



Legislative Bulletin.....December 7, 2005

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$227 million over five years

Effect on Revenue: unknown

Total Change in Mandatory Spending: \$5 million over five years

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: 2

H.Con.Res. 196 — Honoring the pilots of United States commercial air carriers who volunteer to participate in the Federal flight deck officer program — as reported (Smith, R-FL)

Order of Business: The resolution is scheduled for consideration on Wednesday, December 7, 2005, under a motion to suspend the rules and pass the resolution.

Summary: H.Con.Res. 196 resolves that Congress:

- “recognizes that volunteer pilots in the Federal flight deck officer program are the consummate quiet professionals and embody what is best in our national character;
- “applauds volunteer pilots in the Federal flight deck officer program for taking a stand against those who would seek to harm the United States through acts of terrorism in the air; and
- “expresses appreciation to volunteer pilots in the Federal flight deck officer program on behalf of all citizens of the United States for the ongoing contribution of these pilots to the security of the Nation and its air transportation system.”

The resolution also states “volunteer pilots in the Federal flight deck officer program provide a significant deterrent against potential acts of violence or terrorism in United States airspace, are an essential layer of security for the Nation’s flying public, and are a key factor in restoring confidence in the Nation’s air transportation system.”

Additional Information: The Federal Flight Deck Officer program was established in November, 2002, as part of the Homeland Security Act (H.R. 5005). The program enables pilots of air carriers to volunteer to be trained and deputized as federal law enforcement officers to “defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy.” Participating pilots would be authorized to carry and use firearms in the course of their duties as federal flight deck officers.

The Transportation Security Administration (TSA) provides the training (including firearms training and other training similar to that of federal air marshals), supervision, and equipment necessary for a pilot to be a federal flight deck officer *at no expense to the pilot or the air carrier employing the pilot (emphasis added)*.

For more information on the legislation that established the program, see the RSC Legislative Bulletin on H.R. 5005 (in the 107th Congress): <http://johnshadegg.house.gov/rsc/Lb71002.pdf>.

For more information on the program, visit the TSA website:
http://www.tsa.gov/public/interapp/editorial/editorial_multi_image_with_table_0208.xml.

Committee Action: H.Con.Res. 196 was introduced on June 30, 2005, and referred to the Committee on Homeland Security, 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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H.R. 1721 — To amend the Federal Water Pollution Control Act to reauthorize programs to improve the quality of coastal recreation waters, and for other purposes — as reported (Bishop, D-NY)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7, 2005, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1721 reauthorizes the Federal Water Pollution Control Act (set to expire on September 30, 2005) through FY 2011, at the current authorization level of \$30 million each year. In addition, the legislation extends the authorization of appropriations, currently “such sums as necessary,” for the Beaches Environmental Assessment and Coastal Health Act (also set to expire on September 30, 2005) through FY 2011. According to CBO, funds provided under the Beaches Environmental Assessment and Coastal Health Act generally total \$1 million annually.

Additional Information: The Federal Water Pollution Control Act provides grants to States and local governments to develop and implement programs for monitoring and notification, as well as technical assistance, for coastal recreation waters adjacent to beaches or similar points of access that are used by the public. The Beaches Environmental Assessment and Coastal Health Act directs each state with coastal recreation waters to adopt water quality criteria and standards for its coastal recreation waters of the state for certain pathogens. In addition, the Act established grants to be made to states and local governments for similar purposes as that of the Federal Water Pollution Control Act. According to H. Rep. 109-292, under this Act the Environmental Protection Agency (EPA) continues to develop new water quality standards.

Committee Action: On April 20, 2005, the bill was introduced and referred to the House Committee on Transportation and Infrastructure, which held a mark-up and reported it by voice vote on October 26, 2005.

Cost to Taxpayers: CBO estimates that implementation of this act will cost \$10 million in 2006 and \$121 over five 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: The Committee finds authority in Article I, Section 8, of the United States Constitution. 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. 3963 — To amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound — as reported (Simmons, R-CT)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7, 2005, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3963 reauthorizes appropriations for Long Island Sound under the Federal Water Pollution Control Act (set to expire on September 30, 2005) through FY 2010, at the current authorization level of \$40 million each year.

Additional Information: The EPA maintains an office dedicated to the Long Island Sound — where the Atlantic Ocean meets various rivers between the coast of Connecticut to the north and Long Island to the south. The office was established to assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound. This plan was developed to establish, within the process for granting watershed permits, a system for promoting innovative methodologies and technologies that are cost-effective.

Committee Action: On September 29, 2005, the bill was introduced and referred to the House Committee on Transportation and Infrastructure, which held a mark-up and reported it by voice vote on October 26, 2005.

Cost to Taxpayers: CBO estimates that implementation of this act will cost \$2 million in 2006 and \$106 million over five 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: The Committee finds authority in, Article I, Section 8, of the United States Constitution. 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. 4311 — To amend section 105(b)(3) of the Ethics in Government Act of 1978 — as introduced (Sensenbrenner, R-WI)

Order of Business: The bill is scheduled for consideration on Wednesday, December 7, 2005, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4311 would amend the Ethics in Government Act of 1978 (5 U.S.C. App.) by striking subparagraph (E). Specifically, it amends the section regarding appropriate steps which may

be taken by an individual in the executive, legislative, or judicial branch of the federal government to assure compliance with applicable laws and regulations if review of a mandatory financial disclosure report results in an opinion that the reporting individual is not in compliance.

The bill eliminates the section that allows for voluntary request for transfer, reassignment, limitation of duties, or resignation as one of those appropriate steps (retains divestiture, restitution, establishment of a blind trust, and request for an exemption from specified criminal penalties for certain official acts involving a conflicting personal financial interest).

Additional Information: Under the Ethics in Government Act, federal elected and appointed officials (President, Members of Congress, federal judges, etc.) must file annual financial disclosure reports. In the 105th Congress, the Identity Theft and Assumption Deterrence Act of 1998 was enacted, which allows the Judicial Conference to revise statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. This provision was extended for four years in the 107th Congress. In striking the section relating to this provision in the Act, H.R. 4311 would make it permanent.

For more information on the Ethics in Government Act, visit:

http://www.house.gov/ethics/ETHICS_IN_GOVERNMENT_ACT_LINK_PAGE.htm.

Committee Action: H.R. 4311 was introduced on November 14, 2005, and referred to the Committee on the Judiciary, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 4311 is unavailable, but the bill does not authorize new expenditures.

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 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.R. 1400 — Securing Aircraft Cockpits Against Lasers Act — *as reported*
(Keller, R-FL)

Order of Business: The bill is expected to be considered on Wednesday, December 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1400 would establish a new federal crime by requiring that whoever knowingly aims the beam of a laser pointer at an aircraft or at the flight path of such aircraft is subject to either a fine, or up to five years in prison (or both).

Additional Background: According to the Committee Report (H.Rept. 109-250), the number of FAA reported incidents of an individual aiming a laser beam at an aircraft has increased dramatically (400 times since 1990, and 100 times since November 2004). For instance, on November 9, 2005, David Banach of Parsippany, New Jersey, pled guilty to violating the Patriot Act for shining a laser at aircraft on two separate occasions. The guilty plea was part of an agreement in order for Mr. Banach to avoid jail time, which under the Patriot Act could reach up to 20 years. H.R. 1400 is intended to respond to this threat while providing prosecutors with an alternative to charging individuals under the broader Patriot Act with its more serious consequences. For more background, please see the following news story: <http://www.cnn.com/2005/US/01/04/laser.beam.charges/>.

Committee Action: On March 17, 2005, H.R. 1400 was referred to the House Judiciary Committee, which reported the bill favorably on September 29th by voice vote for consideration by the full House of Representatives.

Cost to Taxpayer: According to CBO, H.R. 1400 would have no significant impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill establishes a new federal crime (see additional background).

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

Constitutional Authority: The Committee finds authority in Article I, Section 8, Clause 3 (the Commerce Clause) of the United States Constitution.

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H. Res. 196 — Recognizing the anniversary of the ratification of the 13th Amendment and encouraging the American people to educate and instill pride and purpose into their communities and to observe the anniversary annually with appropriate programs and activities (*Lee, D-CA*)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7, 2005, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 196 marks the 140th anniversary of the ratification of the 13th Amendment on December 6, 2005, and states that it is resolved, that the House of Representatives:

“(1) recognizes the 140th anniversary of the ratification of the 13th Amendment to the Constitution;

“(2) encourages the American people to educate and instill pride and purpose into their communities about the history of liberation and the civil rights movement in the United States; and

“(3) encourages the American people to observe the anniversary of the ratification of the 13th Amendment each year by honoring its significance in United States history with appropriate programs and activities.”

Additional Information: On December 6, 1865, the 13th Amendment to the Constitution was ratified, proclaiming that:

“Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

“Section 2. Congress shall have power to enforce this article by appropriate legislation.”

According to the resolution’s findings, “the ratification of the 13th Amendment began a civil rights movement which would radically change African American existence in the United States [and] represented a victory for African Americans across the United States, who had been denied the rights of full citizens.” Additionally, the findings note that “the 13th Amendment is a symbol of the Federal Government’s commitment to fulfill its promise of equality, liberty, and the American dream for all Americans because it liberated African Americans from the yoke of slavery and launched a new age activism advocating equal rights for all minorities.”

Committee Action: On April 6, 2005, the bill was introduced and referred to the Committee on the Judiciary, which took no official action.

Cost to Taxpayers: None

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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H.R. 4096—Stealth Tax Relief Act (Reynolds, R-NY)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4096 would extend to 2006 the alternative minimum tax (AMT) relief available to single and married-joint filers in 2005 and to index such relief for inflation in 2006 and thereafter.

Without legislative action this month, the exemption for the AMT will automatically decrease on January 1, 2006, from \$40,250 to \$33,750 for single filers and from \$58,000 to \$45,000 for married couples filing jointly.

Additional Background: The AMT, as the IRS describes, “is a separate tax computation that, in effect, eliminates many deductions and credits and creates a tax liability for an individual who would otherwise pay little or no tax.” The controversy about the AMT has arisen because, as incomes rise yet the triggers for the AMT remain fixed, more and more people have been affected by the AMT (thus forcing them to pay higher taxes). For more on the AMT, visit this webpage:
<http://www.irs.gov/newsroom/article/0,,id=107843,00.html>

Committee Action: On October 20, 2005, the bill was referred to the Ways & Means Committee, which took no official action on the bill.

Cost to Taxpayers: A revenue estimate for this bill is unavailable. The bill will result in lower tax bills for thousands of taxpayers.

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: Although a committee report for this bill is unavailable, Article I, Section 8, Clause 1 of the Constitution gives Congress the power to “lay and collect Taxes.” Additionally, the 16th Amendment give Congress the power to “lay and collect taxes on incomes, from whatever source derived.”

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H.R. 4388—Tax Revision Act of 2005 (Thomas, R-CA)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4388 would extend through the end of 2006 certain expiring tax provisions, as follows:

- the option of including combat pay as earned income for the purposes of the earned income tax credit;
- the increased payment of distilled spirit excise tax revenues to the Treasuries of Puerto Rico and the Virgin Islands;
- the authority for the IRS to conduct certain undercover investigative operations; and
- the authority for the disclosure of certain tax return information for combined employment tax reporting, for combating terrorist activities, and for student loan repayment.

The bill would also allow the tax deduction for income attributable to domestic production activities for taxpayers who get income from Puerto Rico (through the end of 2006).

Committee Action: On November 18, 2005, the bill was referred to the Ways & Means Committee, which took no official action on the bill.

Cost to Taxpayers: A revenue estimate for this bill is unavailable.

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 unavailable.

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H.R 327 – Clarifies current law to allow for binding arbitration clauses to be included in contracts affecting land within the Gil River Indian Community Reservation (*Grijalva, D-AZ*)

Order of Business: The bill is expected to be considered on Wednesday, December 7th, under a motion to suspend the rules and pass the bill. It was included as a provision in H.R. 3351 which passed the House of Representatives on November 16th by voice vote.

Summary: H.R. 327 would clarify current law to allow for binding arbitration clauses to be included in all contracts affecting land within the Gil River Indian Community Reservation.

Additional Background: According to the bill's sponsor: "The provision...amends a statute from 1955, allowing, but not requiring, the inclusion of binding arbitration clauses in contracts that affect lands within the Community. The provision will help spur the Gila River Indian Community's economy by attracting and promoting non-Indian business within Gila River Indian Community lands. The bill assures non-Indian investors that contracts entered into on the reservation will be enforceable."

Committee Action: On January 25, 2005, H.R 327 was referred to the Resources Committee, which took no further official action on the bill. However, the Committee included its text as a provision in H.R. 3351.

Cost to Taxpayer: A CBO score is not available, but H.R. 327 is not expected to impact the federal budget.

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 unavailable.

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H.R. 4340—United States Bahrain Free Trade Agreement Implementation Act (Blunt, R-MO)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7th, subject to a closed rule (H.Res. 583). Under Trade Promotion Authority (Public Law 107-210), bills implementing trade agreements are not amendable (either in committee or on the House floor).

Summary by Title: H.R. 4340 would approve and implement the United States-Bahrain Free Trade Agreement, finalized on September 14, 2004, and submitted to Congress on November 16, 2005. Pending compliance by Bahrain with certain measures in the Agreement, the Agreement would take effect on or after January 1, 2006. The Agreement would reduce and eventually eliminate (over ten years) virtually all barriers to trade in goods and services and to investment. Goods originating from Bahrain would have preferential tariff treatment in the United States and vice versa. On the day this Agreement goes into effect, 100% of consumer and industrial products and 81% of U.S. agricultural exports could enter Bahrain duty-free.

According to the United States Trade Representative (USTR), our primary imports from Bahrain include apparel, aluminum, fertilizers, organic chemicals, mineral fuels and oils, plastics, and electrical machinery (valued at \$406 million in 2004). Our primary exports to Bahrain include aircraft, machinery, vehicles, pharmaceutical products, toys, games, and sports equipment, poultry, snack foods, cotton, and processed fruit and vegetables. Two-way trade, the USTR reports, was about \$900 million in 2003. Two-way foreign direct investment is about \$195 million.

Highlights of H.R. 4340 are as follows:

Title I—Approval of, and General Provisions Relating to, the Agreement

- Makes U.S. law paramount to any provision in the Agreement that conflicts with U.S. law. States that the Agreement would not modify or limit the authority under any U.S. law.
- A state law that conflicts with any provision in the Agreement could only be declared invalid in an action brought by the United States Government.
- Prevents private legal actions against any provision of the Agreement.
- Provides for 15-day and 60-day layover procedures for certain actions made by presidential proclamation under the Agreement.
- Authorizes “such sums” as may be necessary for the President to establish an office within the Department of Commerce to administer the Agreement.
- Terminates the applicability of this implementing legislation (other than this provision) on the date on which the Agreement might terminate.

Title II—Customs Provisions

- Allows the President to modify any tariffs or tariff-free treatment in the Agreement and to create additional tariffs as necessary (subject to certain limitations).
- Terminates Bahrain’s status as a beneficiary developing country for trade purposes.
- Defines in detail what an “originating good” is (originating from either the United States or from Bahrain) and what “originating materials” and “nonoriginating materials” are, as they relate to preferential tariff treatment under the Agreement.
- Excludes packing materials and shipping containers when determining whether a good is an “originating good.”
- Originating goods would be disqualified as so if they undergo further production or any other operation (other than unloading, reloading, or essential preservation operations) outside Bahrain or the U.S.
- Disregards “indirect materials” (materials used in the production, testing, inspection, maintenance, and operation of the good—but not physically incorporated into the good) for the purposes of determining an “originating good.”
- Allows for certain textiles or apparel goods to be considered an “originating good,” as long as the total weight of all nonoriginating fibers in such good does not exceed 7% of its total weight (10% of value for textile or apparel goods in sets for retail sale).
- Authorizes the President to proclaim modifications to the Agreement (subject to layover and other requirements).
- Exempts products covered by this trade agreement from customs user fees.
- Authorizes the President to take certain actions while a verification of the originating status of a textile or apparel good is taking place. Such actions include suspending preferential tariff treatment to the textile or apparel good for which a claim of origin has been made or, in a case where the request for verification was based on a reasonable suspicion of unlawful activity related to such goods, for textile or apparel goods exported or produced by the person subject to a verification. Other available actions would be the detention of applicable goods or the denial of entry into the U.S. of such goods.

Title III—Relief from Imports

- Authorizes the filing (with the U.S. International Trade Commission) by an entity, including a trade association, firm, certified or recognized union, or group of representative workers, of a petition requesting adjustment to the obligations of the United States under the Agreement (and asking for provisional relief). The Commission would then have to investigate whether “a substantial cause of serious injury or threat thereof to [a] domestic industry” is occurring as a result of the U.S.-Bahrain Free Trade Agreement (subject to certain exceptions).
- If the Commission finds injury or threat of injury, it would then have to recommend the amount of import relief necessary to correct or prevent harm. Further, the Commission would have to

facilitate the efforts of the domestic industry to make a “positive adjustment to import competition.”

- The President would not *have* to provide the suggested import relief, if doing so would have greater economic and social costs than benefits.
- Import relief could entail increasing duties or suspending their reductions and would have to occur progressively in intervals if the relief is to last more than one year.
- Import relief could not last more than three years.
- No import relief could be provided for a good that has been given duty-free treatment under the Agreement, and no import relief could be provided ten years after the Agreement enters into force (subject to exception).
- Prohibits the President from releasing information that is submitted in an import relief proceeding and that the President considers to be confidential business information, unless the party submitting the confidential business information had notice at the time of submission that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits such confidential business information to the President, the party would have to submit a non-confidential version of the information in which the confidential business information is summarized or, if necessary, deleted.
- Enacts similar, yet more stringent, provisions as above for import relief for the textile and apparel industries.

Title IV—Procurement

- Makes Bahraini products and services eligible for federal government procurement (assuming the Agreement enters into force by July 2, 2006).

Additional Background: To read a summary of the U.S.-Bahrain Free Trade Agreement, visit this webpage:

http://www.ustr.gov/Document_Library/Press_Releases/2004/September/United_States_Bahrain_Sign_Free_Trade_Agreement.html

To read the actual text of the Agreement, visit this webpage:

http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/final_texts/Section_Index.html

For other supporting documents, visit this webpage:

http://www.ustr.gov/Trade_Agreements/Bilateral/Bahrain_FTA/Section_Index.html

The Ways & Means Committee reports that:

Bahrain has long been a committed ally of the United States, hosting a US. naval presence going back to World War II. Bahrain currently hosts the US. Fifth Fleet, which is the headquarters for U.S. naval operations in the Persian Gulf, with a constant presence of approximately 1,200 naval personnel over more than a 60 acre area. The United States and Bahrain signed an agreement in 1991 granting US. access to Bahrain's facilities and ensuring

the right to pre-position materials to respond to any crises in the region. In October 2001, Bahrain was designated a Major Non-NATO Ally (MNA) of the United States.

Notes:

- The U.S. Trade Representative has informed Congress that Bahrain has ended its boycott of Israel.
- The 9-11 Commission specifically recommended that the U.S. implement a free trade agreement with Bahrain, as a way to discourage terrorism in the Middle East as a whole.

Committee Action: On September 29, 2005, the Ways and Means Committee held a hearing on the United States-Bahrain Free Trade Agreement. On November 1, 2005, the committee considered, in an informal markup session, draft legislation to implement the Agreement and approved it by a recorded vote of 23 yeas to 0 nays with 15 Members voting present, without amendment (amendments are not allowed under Trade Promotion Authority).

Administration Position: Since the Administration negotiated the Agreement, it is strongly supporting this congressional implementing legislation.

Cost to Taxpayers: CBO reports that implementing the U.S.-Bahrain Free Trade Agreement would reduce revenues by \$20 million in FY2006 and a total of \$144 million over the FY2006-2010 period. Additionally, the bill would increase mandatory spending by \$1 million in FY2006 and a total of \$5 million over the FY2006-2010 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No. This legislation would implement the U.S.-Bahrain Free Trade Agreement, which would lower and eliminate tariffs (and other barriers to trade) between the two countries, thereby reducing government involvement in the free market.

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

Constitutional Authority: The Ways & Means Committee, in House Report 109-318, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to lay and collect taxes, duties, imposts and excises).

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