



Legislative Bulletin.....June 2, 2004

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Summary of the Bills Under Consideration Today:

Year to Date figures do not yet include DOD Authorization Bill.

Total Number of New Government Programs: 1

Year to Date Prior to Today’s Bills: 17

Total Cost of Discretionary Authorizations: \$2.558 billion over 5 years

Year to Date Prior to Today’s Bills: At least \$205.65 billion[#] over five years

Total Amount of Revenue Reductions: \$0

Year to Date Prior to Today’s Bills: \$96 billion over five years

Total Change in Mandatory Spending: \$0

Year to Date Prior to Today’s Bills: \$9.9 billion over five years

Total New State & Local Government Mandates: 0

Year to Date Prior to Today’s Bills: 15[#]

Total New Private Sector Mandates: 1

Year to Date Prior to Today’s Bills: 12

[#] This figure does not include H.R. 3873, the Child Nutrition Improvement and Integrity Act.

H.R. 4409—To reauthorize title II of the Higher Education Act of 1965 (Gingrey)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2nd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4409 reauthorizes Title II of the Higher Education Act (HEA), which includes teacher training programs and other teacher quality provisions. The bill makes changes to two current grant programs (Part A, Teacher Quality Enhancement Grants for States and Partnerships and Part B, Preparing Tomorrow's Teachers to Use Technology) and creates a new Part C, Centers of Excellence.

Part A, Teacher Quality Enhancement Grants:

- Authorizes competitive grants to: 1) increase student academic achievement; 2) improve teacher quality through improved teacher preparation and professional development; 3) increase accountability for teacher preparation programs; and 4) recruit highly qualified teachers.
- Reserves 45 percent of funds for state grants (same as current law). Funds could be used for a variety of activities, including reforming teacher preparation programs, reforming teacher certification requirements, providing alternative teacher certification, merit pay for teachers, innovative programs, and teacher recruitment and retention activities. Includes a new requirement for states receiving a grant to annually evaluate the effectiveness of teacher preparation programs and professional development activities and to make that information publicly available.
- Reserves 45 percent of funds for partnership grants (same as current law). Eligible partnerships must include a high quality teacher preparation program at a higher education institution, a school of arts and sciences, and a high-need local education agency, as in current law, but H.R. 4409 also adds a public or private educational organization as a required partner. At least 50 percent of the partnership funds must directly benefit the local educational agency in the partnership. Required uses of funds include one or more of the following: reforming teacher preparation programs, providing preservice and in-service clinical experiences for teachers, and professional development and preparation (the latter being a new addition to current law). The bill also lists a variety of allowable uses of funds.
- Reserves 10 percent of funds for teacher recruitment grants (same as current law). Eligible applicants include states or partnerships, with preference given to applicants who assure they will recruit a high percentage of minority students. Funds must be used to award scholarships to students for tuition, room, board, or other expenses related to completion of an undergraduate teacher preparation program at a higher education institution and provide support services or to develop and implement mechanisms to assist high-need local educational agencies and schools in recruiting highly qualified teachers. Recipients of scholarships would be required to teach in a high-need school district for one year plus the time period of the scholarship or to repay the scholarship after completing the teacher preparation program.
- Makes some changes to current law reporting requirements, including requiring institutional report cards to include a comparison of student pass rates and average

scores to other institutions in the state and requiring the Governor of a state to attest to the reliability of the data reported to the Secretary of Education.

- **Authorizes \$300 million for FY 2004 and “such sums” for subsequent years (same as current law). These programs received \$88.9 million in FY04 and the Administration’s FY05 request is \$88.9 million.**

Part B, Preparing Tomorrow’s Teachers to Use Technology:

- Adds as an allowable use of funds developing programs that help teachers “use technology to collect, manage, and analyze data to improve teaching, learning, and decisionmaking for the purpose of increasing student academic achievement.”
- **Extends the authorization of “such sums” through fiscal year 2008 (the program received no funding in FY04 and the President has not requested funding in his FY05 budget).**

Part C, Centers of Excellence:

- Creates a new grant program for the creation of “Centers of Excellence” at minority-serving institutions (Historically Black Colleges and Universities, Hispanic-Serving Institutions, etc.).
- Grants must be used for one or more of the following: reforming teacher preparation programs, preservice clinical experience and mentoring of prospective teachers, teacher and principal retention, awarding scholarships to students in teacher preparation programs, disseminating effective teacher preparation practices and teacher certification test preparation strategies, or other activities authorized under Part A and Part B.
- Establishes a minimum grant amount of \$500,000 and limits administrative expenses to 2 percent of the grant funds.
- Authorizes appropriations of \$10 million for FY04 and “such sums” for each of the four succeeding fiscal years.

Additional Background: The House passed a bill virtually identical to H.R. 4409, H.R. 2211, on July 9, 2003, by a vote of 404-17 (<http://clerk.house.gov/evs/2003/roll340.xml>). Those voting no on the bill included several RSC members. The Senate has not taken action on the bill.

Committee Action: No committee action was taken on H.R. 4409.

Cost to Taxpayers: While an estimate of H.R. 4409 is not available, CBO estimated that identical legislation, H.R. 2211, authorized about \$1.8 billion over the 2004-2008 period and that appropriation of the authorized levels would result in additional outlays of \$1.3 billion over the 2004-2008 period.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates a new Centers of Excellence Program.

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

Constitutional Authority: While a committee report for H.R. 4409 is not available, the report for H.R. 2211 (House Report 108-183) cited Article I, Section 8, Clause 1 (“general welfare”).

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H.R. 4411—To amend title VII of the Higher Education Act of 1965 to ensure graduate opportunities in postsecondary education (Burns)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2nd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4411 reauthorizes (through fiscal year 2009) various graduate education programs that are a part of Title VII of the Higher Education Act, including the Jacob Javits Fellowship program, the Graduate Assistance in the Areas of National Need (GAANN) program, the Thurgood Marshall Legal Educational Opportunity program, the Fund for the Improvement of Postsecondary Education (FIPSE), and the Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education. The authorization for these programs currently expires at the end of fiscal year 2004.

Program descriptions:

- Jacob Javits Fellowships -- provides fellowships (covering tuition, living expenses, etc.) to students pursuing advanced degrees.
- GAANN -- awards three-year grants to postsecondary institutions to support graduate students who are studying in areas of national need.
- Thurgood Marshall -- provides information regarding law school to minority, low-income, or disadvantaged students.
- FIPSE -- includes two major grant programs: a comprehensive program supporting activities that address practices in postsecondary education and the international consortia program that encourages student and faculty exchanges among postsecondary institutions.
- Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education -- funds demonstration programs to improve postsecondary education for students with disabilities.

Significant changes to these programs included in H.R. 4411 are as follows:

- Allows military personnel to interrupt Javits Fellowship study due to active military service or a personal or family member illness;
- Requires that at least one member of the Javits Fellowship board be a representative of a minority serving institution and that other board members be from geographically diverse regions;

- Establishes a priority within the GAANN program for institutions that prepare math, science, and special education faculty who will in turn train teachers for service in elementary and secondary schools. Also authorizes the Secretary of Education to provide priority for graduate study grants to institutions with special education and English language acquisition teacher preparation programs;
- Adds an emphasis on “analytical skills and study methods” in the Thurgood Marshall program;
- Encourages FIPSE funding of programs that provide opportunities for non-traditional students;
- Adds to “Areas of National Need” to receive FIPSE Special Projects funding international partnerships with foreign educational institutions, programs that teach traditional American history, and activities that enable institutions to work with private and civic organizations;
- Repeals the Urban Community Service program (has not been funded since fiscal year 1999); and
- Increases emphasis under the Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education program on the transition of students from high school to postsecondary education.

Authorization levels are as follows:

- Javits Fellowship program -- \$30 million for fiscal year 2004 and such sums for the following five years (current law: \$30 million)
- GAANN program -- \$35 million for fiscal year 2004 and such sums for the following five years (current law: \$35 million)
- Thurgood Marshall program -- \$5 million for fiscal year 2004 and such sums for the following five years (current law: \$5 million)
- FIPSE -- \$40 million for fiscal year 2004 and such sums for the following five years (current law: \$30 million)
- Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education program -- \$10 million for fiscal year 2004 and such sums for the following five years (current law: \$30 million)

Additional Background: The House passed a bill virtually identical to H.R. 4411, H.R. 3076, on October 21, 2003, by voice vote. The Senate has not taken action on the bill.

Committee Action: No committee action was taken on the bill.

Cost to Taxpayers: While an estimate of H.R. 4411 is not available, CBO estimated that identical legislation, H.R. 3076, authorized appropriations of \$758 million over the 2004-2009 period. CBO estimates that appropriations at the estimated levels would result in outlays of \$585 million over the 2004-2009 period.

Does the Bill Create New Federal Programs or Rules?: No.

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

Constitutional Authority: While a committee report for H.R. 4411 is not available, the report for H.R. 3076 (House Report 108-307) cited Article I, Section 8, Clause 1 (“general welfare”).

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H.R. 3908—To provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio (Ryan)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2nd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3908 would convey, without charge or consideration, to Portage County, Ohio, all right, title, and interest of the United States (including all Federal equity) in and to the parcel of real property located at 1081 West Main Street in Ravenna, Ohio.

Additional Background: The property to be conveyed is currently the location of the Ohio Department of Job and Family Services.

Committee Action: No committee action was taken on the bill.

Cost to Taxpayers: A cost estimate is not available.

Does the Bill Create New Federal Programs or Rules?: 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.

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H.Con.Res. 413—Honoring the contributions of the women, symbolized by “Rosie the Riveter,” who served on the homefront during World War II (Capito)

Order of Business: The resolution is scheduled for consideration on Wednesday, June 2nd, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 413 resolves that Congress:

(1) honors the extraordinary contributions of the women whose dedicated service on the homefront during World War II was instrumental in achieving an Allied victory; (2) recognizes the lasting legacy of equal employment opportunity and support for child care and health care that developed during the ‘Rosie the Riveter’ era; and (3) calls on the people of the United States to take the opportunity to study, reflect on, and celebrate the stories and accomplishments of women who served the Nation as ‘Rosies’ during World War II.

Additional Background: According to the findings of the resolution, “during World War II, 6,000,000 women stepped forward to work in homefront industries to produce the ships, planes, tanks, trucks, guns, and ammunition that were crucial to achieving an Allied victory.” The resolution goes on to note “the needs of working mothers resulted in the creation of child care programs, leading to the lasting legacy of public acceptance of early child development and care outside the home” and “the needs of women on the homefront led to employer-sponsored prepaid and preventative health care never before seen in the United States.”

Committee Action: No committee action was taken on the resolution.

Cost to Taxpayers: The resolution does not authorize any expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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

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H.Res. 655—Condemning the crackdown on democracy protestors in Tiananmen Square, Beijing, in the People’s Republic of China on the 15th anniversary of that tragic massacre (Cox)

Order of Business: The resolution is scheduled for consideration on Wednesday, June 2nd, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 655 resolves that the House:

“(1) expresses sympathy to the families of those killed, tortured, and imprisoned as a result of their participation in the democracy protests of 1989, and to all those who have suffered for their efforts to keep that struggle alive during the past 15 years, and to all the people of China who lack fundamental human rights;

“(2) commends all persons who are peacefully advocating for democracy and human rights in China;

“(3) calls upon people of all countries who are preparing for the 2008 Olympic Games in Beijing to publicly and privately advocate freedom in China, including insisting on China's full compliance with the United Nations Universal Declaration of Human

Rights, before any Olympic athlete travels to China and throughout the conduct of the Olympic Games;

“(4) calls upon the Communist government of the People's Republic of China, its National People's Congress, and any other groups appointed by the Communist government of the People's Republic of China to honor its pledge of a "high degree of autonomy" made at the time of the Hong Kong reversion in 1997, by permitting immediate elections for the Legislative Council of Hong Kong according to rules approved by the Hong Kong people through an election-law convention, referendum, or both, and by leaving all revisions of Hong Kong law to a legislature elected by universal suffrage; and

“(5) condemns the ongoing and egregious human rights abuses by the Communist government of the People's Republic of China and calls on that government to--

“(A) reevaluate the official verdict on the June 4, 1989, Tiananmen pro-democracy activities and order formal investigations into the reported killing, torture, and imprisonment of democracy activists with the goal of bringing those responsible to justice;

“(B) establish a June Fourth Investigation Committee, the proceedings and findings of which should be accessible to the public, to make a just and independent inquiry into all matters related to

June 4, 1989;

“(C) release all prisoners of conscience, including those still in prison as a result of their participation in the peaceful pro-democracy protests of 1989, provide just compensation to the families of those killed in those protests, and allow those exiled on account of their activities in 1989 to return and live in freedom in China; and

“(D) release Dr. Yang Jianli, an organizer of the Tiananmen Square protests of 1989, who has been illegally detained incommunicado by the Communist government of the People's Republic of China since April 26, 2002, and whose wife and two children are United States citizens, and put an immediate end to the harassment, detention, and imprisonment of all Chinese citizens exercising their legitimate freedoms of expression, association, and religion.”

Additional Background: On June 3 and 4, 1989, the Chinese government cracked down on student protests in support of a democratic government that had been taking place in Tiananmen Square, Beijing. This crackdown included the use of lethal force and the arrests of thousands of dissidents. According to the resolution, “the report of the Chinese Red Cross on June 7, 1989, and the U.S. State Department Country Reports on Human Rights Practices for 1989, gave various estimates of the numbers of people killed and wounded in 1989 by the People's Liberation Army soldiers and other security forces, but agreed that hundreds, if not thousands, of people were killed and thousands more were wounded” and “20,000 people nationwide suspected of taking part in the democracy movement were arrested and sentenced without trial to prison or reeducation through labor, and many were reportedly tortured.”

The resolution goes on state “the Communist government of the People's Republic of China continues to suppress dissent by imprisoning pro-democracy activists, journalists, labor union leaders, religious believers, and other individuals in China and Tibet who seek to express their political or religious views in a peaceful manner.”

Committee Action: No committee action was taken on the resolution.

Cost to Taxpayers: The resolution does not authorize any expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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

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H.R. 4109—Simple Tax for Seniors Act (Burns)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2, 2004, under a motion to suspend the rules and pass the bill.

Summary: The bill creates a new Internal Revenue Service tax form called the 1040SR, similar to the 1040EZ for taxpayers 62 years and older. An eligible senior is authorized to use the new 1040SR form despite his or her (1) receipt of any Social Security benefit or any distribution from a retirement plan, (2) taxable interest income, (3) taxable income.

Additional Information: According to the bill's findings, more than 35 million individuals are prohibited from using Form 1040EZ to file their income tax returns simply because they are age 62 or older. The IRS reports that each year seniors file more than 11 million tax returns claiming only the standard deduction. Because some tax returns are joint returns, standard-deduction returns represent close to 15 million seniors. The IRS reports that processing a Form 1040 costs the Government 50 percent more than processing a Form 1040EZ.

Committee Action: The bill was introduced on April 1, 2004, and referred to the House Committee on Ways and Means, though the Committee did not consider the resolution.

Cost to Taxpayers: A CBO cost estimate is unavailable.

Does the Bill Create New Federal Programs or Rules?: 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. 1086—Standards Development Organization Advancement Act of 2003 (Sensenbrenner)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2, 2004, under a motion to suspend the rules and pass the bill.

NOTE: On June 10, 2003, the House first considered and passed by voice vote H.R. 1086. The Senate considered the bill and passed an amended version on April 2, 2004, by voice vote. The House today is considering the Senate-passed version, which adds a completely new Title II.

Summary: H.R. 1086 amends the National Cooperative Research Act (NCRA) to provide standards development organizations (SDOs) certain protection from antitrust laws (protection currently given under NCRA to those carrying out a joint venture). An SDO is defined in the bill as an organization “that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus.” The definition does not include the parties participating in the standards development organization.

Specifically, H.R. 1086 would:

Title I:

- Extend application of the “rule of reason” (a reasonableness test that balances the procompetitive effects against the anti-competitive effects of alleged antitrust misconduct to determine if a violation of antitrust laws has occurred) to standards development activity;
- Limit recovery of antitrust damages against SDOs if the nature and scope of the standards development activity is pre-disclosed to the proper antitrust authorities (see also the fourth bullet point below). SDOs would still be liable for treble damages (damages three times the actual damages) if they did not file a pre-disclosure notice;
- Include SDOs in the existing framework for the awarding of “reasonable attorneys’ fees” to the substantially prevailing party in a lawsuit; and
- Require SDOs to file a written notification disclosing standards development activity to the Department of Justice and the Federal Trade Commission within 90 days of commencing such activity. The bill stipulates that the decision of an SDO not to file a notification will not create a negative inference that the organization engaged in anticompetitive conduct.

Title II:

- The Senate added Title II “Antitrust Criminal Penalty Enhancement and Reform Act of 2003.” This Title limits recovery on civil actions alleging a violation of the Sherman Act, or similar state law, to not exceed actual damages sustained by the claimant, which is attributable to the commerce done by the applicant in the goods or services affected by the violation. The bill lays out specific requirements for those antitrust applicants and cooperating individuals to whom these recovery limits apply.

Title II includes a provision that nothing “shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney’s fee, and interest on damages, to the extent that such recovery is authorized by such sections.”

- The bill stipulates that these modifications shall not be construed to affect the rights of the Justice Department’s Antitrust Division, create any rights to challenge any Antitrust Division decision, or affect the joint and several liability of any party detailed in the bill, other than the antitrust leniency applicant and cooperating individuals.
- The bill amends 5 U.S.C. 1, to raise the penalties for monopolies and combinations in restraint in trade from the current fine of \$10 million to \$100 million for a corporation, from \$350,000 to \$1 million for an individual, and raises the imprisonment period from not exceeding three years to not exceeding 10 years.
- There is also a provision added by the Senate, which contains findings on the Tunney Act, a clarification of Congressional intent, and an amendment to that Act to authorize the district court to find an alternative method of public dissemination if the printing in the Federal Register is cost prohibitive [Note: this provision seems to address the Microsoft anti-trust public comment process, which resulted in the largest ever volume of the Federal Register at a large cost to the taxpayer.]
- This Title sunsets in five years, except for an applicant who has entered an antitrust leniency agreement before the sunset date.

Committee Action: H.R. 1086 was referred to the Judiciary Committee on March 3 and reported by voice vote on May 7. On June 10, 2003, the House passed the bill by voice vote. The Senate considered the bill and passed an amended version on April 2, 2004, by voice vote.

Cost to Taxpayers: There is no CBO cost estimate for the Senate passed version of H.R. 1086, but CBO estimated that the earlier House-passed version would have no significant cost.

Does the Bill Create New Federal Programs or Rules?: The bill provides SDOs with certain protections from antitrust laws. And creates new antitrust enforcement mechanisms and cooperation incentives.

Constitutional Authority: The Judiciary Committee, in House Report 108-125, cites Article I, Section 8 (Powers of Congress), but fails to cite a specific clause.

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H.R. 3866 - Anabolic Steroid Control Act of 2004 (Sensenbrenner)

Order of Business: The bill is scheduled for consideration on Wednesday, June 2, 2004, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3866 would expand the list of anabolic steroids regulated by the Drug Enforcement Administration (DEA) to include about two dozen new substances. The bill would increase the maximum penalties, including imprisonment and fines, for the possession or distribution of steroids within 1,000 feet of a sports facility. Under H.R. 3866, the term “anabolic steroid” is defined as “any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone),” including a long list of specific drug names. The bill also requires the Secretary of HHS to prepare a report “evaluating the health risks associated with dietary supplements not scheduled under the amendments made by this Act which contain substances similar to those added to the list of controlled substances under those amendments. The report shall include recommendations on whether such substances should be regulated as anabolic steroids.”

Committee Action: The bill was introduced on March 1, 2004, and jointly referred to the House Committee on Judiciary and the House Energy and Commerce Committee. Both Committees considered the bill, and amended it, and reported it to the House floor.

Cost to Taxpayers: CBO estimates that implementing H.R. 3866 would cost less than \$500,000 annually from appropriated funds for the Department of Health and Human Services to prepare a report on the health risks associated with certain dietary supplements. Based on information from the DEA, CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant because of the relatively small number of additional cases likely to be involved. Because those prosecuted and convicted under H.R. 3866 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted, and all fines will be deposited in the Crime Victims Fund.

Does the Bill Create New Federal Programs or Rules?: No. The bill adds to the list of anabolic steroids regulated by the DEA.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. H.R. 3866 would impose a private-sector mandate, by adding about two dozen new substances to the list of anabolic steroid controlled substances. Under the bill, manufacturing and distributing of those substances would be regulated by the Controlled Substances Act. The direct cost of the mandate would be the amount manufacturers and distributors would incur to comply with the laws and regulations for registration and distribution of a controlled substance. Based on information from government sources, CBO expects that the direct cost of the mandate would fall below the annual \$120 million threshold established by UMRA for private-sector mandates.

Constitutional Authority: The Judiciary Committee, in Report 108-461 finds authority under Article I, Section 8 (Powers of Congress), but fails to cite a specific clause.

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H.J.Res. 83—Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives (*Baird*)

Order of Business: The joint resolution is scheduled for consideration on Wednesday, June 2nd, subject to a closed rule. The rule provides for one motion to recommit.

Summary: H.J.Res. 83 proposes an amendment to the Constitution that would provide for an appointment process when Members of Congress die or are incapacitated. Specifically, the bill:

- Requires an elected Member of the House, before taking the oath of office, to present to the chief executive of the State a list of at least two nominees to replace him or her in the event the Member dies or becomes incapacitated. The nominee must meet the qualifications for service in the House. The Member may present a revised list at any time.
- Allows the chief executive of a State to appoint a new Member of the House if the current Member dies or becomes incapacitated if the majority of the whole membership of the House is unable to carry out its duties due to death or incapacity, or if the House adopts a resolution declaring that extraordinary circumstances exist which threaten the ability of the House to represent the interests of the people of the United States. The appointee must come from the most recent list of nominees provided by the Member and must take place no later than seven days after the Member's death or incapacity has been certified. The appointee would serve until the Member regains capacity or until another Member is elected to fill the vacancy. Any election to fill a vacancy would take place in accordance with state law.
- Gives Congress the authority to establish the criteria by law (rather than by House rules) for determining whether a Member is dead or incapacitated.

Any appointed Member would be treated as a full Member of the House of Representatives. However, the appointed Member would not have the ability to draft a list of replacement nominees. If the appointed Member dies or becomes incapacitated, the chief executive of the State would again appoint a new Member from the list developed by the elected Member.

Additional Background: The House passed H.R. 2844, the Continuity in Representation Act, on April 22, 2004, by a vote of 306-97 (<http://clerk.house.gov/evs/2004/roll130.xml>). This bill provided a process for expedited special elections in “extraordinary circumstances.” To see the RSC legislative bulletin on H.R. 2844 click here: <http://johnshadegg.house.gov/rsc/LB%2004-22-04.pdf>

As a constitutional amendment, H.J.Res. 83 would have to be ratified by the legislatures of three-fourths of the states within 7 years to become effective.

Committee Action: The Judiciary Committee **adversely** reported H.J.Res. 83 to the full House by a vote of 17-12. In the committee report, the Judiciary Committee noted that it “rejects the notion of an appointed House.”

Possible Conservative Concerns: Conservatives may have concerns that H.J.Res. 83 violates the constitutional right of individuals to have elected representation in the House of the Representatives, as provided under Article I, which states that “The House of Representatives shall be composed of Members chosen...by the People of the several States...When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue writs of Election to fill such Vacancies.”

Cost to Taxpayers: The Congressional Budget Office estimates that any costs of H.J.Res. 83 (which would only occur if the amendment was ratified by the required number of states) would be minimal.

Does the Bill Create New Federal Programs or Rules?: The bill creates a new Constitutional process for the appointment of Members of the House of Representatives.

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

Constitutional Authority: The Judiciary Committee, in House Report 108-503, cites Article V, which provides Congress the authority to amend the Constitution.

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