



Legislative Bulletin.....December 18, 2007

Contents:

- H.R. 3997**—Heroes Earnings Assistance and Relief Tax Act of 2007
- S.2488**—The Freedom of Information Act Amendments of 2007
- H.R. 660**—Court Security Improvement Act of 2007
- S. 863**—Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007
- H.R. 3690**—U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 3

Total Cost of Discretionary Authorizations: \$80 million in FY 2008 and \$305 million over the FY 2008—FY2012 period

Effect on Revenue: Increased \$300 million over the FY 2008—FY 2012 period and \$41 million over the FY 2008—FY 2017 period

Total Change in Mandatory Spending: \$500,000 annually

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 3

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 2

**H.R. 3997—Heroes Earnings Assistance and Relief Tax Act of 2007
(Rangel, D-NY)**

Order of Business: The bill is scheduled to be considered on Tuesday, December 18, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3997 was passed in the House on November 6, 2007, by a recorded vote of [410—0](#). The version on the floor under a suspension today includes modifications made by amendment during Senate consideration. As passed in the House, H.R. 3997 would modify tax provisions to grant tax benefits to veterans, active duty servicemen, and certain volunteers. The original House bill would have reduced revenue

by \$643 million over the FY 2008 – FY 2012 period and \$2.07 billion over the FY 2008 – FY 2017 period. In order to satisfy PAYGO requirements, the bill would have increased penalties on individuals and business for failure to file accurate and timely tax returns. This pay-for would have increased revenue by \$911 million over the FY 2008 – FY 2012 period and \$2.19 billion over the FY 2008 – FY 2017 period.

The Senate-passed version of H.R. 3997 would change the overall cost of the bill by adding more benefits to members of the armed services and increasing a tax penalty on expatriates. The following is a description of the bill that the House will consider today on the floor, including Senate amendments that remained in the bill. To read the RSC Legislative Bulletin on the original House passed version of H.R. 3997, [click here](#).

Additions made in the Senate

- Provides a tax credit to small employers who make continued payments to former employees called to active duty (wage differential payments). This provision would reduce revenue by \$7 million over ten years.
- Expands qualified military benefits to include bonus payments made by state or local governments on account of an individual's service in a combat zone. This provision has a negligible effect on revenue.
- Provides for special disposition rules for unused benefits in health flexible spending arrangements of individuals called to active duty. This provision would reduce revenue by \$3 million over ten years.
- Provides for an increased tax penalty on U.S. citizen who renounces their citizenship. This provision would increase revenue by \$684 million over ten years.

Benefits for Military and Volunteer Firefighters

Combat Pay for the Purposes of Earned Income Tax Credit

- Permanently extends the allowance of “combat pay” as earned income for the purposes of determining the earned income tax credit. According to the Joint Committee on Taxation (JCT), this provision will reduce revenue by \$47 million over the FY 2008 – FY 2013 period and \$83 million over the FY 2008 – FY 2017 period.

Modification of Mortgage Revenue Bonds for Veterans

- Permanently extends a provision that allows mortgage bonds to be issued to veterans regardless of the first-time homebuyer requirement (without this waiver, current law restricts using bonds to finance mortgages if the buyer had an ownership interest within the past three years). According to the JCT, this provision will reduce revenue by \$171 million over the FY 2008 – FY 2013 period and \$826 million over the FY 2008 – FY 2017 period.

- Increases the annual limit on qualified veterans' mortgage bonds that can be issued in Alaska, Oregon, and Wisconsin from \$25 million to \$100 million. According to the JCT, this provision will reduce revenue by \$69 million over the FY 2008 – FY 2013 period and \$297 million over the FY 2008 – FY 2017 period.

Survivor and Disability Payments with Respect to Qualified Military Service

- Requires retirement plans from civilian jobs to treat the day prior to the date of a service member's death as the date which they had resumed employment and been terminated. This section allows deceased service members and their families to receive benefits that are contingent on termination of employment as a result of death to trigger benefits. According to the JCT, this provision will reduce revenue by \$1 million over the FY 2008 – FY 2013 period and \$2 million over the FY 2008 – FY 2017 period.

Treatment of Differential Military Pay as Wages

- Amends federal tax withholding laws to treat differential pay (pay that is voluntarily paid by an employer to an employee while they serve in the armed forces) as wage compensation and permit wage withholdings from differential payments for retirement plans. According to the JCT, this provision will reduce revenue by \$4 million over the FY 2008 – FY 2013 period and \$8 million over the FY 2008 – FY 2017 period.

Exclusion from Income for Volunteer Firefighters and Medical Responders

- Excludes reductions or rebates of taxes by state and local governments, given to volunteer firefighters or emergency medical responders in exchange for their services, as taxable income through December 31, 2015. According to the JCT, this provision will reduce revenue by \$122 million over the FY 2008 – FY 2012 period and \$565 million over the FY 2008 – FY 2017 period.

Special Time Limitation to File Claims for Refunds Relating to Disability Determinations

- Extends the period of time that military personnel who receive disability determinations from the VA may file claims for credits or refunds. Currently, a taxpayer must file claims for credit or refund within three years of filing the refund or two years of paying the tax. This section extends that time for individuals who receive disability determinations until one year after the date of the determination. According to the JCT, this provision will reduce revenue by \$5 million over the FY 2008 – FY 2013 period and \$10 million over the FY 2008 – FY 2017 period.

Penalty Free Retirement Plan Withdrawals for Active Duty Reservists

- Permanently extends a provision that allows active duty reservists to make penalty free withdrawals from their retirement plans. According to the JCT, this provision will increase revenue by \$1 million over the FY 2008 – FY 2013 period and reduce revenue by \$6 million over the FY 2008 – FY 2017 period.

Permanent Extension of Disclosure Authority

- Permanently extends a provision that allows the disclosure of certain tax information to the Department of Veterans' Affairs (VA) for the purpose of determining eligibility for its pension and health-care programs. According to the JCT, this provision will increase revenue by \$43 million over the FY 2008 – FY 2013 period and \$164 million over the FY 2008 – FY 2017 period.

Contributions of Military Death Gratuities

- Allows recipients of military death gratuities to invest benefits from the gratuity into Roth IRAs or educational savings accounts regardless of annual contribution limits. According to the JCT, this provision will reduce revenue by \$1 million over the FY 2008 – FY 2013 period and \$4 million over the FY 2008 – FY 2017 period.

Suspension of Five Year Test for Peace Corps Volunteers

- Allows Peace Corps volunteers to suspend the “five-year test” for excluding gains on the sale of a principle residence from taxes. Under current law, taxpayers may exclude up to \$250,000 (\$500,000 for joint filers) in gains on the sale of their principle residence if they have lived in the residence for two of the last five years (the “five-year test”). This section would allow a Peace Corps volunteer to suspend the test requirement for up to ten years if they are absent from the residence due to their service obligations. According to the JCT, this provision will reduce revenue by \$1 million over the FY 2008 – FY 2017 period.

Improvements in Supplemental Security Income (SSI)

Equitable Treatment of Military Families under SSI

- Reclassifies military cash allowances as earned income. Under current law, most military payments other than basic pay are treated as “unearned income.” Every dollar of unearned income after \$20 reduces SSI program benefits by \$1. Thus, this section would increase SSI program benefits available to families of service members. According to the JCT, this provision will reduce revenue by \$11 million over the FY 2008 – FY 2013 period and \$26 million over the FY 2008 – FY 2017 period.

Removal of Penalties for Blind Veterans under SSI

- Prohibits consideration of state annuity payments made to blind veterans when determining SSI benefits. Under current law, state annuity payments made to blind veterans are regarded as unearned income and reduce SSI benefits. According to the JCT, this provision will reduce revenue by \$1 million over the FY 2008 – FY 2013 period and \$3 million over the FY 2008 – FY 2017 period.

Exclusion of Benefits for AmeriCorps Volunteers under SSI

- Prohibits consideration of benefits or allowances made to AmeriCorps volunteers when determining SSI benefits. A JCT revenue estimate is not currently available for this section.

Provisions that Raise Revenue

Increase the Minimum Penalty for Failure to File

- Increases the penalty for failure to file a tax return within 60 days of the due date from \$100 to \$250. Under current law, the penalty is the lesser of \$100 or 100% of the tax owed. According to the JCT, this provision will increase revenue by \$132 million over the FY 2008 – FY 2013 period and \$296 million over the FY 2008 – FY 2017 period.

Penalty for Failure to File S Corporation Returns

- Creates new penalties on S corporations (corporations that are exempt from federal income tax other than tax on certain capital gains and passive income) that fail to file a timely and accurate tax return. An increased penalty of \$100 per month for each shareholder would be assessed for up to 12 months and could be levied on any S corporation that fails to submit all the required information on a return. According to the JCT, this provision will increase revenue by \$413 million over the FY 2008 – FY 2013 period and \$964 million over the FY 2008 – FY 2017 period.

Increase in Information Return Penalties

- Increases penalties on businesses for failure to file correct information returns, such as 1099 forms, which include information regarding amounts paid to employees and interest paid to shareholders. This section increases the penalties for businesses that correct the information within 30 days from a minimum of \$15 to \$25 and a maximum of \$75,000 to \$200,000. Penalties for businesses that fail to correct the information by August 1st would increase from a minimum of \$50 to \$100 and a maximum of \$250,000 to \$600,000. The bill would also increase maximum penalties on small businesses from \$25,000 to \$75,000 if corrections are made within 30 days. If a small business fails to make corrections by August 1st the maximum amount is increased from \$100,000 to \$250,000. According to the JCT, this provision will increase revenue by \$83 million over the FY 2008 – FY 2013 period and \$280 million over the FY 2008 – FY 2017 period.

Increased Penalties on Expatriates

- The Senate amendment would require that, for taxation purposes, the property of any U.S. citizen who renounces their citizenship be treated like it was sold at market value the day prior to the renouncement. According to the JCT, this provision will increase revenue by \$764 million over the FY 2008 – FY 2017 period.

Committee Action: H.R. 3997 was introduced on October 30, 2007, and referred to the Committee on Ways and Means. On November 2, 2007, a mark-up was held and the bill was reported, as amended, by voice vote. On November 6, 2007, H.R. 3997 was passed in the House by a vote of [410—0](#). On December 13, 2007, the bill was received in the

Senate and on December 12, 2007, the bill was passed, with an amendment, by unanimous consent.

Administration Position: The Administration’s position is not currently available.

Cost to Taxpayers: According to a final JCT summary of H.R. 3997, the net result on revenue would be an increase of \$300 million over the FY 2008—FY 2012 period and an increase of \$41 million over the FY 2008—FY 2017 period.

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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [House Report 110 – 426](#), the House passed version of H.R. 3997 “contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that rule.”

Constitutional Authority: According to [House Report 110 – 426](#), the House passed version of H.R. 3997 cites constitutional authority in Article I, Section 8 (the Power To lay and collect Taxes, Duties, Imposts and Excises) and the 16th Amendment to the Constitution.

RSC Staff Contact: Andy Koenig; andy.koenig@mail.house.gov; 202-226-9717.

S. 2488—The Freedom of Information Act Amendments of 2007 (Leahy, D-VT)

Order of Business: The bill is scheduled for consideration on Tuesday, December 18, 2007, under a motion to suspend the rules and pass the bill.

Summary: On March 13, 2007, the House passed H.R. 1309, the Freedom of Information Act Amendments of 2007, by a vote of [308-117](#). S. 2488, the OPEN Government Act of 2007, a Senate version of H.R. 1309, contains many of the same provisions. S. 2488 would amend and expand the Freedom of Information Act (FOIA) to limit federal agencies from denying a requester status as a news media representative and to modify various other requirements and regulations. The Senate bill differs most notably from the House bill by removing language that would create the office of National Information Advocate and by slightly tightening the definition of “news media” for the purposes of waiving FOIA fees.

The specific provisions of the Senate-passed version of the bill are as follows:

- Contains a number of findings, including the following:

- “the Freedom of Information Act establishes a ‘strong presumption in favor of disclosure’ as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;
 - “‘disclosure, not secrecy, is the dominant objective of the Act,’ as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976)); and
 - “in practice, the Freedom of Information Act has not always lived up to the ideals of that Act.”
- Defines “media” for the purpose of waiving fees for a FOIA request. Under current law, the agencies may waive FOIA request fees for “a representative of the news media.” This bill defines a “representative of the news media” as any person that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” The bill specifically cites radio and television entities as an example, but also includes news entities that disseminate information through telecommunications (i.e., the Internet) and freelance journalists—so long as they disseminate news. The bill defines “news” as “information that is about current events or that would be of current interest to the public.”
 - Declares that, regarding the recovery of attorney fees and other litigation costs, the requesters have “substantially prevailed” (in FOIA litigation) when they have obtained relief either through 1) a judicial order, or 2) a voluntary or unilateral change in position by the opposing party (the agency). A committee report for a similar bill (H.R. 1309) stated that the purpose of this provision is to ensure that requesters are eligible for attorney fees and other litigation costs “if they obtain relief from the agency during the litigation.”
 - Requires the Attorney General (AG) to notify the Special Counsel regarding each civil action taken against government officials who “arbitrarily and capriciously” deny records to FOIA requesters, and requires to AG to submit an annual report to Congress on the number of these actions taken, as well as the action taken by the Special Counsel on these civil actions.
 - Requires that the 20-day statutory clock (in current law) to begin once the agency has receipt of the FOIA request and prohibits, under any circumstances, the 20-day period beginning any later than ten days after the request is received. The provision also prohibits an agency from charging a requester fees if the above time limit for the request is not met.
 - Requires each agency to create a system to assign individual tracking numbers for each FOIA request if that request will take longer than 10 days to process. This provision also requires the agency to establish a telephone line or internet service that provides status information to the requester. It states these provisions must

be implemented within one year of enactment, and will apply to all requests made after the effective date.

- Imposes additional annual reporting requirements on FOIA activities to the AG, including:
 - the average number of days the agency took to respond to requests (from the date the request was initially received);
 - the number of occasions on which each statute was relied upon to deny a request;
 - the number of requests the agency responded to with a determination within certain timeframes;
 - specific data on agency responsiveness to administrative appeals;
 - the number of expedited review requests received by the agency, the number that were granted, and the number that were denied, the average and median number of days for adjudicating expedited review requests, and the number of requests that were adjudicated within the required 10 days.

- Stipulates that agency records, regardless of the format (e.g., hardcopy or electronic), or who the records are maintained by (whether the agency or a private contractors), remain subject to FOIA.

- Establishes a **new Office of Government Information Services (GIS)** at the National Archives and Records Administration (NARA). This provision tasks the GIS to review the policies and procedures of administrative agencies and recommend policy changes to Congress and the President to improve FOIA handing procedures. Each agency would be required to appoint a Chief FOIA Officer that would have agency-wide responsibility for FOIA compliance and would report an agency's FOIA compliance to the AG.

- Requires the Office of Personnel Management (OPM) to submit a report to Congress that examines whether changes to executive branch personnel policies could be made that would a) provide "greater encouragement to all federal employees to fulfill their duties regarding FOIA requests, and b) enhance the stature of executive branch officials administering the FOIA program, among other items.

- Requires agencies to note the specific exemption used to withhold information on the partial records that are released in response to a FOIA request, unless revealing the information would harm an interest protected by the exemption.

Additional Background: The FOIA was originally signed into law in 1966 by President Lyndon B. Johnson. FOIA is a federal law (5 U.S.C. § 552) that establishes the public's right to obtain information from federal government agencies. Any entity can file a FOIA request, including U.S. citizens, foreign nationals, organizations, associations, and universities. The Act was amended to force greater agency compliance in 1974 following

Watergate, and was also amended in 1996 to broaden access to electronic information. As noted in the summary, there are certain limitations and exemptions related to national security issues. Under current FOIA law “a representative of the news media” may receive a waiver to collect information through the FOIA without paying a fee.

Possible Conservative Concerns: Some conservatives may be concerned with the increased regulations and reporting requirements placed on the executive branch regarding FOIA requests, and some may consider the amount and nature of these requirements to be onerous and unduly burdensome. Conservatives may also be concerned with the fact that this bill creates a new office at the National Archives.

Committee Action: S. 2488 was introduced in the Senate on December 14, 2007, and was passed by unanimous consent on the same day. On December 17, 2007, the bill was received in the House and referred to the Committee on Oversight and Government Reform, which took no official action.

Administration Policy: No Statement of Administration Policy was available as of press time.

Cost to Taxpayers: A CBO score for S. 2488 was unavailable at press time.

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 was 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*]

RSC Staff Contact: Andy Koenig; andy.koenig@mail.house.gov; 202-226-9717.

H.R. 660—Court Security Improvement Act of 2007 (*Conyers, D-MI*)

Order of Business: H.R. 660 is scheduled for consideration on Tuesday, December 18, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 660 would establish new laws and penalties and authorize \$350 million over five years to improve safety for federal judges, their families, and those who work at federal courthouses. The bill increases penalties for crimes against judges and their family members; increases penalties for crimes against court employees; increases penalties for witness intimidation; and prohibits the possession of dangerous weapons in federal courthouses. The specific provisions of H.R. 660 are summarized below:

- Requires the Director of the U.S. Marshals Service and the U.S. Judicial Conference to continually consult with each other concerning security requirements for the judicial branch in order to insure that the views of both entities are taken into account when determining staffing levels, judicial security priorities, and allocating judicial security resources;
- Establishes a crime for intentionally filing a false lien or encumbrance against the property of a judge, his family, or any court personnel on account of the performance of their duties, punishable by up to 10 years in prison;
- Establishes a crime for knowingly distributing personal information about a judge, his family, or any court personnel with the intent to threaten, intimidate, or incite a crime, punishable by up to five years in prison;
- Bans all “dangerous weapons” from courts (currently, only guns are banned);
- Permits the U.S. Marshal Service to provide security for federal tax courts, which they can only currently do under special circumstances;
- Authorizes \$20 million annually between FY2008 and FY2013 in order for the U.S. Marshal Service to higher new employees for the purposes of providing judicial security, providing protective detail to individuals, and providing secure computer systems;
- Increases the minimum sentence for crimes committed against a witness, victim, or informant in retaliation for their testimony from 20 years to 30 years;
- Increases the minimum sentence for crimes committed against a witness, victim, or informant that caused injury or harm to the person against whom they testified from 10 years to 20 years;
- Increases the minimum sentence for the threat of violence against a witness, victim, or informant from 10 years to 20 years;
- Increases the minimum sentence for the harassment of a witness, victim, or informant from one year to three years;
- Increases the maximum federal penalty for manslaughter (of any victim) from 10 years to 20 years and increases the maximum penalty for involuntary manslaughter from six years to 10 years;
- Increases the federal penalty for assault (of any victim) from anywhere between one year in prison 10 years in prison in a case of simple assault;

- Increases the maximum federal penalty for assault that results in “serious bodily injury” to 15 years and increases the maximum penalty for assault with a deadly weapon to 30 years in prison;
- Authorizes \$20 million in grants annually between FY2008 and FY 2012 for states to assess and change courtroom safety; \$20 million in grants annually between FY2008 and FY 2012 for state, local, and tribal governments to improve their witness protection programs; and \$10 million in grants annually between FY2008 and FY 2012 for fugitive apprehension task forces;
- Requires the U.S. Courts to increase life insurance payments for bankruptcy court and district judges.

Senate Amendment: According to the House Judiciary Committee, the Senate amendment has made the following significant changes to H.R. 660:

- Extends sunset for judicial redaction of financial filings for two years (House version made redaction authority permanent);
- Restricts coverage of State and local law enforcement officers (only when involved in federal task force) to protect against disclosure of personal information on the Internet. (Sec. 202);
- Reduces maximum penalties for voluntary and involuntary manslaughter (Sec. 207);
- Clarifies increase in assault penalties against law enforcement, judges and families of law enforcement and judges (Sec. 208);
- Restricts ability of senior judges to participate in district judicial matters to only those senior judges that work as much as an active judge in a six month period (Sec. 503);
- Transfers one US Court of Appeals for District of Columbia judgeship to Ninth Circuit (Sec. 509);
- Adds in new section requiring DOJ study of collateral consequences to felony convictions (Sec. 510).

Committee Action: On January 24, 2007, H.R. 660 was referred to the Committee on the Judiciary, the Committees on Ways and Means, and the Committee on Oversight and Government Reform. On March 1, 2007, bill was referred to the Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, which held a mark up and ordered the bill reported to the full Committee by voice vote on June 7, 2007. The Judiciary Committee held a mark up and reported the bill, as amended, by voice vote on June 13, 2007. On July 10, 2007 the House passed H.R. 660 under suspension, by voice vote. Today we are voting on H.R. 660, which has returned from the Senate with an amendment.

Cost to Taxpayers: According to CBO, H.R. 660 would authorize \$75 million in FY2008 and \$350 million over the FY2008-FY2012 period.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would increase the penalties for numerous crimes related to judges, their families and court personnel, as well as manslaughter and assault regardless of the victim. H.R. 660 also creates new grant programs for state, local, and tribal governments to increase protection for judicial employees and witnesses.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? According to [House Report 110-218](#), “H.R. 660 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.”

Constitutional Authority: According to [House Report 110-218](#), “the Committee finds the authority for this legislation in article I, section 8 of the Constitution,” but does not cite a specific clause.

RSC Staff Contact: Sarah Makin; sarah.makin@mail.house.gov; 202-226-0718.

S. 863—Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007 (Sessions, R-AL)

Order of Business: S. 863 is scheduled for consideration on Tuesday, December 18, 2007, under a motion to suspend the rules and pass the bill.

Summary: S. 863 would amend the federal criminal code to impose a fine and/or prison sentence if an individual that, with respect to major disaster benefits:

- “falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or
- “makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation.

These standards would apply to a benefit, “transported, transmitted, transferred, disbursed, or paid in connection with a major disaster or emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or in connection with the procurement of property or services by a contractor, subcontractor, or supplier during a major disaster or emergency declaration.”

S. 863 also impose a maximum fine for engaging in wire, radio, television, or mail fraud during a presidentially declared major disaster or emergency.

In addition, S. 863 directs the U.S. Sentencing Commission to:

- “promulgate sentencing guidelines or amend existing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster or emergency declaration; and
- “submit to the House and Senate Judiciary Committees an explanation of its guidelines and additional recommendations for combating such fraud or theft offenses.”

Committee Action: S. 863 was introduced on March 13, 2007, and was referred to the Senate Committee on the Judiciary, which ordered the bill to be reported without amendment on May 22, 2007. On December 4, 2007, the bill passed the Senate without amendment by Unanimous Consent.

Cost to Taxpayers: According to the CBO, “S. 863 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.”

Does the Bill Expand the Size and Scope of the Federal Government? Yes, S. 863 would increase penalties on individuals who knowingly take advantage of benefits granted to them by the federal government during a declared national emergency.

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

Constitutional Authority: A Committee Report citing constitutional authority was 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*]

RSC Staff Contact: Sarah Makin; sarah.makin@mail.house.gov; 202-226-0718.

H.R. 3690—U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007 (*Brady, D-PA*)

Order of Business: H.R. 3690 is scheduled to be considered on Tuesday, December 18, 2007 under a motion to suspend the rules and pass the bill.

Summary: H.R. 3690 would transfer each Library of Congress (LOC) police employee and each LOC civilian employee to U.S. Capitol Police jurisdiction.

H.R. 3690 states that a LOC Police employee shall become a member of the Capitol Police on the employee’s transfer date only if the Chief issues a written certification that

the employee meets specified eligibility requirements. If such requirements are not met, then such employee shall become a civilian employee of the Capitol Police. The bill would also require that the determination for all employees be made before FY 2010. H.R. 3690 exempts LOC Police employees who are transferred to the Capitol Police from federal mandatory separation law.

H.R. 3690 ensures that any “creditable service accrued” by LOC Police employees before being transferred to the Capitol Police jurisdiction be included in calculating the employee’s service for the purpose of the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS).

H.R. 3690 requires that the LOC establish standards and regulations for the physical security, control, and preservation of the Library of Congress collections and property, and for the maintenance of suitable order and decorum within Library of Congress.

In addition, H.R. 3690 amends the Library of Congress Fiscal Operations Improvement Act of 2000 to provide for payment of Capitol Police services provided in connection with relating to Library of Congress Special Events.

Senate Amendment: The Senate amendment makes a technical correction to ensure that the Chief has the ability to enforce necessary probations on individuals who engage in actions which would otherwise constitute a period of probation. (Some Members were concerned that a blanket provision which took away the ability of the Chief to issue probations was too far reaching, and this amendment clarified the Chief’s abilities in that regard).

In addition, the Senate amendment makes one clarifying correction citing a more specific subsection of the code pertaining to retirement, where before the cite referred to a broader section of the code and could have lent itself to misinterpretation.

Committee Action: H.R. 3690 was introduced on September 27, 2007 and was referred to the House Committee on House Administration. On November 7, 2007, the Committee held a mark-up on H.R. 3690 and ordered the bill to be reported, as amended, by voice vote. On December 5, 2007, the House passed H.R. 3690 under suspension by voice vote. Today we are voting on H.R. 3690, which has returned from the Senate with an amendment.

Cost to Taxpayers: According to the CBO, “assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost \$2 million over the FY 2008 – FY 2010 period and less than \$500,000 a year thereafter. We estimate that enacting the bill also would cause small annual increases in both revenues and direct spending, resulting in a net increase in the federal deficit of about \$1 million over the 2008-2017 period.”

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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to [House Report 110-470](#), “Currently, employment-related claims raised by LOC employees (including LOC police officers) are resolved using the same procedures available to Executive-branch agencies, while the Capitol Police employment-related claims are resolved under the procedures established by the CAA. Transfer of employees from an agency subject to one procedure to one using another procedure raises jurisdictional and other issues potentially complicating efficient resolution of claims arising during the transfer period. The bill provides for termination of certain claims filed by Library employees being merged and authorizes their re-filing under the CAA.”

Constitutional Authority: According to House Report, “The Committee cites the legislative power broadly granted to Congress under Article I. Since 1828, the Congress has employed the Capitol Police as one element of its exercise of ‘exclusive jurisdiction over the District constituting seat of Government.’ As an exercise of Congress’ exclusive jurisdiction, H.R. 3690 would implement the merger of the Library of Congress Police into the Capitol Police, expanding the latter’s duties to include jurisdiction over Library facilities in the District of Columbia. The Committee finds this legislation within the Congress’ constitutional power under Article I.”

RSC Staff Contact: Sarah Makin; sarah.makin@mail.house.gov; 202-226-0718.

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