



**Legislative Bulletin.....September 15, 2005**

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**Summary of the Bills Under Consideration Today:**

**Total Number of New Government Programs:** 4

**Total Cost of Discretionary Authorizations:** \$7.7 billion in FY2006

**Effect on Revenue:** Presently unavailable

**Total Change in Mandatory Spending:** \$200,000 decrease annually

**Total New State & Local Government Mandates:** 1

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 1

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

**H.R. 3768—Katrina Emergency Tax Relief Act (McCrery)**

**Order of Business:** The bill is scheduled to be considered today, subject to H.Res. 440, which allows for the consideration of H.R. 3768 on Thursday, September 15, 2005, under a motion to suspend the rules and pass the bill. Normally, suspensions are only allowed on Mondays, Tuesdays, and Wednesdays. Note: H.Res. 440 also provides for the consideration of H.R. 889--the Coast Guard authorization bill.

**Summary:** The main provisions of H.R. 3768 are as follows:

### *Relief for Individuals Affected by Hurricane Katrina*

- Allows individuals who lived in the disaster area as of August 28, 2005, the option of using their 2004 income to calculate the child credit and the Earned Income Credit on their 2005 tax returns.
- Grants the U.S. Treasury Department the authority to ensure that taxpayers do not lose dependency exemptions or child credits for 2005 due to temporary relocations.
- Ensures that individuals affected by the hurricane are not taxed on personal debt relief, such as the cancellation of a mortgage, provided before 2007.
- Creates a special, one-year tax deduction for individuals who provide rent-free housing to dislocated persons for at least 60 days: \$500 for each dislocated person housed in the individual's principal residence (up to a maximum of \$2,000).
- Waives the 10% and \$100 floors for personal casualty losses (under current law, individuals who itemize their deductions may deduct personal casualty losses to the extent they exceed 10% of adjusted gross income and a \$100 floor.).
- Waives the 10% tax on up to \$100,000 of early withdrawals from IRAs and pensions for individuals affected by the hurricane. Distributed amounts could be repaid to the IRA or pension plan over the three-year period following the distribution and receive rollover treatment.
- Increases the limit on loans from pension plans from \$50,000 to \$100,000.
- Extends from one to two years the Work Opportunity Tax Credit (WOTC) for employers who hire individuals who lived in the disaster area prior to the hurricane. The credit equals 40% of the first \$6,000 of wages paid to the employee each year.
- Increases to five years the period in which insurance proceeds would be nontaxable if reinvested in replacement property (in the disaster area). Under current law, insurance proceeds are not taxable if they are invested in replacement property within two years (with respect to damaged business property) or four years (with respect to damaged principal residences in presidentially-declared disaster areas).
- Allows all homebuyers—not just first-time homebuyers—to qualify for mortgage revenue bonds to finance low-interest rate mortgages through 2007.

### *Incentives for Charitable Donations Related to Hurricane Katrina*

- Exempts cash donations related to Hurricane Katrina from the 50% individual income limitation and the phase-out of itemized deductions, if the donation is made before January 2006. (Under current law, individuals can deduct charitable donations up to 50% of their adjusted gross income. Such deductions are further limited by the phase-out of itemized deductions.)
- Waives the 10% corporate income limitation for cash donations related to Hurricane Katrina, if the donation is made before January 2006. (Under current law, corporations can deduct charitable donations up to 10% of their taxable income.)
- Increases the mileage reimbursement rate for individuals for charitable donation deductions from 14 cents per gallon to approximately 34 cents per gallon. (Under current law, individuals can claim a tax deduction for the costs associated with using a personal vehicle for charitable work.)

**Committee Action:** On September 14, 2005, the bill was referred to the Ways & Means Committee, which took no official action on it.

**Cost to Taxpayers:** A revenue estimate for H.R. 3768 is not yet available.

**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 citing constitutional authority is unavailable, Article I, Section 8, Clause 1 grants Congress the power to “lay and collect taxes.” Furthermore, the 16<sup>th</sup> Amendment grants Congress the power to “lay and collect taxes on incomes, from whatever source derived.”

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## **H.Res. 437 — A resolution to establish the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (Drier)**

**Order of Business:** The resolution is scheduled to be considered on Thursday, September 15<sup>th</sup>, under a closed rule, with no amendments and one motion to recommit without instructions.

**Summary:** H.Res. 437 establishes the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. The select committee will consist of 20 members, appointed by the Speaker, of whom 9 are to be appointed after “consultation with the Minority Leader.” The Speaker will designate one Member as chairman, and the Speaker and the Minority Leader will be considered *ex officio* members of the select committee, but will have no vote. Additionally, H.Res. 437 applies House Rule XI, Clause 2(j)(1) and Clause 2(m)(3), to the committee, which permits minority members of the select committee, and provides the committee with the authority to subpoena witnesses and documents in order to conduct the investigation.

H.Res. 437 directs the select committee to “conduct a full and complete investigation and study and to report its findings to the House not later than February 15, 2006, regarding:

- “the development, coordination, and execution by local, State, and Federal authorities of emergency response plans and other activities in preparation for Hurricane Katrina; and
- “the local, State, and Federal government response to Hurricane Katrina.”
- The select committee is to conduct its investigation in consultation with the Senate committee, allowing for joint meetings to receive testimony,

the scheduling of hearings or issuance of subpoenas, and joint staff interviews of key witnesses.

H.Res. 437 directs the select committee, “to the greatest extent practicable,” to utilize the services of staff currently employed by the House of Representatives. The resolution provides for \$500,000 to be paid out of “the applicable accounts of the House” for the expenses of the select committee. Finally, H.Res. 437 dissolves the select committee 30 days after filing the investigative report, and permits the Speaker to dispatch the select committee records to the committee of his choice.

**Additional Information:** According to House Report [109-220](#), Congress has traditionally utilized the select committee to investigate and study various events in American History, including Pearl Harbor, the Kennedy Assassination, and the Iran Contra affair. Additionally, the report states, “since 1946, the House has established 41 major Select Committees through similar resolutions. This resolution is consistent with previous resolutions authorizing similar investigative select committees, all of which have had a ratio reflecting the general composition of the House at the time. *It is worth noting that the majority of these committees were created when Democrats were the party in power*” (emphasis added).

Additionally, in House Report 109-220, the minority Members of the Committee strongly dissented, stating, “We oppose this resolution, H. Res. 437, in the strongest possible terms. We feel it is an inadequate, tone-deaf response to an immense national tragedy. It will do little or nothing to restore Americans’ badly shaken confidence in their government’s ability to protect them from future natural disasters or terrorist attacks.” The minority Members went on to call the federal response to Hurricane Katrina “a national disgrace,” calling for an independent commission to investigate the matter.

**Committee Action:** H.Res. 437 was introduced on September 14, 2005, and referred to the House Committees on Rules and House Administration. House Administration took no official action, and the Rules Committee considered the resolution and reported the resolution by a party line vote of 9-4, on September 14, 2005.

**Cost to Taxpayers:** Although there is no CBO cost estimate available for H.Res. 437, the resolution provides for \$500,000 to be paid out of “the applicable accounts of the House” for the expenses of the select committee.

**Constitutional Authority:** The Committee finds authority in Article 1, Section 5, Clause 2 (providing that each House may determine the rules of its proceedings) and Section 8, Clause 18 (all laws which are necessary and proper) of the Constitution.

**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. 889—Coast Guard and Maritime Transportation Act of 2005 (Young of Alaska)

**Order of Business:** The bill is scheduled to be considered on Thursday, September 15<sup>th</sup>, subject to a modified open rule (H.Res. 440), which makes in order only the amendments pre-printed in the *Congressional Record* (or pro forma amendments for debate only). Note: the rule also allows for the consideration of H.R. 3768 (the Katrina tax bill summarized above) on Thursday, September 15, 2005, under a motion to suspend the rules and pass the bill. Normally, suspensions are only allowed on Mondays, Tuesdays, and Wednesdays.

**Summary:** H.R. 889 would authorize appropriations, provide for marine safety, and make other adjustments to Coast Guard policy and management.

### [Authorization of Appropriations](#)

#### Coast Guard Authorizations

(Millions of Dollars)

Account	FY2005	FY2006
Operations & Maintenance	5,521.3	5,586.4
Acquisition & Construction	1,500.0	1,903.8
Research & Development	24.2	24.0
Retired Pay	1,085.5*	1,014.1*
Bridge Alteration	19.7	35.9
Environmental Compliance	17.0	12.0
Coast Guard Reserve	117.0	119.0
<b>TOTAL</b>	<b>8,167.7</b>	<b>8,695.2</b>

\*Not subject to appropriation.

H.R. 889 would also authorize the hiring of 45,500 (same as last year) active-duty Coast Guard personnel for FY2005 and FY2006. At the end of FY2003, approximately 37,000 active-duty personnel were serving in the Coast Guard.

### [Coast Guard Management](#)

- Codifies the expansion of U.S. territorial waters from three nautical miles to twelve nautical miles from shore that was made by Presidential Proclamation Number 5928 on December 27, 1988.

- Authorizes the Coast Guard, in coordination with the Secretary of State, to provide international training and other such technical assistance to international navies, coast guards, and maritime authorities during regular Coast Guard operations without requiring specific approval.
- Authorizes the Secretary of Homeland Security to award consolidated, fixed-price, single-proposal, design-and-build contracts on the basis of price and other such evaluation criteria.
- Authorizes the Secretary to order Coast Guard Reservists to active duty, for not more than sixty days in any four-month period and not more than one hundred twenty days in any two-year period, to augment Coast Guard active duty forces.
- Provides certain liability protections for members of the Coast Guard Auxiliary when a member uses his own vehicle to tow his own boat or Auxiliary equipment that has been designated for Coast Guard use.
- Directs the Commandant of the Coast Guard to develop regulations to award fellowships in Coast Guard history to graduate students who agree to prepare their doctoral dissertations on issues related to the history of the Coast Guard.

### Shipping and Navigation

- Provides that all ferries are treated as passenger vessels for the purpose of Coast Guard regulations, inspections, and fees. CBO estimates that this provision should yield the Coast Guard an additional \$200,000 a year in offsetting receipts.
- Requires that pilotage ratemaking for the Great Lakes occur annually (instead of the current multi-year ratemaking, which can lead to large changes in rates) and devotes four full-time equivalent employees to this annual process.
- Replaces the requirement that the United States, in drug-smuggling cases, receive a denial of a vessel's claim of registry from a foreign country before asserting jurisdiction over a vessel with the requirement that the U.S. receive only a response from the foreign government.
- Directs the Secretary of Transportation to implement a program to promote the transportation of liquefied natural gas (LNG) to the United States on U.S.-flag vessels. The Secretary would have to prioritize the processing of licenses for LNG facilities that would be supplied by these U.S.-flagged vessels.

### Miscellaneous

- Authorizes \$4 million in FY2006 for a pilot program for long-range tracking of up to 2,000 vessels using satellite systems.
- Directs the Secretary to report to Congress on the adequacy of air and surface assets in three specific locations in Louisiana, Michigan, and Puerto Rico to carry out the Coast Guard's missions of search and rescue, illegal drug and migrant interdiction, and fisheries law enforcement.
- Allows cadets at the Merchant Marine Academy to train aboard foreign-flagged liquid natural gas (LNG) vessels.
- Authorized \$625,000 for the National Institute for Occupational Safety and Health to report to Congress on the extent to which the Coast Guard's marine casualty

investigation program is used to provide information and recommendations to prevent future marine casualties.

- Authorizes the Secretary to carry out a pilot program to establish a Coast Guard junior reserve officers training program in cooperation with Camden County High School in Camden County, North Carolina.
- Instructs the Secretary to submit a complete implementation plan to Congress for the Integrated Deepwater Program within 30 days of the enactment of this legislation. (The Deepwater Program will replace or modernize more than 90 ships and 200 aircraft used in the Coast Guard's deepwater missions, which generally occur more than 50 miles offshore.)
- Directs the Coast Guard to study and report to Congress on the pollution of Newtown Creek in New York City caused by oil seepage from Greenpoint, Brooklyn.
- Makes dozens of truly technical corrections.

### **Amendments Pre-Printed in the Congressional Record:**

**Miller (MI) (#1).** Allows the vessel S/V HIGHLANDER SEA (United States official number 224289) to be treated as a small passenger vessel for the purposes of Coast Guard regulations and fees.

**Sanchez, Loretta (#2).** Directs the Coast Guard to review and submit to Congress recommendations on the adequacy of the strength of the active duty personnel to carry out all the Coast Guard's missions: homeland security related and non-homeland security related.

*Note: this is very similar to language in the base text of H.R. 889.*

**Sanchez, Loretta (#3).** Increases the authorized end of year strength for active duty Coast Guard personnel from 45,500 to 50,000 for 2005 and 2006.

**Fossella (#4).** Authorizes \$1.5 million every year for the implementation of new regulations requiring that ferries that carry 399 passengers or more have voyage data recorders on board.

**Fossella (#5).** Requires that the results of every physical a maritime pilot has must be reported to the Coast Guard and requires jail time and fines for doctors who falsify such documents.

**Markey (#6).** Instructs the Coast Guard to report to Congress on the security and safety of all new or expanded Liquefied Natural Gas (LNG) terminals and authorizes the Coast Guard to block the construction of new LNG terminals or the expansion of existing terminals based on security or safety concerns. Also requires ongoing reports to Congress and implements a civil penalty of \$1 million a day for individuals who construct or expand any urban waterfront facility for LNG transfer from ships to land or from land to ships without Coast Guard approval.

**Inslee (#7).** Directs the Secretary of Homeland Security to reimburse port authorities, facility operators, and state and local agencies that are required under federal law to provide security services, equipment, or funds to implement Area Maritime Transportation Security Plans and facility security plans. The Secretary would be required to reimburse 50% of the total costs

incurred during the implementation of countermeasures and protective measures in response to any public advisory or alert regarding a threat to homeland security issued under the United States Coast Guard Maritime Security (MARSEC) system.

**Markey (#8).** Requires that, when the Coast Guard writes its Area Maritime Transportation Security Plans, it would have to list facilities located within the Area that could substitute safer chemicals or processes in order to reduce the health, environmental, or economic consequences associated with a transportation security incident.

**Markey (#9).** Requires that, when the Coast Guard writes its Area Maritime Transportation Security Plans, it would have to list facilities located within the Area that could substitute safer chemicals or processes in order to reduce the health, environmental, or economic consequences associated with a transportation security incident. Also extends these requirements to U.S. Facility and Vessel Vulnerability Assessments and to the National Maritime Transportation Security Plan.

**Souder (#10).** Authorizes \$50 million over two years for the Bureau for International Narcotics and Law Enforcement Affairs (INL) to purchase or lease a maritime refueling support vessel that is capable of refueling public vessels and allied warships and vessels employed in support of United States drug interdiction duties in the Eastern Pacific maritime transit zone.

**Young (AK) (#11).** Primary provisions:

- Authorizes an additional \$60 million in FY2005 for the Coast Guard for emergency disaster relief for Hurricane Katrina.
- Provides for reimbursements (subject to appropriations) of federal employees who were connected with Coast Guard stations in Louisiana, Mississippi, or Alabama for 85% of the fair market value of their destroyed residences or 100% of their remaining mortgages. An owner receiving this reimbursement would have to transfer to the Secretary all right, title, and interest of the owner in the relevant property.
- Directs the Coast Guard, not later than September 15, 2005, and at least once every month thereafter through January 2006, to report to Congress regarding the personnel and assets deployed to assist in the response to Hurricane Katrina and the costs incurred as a result of such response that are in addition to funds already appropriated for the Coast Guard for FY2005.
- Authorizes \$400,000 for the Coast Guard to carry out an assessment of and planning for the impact of an Arctic Sea Route on the indigenous people of Alaska.
- Authorizes one-year extensions for licenses, certificates of registry, and Merchant Mariners' documents for residents of Louisiana, Mississippi, or Alabama, or for individuals whose records were destroyed in the Coast Guard facility in New Orleans (regardless of residence). Extension authority expires December 31, 2006.
- Authorizes six-month extensions for inspection certificates for vessels inspected by a Coast Guard Marine Safety Office located in Alabama, Mississippi, or Louisiana. Extension authority expires December 31, 2006.
- Directs the Coast Guard, not later than October 15, 2005, to establish a temporary facility in Baton Rouge, Louisiana, to process applications for new licenses, certificate



of registries, and merchant mariners' documents. Temporary center authority expires December 31, 2006.

- Transfers numerous lighthouses and related lands between federal jurisdictions.
- Includes the entire text of Rep. LoBiondo's Delaware River Protection Act (H.R. 1412), which passed the House on June 27, 2005. See summary here: <http://johnshadegg.house.gov/rsc/LB%206-27-05.pdf>

*Note: This amendment is subject to a point of order on the House floor.*

**Young (AK) (#12).** Same as #11 above except without the dozens of lighthouse provisions.

**Young (AK) (#13).** Clarifies that the requirement that each unlicensed seaman on a naval reserve vessel be either a U.S. citizen or a permanent resident alien (and that not more than 25% of seamen on a vessel may be permanent resident aliens) does NOT apply to individuals transported on international voyages who are not part of the crew or a member of the Stewards department and do not perform watchstanding functions. Such traveling individuals would still have to carry transportation security cards.

**Young (AK) (#14).** Alters the quota-sharing system of the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands. *Note: This amendment is subject to a point of order on the House floor.*

**Young (AK) (#15).** Adjusts the eligibility requirements to participate in the Western Alaska Community Development Quota Program for fisheries resources. *Note: This amendment is subject to a point of order on the House floor.*

**Inslee (#16).** Directs the Secretary of Homeland Security, acting through the Coast Guard, to reimburse port authorities, facility operators, and state and local agencies that are required under federal law to provide security services, equipment, or funds to implement Area Maritime Transportation Security Plans and facility security plans. The Secretary would be required to reimburse 50% of the total costs incurred during the implementation of countermeasures and protective measures in response to any public advisory or alert regarding a threat to homeland security issued under the United States Coast Guard Maritime Security (MARSEC) system.

**Additional Background:** The Transportation and Infrastructure Committee provided the following background on the Coast Guard:

The United States Coast Guard was established on January 28, 1915, through the consolidation of the Revenue Cutter Service (established in 1790) and the Lifesaving Service (established in 1848). The Coast Guard later assumed the duties of three other agencies: the Lighthouse Service (established in 1789), the Steamboat Inspection Service (established in 1838), and the Bureau of Navigation (established in 1884).

Under section 2 of title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction

of the United States; to ensure safety to life and property at sea; to protect the marine environment; to carry out domestic and international icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

As the fifth armed force of the United States, the Coast Guard also maintain defense readiness to operate as a specialized service in the Navy upon the declaration of war on when the President directs. The Coast Guard is composed of approximately 40,000 active duty military personnel, 8,100 reservists, 6,100 civilian employees, and 37,000 volunteers of the Coast Guard Auxiliary. The Coast Guard has defended the Nation in every war since 1790.

**Committee Action:** On April 13, 2005, the Subcommittee on Coast Guard and Maritime Transportation marked up and forwarded the bill to the full Transportation and Infrastructure Committee by voice vote. On May 18<sup>th</sup>, the full committee marked up and by voice vote ordered the bill reported to the full House.

**Cost to Taxpayers:** CBO reports that H.R. 889 would authorize 7.658 billion in FY2006. The amount for retired pay (see table above) is considered to be an entitlement and thus is not subject to appropriation. CBO also estimates that this bill's ferries provision will yield the Coast Guard an additional \$200,000 a year in offsetting receipts (a credit against mandatory spending)

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, it would expand the regulatory reach of the Coast Guard (to ferries that don't charge passengers a fee) and would create four new federal programs.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes. CBO reports that "subjecting ferries that do not charge passengers a fee to Coast Guard regulation would constitute an intergovernmental mandate."

**Constitutional Authority:** The Transportation and Infrastructure Committee, in House Report 109-204, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause. Clause 3 of House Rule XIII, Section 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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