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RSC THE REPUBLICAN STUDY COMMITTEE

H.R. 5485: Fiscal Year 2017 Financial Services and General Government Appropriations Act (Rep. Crenshaw, R-FL)

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FLOOR SCHEDULE:

H.R. 5485 is expected to be considered beginning on June 22, 2016, under a structured rule.

Amendments will be summarized in additional Legislative Bulletins as they become available.

TOPLINE SUMMARY:

H.R. 5485 would provide appropriations for the U.S. Treasury and the Internal Revenue Service (IRS), the White House and the Executive Office of the President, the Federal Judiciary, the District of Columbia, the Small Business Administration, (SBA), the General Services Administration (GSA), the Securities and Exchange Commission (SEC), the Federal Communications Commission (FCC), as well as a number of other independent agencies for Fiscal Year 2017.

A consolidated summary of major non-spending policy provisions (riders) is available at the end of the detailed summary below.

The Committee Report can be found here, and the text of the legislation can be found here.

COST:

The bill provides a net total of $21.735 billion in Fiscal Year 2017 base discretionary budget authority that is subject to the Budget Control Act (BCA) discretionary spending caps (as increased by the Bipartisan Budget Act of 2015 (BBA15)).

The bill is written at a level that would comply with the higher $1.070 trillion in discretionary spending allowed by BBA15.

In thousands of Dollars

	FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level
Net Total Base Discretionary	20,250,000	23,235,000	24,427,335	21,735,000

Net Total Base Discretionary Budget Authority is:

- $2.692 billion below the President's Budget request.
- $1.5 billion below the enacted FY 2016 level.
- $1.485 billion above the level originally proposed by the Appropriations Committee for FY 2016.

The bill would also provide a total of $31.376 billion in mandatory appropriations. In total, the bill would provide a grand total of $43.54 billion in funding for the agencies covered by the bill.

CONSERVATIVE CONCERNS:

Some conservatives may be concerned this appropriations bill is written to the $1.070 trillion level, which is the maximum amount permitted under the Bipartisan Budget Act of 2015. This spending ceiling increase from the $1.040 trillion level was opposed by 167 House Republicans when it was enacted last fall. The $1.070 trillion level for Fiscal Year 2017 base discretionary spending is $30 billion more than the maximum amount that would have been permitted under the Budget Control Act of 2011.

Some conservatives may be concerned that this appropriations bill is being considered by the House despite the fact that House has yet to consider a budget resolution.

Some conservatives may be concerned the bill includes $15.194 billion in appropriations for 34 programs that are not authorized by law. Fifteen of these programs receive a total of $75 million more than their enacted FY 2016 level. Several of these programs have never been authorized by Congress.

Some conservatives may be concerned that the bill relies on $860 million in "changes in mandatory programs" (CHIMPS) to meet its spending allocation. Because of the CBO scoring conventions, an appropriations bill can offset increases in discretionary spending if it reduces mandatory spending in the first year of the budget window. These CHIMPS are often just gimmicks that shift the timing of mandatory spending, and allow increases in discretionary spending year after year using the same "offset" over and over.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No, according to the Committee Report.

DETAILED SUMMARY AND ANALYSIS:

Title I: Department of the Treasury

Net Total Discretionary in Thousands of Dollars

FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level		FY17 vs 16 House	FY17 vs 16 Enacted	FY17 vs President
10,756,473	11,939,653	13,143,558	11,693,724		+ 937,251	- 245,929	- 1,449,834

The Treasury would be appropriated a net total of $11.694 billion, a level that is $1.45 billion below the President's Budget request, $246 million below the FY 2016 enacted level, and $937 million above the level proposed by the House Appropriations Committee for FY 2016.

Treasury (Non-IRS): The non-IRS functions of the Treasury are appropriated $697 million, a level that is $169 million below the President's Budget request, $10 million below the FY 2016 enacted level, and $45 million above the level proposed by the House Appropriations Committee for FY 2016.

Office of Terrorism and Financial Intelligence: The bill would provide $120 million for the Treasury's Office of Terrorism and Financial Intelligence, a level that is $3 million above the President's Budget request and $3 million above the current FY 2016 level.

Treasury Forfeiture Fund: The bill would rescind $754 million from the Treasury Forfeiture Fund in FY 2017. The Fund is populated by assets seized pursuant to law-enforcement activities by the Treasury and certain Homeland Security agencies and is then available to support a number of law enforcement activities. A smaller rescission of these funds means that more resources are available for law enforcement activities. This provision is a "change in mandatory program" (CHIMPS). According to CBO, while this provision would reduce mandatory spending by $754 million in FY 2017, it would also increase mandatory spending by $754 million in FY 2018.

Some conservatives may also be concerned that seizures under various asset forfeiture programs fail to provide basic protections to citizens, and some may believe such activities to be unconstitutional violation of the 4th Amendment. More information on asset forfeiture and the use of the Fund as a CHIMP is available from the Heritage Foundation.

Internal Revenue Service (IRS): The bill would provide $10.999 billion for the IRS, a level that is $1.281 billion below the president's budget request, $236 million below the current FY 2016 enacted level, and $892 million above the level proposed by the House Appropriations Committee for FY 2016. Within this total, $4.76 billion is for enforcement, $3.502 billion is for operations support, and $2.157 billion is for taxpayer services. The bill includes several riders relating to the IRS, which are summarized below:

501(c)(4) Regulations: The bill would prohibit the use of funds for the IRS to issue regulations that would change the definition and standards for 501(c)(4) organizations. The IRS has attempted to rewrite regulations that would codify its practice of targeting conservative organizations. This important language to protect the free speech rights of civic organizations is included as Section 127 of the bill.

IRS Bonuses: Section 112 of the bill would prohibit bonuses for IRS employees that do not take into account the conduct and tax compliance of each employee.

Hiring Former IRS Employees: Section 112 of the bill would prohibit hiring IRS employees without taking into account the conduct and tax compliance of the employee.

Targeting of Conservatives: Sections 107 and 108 of the bill would prohibit the use of funds to target groups and individual citizens based upon their ideological beliefs or for exercising their First Amendment rights.

Wasteful Conferences: Section 109 of the bill would prohibit funds for IRS conferences that fail to comply with the Inspector General's recommendations.

IRS Videos: Section 105 of the bill would prohibit funds for wasteful videos that have not been reviewed for "cost, topic, tone, and purpose and certified to be appropriate."

White House Interference: The bill would prohibit the White House from ordering the IRS to determine the tax-exempt status of an organization.

Obamacare Funding: Section 110 of the bill prohibits transfers from the Department of Health and Human Services (HHS) to the IRS to implement Obamacare.

Individual Mandate: Section 111 of the bill prohibits the IRS from enforcing Obamacare's Individual Mandate.

Tax Exempt Status of Churches: Section 136 of the bill would prohibit the IRS from determining that a church is not tax exempt for participating in political campaign unless the IRS Commissioner consents to the determination and the IRS notifies Congress at least 90 days before the determination would take effect.

Confidential Taxpayer Information: Section 113 of the bill would prohibit the use of funds in violation of law that prohibits the release of taxpayer return information by the federal government.

Government Prepared Tax Returns: Section 114 of the bill would prohibit the use of funds for the IRS to pre-fill or pre-populate tax returns for people.

Cuba Issues: The bill includes several riders relating to Cuba. Specifically, Section 132 of the bill would prohibit the use of funds to approve or authorize "people-to-people travel" to Cuba; Section 133 of the bill would prohibit funds to approve, license, facilitate, authorize, or otherwise allow the importation of property confiscated by the Cuban Government; Section 134 of the bill would prohibit financial transaction with the Cuban military or intelligence service; and Section 135 of the bill would prohibit approving or allowing a the licensing of a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that was confiscated by Cuba, unless expressly consented.

Title II: Executive Office of the President

Net Total Discretionary in Thousands of Dollars

FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level		FY17 vs 16 House	FY17 vs 16 Enacted	FY17 vs President
675,976	691,768	645,271	691,939		+ 15,963	+ 171	+ 46,668

The Executive Office of the President would be appropriated a net total of $692 million, a level that is $47 million above the President's Budget request, $171,000 above the FY16 enacted level, and $16 million above the level proposed by the House Appropriations Committee for FY16.

White House Salaries and Expenses: The bill would provide $55 million for White House staff salaries and expenses, a level that is $214,000 below the President's Budget request and equal to the FY 2016 enacted level.

National Security Council and the Homeland Security Council: The bill would provide $11 million for the National Security Council and the Homeland Security Council, a level that is $2 million below the President's Budget request and $2 million below the FY 2016 enacted level. The bill would also require a report outlining the roles and responsibilities of all of its full time equivalent employees.

Office of Management and Budget (OMB): The bill would provide $91 million for the OMB, a level that is $10 million below the President's Budget request and $4 million below the FY 2016 enacted level.

Office of National Drug Control Policy (ONDCP): The bill would provide a total of $384 million for the ONDCP, a level that is $70 above the President's Budget request and $4 million above the FY 2016 enacted level.

Office of the Vice President: The bill would provide the Office of the Vice President $4.5 million, a level that is equal to the President's Budget request and the FY 2016 enacted level.

Impact of Executive Orders: Section 203 of the bill would require the OMB to include a statement of the budgetary impact of Executive Orders or Presidential Memorandum issued.

Signing Statements: Section 204 of the bill would prohibit the use of funds to prepare, sign, or approve statements abrogating legislation passed by Congress and signed by the president.

Executive Orders Contravening Law: Section 205 of the bill would prohibit the use of funds to prepare or implement an Executive Order or Presidential Memorandum that contravenes existing law.

Title III: The Judiciary

Net Total Discretionary in Thousands of Dollars

FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level		FY17 vs 16 House	FY17 vs 16 Enacted	FY17 vs President
6,910,219	6,778,151	6,991,821	6,955,503		+ 45,284	+ 177,352	- 36,318

The Federal Judiciary would be appropriated a net total of $6.956 billion, a level that is $36 million below the President's Budget request, $177 million above the FY16 enacted level, and $45 million above the level proposed by the House Appropriations Committee for FY16.

Supreme Court: The bill would provide the Supreme Court a total of $95 million, a level that is equal to the President's Budget request and $6 million above the FY 2016 enacted level.

Title IV: District of Columbia

Net Total Discretionary in Thousands of Dollars

FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level		FY17 vs 16 House	FY17 vs 16 Enacted	FY17 vs President
678,029	729,843	763,538	725,211		+ 47,182	- 4,632	- 38,327

The District of Columbia (D.C.) would be appropriated a net total of $725 million, a level that is $38 million below the President's Budget request, $5 million below the FY16 enacted level, and $47 million above the level proposed by the House Appropriations Committee for FY16.

College Tuition Subsidies: The bill would provide $20 million for the DC Tuition Assistance Grant (DCTAG) program, a level that is $20 million below the President's Budget request and $20 million below the FY 2016 enacted level. The DCTAG program provides up to $10,000 annually for undergraduate DC students to attend eligible four-year public universities and colleges nationwide at instate tuition rates as well as grants of up to $2,500 per year for students to attend private universities and colleges in the D.C. metropolitan area, private Historically Black Colleges and Universities nationwide, and public two-year community colleges nationwide.

Scholarships for Opportunity and Results (SOAR) Act: The bill would provide $45 million to implement the SOAR Act, a level that is $2 million above the President's Budget request and $equal to the FY 2016 enacted level.

Title IX of the bill would reauthorize the SOAR Act through FY 2021.

D.C. Local Funds: The bill provides authority for D.C. to spend its local funds. The Committee Report includes language stating that "The Committee continues to consider the referendum providing local funds budget autonomy as an expression of the opinion of the District of Columbia residents without any authority to change or alter the existing relationship between Federal appropriations and the District." Section 816 of the bill would provide authority for D.C. to spend its local funds in the event of a federal government shutdown.

Section 817 of the bill would repeal D.C.'s Local Budget Autonomy Amendment Act of 2012.

Needle Exchanges: Section 807 of the bill would prohibit the use of federal funds for a drug needle exchange program.

Conscience Clause: Section 808 of the bill would maintain the conscience clause for contraceptive coverage by health insurance plans in D.C.

Drug Legalization: Section 809 of the bill would prohibit the use of federal or local funds to legalize or reduce the penalties against controlled substances including marijuana.

D.C. Hyde Amendment: Section 810 of the bill would prohibit the use of federal or local funds to provide for an elective abortion. Since 1979, Congress has prohibited the use of funds for abortion in D.C., except for FY 1994-95, and in FY 2010 through part of FY 2011.

Title V: Independent Agencies

Net Total Discretionary in Thousands of Dollars

FY16 House Level	FY16 Enacted	FY17 President Request	FY17 House Level		FY17 vs 16 House	FY17 vs 16 Enacted	FY17 vs President
1,186,303	3,053,585	2,858,147	1,663,623		+ 477,320	- 1,389,962	- 1,194,524

The independent agencies funded by the bill would be appropriated a net total of $1.664 billion, a level that is $1.195 billion below the President's Budget request, $1.39 billion below the FY16 enacted level, and $477 million above the level proposed by the House Appropriations Committee for FY16.

Consumer Financial Protection Bureau (CFPB): Section 502 of the bill would make the CFPB subject to the appropriations process in FY 2018. Under the Dodd-Frank financial reform law, the CFPB is allowed to set its own budget using funds from the Federal Reserve. This allows the CFPB to operate with no Congressional oversight. Section 505 of the bill would change the management structure from a single Director to a five-member Board of Directors.

Federal Communications Commission (FCC): The bill would provide $315 million for the FCC, a level that is $43 million below the president's budget request and $69 million below the FY 2016 enacted level. The appropriation would be fully offset with offsetting collections.

Federal Election Commission (FEC): The bill would provide $81 million for the FEC, a level that is equal to the President's Budget request and $4 million above the FY 2016 enacted level.

Office of Personnel Management (OPM): The bill would provide a total of $318 million for the OPM, a level that is $3 million below the President's Budget request and $46 million above the FY 2016 enacted level.

Securities and Exchange Commission (SEC): The bill would provide the SEC with $1.555 billion, a level that is $226 million below the President's Budget request and $50 million below the FY 2016 enacted level. This funding would be fully offset by fee collections.

The bill would also rescind the unobligated balance ($75 million) from the SEC's Reserve Fund that was established by the Dodd-Frank financial reform law.

Small Business Administration (SBA): The bill would provide $883 million for the SBA, a level that is $5 million above the President's Budget request and $12 million above the FY 2016 enacted level.

Unauthorized Appropriations: The bill includes $15.194 billion in appropriations for 34 programs that are not authorized by law. Fifteen of these programs receive a total of $75 million more than their enacted FY 2016 level. Several of these programs have never been authorized by Congress.

The inclusion of appropriations for these programs in the reported bill is in violation of clause 2(a)(1) of rule XXI of the Rules of the House.

Title of the Bill	Unauthorized Programs funded by the bill	Total Unauthorized Appropriations		Programs that Receive more than FY16 Enacted	Total Increases in Programs that Receive more than Enacted
Treasury	10	11,967,691		5	52,357
Executive Office of the President	5	500,145		2	5,061
District of Columbia	5	71,035		2	35
Independent Agencies	14	2,655,500		6	17,781
Total	**34**	**15,194,371**		**15**	**75,234**

CHIMPS: The bill includes $860 million in "changes in mandatory programs" (CHIMPS) to meet its spending allocation. Because of the CBO scoring conventions, an appropriations bill can offset increases in discretionary spending if it reduces mandatory spending in the first year of the budget window. These CHIMPS are often just gimmicks that shift the timing of mandatory spending, and allow increases in discretionary spending year after year using the same "offset" over and over. The largest CHIMP in the bill is a $754 million rescission from the Treasury Forfeiture Fund in FY 2017 that would increase mandatory spending by $754 million in FY 2018. For more information regarding CHIMPS, see this CRS memo.

MAJOR POLICY PROVISIONS:

Pro-Life: Sections 613 and 614 of the bill would prohibit funding abortion coverage through the Federal Employee Health Benefits Program (FEHBP), except in cases where the health of the mother is at risk or in the event of rape and incest. These provisions, sometimes called the Smith Amendment, were first enacted in 1983 and have consistently been included in appropriations bills.

Section 641 would prohibit abortion coverage through the Multi-State Plan Program created under Obamacare. This language mirrors the Smith amendment related to the FEHBP, and applies that principle to multi-state plans, which are also run by the OPM.

Presidential Czars: Section 621 would prohibit funding for President Obama's "czars," including the Director of the White House Office of Health Reform, the Assistant to the President for Energy and Climate Change, the Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and Senior Counselor for Manufacturing Policy, and the White House Director of Urban Affairs.

Federal Records Act: Section 622 would prohibit the use of funds to be used in contravention of the Federal Records Act.

Political Disclosures: Section 625 would prohibit the SEC from requiring the disclosure of political contributions, contributions to tax-exempt organizations, or dues paid to trade associations. Section 735 prohibits the federal government from requiring federal contractors to disclose political contributions.

Significantly Important Financial Institution Designations: Section 626 of the bill would prohibit the Financial Stability Oversight Council (FSOC) from designating a non-bank institution as a Significantly Important Financial Institution (SIFI) unless it identifies the risks to financial stability presented by the non-bank and allows the non-bank to present a plan to modify its business, structure, or operation to mitigate the identified risk prior to final designation.

FCC Regulating Rates: Section 631 would prohibit the FCC from regulating rates for broadband and wireless Internet providers.

FCC Net Neutrality: Section 632 would prohibit the use of funds to implement, administer, or enforce the FCC's Net Neutrality regulation until there has been a disposition of several court cases surrounding the regulation.

CFPB Regulations: Section 639 would prohibit the CFPB from regulating payday or vehicle title loans unless the CFBP first reports to Congress analyzing the impact of the regulations on consumer access to credit.

Six-Day Delivery: The bill includes a rider that would require six-day mail delivery by the Postal Service and prohibiting a change to move to a five-day delivery schedule. Since 1984, appropriations bills have included this provision.

Whistleblower Protection: Section 713 prohibits payment of salary to any federal employee who threatens or prohibits another federal employee from communicating with Congress.

Unions: Section 716 prohibits the federal government from disclosing the home addresses of federal employees to labor unions without employee authorization.

Conscience Clause: Section 726 of the bill would maintain conscience protections for contraceptive coverage by health insurance plans in the FEHB.

Automatic Pay Increases: Section 738 would prohibit otherwise automatic pay increases for the Vice President, political appointees under the executive schedule, ambassadors, and politically appointed Senior Executive Service employees in FY 2017.

SEC Small Business Advocate Act: Title X of the bill includes H.R. 3784, the SEC Small Business Advocate Act, which would establish an Office of the Advocate for Small Business Capital Formation within the Securities and Exchange Commission to assist small businesses and investors, provide guidance on proposed and final regulations and orders and would update small business policies. H.R. 3784 passed the House on February 1, 2016, by a voice vote.

Financial Institution Bankruptcy Act: Title XI of the bill includes H.R. 2947, the Financial Institution Bankruptcy Act, which would establish a new subchapter in the bankruptcy code to cover large financial institutions, imposing losses on shareholders and creditors rather than on taxpayers as under a Dodd-Frank proceeding. H.R. 2947 passed the House on April 12, 2016, by a voice vote.

COMMITTEE ACTION:

The Appropriations Committee marked up H.R. 5485 on June 9, 2016, and reported the bill by a 31 – 17 vote. The Committee also held a number of oversight hearings on the agencies funded by the bill.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available at this time.

CONSTITUTIONAL AUTHORITY:

"Congress has the power to enact this legislation pursuant to the following: Pursuant to clause 7(c) of rule XII of the Rules of the House of Representatives, the following statement is submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution. The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ``No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . . .'' In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ``The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States . . . .'' Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use."

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