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Five Top Questions About a Continuing Resolution

By Ryan McCrimmon, CQ Roll Call

Preventing a government shutdown will be lawmakers' top job when they return to the Capitol in September, but thorny issues could once again complicate passage of a short-term spending bill.

Here are five main questions about a continuing resolution that members likely will need to pass before fiscal 2016 funding expires at midnight on Sept. 30:

Is Dec. 11 the Magic Date?

The key argument developing in the halls of Congress is how long the CR should extend fiscal 2016 spending plans. The last two years, lawmakers have kicked off fiscal 2015 and fiscal 2016 with initial CRs that extended funding through Dec. 11 of each year.

That's again an option for fiscal 2017. But hard-line conservatives, led by members of the House Freedom Caucus, are demanding a CR that would punt spending decisions into March 2017, allowing Congress to bypass a lame-duck session.

In December 2014 and 2015, congressional leaders and the White House reached a final spending deal before the holidays. Conservatives want to avoid another omnibus appropriations package this year — they view the trillion-dollar deals as too heavy on spending and too light on conservative policy provisions.

Many appropriators on both sides, and several top Democrats in each chamber, oppose saddling a new Congress and administration with finishing up last year's spending work. Some Republicans have even said they won't vote for a long-term CR, while several conservatives have said they won't vote for a shorter CR.

That leaves House Speaker [Paul D. Ryan](#), R-Wis., with a familiar vote-counting challenge within his own conference. And congressional leaders on both sides will have to read the tea leaves and determine whether their political leverage in spending negotiations will go up or down after the November elections, when control of Congress or the White House may shift.

How Much to Spend?

The same House members calling for a six-month continuing resolution could also fight for a CR written to lower overall spending levels.

Earlier this year, those conservatives forced a lengthy, intraconference struggle over the fiscal 2017 discretionary spending topline — which total \$1.07 trillion between defense and domestic spending — that prevented House GOP leaders from bringing a budget resolution ([H Con Res 125](#)) to the chamber floor. Fiscal hawks wanted to lower discretionary spending for fiscal 2017 by \$30 billion, down to \$1.04 trillion.

A continuing resolution this year could simply extend the spending levels of fiscal 2016, which total \$1.067 trillion, or raise spending \$3 billion to the full \$1.07 trillion amount allowed under last year's budget agreement ([PL 114-74](#)). Some appropriators, defense hawks and Democrats are likely to want to take advantage of the extra cap room, most of which is on the defense side, but conservatives may resist any effort to provide more spending.

Members of the House Freedom Caucus told CQ in July that they're willing to accept the \$1.067 trillion spending level in exchange for punting spending beyond the lame-duck session. One member, [Morgan Griffith](#), R-Va., said he would have even accepted the slightly higher \$1.07 trillion level — but only if GOP leaders had brought up a six-month CR for a vote before the summer break, which didn't happen.

The group has yet to take an official stance on a CR, though it has called for a special meeting of House Republicans in early September to discuss the issue.

What About Zika?

Congress didn't provide any aid for states and territories to combat Zika ahead of the summer recess, and the mosquito-borne virus has already started to spread locally in the U.S. mainland. Passing Zika aid will be another top priority in September, but it's unclear how Democrats and Republicans will reach an agreement on legislation that can pass both chambers, which they were unable to do for months.

Without a deal on new Zika legislation, extra funding to fight the virus could be included in the CR, which often serves as a vehicle for urgent spending needs.

But tying the two items together would further inflame debate over the stopgap. Democrats and Republicans are bitterly divided over proposed Zika legislation, blaming each other for playing politics with a public health emergency.

Language in the GOP-written Zika bill ([HR 2577](#)) that omits funding for contraceptive services in Puerto Rico could be particularly problematic. Democrats insist that any federal response must include additional dollars for contraception, given that Zika can be sexually transmitted. But Republicans may have a tough time swallowing what they've characterized as an earmark for Planned Parenthood.

The women's health group was [at the center of last year's charged debate](#) over the first fiscal 2016 stopgap ([PL 114-53](#)).

Will Gun Control Come Up?

After a string of mass shootings over the last year, Democrats have sought to use the appropriations process to advance new gun laws or at least bring attention to the issue.

A nearly 15-hour Senate filibuster led by Sen. [Christopher S. Murphy](#), D-Conn., sparked a days-long gun control debate that consumed floor work on an appropriations bill to fund the Justice Department and other agencies ([HR 2578](#)). In the House, a Democratic "sit-in" to demand votes on gun legislation sidelined consideration of the fiscal 2017 Financial Services spending bill ([HR 5485](#)).

And Democrats last year tried unsuccessfully to omit from the fiscal 2016 omnibus ([PL 114-113](#)) a longstanding policy rider related to federal gun violence research.

They could use the CR, the only must-pass piece of legislation on the fall agenda, to demand action on gun legislation. But just more than a month before the November election, they'll have to consider if their efforts will appear as little more than obstructionism to voters.

Are There Mysteries Ahead?

While much of the early CR debate has focused on the duration of a stopgap, rather than any particular policy rider, there's plenty of time before Sept. 30 for a new topic could spring up and capture the attention of Congress.

In an unpredictable election year, events around the world or on the campaign trail could always spill into the spending debate. A terrorist attack, for example, may prompt lawmakers to seek to attach national security measures to the funding bill — a situation that played out in last year's omnibus negotiations after the terrorist attacks in Paris.

Topics

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State of Play

Heading into the seven-week summer recess, Congress had yet to send a final Zika response spending package to the president, blowing past another stated deadline for action by the middle of July.

A conference report written by House and Senate Republicans was stymied in the Senate by two mostly party-line procedural votes, prompting a spate of partisan finger-pointing as both sides accused each other of playing politics with a public health emergency. Senate Democrats twice voted against moving forward with the package ([HR 2577](#)) over objections to funding levels and offsets, as well as provisions they considered GOP attacks on women's health services and environmental protections.

The bill's second rejection in July left lawmakers without any funding solution as they left Washington. While advancement of the package was rejected in June and the conference report cannot be amended, Senate Republicans insisted on bringing the package up for a second cloture vote on July 14, hoping that enough Democrats would change their minds to proceed with the measure. Democrats did not relent, and called on Republicans to return to the negotiating table to work out a new agreement that could pass muster with both chambers and the White House.

The conference report, which also included fiscal 2017 Military Construction-VA appropriations, was unveiled on June 22 after both chambers had passed widely different Zika response measures in May. Democratic conferees said they were not party to the agreement reached by House and Senate Republicans, and they immediately vowed to oppose the Zika and veterans spending legislation.

The measure included \$1.1 billion to combat Zika, with roughly \$750 million in offsets. The legislation rescinded \$107 million provided in 2014 to combat the Ebola virus, and another \$543 million in unused accounts provided as part of the 2010 health care law ([PL 111-148](#), [PL 111-152](#)) for U.S. territories to set up health exchanges.

Democrats blanched at the inclusion of offsets, suggesting that the dire situation called for emergency spending without any budget cuts to pay for it. They were even more outraged about what they deemed "poison pills" in the package.

One provision would have temporarily rolled back certain clean water regulations to allow for greater spraying of pesticides. They were also incensed that the Republican conferees dropped a Democratic provision in the House Military Construction-VA measure that would have barred the display of Confederate flag imagery on certain veterans' cemeteries.

But their most frequent complaint centered around language they claimed would severely limit access to contraceptives in Puerto Rico, where more than 2,843 cases of the Zika virus had been recorded by mid-July. A \$95 million allocation for Social Services Block Grants, mostly tabbed for use in Puerto Rico, would have excluded family planning services that focus on contraception, including the territory's Planned Parenthood affiliate, Profamilias.

Just hours after the conference report came out, House GOP leaders rushed the Zika legislation through the chamber around 3 a.m. on June 23 amid a Democratic "sit-in" focused on gun control legislation. Immediately after agreeing to the conference report, the chamber adjourned for the Fourth of July break, which Senate Democrats considered a blatant attempt to "jam" them with the controversial legislation.

The Senate took a procedural vote on the House-passed measure on June 28 but came up short of the 60 votes needed to proceed, due to heavy Democratic opposition. The White House had threatened a presidential veto if Congress passed the conference report. The Senate took a second procedural vote on July 14 that also did not reach the 60-vote threshold.

Following that vote, House Appropriations Chairman [Harold Rogers](#), Senate Appropriations Chairman [Thad Cochran](#), both chairs of the Labor-HHS-Education subcommittees, and both chairs of the State-Foreign Operations subcommittees sent a letter to the Obama administration asking it "aggressively use funds already available to mount a strong defense against the virus."

Senate Majority Leader [Mitch McConnell](#) took a procedural step following the second vote that sets up the Senate for a third vote on the conference report when the Senate reconvenes on Sept. 6 at 5:30 p.m.

In May, the House passed a supplemental appropriations package ([HR 5243](#)) crafted by GOP appropriators that [provided \\$622 million in new resources](#) to confront the virus. The funds were set to expire on Sept. 30, the end of fiscal 2016, and the Zika spending was fully offset by rescinding previously appropriated dollars for the 2014 Ebola response and other administrative purposes.

The Senate's \$1.1 billion emergency spending package, [passed as an amendment](#) to a broader appropriations package ([HR 2577](#)), provided fresh funding without any offsets or expiration date. The compromise measure was reached by top Republicans and Democrats on the Senate Appropriations Committee.

Democrats said neither option adequate. The administration maintained it still needs the full \$1.9 billion it requested earlier this year.

The administration's request would provide \$828 million to the Centers for Disease Control and Prevention to enhance mosquito control programs. Officials say eradicating mosquitoes is one immediate action that can be taken in the absence of a vaccine but emphasize how difficult it can be to control indoor mosquitoes.

Another challenge is diagnostic testing. Though there are ample tests to detect an active infection, tests to detect a prior infection are more limited. Public health officials say it takes more steps to diagnose a prior Zika infection because of the condition's similarities to other viruses. Obama's request includes money to boost the supply of diagnostics, as well as develop more accurate testing methods.

Prospects for a funding package also hinge on the politically sensitive issue of contraception policy. Congressional Democrats are pressing for additional contraception and family planning services for women in affected countries — a request that is meeting resistance from key Republicans. The House-passed legislation would subject Zika funding to the same restrictions included in the most recent omnibus package ([PL 114-113](#)), which includes a prohibition on the use of funds to pay for abortions.

The request contains \$250 million to assist pregnant women in Puerto Rico, who are being encouraged to wear long sleeves, use bug repellent and stay in air conditioned or screened-in areas.

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