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# Further Senate Amendment to H.R. 719: Continuing Resolution, Fiscal Year 2016 (Katko, R-NY)

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

## FLOOR SCHEDULE:

September 30, 2015 under a rule.

The [rule](#) for H.R. 3495, the Women’s Public Health and Safety Act, waived the requirement for a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee through October 1, 2015.

RSC Chairman Flores will be [offering an amendment](#) at the Rules Committee that would prohibit the President from lifting sanctions on Iran and place a moratorium on government funding for all abortion providers through the length of the CR.

## TOPLINE SUMMARY:

The [further Senate amendment to H.R. 719](#) would provide appropriations for current government functions through December 11, 2015.

## COST:

The Continuing Resolution (CR) provides appropriations at the base Fiscal Year (FY) 2016 spending level, an annual rate of \$1.017 trillion. Annualized base Defense spending would be \$520.4 billion and annualized base Non-Defense spending would be \$496.2 billion. The CBO report can be found [here](#).

The CR provides for an across-the-board reduction of 0.2108 percent to all regular appropriations accounts. This is necessary to reach the \$1.017 trillion level due to one-time rescissions included in the [FY 2015 CROmnibus](#) that are not available in the CR and due to CBO adjustments to the baseline.

The CR provides annualized defense funding that is below the [Budget Control Act \(BCA\) cap](#) for Defense and above the cap for Non-Defense.

<b>Base Spending Comparison</b> (Budget Authority on Annualized Basis in Billions of Dollars)			
	<b>Defense</b>	<b>Non-Defense</b>	<b>Total</b>
<b>FY 2015 (current)</b>	521.272	492.356	1,013.628
<b>BCA FY 2016 Caps</b>	523.091	493.491	1,016.582
<b>FY 2016 CR (H.R. 719)</b>	520.385	496.197	1,016.582

Total defense funding is \$595.1 billion, including \$74.8 billion in Global War on Terror/Overseas Contingency Operations (GWOT/OCO) funding. The total defense spending is below the total level called for in the [FY 2016 Concurrent Resolution on the Budget](#) passed by the House and Senate. The level of GWOT/OCO is slightly higher than the current FY 2015 level because the CR does not include recessions that were included in the [FY 2015 CROmnibus](#).

<b>Defense Funding</b> (Budget Authority on Annualized Basis in Billions of Dollars)			
	<b>Base Defense</b>	<b>GWOT/OCO</b>	<b>Total Defense</b>
<b>FY 2015 (current)</b>	521.272	73.695	594.967
<b>FY 2016 Budget</b>	523.091	96.287	619.378
<b>FY 2016 CR (H.R. 719)</b>	520.385	74.758	595.143

## CONSERVATIVE CONCERNS:

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

Conservatives may be concerned that the CR would spend \$2.706 billion above the FY 2016 BCA cap for Non-Defense discretionary spending.

Conservatives may be concerned that total defense funding is \$24.235 billion below the total level called for in the FY 2016 Budget, the conference report for the Department of Defense Appropriations Act, and the House-passed National Defense Authorization Act. Conservatives may further be concerned that base defense spending is \$2.706 billion below the FY 2016 BCA cap.

Conservatives may be concerned that by spending at a rate in excess of the non-Defense cap, this CR could serve as an impetus to increase the discretionary budget caps, as [Senate Majority Leader Mitch McConnell and Speaker John Boehner have indicated](#) they have begun negotiations to do.

Conservatives may be concerned that the CR continues the funding priorities and policies included in the FY 2015 CROmnibus that was negotiated by former Senate Majority Leader Harry Reid before the new Senate Republican majority came into office.

Some conservatives may be concerned that this CR would continue to allow President Obama's illegal executive amnesty actions to be carried out.

Some conservatives may be concerned that this CR would continue to allow President Obama to lift sanctions on Iran.

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

Some conservatives may believe that the fact the House is only considering a government funding bill hours before appropriations are set to lapse shows the need to get back to regular order, for the House to lead with a [bold agenda to fund the government in a fiscally responsible way and hold the administration accountable](#), and for the Senate to finally engage in the budget process.

- **Expand the Size and Scope of the Federal Government?** This bill would authorize \$700 million in new emergency funding for wildfire suppression that is exempt from the BCA spending caps.
- **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.

## DETAILED SUMMARY AND ANALYSIS:

**Duration:** The CR provides funding for federal agencies from October 1, 2015, until December 11, 2015 (71 days).

**Continuation of Current Policies:** The CR continues the current policies contained in the [FY 2015 Consolidated Appropriations Act \(CROmnibus\)](#) that was signed into law in December and the [FY 2015 Homeland Security Appropriations Act](#) that was signed into law in February.

The CR prohibits the use of funds to initiate or resume any project for which funds were not available in FY 2015 and prohibits the Department of Defense from starting new programs, entering into multi-year contracts, or increasing production rates.

**Anomalies and Other Items:**

Continuing Resolutions often include a number of changes in policy called “anomalies” and reauthorizations of expiring programs. The Obama administration requested dozens of anomalies and authorizations to be included in the government funding bill, which can be found [here](#).

**Allowing the White House to Unilaterally Increase the Budget Control Act Caps:** The CR would allow the White House’s Office of Management and Budget (OMB) to increase the discretionary spending caps mandated by the BCA if the level of spending provided in the CR would exceed the caps due to estimating differences between the OMB and the CBO. The amount of the adjustment would be limited to no more than 0.2 percent of the total spending limit (about \$2.2 billion) (Sec. 128).

Estimating differences between CBO and OMB are common (OMB’s explanations of estimating differences for recently enacted appropriations can be found [here](#)).

Similar adjustments to the caps due to estimating differences have been allowed twice before, in both the FY 2014 Omnibus and the FY 2015 CROmnibus. Only the FY 2014 Omnibus provision provoked a cap adjustment, a [\\$182 million increase](#) in the defense cap for that year.

Although some may argue that this provision is necessary to prevent an unintentional sequester, no sequester could occur during this short-term CR. OMB is only required to issue a sequestration order 15 days after the adjournment of a session of Congress. Increasing the FY 2016 caps prior to the enactment of a full-year appropriations package would set a dangerous precedent and make it easier to increase spending rather than be fiscally responsible.

A different approach to this provision would be that taken in the [FY 2013 Omnibus](#), which required OMB to implement across-the-board rescissions within the defense and non-defense categories if the spending provided in the bill would have exceeded the caps.

**Internet Tax Freedom Act:** The CR extends the Internet Tax Freedom Act to December 11, 2015. The House passed H.R. 235, the [Permanent Internet Tax Freedom Act](#), on June 9, 2015, but the Senate has yet to act on this measure (Sec. 127).

**E-Verify:** The CR extends the authorization for the [E-Verify program](#) through December 11, 2015. This program allows employers to verify the immigration status of potential employees. The Administration requested this provision (Sec. 130).

**EB-5 Visas:** The CR extends the authorization for the [EB-5 Immigrant Investor program](#) through December 11, 2015. This program provides 10,000 visas per year to foreigners that invest in the U.S., although the [GAO](#) has found it may be susceptible to fraud and some conservatives have called for reforms. The Administration requested this provision (Sec. 131).

**Non-Minister Religious Worker Visas:** The CR extends the authorization for the [Special Immigrant Religious Workers](#) program through December 11, 2015. This program provides 5,000 visas per year to religious workers who are not ministers. The Administration requested this provision (Sec. 132).

**Rural Doctors Visas:** The CR extends the authorization for the [Conrad 30 program](#) through December 11, 2015. This program provides visas to medical workers in rural areas. The Administration requested this provision (Sec. 133).

**Emergency Wildfire Funding:** The CR provides \$700 million for the Forest Service's Wildfire Management account. This amount is designated as an emergency and exempt from the Budget Control Act caps. The Forest Service only has access to these funds if the previously appropriated funds will become exhausted and provides notice to the House and Senate Appropriations Committees. The funds may be transferred to other accounts to repay amounts that were previously transferred for wildfire suppression. The administration requested \$450 million (Sec. 135).

The BCA [spells out](#) the requirements for what spending can be designated as an emergency. An emergency situation must meet two tests:

1. The spending must be "for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security";
2. Unanticipated, defined as "sudden," "urgent," "unforeseen," and "temporary."

The administration's request says that they've made similar requests in previous years. According to the [CRS](#), "Federal spending on wildfire management has more than doubled over the past two decades in terms of 2014 dollars", and that "Congress has provided supplemental appropriations in 7 of the 10 fiscal years since FY2005, funding \$4.7 billion for emergency wildfire suppression activities".

Given the evidence, some conservatives may believe that the problem with wildfires does not appear to meet the second test of emergency funding required by the BCA of being "sudden," "unforeseen," and "temporary", and that this funding should not be exempt from the discretionary spending caps and instead be provided within the scope of regular appropriations.

**Denver VA Hospital:** The CR allows the Department of Veterans Affairs to transfer an additional \$625 million for the construction of the VA hospital in Denver, Colorado. This provision prohibits the transfer of any emergency funding and requires the approval of the transfer by the House and Senate Appropriations Committees. The construction of the hospital is [more than \\$1 billion over budget](#). The Administration requested similar language (Sec. 144).

**Veterans Benefits Administration:** The CR provides funding at a rate of \$2.698 billion for the Veterans Benefit Administration, an increase of \$163 million to attempt to address the VA claims backlog. The Administration requested similar language (Sec. 145).

**VA Medical Care:** The CR extends the availability of VA medical care funding (Sec. 146).

**Commodity Supplemental Food Program:** The CR provides funding at a rate of \$221 million for the Commodity Supplemental Food Program (Sec. 116).

**Rural Housing Rental Assistance Program:** The CR allows the Department of Agriculture to pay ongoing debt service under the multi-family direct loan rental assistance program. This provision was requested by the administration (Sec. 117).

**NOAA Satellites:** The CR gives National Oceanic and Atmospheric Administration (NOAA) obligation rate flexibility to maintain launch schedules for weather satellites. The Administration requested this provision (Sec. 118).

**Federal Prisoner Detention:** The CR allows the U.S. Marshalls Service flexibility to cover projected federal prisoner detention costs. The Administration requested a similar provision (Sec. 119).

**Space Shuttle Program Closeout:** The CR extends through 2021 the ability of NASA to pay obligations related to the Space Shuttle Program Closeout using previously appropriated funds that have expired but would otherwise be canceled. The Administration requested this provision (Sec. 120).

**Broadband Technology Program Closeout:** The CR extends through 2020 the ability to pay obligations related to telecommunications infrastructure grants using previously appropriated funds that have expired but would otherwise be canceled (Sec. 121).

**Defense Authorizations:** The CR extends the authorizations for the Office of Security Cooperation in Iraq and the ability to make awards for combatting terrorism. The Administration requested a similar provision (Sec. 122).

**Uranium Decontamination and Decommissioning:** The CR allows the Department of Energy flexibility to continue activities under this account, including the Portsmouth Gaseous Diffusion Plant (Sec. 123).

**District of Columbia Funds:** Washington, D.C., is allowed to expend its local funds. The Administration requested similar language (Sec. 124).

**Recovery Accountability Transparency Board:** The CR does not include funds for the [Recovery Accountability and Transparency Board](#) created by President Obama's failed spending stimulus law in 2009. The authority for the Board expires at the end of FY 2015, saving \$18 million annually (Sec. 125).

**SBA 7(a) Loans:** The CR provides obligation rate flexibility for the Small Business Administration's 7(a) Program. The Administration requested this provision (Sec. 126).

**Homeland Security R&D:** The CR extends the authority for the Department of Homeland Security to use transaction agreements that facilitate the Department's ability to work with non-traditional Government contractors. The Administration requested this provision (Sec. 129).

**Federal Lands Recreation User fees:** The CR extends the [Federal Lands Recreation Enhancement Act](#), which permits agencies to charge user fees at campgrounds, cabins, and day use sites on federal lands. The Administration requested this provision (Sec. 134).

**Oil and Gas Special Pay Extension:** The CR extends the authority of the Department of the Interior to pay a higher rate to certain employees in the petroleum engineering and geoscience fields working on offshore and onshore oil and gas development through December 11, 2015. The Administration requested this provision (Sec. 136).

**Eisenhower Memorial Commission:** The CR extends the authority for the Eisenhower Memorial Commission through December 11, 2015 (Sec. 137).

**Payment in Lieu of Taxes (PILT):** The CR extends PILT through December 11, 2015 (Sec. 101(a)(13)). The CR also clarifies that the PILT payments authorized in the FY 2015 National Defense Authorization Act were for Fiscal Year 2015 (Sec. 138).

**Centers for Disease Control Construction:** The CR allows the CDC to use prior year funding for construction on leased land. The Administration requested similar language for construction of a replacement freezer in Fort Collins, Colorado (Sec. 139).



**Highly Qualified Teachers:** The CR would extend the authority of the Department of Education to include certain teachers in the definition of a Highly Qualified Teacher under No Child Left Behind through the 2016-2017 school year. The Administration requested this provision (Sec. 140).

**Children’s Health Insurance Program (CHIP) CHIMP:** The CR rescinds \$1.664 billion from CHIP, which is used as a change in mandatory programs (CHIMP) to offset discretionary spending in the bill Sec. 141).

**National Advisory Committee on Institutional Quality and Integrity:** The CR extends the authority for the National Advisory Committee on Institutional Quality and Integrity through December 11, 2015 (Sec. 142).

**Payment to Widow of Rep. Alan Nunnelee:** The bill would include \$174,000 (equal to the one-year’s salary for a member) to be paid to the widow of former Representative Alan Nunnelee. According to [CRS](#), this has been the typical practice of the House (Sec. 143).

**U.S. Commission on International Religious Freedom:** The CR extends the authority of the U.S. Commission on International Religious Freedom through December 11, 2015 (Sec. 147).

**Ukraine:** The CR provides several international assistance programs obligation rate flexibility to sustain assistance to Ukraine and other Eastern European countries. These programs include the Broadcasting Board of Governors, the Economic Support Fund, International Narcotics Control and Law Enforcement, Nonproliferation, Anti-terrorism, Demining and Related Programs, and the Foreign Military Financing Program (Sec. 148).

**U.S. Advisory Commission on Public Diplomacy:** The CR extends the authority of the U.S. Advisory Commission on Public Diplomacy through December 11, 2015 (Sec. 149).

**New Core:** The CR provides flexibility to the Department of Housing and Urban Development to maintain the planned schedule for the New Core shared services project. The Administration requested similar language (Sec. 150).

**TSA Office of Inspection Accountability Act:** The bill includes the text of the House amendment to the Senate amendment to [H.R. 719, the TSA Office of Inspection Accountability Act of 2015](#), which would direct the Inspector General of the Department of Homeland Security to analyze the data and methods that the Assistant Secretary of Homeland Security for Transportation Security uses to identify and classify Transportation Security Administration (TSA) law enforcement officers and criminal investigators.

## **OUTSIDE GROUPS:**

- **[Heritage Action](#): Key Vote No** on any CR that funds Planned Parenthood.
- A coalition of conservative groups urges Members “to ensure that any legislation providing discretionary funding for Fiscal Year 2016 adhere to the discretionary spending levels set forth by the Budget Control Act of 2011 (BCA).” Signers include:
  - [Freedom Partners Chamber of Commerce](#)
  - [American Commitment](#)
  - [Americans for Competitive Enterprise](#)
  - [Americans for Limited Government](#)
  - [Americans for Prosperity](#)
  - [Americans for Tax Reform](#)
  - [Campaign for Liberty](#)
  - [Center for Freedom & Prosperity](#)

- [Council for Citizens Against Government Waste](#)
- [Club for Growth](#)
- [Coalition to Reduce Spending](#)
- [Competitive Enterprise Institute](#)
- [Concerned Veterans for America](#)
- [Concerned Women for America](#)
- [FreedomWorks](#)
- [Generation Opportunity](#)
- [Hispanic Leadership Fund](#)
- [Independent Women's Voice](#)
- [Independent Women's Forum](#)
- [The Libre Initiative](#)
- [National Taxpayer Union](#)
- [R Street Institute](#)
- [Taxpayers for Common Sense](#)
- [Rio Grande Foundation](#)

### **PREVIOUS ACTION:**

H.R. 719 was originally introduced in the House as the TSA Office of Inspection Accountability Act of 2015 on February 4, 2015, and referred to the House Homeland Security Committee. The bill was passed by the House by a [414 - 0](#) vote under a suspension of the rules on February 10, 2015.

On September 17, 2015, the bill was passed by the Senate by unanimous consent with an amendment. On September 24, 2015, the House passed an [amendment](#) to the Senate amendment by a voice vote.

Senate Majority Leader McConnell introduced [S. Amdt. 2689](#) (the text of the CR) on September 24, 2015. Cloture was invoked by the Senate on the CR amendment on September 28, 2015, by a [77 - 19](#) vote. The further Senate amendment to the House amendment to the Senate amendment to H.R. 719 is expected to be passed by the Senate on September 30, 2015.

Without enactment of appropriations prior to the beginning of Fiscal Year 2016 on October 1, many parts of the federal government would be forced to suspend operations.

The consideration of appropriations legislation near the expiration of existing funding is largely a function the Senate's inability to consider any of the regular annual appropriations measures. While the House passed 6 of the 12 regular bills in an open process allowing for over 300 amendments to be offered, the Senate was unable to begin consideration on any bill.

### **ADMINISTRATION POSITION:**

According to the [statement of administration policy](#), "The Administration supports Senate passage of Senate Amendment 2689 to H.R. 719, making continuing appropriations for fiscal year (FY) 2016, and for other purposes. The Amendment allows critical Government functions to operate without interruption, providing a short-term bridge to give the Congress time to pass a budget for the remainder of the fiscal year. The Administration looks forward to working with the Congress on FY 2016 appropriations legislation for the full year that reverses sequestration, preserves funding for critical national priorities, protects national security, and makes investments to maintain economic growth and job creation for years to come."

### **CONSTITUTIONAL AUTHORITY:**



The original Constitutional Authority Statement for H.R. 719 was “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1 of the Constitution of the United States”. It has not been updated to include an authority statement for the government funding provisions.

# H. Con. Res. 79: Directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 719 (Defund Planned Parenthood Act of 2015): (Rep. Roby, R-AL)

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

## FLOOR SCHEDULE:

September 30, 2015 under a [rule](#).

The [rule](#) for H.R. 3495, the Women's Public Health and Safety Act, waived the requirement for a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee through October 1, 2015.

## TOPLINE SUMMARY:

[H. Con. Res. 79](#) would direct the Clerk of the House, during the enrollment process after the House has passed the Senate's Continuing Resolution, which includes funding for Planned Parenthood, to add the text of the House-passed [H.R. 3134, the Defund Planned Parenthood Act of 2015](#), to the CR.

To actually add the Planned Parenthood defunding language, the Senate would also have to pass H. Con. Res. 79 prior to the Clerk's enrollment and the President signing the legislation into law.

## COST:

A Congressional Budget Office (CBO) estimate for H. Con. Res. 79 is not available at this time.

According to [CBO](#), enacting [H.R. 3134](#) would result in no increase in net spending. That spending-neutral estimate, however, is dependent on individuals either no longer seeking services that were originally sought through Planned Parenthood and reimbursed through Medicaid, or seeking those services without Medicaid reimbursement. If, instead, individuals receive Medicaid reimbursable services currently provided at Planned Parenthood at alternative facilities, total spending could increase by up to \$235 million.

## CONSERVATIVE CONCERNS:

Some conservatives may be concerned that the process contemplated by H. Con. Res. 79 is highly unlikely to produce actual legislative effects, and would ultimately allow hundreds of millions of taxpayer dollars to go to Planned Parenthood, the nation's largest abortion provider that has been documented in a series of videos appearing to be illegally and immorally trafficking in the organs and body parts of aborted children.

- **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.

## DETAILED SUMMARY AND ANALYSIS:

Upon passage of H. Con. Res. 79 by both the House and Senate, the Clerk of the House would amend H.R. 719 as amended and approved by the House and Senate (the vehicle for the Continuing Resolution) to add the text of [H.R. 3134, the Defund Planned Parenthood Act of 2015](#). If either the Senate or the House fail to pass H. Con. Res. 79 prior to the enrollment by the Clerk and transmittal of H.R. 719 to the President, then

the version of H.R. 719 passed by the House and Senate would be presented to the President without the components prohibiting funding for Planned Parenthood and would likely to be signed into law.

[H.R. 3134, the Defund Planned Parenthood Act of 2015](#), would place a one year moratorium on all federal funding, including Medicaid, to Planned Parenthood or any of its affiliate clinics, unless the entirety of the Planned Parenthood Federation certifies each clinic or affiliate will not perform, nor will it provide funds to any entities that perform, an abortion during the one year period. Federal funding would remain available to other healthcare providers, including community health centers. This legislation would provide an exception for abortions performed in the case of rape or incest or in order to protect the health of the mother as certified by a physician. The legislation would also appropriate \$235 million for the community health center program.

A CRS report on the enrollment process can be found [here](#). Enrollment corrections to enact conservative policies on “must pass” legislation have been proposed several times in prior Congresses:

- During the debate on the [Fiscal Year 2011 appropriations](#) legislation, the House passed two enrollment corrections (after passing the underlying government funding bill):
  1. Defunding Planned Parenthood - [H. Con. Res. 36](#) – Failed in the Senate
  2. Defunding Obamacare – [H. Con Res. 35](#) – Failed in the Senate
- During the debate on the Fiscal Year 2013 appropriations legislation, the House leadership proposed passing a “clean” continuing resolution that funded Obamacare and then passing an enrollment correction to defund Obamacare. [Conservatives opposed](#) this process which ultimately was not pursued on the floor.

#### **COMMITTEE ACTION:**

H. Con Res. 79 was introduced on September 29, 2015, and posted publicly online at [doc.house.gov](http://doc.house.gov) at 5:14 pm.

#### **ADMINISTRATION POSITION:**

No statement of administration policy is available at this time.

#### **CONSTITUTIONAL AUTHORITY:**

Concurrent Resolutions do not require a constitutional authority statement.

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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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