



Legislative Bulletin.....March 21, 2007

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 2

Total Cost of Discretionary Authorizations: unknown

Effect on Revenue: \$0

Total Change in Mandatory Spending: reduced by less than \$500,000 in 2008, and by \$13 million over the 2008 to 2012 period

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 4

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

**H.R. 835 - Hawaiian Homeownership Opportunity Act of 2007
(Abercrombie, D-HI)**

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 835 would reauthorize the Native Hawaiian Housing Block Grant (NHHBG) for "such sums as may be necessary" for the FY 2008 through FY 2012 period. In FY 2007, NHHBG will receive \$9 million in federal funding. In addition, the bill reauthorizes at such

sums as necessary for the FY 2008 through FY 2012 period, a loan guarantee program to benefit Native Hawaiians.

Finally, the bill would make the Department of Hawaiian Home Lands (DHHL) of the state of Hawaii eligible for Title VI loan guarantees; and would reauthorize at such sums as necessary, for the FY 2008 to FY 2012 period, the credit subsidy that covers the costs of federal guarantees for financing for tribal housing activities. According to CBO, extending this program to include the DHHL would “allow Native American Block Grant recipients to leverage their funding by pledging future grants as security for the repayment of a loan.” CBO also points out that although “there have been few losses to date in the Title VI program, repayment of these loans have been funded by federal grants. As a result, the actual cost to the government is borne by the grant program. It is uncertain what the cost of these loans would be in the absence of the grant program but it likely would be higher, perhaps substantially.”

Additional Information: According to Committee Report [110-050](#), the Native American Housing Assistance and Self-Determination Act of 1996 “provides funds directly to tribes for housing services as determined by the tribes themselves. In 2000, NAHASDA was amended to include Title VIII so that Native Hawaiians could receive block grant funding as well through a separate grant—the Native Hawaiian Housing Block Grant (NHHBG).”

The Committee Report also outlines its intent that Native Hawaiians would now have their own credit subsidy, “The use of Title VI funding by American Indians and Alaska Natives has expanded greatly. By allowing Native Hawaiian’s access to Title VI loans, the Committee does not intend to create competition for funding resources. Therefore, the Committee expects, at the discretion of the Appropriations Committee, that a separate credit subsidy will be established and funded as necessary to provide funding for loans to Native Hawaiian’s under Title VI.”

During Committee consideration, Congressman Campbell (R-CA), offered an amendment that would have ensured that no future court could construe our reauthorizing federal funding for Native Hawaiian housing as Congress using its power under the Indian Commerce Clause to indirectly confer tribal status on the Native Hawaiian people. The amendment failed by a vote of 27 – 40. In his dissenting view, Congressman Campbell stated the following, which outlines many **possible conservative concerns** with this legislation:

“The underlying Native Hawaiian housing program that we are set to reauthorize is one of many benefits that currently flow from the federal government to Native Hawaiians--there are roughly 160 current statutes that confer such benefits. However, in 2000, the Supreme Court put many of these benefits in jeopardy with its decision in *Rice v. Cayetano*.

The Court’s decision in *Rice* has led many to conclude that the current configuration of justices would likely strike down most federal benefits flowing to Native Hawaiians as a racial set-aside, if given a chance. As a result, the Hawaiian Congressional delegation has championed separate legislation to provide a process for the United States to recognize Native Hawaiians as a governing entity, i.e., a tribe that is political in nature. Instead of recognizing a currently-existing political entity that has authority over its members, the legislation (H.R. 505) would create one from scratch.

While the Financial Services Committee is not considering the sovereignty bill (H.R. 505), the Native Hawaiian housing bill (H.R. 835) should nonetheless give us pause before we reauthorize funding programs that are more than likely unconstitutional. This bill, H.R. 835, which reauthorizes federal funding for Native Hawaiian housing, should not be construed by any future court as Congress using its power under the Indian Commerce Clause to indirectly confer tribal status on the Native Hawaiian people.

America is a melting pot of cultures from around the world. Justice Kennedy noted as much in his opinion in *Rice v. Cayetano*. ‘As the State of Hawaii attempts to address these realities, it must, as always, seek the political consensus that begins with a shared purpose. One of the necessary beginning points is this principle: The Constitution of the United States, too, has become the heritage of all the citizens of Hawaii.’

Possible Conservative Concerns: In addition to those outlined above by Congressman Campbell, some conservatives may be concerned that Native Hawaiians are a racial group, not a tribe, and dispensing benefits to them would likely be subject to strict scrutiny in federal courts. Providing additional financial assistance to this group is not only duplicative of numerous current federal education programs, but may also be unconstitutional.

Committee Action: H.R. 835 was introduced on February 7, 2007, and referred to the Committee on Financial Services, which considered it, and reported it to the full House by voice vote on March 15, 2007.

Cost to Taxpayers: According to CBO, enacting H.R. 835 would authorize \$12 million in FY 2008, and \$63 million over the FY 2008 to FY 2012 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill would extend federal programs to provide an additional subsidy for Native Hawaiians.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: In Committee Report [110-050](#), the Financial Services Committee cites constitutional authority in Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

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H.R. 327 — Joshua Omgig Veterans Suicide Prevention Act (*Boswell, D-IA*)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 327 would direct the Department of Veterans Affairs (VA) to establish a new federal program designed to reduce the incidence of suicide among veterans. The program would provide mandatory training for staff and contractors of the VA who interact with veterans. The training would include information on--

- recognizing risk factors for suicide;
- proper protocols for responding to crisis situations involving veterans who may be at high risk for suicide; and
- best practices for suicide prevention.

The program would also provide for screening of veterans who receive medical care at a Department of Veterans Affairs medical facility for risk factors for suicide. In addition, the VA would be required to provide “for appropriate tracking of veterans.” H.R. 327 directs the VA to designate a suicide prevention counselor at each VA medical facility, and the counselors are to work with local emergency rooms, police departments, mental health organizations, and veterans service organizations to engage in outreach to veterans and improve the coordination of mental health care to veterans.

H.R. 327 would also require that the program provide for research on mental health care for veterans who have experienced sexual trauma while in military service. In addition the program would provide for mental health care availability to veterans on a 24-hour basis, through the creation of a toll-free hotline for veterans. The program would also provide for outreach to and education for veterans and the families of veterans, with emphasis on providing information to veterans of Operation Iraqi Freedom and Operation Enduring Freedom and the families of such veterans. Education to promote mental health would include information designed to”

- “remove the stigma associated with mental illness;
- “encourage veterans to seek treatment and assistance for mental illness;
- “promote skills for coping with mental illness; and
- “help families of veterans with--
 - “understanding issues arising from the readjustment of veterans to civilian life;
 - “identifying signs and symptoms of mental illness; and
 - “encouraging veterans to seek assistance for mental illness.”

H.R. 327 would also direct the VA to establish a new peer support counseling program, under which veterans would volunteer as peer counselors to assist other veterans with issues related to mental health and readjustment; and to conduct outreach to veterans and the families of veterans.

H.R. 327 would express that it is the sense of the Congress that

- “suicide among veterans suffering from post-traumatic stress disorder (in this section referred to as ‘PTSD’) is a serious problem; and
- “the Secretary of Veterans Affairs should take into consideration the special needs of veterans suffering from PTSD and the special needs of elderly veterans who are at high risk for depression and experience high rates of suicide in developing and implementing the comprehensive program under this Act.”

Finally, the bill would require that the VA submit a report to Congress outlining the following:

- information on the status of the implementation of the suicide prevention program;
- information on the time line and costs for complete implementation of the program within two years;
- **a plan for additional programs** and activities designed to reduce the occurrence of suicide among veterans; and
- recommendations for further legislation or administrative action that the Secretary considers appropriate to improve suicide prevention programs within the Department of Veterans Affairs.

Additional Information: According to a statement by Rep. Boswell, “This legislation grew out of the tragic death of Joshua Omvig from Grundy Center, Iowa who took his life after returning home from an 11-month tour in Iraq. Not all wounds inflicted in combat are visible. A simple screening and tracking process could have provided Joshua with the counseling he needed, saving his life. We must now protect those who have kept us safe for so long.” (<http://joshua-omvig.memory-of.com/legacy.aspx>).

Committee Action: H.R. 327 was introduced on January 9, 2007, and referred to the Committee on Veterans’ Affairs, which considered it, held a mark-up, and reported it to the full House by voice vote, as amended, on March 15, 2007.

Cost to Taxpayers: According to CBO, “implementing this bill would have little, if any, cost because VA already has or soon will, implement all the specific requirements of the bill.”

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill would create two new federal programs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution” (*emphasis added*).

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H.R. 797 — To amend title 38, United States Code, to improve compensation benefits for veterans in certain cases of impairment of vision involving both eyes, and for other purposes (*Baldwin, D-WI*)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 797 would expand a current veteran's visions program to include those who have suffered "impairment of vision," whereas current law includes those with "blindness." Vision of impairment is defined as, "visual acuity of 20/200 or less or of a peripheral field loss of 20 degrees or less." In addition, the bill would also require the VA to provide the Department of Health and Human Services with certain information for comparison with information in the National Directory of New Hires maintained at HHS, in order to obtain information regarding individuals under the age of 65 who are applicants for or recipients of certain benefits and services from the VA. The bill would terminate the VA's authority to obtain information from HHS on September 30, 2010.

H.R. 797 would also extend, from FY 2007 to FY 2009, the authority of the VA to operate work-study programs. In addition, the legislation would allow the VA to offer a bronze 'V' to be used on the headstone of certain veterans at a private cemetery.

Committee Action: H.R. 797 was introduced on March 2, 2007, and referred to the Committee on Veterans' Affairs, which considered it, held a mark-up, and reported it to the full House by voice vote, as amended, on March 15, 2007.

Cost to Taxpayers: According to CBO, enacting H.R. 797 would "decrease net direct spending for veterans' benefits by less than \$500,000 in 2008, and by \$13 million over the 2008 to 2012 period." CBO estimates that these savings would be generated from using the IRS income verification system.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill would create two new federal programs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available. House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution" (*emphasis added*).

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H.R. 1284 – Veterans' Compensation Cost-of-Living Adjustment Act of 2007 (Hall, D-NY)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1284 provides a cost-of-living adjustment (COLA) for disability compensation for veterans with service-connected disabilities and for dependency and indemnity compensation for survivors of certain service-connected disabled veterans. The COLA is equal to the increase

provided under the Social Security Act (based on changes in the Consumer Price Index), effective December 1, 2007.

Committee Action: On March 1, 2007, the bill was introduced and referred to the House Committee on Veterans' Affairs, which considered it, held a mark-up, and reported it to the full House, by voice vote on March 15, 2007.

Cost to Taxpayers: According to CBO, "Because the COLA is assumed in CBO's baseline, the COLA provision would have no budgetary effect relative to that baseline. [However,] relative to current law, CBO estimates that enacting this bill would increase spending for these programs by \$373 million in 2008. (The annualized cost would be about \$500 million in subsequent years.)"

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available. House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution" (*emphasis added*).

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H.R. 137—Animal Fighting Prohibition Enforcement Act (Gallegly, R-CA)

Order of Business: The bill is scheduled to be considered on Wednesday, March 21st, under a motion to suspend the rules and pass the bill.

Summary: H.R. 137 would make the current prohibitions against certain animal fighting ventures (often referred to as "cockfighting") **federal felonies** under Chapter 3 of Title 18, U.S. Code. They are presently federal misdemeanors (7 U.S.C. 2156) with lower penalties.

Specifically, H.R. 137 would make it a **federal crime** for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if *any* animal in the venture was moved in interstate or foreign commerce. Even in a state that allows cockfighting, it would be a **federal crime** for a person to sponsor or exhibit a bird in the cockfight if the person knew that *any* bird in the fight was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of a cockfight.

H.R. 137 would also make it a **federal crime** for any person to knowingly sell, buy, transport, deliver, or receive for purposes of transportation, in interstate or foreign commerce, any dog or other animal to have the dog or other animal participate in an animal fighting venture.

Furthermore, the bill would make it a **federal crime** for any person to knowingly use the United States Postal Service, or any instrumentality (i.e. communication method) of interstate commerce, for commercial speech promoting an animal fighting venture, except as performed outside the United States and except for cockfights that are legal under state law.

Additionally, the bill would make it a **federal crime** for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture. This federal crime is completely new and not currently a misdemeanor under Section 2156 of Title 7, U.S. Code.

Anyone violating any of the above new federal crimes would have to be fined under Title 18, U.S. Code, and/or **imprisoned for up to three years** for each violation. The maximum prison time in current law is one year.

“Animal fighting venture” is defined as “any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term ‘animal fighting venture’ shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal.” Animal is defined as “any live bird, or any live dog or other mammal, except man.”

These federal crimes would apply to the District of Columbia and the U.S. territories as well.

Additional Background: According to the Judiciary Committee, all 50 states ban dog fighting, and 48 states ban cockfighting.

RSC Bonus Fact: It may be worth noting that 181 Democrats have co-sponsored this legislation, making it a federal crime to bring an animal across state lines for the purposes of fighting, but only 9 Democrats have co-sponsored H.R. 1063, making it a federal crime to bring a young human being across state lines to abort a child.

Committee Action: On January 4, 2007, the bill was referred to the Judiciary and Agriculture Committees. On February 6th, the Judiciary Committee’s Subcommittee on Crime, Terrorism, and Homeland Security marked up the bill and forwarded it by voice vote to the full committee. Later that same day, the full Judiciary Committee marked up and ordered the bill reported to the full House by voice vote. On March 1, 2007, the Agriculture Committee discharged the bill without taking other action.

Possible Conservative Concerns: Some conservatives might be concerned that this bill would elevate four misdemeanors to be federal crimes (and create one completely new federal crime)—and increase the penalties—for activities that are already banned in most states. Some conservatives may also believe that people who own or purchase property should be able to do what they want with it, as long as they are not harming another human being.

Cost to Taxpayers: CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations also would be insignificant and subject to the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would create one completely new federal crime, elevate four misdemeanors to be federal crimes, and increase the penalties for the existing offenses.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes—various private-sector mandates on what private citizens can do with their own property.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: The Judiciary Committee, in House Report 110-27, cites constitutional authority in Article I, Section 8 (powers of Congress), but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

Note: Article VI, Clause 3 of the U.S. Constitution states that, “The Senators and Representatives...and all executive and judicial Officers...shall be bound by Oath or Affirmation, to support this Constitution.”

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H.R. 545 — Native American Methamphetamine Enforcement and Treatment Act of 2007 (*Udall, D-NM*)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 545 would include Indian tribes and territories as eligible grant recipients (under the Omnibus Crime Control and Safe Streets Act) to address methamphetamine abuse and distribution. Specifically, the existing grant program is intended to:

- 1) address the manufacture, sale, and use of methamphetamine;
- 2) aid children in homes in which methamphetamine or other drugs are unlawfully manufactured, distributed, dispensed, or used; and
- 3) address methamphetamine use by pregnant and parenting women offenders.

Under current law, only states are eligible to apply for these grants.

Committee Action: H.R. 545 was introduced on January 17, 2007, and referred to the Committee on Judiciary’s Subcommittee on Crime, Terrorism, and Homeland Security, which marked-up the bill on February 6, 2007, and reported the bill by voice vote to the full committee. The full committee marked-up the bill and reported it to the House by voice vote the next day (House Report [110-35](#) Part I).

Cost to Taxpayers: CBO estimates that “implementing the bill would result in no significant increase in spending for these grant programs. Enacting H.R. 545 would not affect direct spending or receipts.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Judiciary Committee, in House Report [110-35](#) Part I, cites constitutional authority in Article I, Section 8, Clause 3 (the commerce clause).

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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H.R. 740 — Preventing Harassment through Outbound Number Enforcement (PHONE) Act of 2007 (Scott, D-VA)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

A substantially similar bill, H.R. 5304, passed the House during the 109th Congress by a voice vote on December 9, 2006.

Summary: H.R. 740 would make it a federal crime to modify caller identification (ID) information with the intent to defraud or deceive another person. Violators may be fined, imprisoned for up to five years, or both. The bill provides an exception for law enforcement activities. The bill also requires a court, upon conviction of a violation of this provision, to require forfeiture any equipment used for the offense, and any real property or monetary gain obtained by the offense.

Committee Action: H.R. 740 was introduced on January 31, 2007, and referred to the Committee on Judiciary’s Subcommittee on Crime, Terrorism, and Homeland Security, which marked-up the bill on February 6, 2007, and reported the bill by voice vote to the full committee. The full committee marked-up the bill and reported it to the House by voice vote the next day (House Report [110-37](#)).

Cost to Taxpayers: CBO estimates that “implementing H.R. 740 would have no significant cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant. Because those prosecuted and convicted under H.R. 740 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.”

Does the Bill Expand the Size and Scope of the Federal Government?: As noted above, it would create a new federal crime.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Judiciary Committee, in House Report [110-37](#), cites constitutional authority in Article I, Section 8, Clause 3 (the commerce clause).

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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H.R. 251 — Truth in Caller ID Act of 2007 (*Engel, D-NY*)

Order of Business: The bill is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the bill.

An identical bill, H.R. 5126, passed the House during the 109th Congress by a voice vote on June 6, 2006.

Summary: H.R. 251 would prohibit any person in the U.S., in connection with any telecommunication service or VOIP (voice over Internet protocol) service, to cause any caller identification service to “transmit misleading or inaccurate caller identification information, with the intent to defraud or cause harm” (47 U.S.C. 227). The bill directs the Federal Communications Commission (FCC) to promulgate regulations to carry out this Act within six months of enactment.

Committee Action: H.R. 251 was introduced on January 5, 2007, and referred to the Committee on Energy and Commerce, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 251 is unavailable, but the bill does not authorize new expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: As noted above, the bill creates a new federal crime.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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H.Con.Res. 66 — Permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust (*Waxman, D-CA*)

Order of Business: The resolution is scheduled for consideration on Wednesday, March 21, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Con.Res. 66 would authorize the use of the Capitol rotunda on April 19, 2007, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

Additional Information: For additional information regarding the Holocaust and the millions of victims that were murdered, visit these websites:

<http://www.jewishgen.org/ForgottenCamps/General/VictimsEngl.html>

<http://www.ushmm.org/>.

Committee Action: H.Con.Res. 66 was introduced on February 15, 2007, and referred to the Committee on House Administration, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

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