APPROPRIATIONS UPDATE

HOUSE COMMITTEE ON THE BUDGET
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VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL H.R. 5605

SUMMARY

The Veterans Affairs, Housing and Urban Development, and Independent Agencies [VA-HUD] appropriations bill (H.R. 5605), as reported by the House Committee on Appropriations on 10 October 2002, currently is not consistent with the House fiscal year 2003 budget resolution (H.Con.Res. 353). The reported bill exceeds its allocation for new budget authority by $27 million. The Appropriations Committee notes in its report that it will reallocate funding within its 302(a) allocation to eliminate this breach of the VA, HUD, and Independent Agencies subcommittee's 302(b) allocation.

In addition, the bill inappropriately directs the budgetary treatment of enhanced lease authority for the National Aeronautical and Space Administration [NASA] provided by this bill. Rules regarding the budgetary treatment of Government financial transactions are within the jurisdiction of the Committee on the Budget. Hence, in this respect as well, the bill violates the Congressional Budget Act and would be subject to a point of order if brought to the floor in its current form.

This bill provides a level of discretionary spending that is significantly below the President's request – a level close to the subcommittee allocation approved by the Appropriations Committee. That spending target is achieved by, among other things, eliminating the President's proposed funding for the Corporation for National and Community Service [CNCS], and rejecting the President's proposal to consolidate emergency planning and assistance at the Federal Emergency Management Agency [FEMA]. If unfunded items, such as the CNCS ($631 million), are funded in any future bill without any corresponding offsets, the bill will further exceed its allocation.

Table 1: VA, HUD, and Independent Agencies Appropriations Bill
(fiscal years; millions of dollars)

	2002 Enacted [a]	Administration 2003 Request	302(b) for 2003	2003 Bill
Budget Authority	95,417	92,415	90,993	91,020
Outlays	89,683	96,699	97,580	96,978

[a] Represents House current status to reflect this bill's share of unallocated emergency outlays.

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READER'S NOTE

Although this measure did not reach the floor, the Appropriations Committee did complete action on it before adjournment of the 107th Congress.

COST OF THE LEGISLATION

As reported, H.R. 5605 provides $91.020 billion in new budget authority [BA] and $96.978 billion in outlays for 2003 – a reduction of $4.397 billion in BA, and an increase of $7.295 billion in outlays, from fiscal year 2002 (see Table 1 above). This year-over-year decline occurs because FEMA, the Department of Housing and Urban Development [HUD], and other agencies funded by this bill received $10.547 billion in fiscal year 2002 supplemental BA to rebuild New York City infrastructure and improve homeland security. Outlays increase significantly because payments are still being made on the items funded by supplementals. If this measure is enacted, spending in this appropriations bill will have increased an average of 8.2 percent a year in the past 3 years. The bill contains $1.308 billion worth of rescissions of previously enacted BA, largely from the Housing Certificate Fund ($1.3 billion). The bill also contains an advance appropriation of $4.2 billion for section 8 housing contract renewals.

COMPLIANCE WITH THE BUDGET RESOLUTION

The bill does not comply with section 302(f) of the Budget Act. Section 302(f) prohibits consideration of bills in excess of a subcommittee's 302(b) allocation for new budget authority. The $91.020 billion in new discretionary BA is $27 million more than the 302(b) allocation to the House Appropriations Subcommittee on VA, HUD, and Independent Agencies. As mentioned earlier, the committee notes in its report that it will reallocate funding to eliminate this breach. While budget authority exceeds the 302(b) allocation, outlays of $96.978 billion are $602 million less than the allocation.

The bill does comply with section 311(a) of the Budget Act, which prohibits consideration of legislation exceeding the aggregate levels of budget authority and outlays established in the concurrent resolution on the budget.

Table 2 below shows a breakdown of the bill's funding.

ADVANCE APPROPRIATIONS/RESCISSIONS

This bill contains an advance appropriation of $4.2 billion for section 8 housing contract renewals. The advance is on the list of permissible advance appropriations under section 301 of the House budget resolution. To date, including reported and introduced bills, advance appropriations for fiscal year 2004 total $23.141 billion, $37 million less than the limit of $23.178 billion established in the resolution. The bill also contains $1.308 billion in rescissions of previously enacted BA for the Housing Certificate Fund ($1.3 billion), and HUD's consolidated fee fund ($8 million). There are no outlay savings from these rescissions, however, because the BA was not expected to be spent.

Table 2: VA, HUD, and Independent Agencies Appropriations Bill
(in millions of dollars)

	Budget Authority	Outlays
Veterans Affairs	26,551	26,478
Housing and Urban Development	31,346	35,483
Environmental Protection Agency	8,205	8,185
Federal Emergency Management Agency	3,611	6,301
National Aeronautical and Space Administration	15,321	14,982
National Science Foundation	5,424	4,598
Other	562	951

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DISCUSSION

Overall, this bill is $1.395 billion in BA below the President's request as a result of the following:

- FEMA is $2.939 billion below the request, almost entirely because the bill does not contain the President's proposal to move emergency planning and assistance from the Justice Department to FEMA ($2.930 billion). Other reductions occur in flood map modernization ($100 million), the pre-disaster mitigation fund ($50 million), and disaster relief ($23 million). These reductions are offset by an increase in salaries and expenses ($11 million), and the absence of the President's plan to move Emergency Food and Shelter ($153 million) to HUD; the bill leaves responsibility for the food and shelter program with FEMA.

- The elimination of funding for the Corporation for National Community Services ($631 million) causes funding in the "Other" category to be $579 million below the President's request. This reduction is offset by increases in the National Institutes of Health Environmental ($10 million); the Treasury ($12 million); the Centers for Disease Control Toxic Substances ($12 million); cemeterial expenses ($8 million); the American Battle Monument Commission ($5 million); and miscellaneous increases ($5 million).

- A reduction in HUD of $173 million. This comes about from reducing the Housing Certificate Fund ($1.140 billion) and retaining the Emergency Food and Shelter Program ($153 million) in FEMA (discussed above), offset by increases in the following: the Public Housing Capital Fund ($417 million); the Community Development Block Grant ($268 million, including $145 million for local economic development initiatives); the Home Investment Partnership ($137 million); Homeless Assistance grants ($120 million); Public Housing Operating Fund ($70 million); housing for special populations ($76 million); and a net increase of $32 million in miscellaneous programs. The committee reduces the Housing Certificate Fund – which is often used for rescissions in midyear supplementals – and moved those funds to other housing-related spending because the subcommittee wanted to ensure that the BA was used to support housing efforts rather than unrelated spending in a potential midyear supplemental.

- An increase in Veterans Affairs of $995 million. Increases are primarily for Medical Care ($1.503 billion), from the exclusion of the President's proposal to charge priority level 7 veterans (nondisabled, higher-income) a $1,500 deductible for medical care. The House budget resolution (H.Con.Res. 353) provided $1.145 billion in additional funding to accommodate additional VA health demand without this proposal. Other increases are for minor construction projects ($30 million); medical and prosthetic research ($11 million); the Inspector General ($6 million); and medical administration ($5 million). These increases are offset by reductions in grants for veterans employment ($177 million) and general operating expenses ($25 million), and additional offsetting receipts from moving the Health Services Improvement Fund into the Medical Care Collections Fund ($358 million).

- An increase of $584 million for the Environmental Protection Agency, from additional grants for clean water ($167 million), wastewater ($105 million), and categorical ($53 million); the hazardous substance superfund ($150 million); environmental programs ($64 million); and science and technology ($45 million).

- An increase of $396 million for the National Science Foundation. Specific increases are for research ($367 million), research equipment ($34 million), education and human resources ($3 million), and the Inspector General ($1 million). These increases are offset by reductions in salary and expenses ($9 million).

- An increase of $321 million for NASA. The increase is for science, aeronautics, and technology ($301 million), and an enhanced use lease program ($20 million). The lease proposal contains language directing its budgetary treatment, which is in the jurisdiction of the Budget Committee (further discussed below).

REVENUE PROPOSALS

The bill prohibits the collection of certain pesticide fees that are counted as revenues, causing a revenue loss of $25 million in fiscal year 2003. This revenue loss is not charged to the subcommittee's 302(b) allocation, but rather counts

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against the revenue aggregates in the budget resolution. Revenue increases or reductions are not charged to the Appropriations Committee to avoid creating an incentive to increase revenue in order to finance higher spending.

OTHER ISSUES

NASA Enhanced Use Lease

As noted above, the bill appropriates $20 million for enhanced lease authority for NASA. The Congressional Budget Office [CBO] says the nine major NASA centers have lists of improvements they plan to make with the assistance of enhanced lease authority. But CBO has cautioned that this program may become more expensive in later years, increasing direct spending by a total of $300 million in BA over the 2003-2007 period. In addition, the budgetary treatment of this provision, as provided for in the bill, violates the Congressional Budget Act.

To fully explain these effects, it is necessary to review how the enhanced use lease practice works.

The goal of enhanced lease authority, supporters say, is to utilize the untapped value of assets such as real estate, and quickly turn them into net income producers. This is especially useful when Government managers seek new or refurbished facilities – if an existing building is not large or modern enough for the agency, for example – at modest initial costs.

To achieve this goal, the program waives Federal procurement and property disposal laws, and allows the Government to lease to a private developer. The Government solicits development proposals, reviews them, and selects one. It leases land to the private developer, who is responsible for financing and building a new office building. Upon completion of the building, the Government rents space, and receives proceeds from the land lease and a share of the net cashflow generated by the new office building. The process has been used by the Departments of Veterans Affairs, Defense, and Energy, as well as the Tennessee Valley Authority, according to the Congressional Budget Office [CBO].

Supporters contend this authority, by waiving procurement and disposal laws, allows the Government to obtain refurbished assets at a lower cost and in a shorter time frame. But the financing mechanism can actually lead to larger long-term costs. The financing obtained by the private stakeholder comes at a rate probably higher than the amount the Federal Government pays for its debt. Additional project financing costs, along with the higher interest costs, will be reflected in higher rent the Government will pay to lease the space. Hence, there is a concern that while these transactions look “cheap” initially, long-term costs will be significant, and may exceed amounts spent if the Government developed the land itself. (Managers can obligate the Federal Government to leases of up to 75 years.) That is why CBO estimates higher long-term costs for this specific provision.

An additional concern is the budgetary treatment of the provision. One of the major concerns with enhanced use lease authority is determining how to budget for its cost. Under conventional procedures, if the Government is leasing back a building on Government land, the initial expenditure must be counted on the Government’s books. This bill, however, grants NASA a budget scorekeeping exemption, stating that if a non-Federal entity has management control of the business of the public-private entity, and holds majority interest in ownership, the project shall not be considered to be constructed on Government-owned land with respect to the scoring rules.

This could reduce the initial expenditure of funds appearing on the Government’s books. But budget scoring guidance falls in the jurisdiction of the Committee on the Budget. Therefore, this provision violates the Congressional Budget Act, and would be subject to a point of order.

NASA Conveyance of Utility Systems

The bill also allows the NASA Administrator to convey a utility system, or a part of a utility system, under the jurisdiction of the Administrator to a municipal, private, regional, district, or cooperative utility company, or other qualified entity. Any funds received from the conveyance shall be merged with and made available for the construction of facilities in the human space flight and science, aeronautics, and technology accounts.

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