CONTINUING APPROPRIATIONS, 1984

September 22, 1983. Ordered to be printed.

Mr. WHITTEN, by direction of the Committee on Appropriations, submitted the following

REPORT

[To accompany H.J. Res. 367]

The accompanying resolution provides interim financing for the new fiscal year beginning October 1 for programs under 9 of the 13 regular appropriation bills. The following four bills have already become law:
HUD-Independent Agencies (Public Law 98-45).
Energy and Water Development (Public Law 98-50).
Legislative Branch (Public Law 98-51).
Transportation (Public Law 98-78).
The resolution becomes effective at midnight September 30 and expires November 15, a period of only 46 days. The provisions of the continuing resolution automatically disengage as additional appropriation bills become law.
However, since all appropriation bills will not be enacted by September 30, timely enactment of this joint resolution is absolutely necessary in order to provide for the orderly continuation of numerous essential governmental activities.

STATUS OF APPROPRIATION BILLS

Progress this year on appropriation bills has been much better than last year, principally due to the fact that the Committee proceeded on many bills based on the House passed version of the first budget resolution in lieu of waiting for a final conference agreement. This action saved a number of weeks. Procedures such as this will be necessary in future years if the Congress is to make further progress toward the objective of enacting all the appropriation bills by the beginning of the new fiscal year.
It is anticipated that by the beginning of the new fiscal year the Committee will have reported and the House will have passed 10 of the 13 appropriation bills for fiscal year 1984. The remaining three
bills are Defense, Treasury, Postal Service and General Government and Foreign Assistance. The Defense bill is being prepared in Subcommittee and will be reported next month. A schedule for the Foreign Assistance bill is uncertain at this time. It is expected that the Treasury-Postal Service bill will be considered by the House in the near future.

The Committee continues to be dedicated to the principle of financing Federal programs under the traditional authorization and appropriations process which includes individual appropriation bills. Therefore, it will continue its efforts to get regular bills signed into law as soon as possible.

The Committee emphasizes that when regular bills are signed into law, the provisions of the continuing resolution automatically disengage and the regular appropriation bills then become the funding device. This continuing resolution in no way precludes subsequent enactment into law of the regular appropriation bills.

Notwithstanding the sharply improved performance of the Congress in handling appropriation bills, the timely enactment of the accompanying joint resolution is absolutely necessary in order to provide orderly continuation of numerous national security and civilian programs.

**Levels of Funding Under the Resolution**

As indicated, the continuing resolution provides interim financing for numerous federal programs from October 1 until November 15, a period of only a month and a half. The rates which obtain for programs under the resolution automatically disengage immediately upon enactment of the pertinent appropriation bill.

Section 101(a) provides continuing authority for programs under two appropriation bills at rates of the lower of the levels in the House or Senate passed bills. If an existing program has been omitted from either the House or Senate version of the bill, it is automatically continued at the lower of the current level or the level provided by the one body. Bills containing programs continued under this subsection are:

- District of Columbia and Military Construction.

Section 101(b) provides continuing authority for programs under four appropriation bills at the rates contained in the bills as passed the House of Representatives. Bills containing programs continued under this subsection are:

- Agriculture;
- Commerce, Justice, State, and the Judiciary;
- Interior; and
- Labor, Health and Human Services, and Education.

Section 101(c) provides continuing authority for programs for the Department of Defense at either the rate of last year's bill (Public Law 97-377) or the budget estimate, whichever is lower.

Section 101(d) provides continuing authority for the Treasury-Postal Service Appropriation bill at the current rate.

Section 101(e) provides continuing authority for Foreign Assistance and related programs at current levels or at the budget estimate, whichever is lower certain exceptions. Additional resources are provided for Israel and Egypt at the level authorized in S. 1347.
as reported to the Senate on May 23, 1983. The Committee is concerned with the lack of progress in Egypt in utilizing economic assistance. The Committee expects the Agency for International Development to expedite projects heretofore authorized. The Committee hopes that all countries involved in the Camp David Accords will continue to demonstrate good faith efforts toward realizing the goal of peace and normalized relations in the region. Further resources are provided to fund the United Nations Development Program and the United Nations Children’s Fund at the level provided in Public Law 97–377, the 1983 Continuing Resolution.

Section 101(f) provides continuing authority at the current level for a number of specific programs.

Included in this section is funding at the current rate for the refugee resettlement program under the terms and conditions of the 1983 Appropriations Act. This transitional funding is necessary in order to allow time for the authorizing Committees to complete action on the re-authorization of the program.

The Committee is aware that the Department of Health and Human Services is proposing the new regulations to consolidate or block grant certain refugee programs without specific Congressional authorization. That proposal would drastically alter the administration and delivery of refugee resettlement services provided by the States and the counties, including cash and medical assistance, social services, educational assistance to refugee children, and targeted assistance.

Under the provisions of the Continuing Resolution, the Department has no authority to block grant or consolidate the program, but only to continue it at the current rate under the existing terms and conditions which provide for separate grants for services. The Committee, therefore, has included bill language which prohibits the Department from administratively consolidating the Refugee Resettlement Program during the period of the Continuing Resolution.

Among those activities continued by section 101(f) is the Professional Standards Review Organizations program (PSRO). These organizations were authorized in 1972 to review the necessity and quality of medical care provided to Medicare and Medicaid beneficiaries. The Tax Equity and Fiscal Responsibility Act of 1982 mandates substantial changes in this program. Basically the PSRO’s will be replaced in fiscal year 1985 by a new system of statewide Peer Review Organization which the Secretary of Health and Human Services must designate and sign contracts with by October 1, 1984. The President’s original 1984 budget did not provide any funding for the PSRO’s or other utilization review activities during the transition period. On September 15, 1983, however, the President amended his budget request to include $9 million for this purpose. Section 101(f) of the Committee bill insures that the existing network of PSRO’s will continue to carry out utilization review until the new system is in place.

Section 101(g) provides continuing authority for those programs which were stricken from this Commerce, Justice, State, and the Judiciary Appropriations Bill on technical points of order when the bill was considered and passed by the House of Representatives, at
the rates contained in the bill (H.R. 3134) as originally reported to
the House by the Committee.

The joint resolution provides for the continuation of the existing
provisions of law regarding the prohibition against preventing the
implementation of programs of voluntary school prayer and medi-
tation in the public schools. This provision would remain in effect
during the duration of the continuing resolution.

OTHER TECHNICAL PROVISIONS OF THE RESOLUTION

The accompanying resolution carries the usual necessary techno-
cal provisions including those relating to obligations or expendi-
tures made during the duration of the continuing resolution, the
time requirement for the apportionment of funds, and modification
of apportionment procedure to accommodate certain existing provi-
sions of law.

DEPARTMENT OF DEFENSE

In recent years, there has been a serious disagreement between
legal interpretations by the Department of Defense and the intent
of this Committee with respect to funding levels and new starts
permitted under a continuing resolution. Much of the inconsistency
centers around the interpretation of what is meant by a "project or
activity". Therefore, the Department's legal opinions over the years
have consistently held that the aggregate funds made available in
each appropriation account, and not the projects and activities
funded in each appropriation account, are the controlling factors
with respect to new starts and funding level restrictions in continu-
ing resolutions.

The report which accompanied the fiscal year 1983 continuing
resolution passed by House prohibited the Department of Defense
from funding new projects or activities which were not funded in
fiscal year 1982. At that time, the Department was advised that it
was the Committee's intent that no funds should be made available
for new projects, new activities, new budget activities, new pro-
gram elements, new subprojects within the program elements, new
production of items not funded for production in fiscal year 1982,
or for the increase in production rates above those sustained with
fiscal year 1982 funds. It was stated that Congress should not be
put in a position of being forced to fund programs on which it has
not yet had an opportunity to express its will and therefore im-
pinge on its flexibility in arriving at these final funding decisions.

Notwithstanding the above language, which the Committee felt
was quite clear and unequivocal, a number of actions were taken
by the Department which violated the intent of the fiscal year 1983
continuing resolution. Despite the Committee's descriptions of a
project or activity, the Department interpreted a project or activity
to be at the appropriation level.

A continuing resolution is a device designed to provide interim
financing at restrictive rates for the forthcoming fiscal year until
appropriation bills for certain departments and agencies covered by
the resolution are signed into law by the President. It is a stop-gap
measure that permits the operation of particular governmental en-
tities covered under a continuing resolution until their individual
appropriations become law. Because of previous legal interpretations by the Department of Defense as to congressional intent, the Committee deems it necessary to define a “project or activity” in the accompanying resolution.

Section 101(c) provides that during the period covered by this continuing resolution, the Department of Defense will be required to operate at a rate not in excess of the rate provided in last year’s bill or at the rate provided for in the budget estimates, whichever is lower. No appropriation or funds made available or authority granted pursuant to the continuing resolution shall be used to initiate new production of items not funded for production in fiscal year 1983 or prior years, for an increase in production rates above those sustained with fiscal year 1983 funds, or to initiate or resume any project or activity. For purposes of this section of the resolution, a project or activity is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element. Such projects and activities are further defined as a P-1 line item in a budget activity within an appropriation account and a R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 1983. In addition, for operating programs, such activities are further defined as new pay, allowances, programs, or new organizations such as the proposed establishment of the Navy Space Command. This new language should make it perfectly clear that the intent of the Committee is to prohibit the Department from utilizing the appropriation account level as a benchmark against which its funding restrictions apply.

Section 101(c) also provides that none of the funds appropriated or made available to the Department of Defense pursuant to the continuing resolution shall be available for initiation of multiyear procurement or for the conversion of any full-time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by active or reserve military personnel from civilian positions designated “military technicians” to military positions. The purpose of this proviso is to prohibit further conversions of civilian “military positions” to Active Guard/Reserve military positions until the Committee has had an opportunity to address this controversial matter during mark-up of the fiscal year 1984 Defense Appropriation Bill.

Section 101(c) also provides up to $50 million for DOD support to the XXIII Olympiad in Los Angeles as authorized in the fiscal year 1984 Defense Authorization Act. The Committee directs that such funds may be expended for security, medical, and related equipment or other support without reimbursement from federal, state, or local law enforcement agencies.

Furthermore, section 101(f) stipulates that such amounts as may be necessary for continuing Army National Guard and Army Reserve Operation and Maintenance and National Guard and Reserve equipment procurement, not otherwise provided for in this joint resolution, which were conducted in fiscal year 1983, under the terms and conditions provided in applicable appropriation acts for fiscal year 1983, may be funded at the current rate. The Committee has strongly supported our Reserve components as an integral part
of the total force concept. In recent years, funds have been appropriated above the budget estimates in order to modernize and supply in an expedited manner our Guard and Reserve forces in a concerted effort to make more meaningful this total force concept. The exception provided in section 101(f) is to assure there is no diminution of this modernization program during the 46 days covered by this resolution.

RELIEF NEEDED FOR AGRICULTURE

In order to restore the purchasing power of American agriculture, maintain the normal volume of domestic agricultural production, and protect our largest dollar earner in world trade, the Committee will expect the Secretary of Agriculture to immediately take the following necessary steps. First, as authorized by the Commodity Credit Corporation Charter, the Agriculture and Food Act of 1981 (Public Law 97-98), and other Acts, the Secretary of Agriculture shall set target prices that accurately reflect increase in cost of production. The Secretary shall also set production targets at levels that meet domestic needs, allow for adequate reserves, and provide a dependable market for world demand at competitive prices as authorized by the Charter of the Commodity Credit Corporation. Second, to prevent otherwise unavoidable shortages of food and fiber for the consumer, the Secretary shall make disaster loans or payments and/or provide feed grains promptly from the Commodity Credit Corporation to farmer-producers and ranchers who have suffered from the recent disastrous drought in order to assist such farmer-producers and ranchers to remain in business. Delays in processing disaster applications are inexcusable in view of the severity of the drought. The Committee believes the Secretary must act expeditiously to prevent widespread bankruptcies of farmer-producers and ranchers and to assure adequate supplies of food and fiber for the Nation's consumers.

POSTAL SERVICE

The funding provided in this continuing resolution for payment into the Postal Service Fund is for the revenue foregone subsidy for the purpose of holding the line on postal rates for preferred rate mailers at the level in effect on September 1, 1983 (step 14). If the subsidy is reduced, the Postal Service would be required by law to increase rates to make up the difference between rates charged and the amount required to handle such mail. Since the budgets of so many domestic programs are being cut and the charitable institutions of this country (such as the American Cancer Society, the March of Dimes and the American Lung Association) are being asked to increase their contributions, the Committee feels that the imposition of substantial increases in postal rates for these mailers would not be advisable at this time. The continuing resolution also directs the continuation of six-day mail delivery and rural delivery of mail at the 1983 level, and continues free mail for the blind and for overseas voting.
Oil and Gas Leasing

Sec. 113. An Interior Board of Land Appeals decision had the effect of modifying regulations which governed oil and gas leasing on national wildlife refuges for the past 25 years. This language restricts the Department of the Interior from revising this regulation and prevents them from processing any oil and gas lease applications on wildlife refuges except as they have been issued for the past 25 years.

Office of Personnel Management Proposed Regulations

The Committee has inserted a provision prohibiting the Office of Personnel Management from implementing certain proposed regulations published in the Federal Register earlier this year. The Committee notes that the proposed regulations constitute major reforms in employee compensation, job retention rights and labor management collective bargaining rights and believes that the authorizing committees need additional time in which to consider legislation in this area.

Federal Communications Commission

Section 123(a) prohibits the use of funds appropriated in this or any other Act during fiscal year 1984 for the Federal Communications Commission (FCC) to repeal or modify the Syndication Rule, the Financial Interest Rule, and the Prime Time Access Rule. Section 123(b) amends Section 123(A) by permitting the FCC to modify the provisions or applicability of the Rules mentioned in Section 123(A) with respect to any network which has fewer than 150 television licensees affiliated with such network and such licensees that carry not more than 25 hours per week of programming from the inter-connected program service offered by such network.

War Powers Provision

This joint resolution contains a provision which triggers section 4(a)(1) of the War Powers Resolution requiring the President to submit a report to the Congress concerning the involvement of United States Armed Forces in Lebanon. It provides that if the required report is not submitted within 60 days, then funds supporting U.S. Forces in Lebanon shall no longer be obligated or expended for that purpose.

Inflationary Impact Statement

Clause 2(1)(4) of rule XI of the House of Representatives requires that each Committee report on a bill or resolution shall contain a statement as to whether enactment of such bill or resolution may have an inflationary impact on prices and costs in the operation of the national economy.

The accompanying resolution simply provides temporary financing authority for a month and a half for those programs for which regular appropriation bills have not yet been enacted. Since the rates prescribed by the resolution are either at the existing levels or consistent with actions heretofore taken by the Congress which
have been determined not to have an inflationary impact upon the operation of the economy, and in view of the very short duration of this continuing resolution, the Committee judges that the enactment of this resolution will have no significant impact on the national economy.

**COMPLIANCE WITH RULE XIII—CLAUSE 3**

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

In 7 U.S.C. 1970, insert the italicized matter as follows:

§ 1970. Eligibility for assistance based on production loss

The Secretary shall make financial assistance under this subchapter available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitutes a basic part of the applicant’s farming, ranching, or aquaculture operation has sustained at least a 30 per centum loss of normal per acre or per animal production, or such lesser per centum of loss as the Secretary may determine, as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subtitle. Such loans shall be made available based upon 80 per centum, or such greater per centum as the Secretary may determine, of the total calculated actual production loss sustained by the applicant. [.] Eligibility of an applicant for assistance under this subtitle based upon production losses shall be determined solely on the basis of the factors designated in this section and shall not be affected by the Secretary’s failure to designate a county or counties for emergency loan purposes, except that the applicant must establish to the satisfaction of the Secretary that such losses were sustained as a result of such disaster. The determinations of the Secretary under this section shall be final unless found by a court of competent jurisdiction, on the basis of the administrative record, to have been arbitrary, capricious, or otherwise not in accordance with law or regulations issued in accordance with law.

In 7 U.S.C. 1932 insert the italicized matter as follows:

§ 1932. Rural industrialization assistance

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(f) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling such institutions to operate centers of rural technology development to improve the economic conditions of rural areas by assisting in the development and commercialization of new products and processes through technology innovation and adaptation of existing technology.