending.

So we are doing this bill today because some feel that we need to set the record straight. I believe the record is already straight and the OMB apportionment process will dictate the actual level of spending of the CR. By the way, under OMB's apportionment process, the CR will actually save \$5 billion from the level that was allocated for fiscal year 2005 discretionary spending in the budget.

This savings is going to happen with or without this bill, but I urge that we pass the bill.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT
AND BUDGET,

Washington, DC, September 30, 2004.

Bulletin No. 04-05

To the Heads of Executive Departments and Establishments.

Subject: Apportionment of the Continuing Resolution(s) for Fiscal Year 2005.

1. Purpose and Background. H.J. Res. 107 (continuing resolution) will provide continuing appropriations for the period October 1 through November 20, 2004. I am providing an automatic apportionment for amounts provided by this continuing resolution (CR) as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-11, section 123, and applies to this CR and any extensions of this CR.

2. Automatic Apportionments. Calculate the amount automatically apportioned through the period ending November 20th (and any extensions of that period) by multiplying the rate (amount) provided by the CR by the lower of: the percentage of the year covered by the CR (e.g., for H.J. Res. 107 use 13.97 percent), or the historical seasonal rate of obligations for the period of the year covered by the CR.

See Attachments A and B to this Bulletin for more detailed instructions on calculating the amount provided by the CR and the amount automatically apportioned. Sec. 111 of the CR requires that the resolution be implemented so that only the most limited funding action permitted in the CR is taken. The Administration has interpreted this section to mandate that agencies in general spend at a minimum level, so as not to infringe upon the prerogative of Congress to set full-year funding levels. Funding apportioned under the CR excludes one-time, non-recurring projects and activities that were funded in FY 2004, which includes most projects and activities funded by FY 2004 supplemental appropriations. The only FY 2004 supplemental projects and activities that may be factored into the "not to exceed current rate" can be found in Attachment B.

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect.

H.J. Res. 107 expires at midnight on Saturday, November 20, 2004.

3. Written Apportionments. If a program requires an amount different from the total amount automatically apportioned, you must request a written apportionment from OMB. Once a written apportionment is approved, the terms and conditions of the automatic apportionment bulletin cease to apply.

JOSHUA B. BOLTEN,

Director.

Attachments.

ATTACHMENT A—CALCULATING THE AMOUNT MADE AVAILABLE BY THE CR AND THE AUTOMATIC APPORTIONMENT

Calculate the amount automatically apportioned (whole dollars) through the period

ending November 20, 2004, (and any extensions of that period) by multiplying the rate (amount) provided by the CR by the lower of: the percentage of the year covered by the CR (rounded to the nearest hundredth); (for a seven-week CR, use 51 days/365 days=13.97%); or the historical seasonal rate of obligations for the period of the year covered by the CR.

1. What is the rate (annualized, full-year amount) provided by the continuing resolution (CR)? The rate (full-year amount) provided by the CR for all accounts is the rate of operations not exceeding the current rate, calculated as follows:

Take the net amount enacted in FY 2004, i.e., add only the supplemental appropriations amounts listed in Attachment B of OMB Bulletin 04-05; subtract any rescissions (e.g., across-the-board reductions), and factor in transfers mandated by law;

Add the unobligated balance (including those for emergencies) carried forward to FY 2004 start-of-the-year (SOY), if any; and

Subtract the unobligated balance (including those for emergencies) at the end of FY 2004 end of year (EOY), if any.

2. Which estimates of FY 2004 (EOY) unobligated balances should agencies use in the calculation? Agencies are required to use current estimates of FY 2004 (EOY) unobligated balances. You can adjust the unobligated balances with the following conditions:

FY 2004 SOY unobligated balances: Use the amount shown on the most recent FY 2004 apportionment/reapportionment. This would be shown on line 2a ("Unobligated balance: brought forward, October 1 (actual)") of the SF 132/letter apportionment.

FY 2004 EOY unobligated balances: Again, you must use the most recently approved apportionment. For the majority of the accounts, this should be the FY 2005 initial apportionment.

You may request OMB to apportion the revised estimates of unobligated balances, SOY FY 2005, and if apportioned by OMB, you may use the revised amounts to calculate the amount available under the CR.

3. How should mandatory appropriations and balances be treated? A continuing resolution is an appropriations bill. As such, it normally does not affect mandatory appropriations provided in substantive or authorizing legislation. Therefore, for accounts with a mix of discretionary and mandatory appropriations, take the mandatory component out before calculating the amount provided by the CR. This includes both the budget authority and unobligated balances.

4. What is the amount of the automatic apportionment under a CR? Multiple the rate (annualized, full-year amount) provided by the CR (see note 1) by:

The percentage of the year covered by the CR (rounded to the nearest hundredth);

The historical seasonal rate of obligations for the period of the year covered by the CR; or

The lower number will be the amount automatically apportioned.

5. Are entitlement and other mandatory payments whose budget authority was provided in Appropriations Acts for fiscal year 2004 continued at the FY 2004 level or FY 2005 program level?

Sec. 126 of H.J. Res. 107 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2004 to continue at the "rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004, etc." In other words, these programs can operate at the FY 2005 level but the appropriated administrative expenses associated with these programs must be based on the FY 2004 levels.

ATTACHMENT B—FY 2004 SUPPLEMENTAL PROJECTS AND ACTIVITIES (RECURRING) TO BE INCLUDED IN DETERMINATION OF CURRENT RATE AMOUNTS PROVIDED BY THE CONTINUING RESOLUTION¹

Agency/Account	FY 2004 BA (Millions of dollars)
Department of Energy:	
Other Defense Activities	3
Department of Homeland Security:	
U.S. Coast Guard	80
International Security Assistance:	
Economic Support Fund	672
Foreign Military Financing Program	287
Peacekeeping Operations	20
Non-Proliferation, Antiterrorism, Demining & Related Programs	35
Migration and Refugee Assistance	25
Department of Justice:	
FBI, Salaries and Expenses	15
Department of State:	
Contributions for International Peacekeeping	245
International Narcotics Control and Law Enforcement	170
United States Agency for International Development:	
International Disaster and Famine Assistance	70

¹This list, compiled by OMB, excludes one-time, non-recurring projects and activities funded in FY 2004 Supplemental Appropriation Acts, including the FY 2004 Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan (P.L. 108-106), Title X of the FY 2005 Department of Defense Appropriations Act (P.L. 108-287), and the Emergency Supplemental Appropriations for Disaster Relief Act, 2004 (P.L. 108-303).

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think, as the gentleman has so aptly indicated already, the best way that this bill can be described is to put it in the terms that the old Bowery Boys used to say in those B movies many years ago when we were both kids, when Leo Gorcey would say "dis don't do nuthin' to nobody." That is exactly what this legislation does. It "don't do nuthin' to nobody."

It is here simply because, evidently, the folks who are on the Committee on the Budget do not, as the gentleman from Florida indicates, understand how the OMB goes about dealing with or enforcing and implementing the continuing resolutions which we pass. Somehow, it seems that the Committee on the Budget or perhaps only the chairman of the Committee on the Budget, I do not know, it seems that they feel that, without this language, OMB will go on a spending spree.

Well, the fact is that what this legislation says is that OMB cannot do something which OMB is already not planning to do. The interpretation that is always given to the continuing resolution by the Committee on Appropriations and by OMB is that the most conservative approach must be used for obligating funds under a CR. Notwithstanding that interpretation, the Committee on the Budget is having its version of a heart attack, suggesting that somehow the continuing resolution, which the gentleman brought to the floor last week, is going to result in runaway spending.

As the gentleman from Florida says, while it pretends to reign in OMB, this resolution will not result in one dime less being spent than would have been the case with the CR that passed the House last week.

I guess all I would say is that I find it interesting that 2 weeks before the end of the fiscal year, when this Congress has still not passed a single domestic appropriations bill, because the bills that were passed in this body have not been accepted by those in the other body, and at a time when we still do not have a transportation bill out of the authorizing committee, at a time when so many pieces of legislation are tied up between the House and the Senate, this House has been asked to waste a good amount of time on the budget process reform bill, which the Committee on the Budget insisted on bringing to the floor earlier in the year, which did a "brilliant" job of passing so-called budget reform legislation which guaranteed that Members could continue to do anything whatsoever that they wanted to do on the tax side of the ledger without having to take into account one iota what it did to the deficit. Now we are being asked to pass this meaningless piece of fluff.

It does not matter whether Members vote "yes" or "no" on this resolution. The result will be the same. So I guess if it makes the chairman of the Committee on the Budget happy, the House may as well go ahead and pass it, but do not deceive yourself into thinking that it does something for or to anybody. It does not.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I have no requests for time. I just urge a "yes" vote, and I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 5202.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 26 minutes p.m.), the House stood in recess until approximately 6:30 p.m. today.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BLACKBURN) at 6 o'clock and 30 minutes p.m.