RSC Republican Study Committee

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Legislative Bulletin……………………………..…….……….July 26, 2005

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 2

Total Cost of Discretionary Authorizations: At least $483.4 million over five years for first three bills and $1.6 billion over 10 years for postal bill.

Effect on Revenue: At least a $71 million decrease over five years

Total Change in Mandatory Spending: At least a $25 million decrease over five years for first three bills and $5.9 billion increase over 10 years for postal bill..

Total New State & Local Government Mandates: At least 3

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: 0

H.R. 3283—United States Trade Rights Enforcement Act (English)

Order of Business: The bill is scheduled to be considered on Tuesday, July 26th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3283:

- Specifically authorizes the application of the U.S. countervailing duty law (applying tariffs on goods that are subsidized or otherwise artificially propped up by foreign countries with market economies) to imports from <u>non</u>market economies such as China, even when the relevant data on China is not directly available from China. *[Pursuant to an administrative decision upheld by the courts in the 1980s, the countervailing duty law has been ruled unusable against so-called nonmarket economies, based on the rationale that it is impossible to measure subsidies in an economy where prices are not market-based.]*

- Suspends for three years the availability of bonds for new shippers in antidumping cases and instead require cash deposits (presumably to minimize defaults). Requires a report from the affected federal departments on this suspension.

- Requires a report from the relevant federal departments on the major problems experienced in the collection of duties.

- Directs the Secretary of Commerce and the U.S. Trade Representative (USTR) to implement a system of comprehensive monitoring of Chinese compliance with its trade obligations (as detailed in the bill) regarding:
  --intellectual property rights;
  --market access in China for U.S. goods, services, and agriculture; and
  --an accounting of Chinese subsidies.

- This monitoring system would require the President to biannually (and more frequently in certain circumstances) report to Congress on:
  --the specific steps taken by the Chinese government to meet its trade obligations;
  --an analysis of whether China is attempting in good faith to meet such obligations; and
  --a description of the actions that the President will take (including pursuing U.S. rights under the dispute settlement provisions of the WTO) to secure Chinese compliance, if the President determines that China is failing to meet the obligations.

- Requires Treasury to report to Congress on the definition of currency manipulation, the actions of foreign countries that would be considered to be currency manipulation, and how statutory provisions addressing currency manipulation could be better clarified administratively to provide for improved and more predictable evaluation.

- Authorizes an additional $6 million per year for the USTR beyond the President s budget request, for a total of $44.78 million in FY2006 and $47.02 million in FY2007.

- Authorizes an additional $4 million for each of fiscal years 2006 and 2007 for the USTR s offices of the General Counsel, the Office of Monitoring and Compliance, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs.

- Authorizes $62.75 million in FY2006 and $65.89 in FY2007 for the U.S. International Trade Commission and requires the Commission to provide Congress with a detailed

report on U.S.-China trade trends, including an emphasis on such matters as Chinese direct investment in the U.S., the effects of Chinese trade practices on key industries (including telecommunications, textiles, grains, and financial services), the importance of intellectual property rights issues in specific industries in China, the effects of China s growing demand for energy on global commodity markets, and the extent to which importation from China displaces either domestic production or importation from other countries.

The bill also contains several dozen "findings" regarding trade disputes and international market distortions, especially as they relate to China.

Additional Background: Media reports have indicated that the consideration of this legislation is intended to help offset the concerns that some Members have with the Central America Free Trade Agreement (CAFTA), the implementing legislation for which will also come to the House floor this week.

Committee Action: On July 14, 2005, H.R. 3283 was referred to the Ways & Means Committee, which took no formal action on it.

Possible Conservative Concerns: Some conservatives might be concerned at the increased tariffs this bill would allow.

Administration Position: A Statement of Administration Policy (SAP) is unavailable for this bill at this time.

Cost to Taxpayers: CBO has not completed a cost estimate for this bill. When a cost estimate does become available, the RSC will reflect it in the next "Money Monitor" document (regarding the costs of all bills passed by the House each week). Although the revenue implications are not obvious, the bill explicitly authorizes $111.53 million in FY2006 and $116.91 million in FY2007.

Does the Bill Expand the Size and Scope of the Federal Government?: It would expand the application of the countervailing duty law, now applicable to only market economies, to nonmarket economies.

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 of the Constitution grants Congress the power to "lay and collect Taxes, Duties, Imposts and Excises…."

Outside Organizations: Although some conservative organizations have informally expressed concerns with the legislation, none is taking a public, official position on it.

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H.R. 3200 — Servicemembers' Group Life Insurance Enhancement Act of 2005 (Jeff Miller)

Order of Business: The bill is scheduled to be considered on Tuesday, July 26, 2005, under a motion to suspend the rules and pass the bill.

Note: The Servicemembers' Group Life Insurance Enhancement Act, was included in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (H.R.1268, Section 1012). The provision in the Supplemental includes a termination (or sunset date) of September 30, 2005. Under House Republican Conference Rule 28, an authorization bill that repeals a sunset may not be scheduled for suspension. This rule has been waived by the elected leadership so that the House can consider H.R. 3200 on suspension.

The House also passed a bill earlier this year on May 23 (H.R. 2046), that dealt with this same program and amended it related to limiting premium increases on health insurance for reservists who return to their civilian jobs after serving on active duty and for reservists whose activation is cancelled.

Summary: The bill makes permanent the change from the 2005 DOD Supplemental that increased (only for fiscal year 2005) the maximum coverage under the Servicemembers Group Life Insurance (SGLI) and the Veterans Group Life Insurance (VGLI) programs. The bill also would allow those servicemembers who are insured under SGLI to opt out of the Traumatic Injury Protection Insurance portion of SGLI.

Under the bill, the maximum coverage under SGLI and VGLI are permanently increased from $250,000 to $400,000 for all servicemembers, effective September 1, 2005. Increments of SGLI coverage a servicemember may elect are increased from $10,000 to $50,000. The bill also sets up a process of notification to member s spouse or next of kin if the servicemember opts not to be insured, opts for lower than the maximum insurance coverage, or designates someone other than his or her spouse or child as the life insurance beneficiary, if he or she is married, or when the member gets married.

H.R. 3200 also authorizes servicemembers to opt out of the traumatic injury protection coverage (similar to dismemberment insurance in the private sector), which is currently automatically added to the life insurance policy.

Committee Action: On July 11, 2005, the bill was introduced and referred to the House Veterans Affairs Committee, which considered it and reported it to the full House by voice vote on July 14, 2005.

Cost to Taxpayers: CBO estimates that implementing this bill would cost $95 million in 2006, and $199 million over the 2006-2010 period, subject to appropriations of the necessary amounts. Currently, DOD reimburses the Veterans Affairs Department for deaths that exceed

estimated VA calculations, calculations based on peace-time operations. CBO arrives at the cost of this bill by estimating that deaths will exceed VA projections by approximately 640 in 2006, declining to 40 additional deaths in 2009. These projections are subject to change with circumstances and are based on a draw down of U.S. troops in Iraq and Afghanistan to approximately 50,000 servicemen remaining in theater in 2009. CBO also estimates that few servicemembers will opt out of the traumatic insurance, which adds $1 per month to their premium.

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 Veterans Affairs Committee, in Report 109-177, finds authority under Article I, Section 8 (to "provide for the common Defense and general Welfare of the United States").

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H.R. 525—Small Business Health Fairness Act (Johnson, Sam)

Order of Business: The bill is scheduled to be considered on Tuesday, July 26th, subject to a structured rule (H.Res. 379), making in order one amendment in the nature of a substitute (summarized below).

Summary: H.R. 525 would create association health plans (AHPs) under the Employee Retirement Income Security Act (ERISA), through which small employers could join together via a trade association to purchase health insurance.

Requirements for AHPs:

- Must be sponsored by a permanent, "bona fide" trade or industry organization established for substantial purposes other than to provide medical care and that does not make decisions with regard to membership, payments, or coverage based on health status.

- Must charge dues to its small business members and must not condition membership, dues, or health coverage on the basis of health status.

- Must be certified under a procedure established by the Secretary of Labor. Criteria are established for plans offering a self-insured health benefit, including that sponsors may not restrict membership in the plan to one or more businesses or industries. Fully insured plans would be subject to class certification by the Secretary.

- Plans wishing to be certified would submit an application to the Secretary (along with a $5,000 filing fee for administration) with information on the states in which the plan intends to operate and with plan documents, including those describing benefits. Plans must file their certification in each state in which at least 25% of the plan's participants are located. Self-insured plans must have at least 1,000 participants in order to be certified.

- Self-insured AHPs must maintain surplus reserves of at least $500,000 (or a greater amount set by the Secretary, but not more than $2 million) and must obtain stop-loss and indemnification insurance.

- Must pay $5,000 annually into a Treasury Department "Association Health Plan Fund," through which the Secretary would make payments to insurers to maintain stop-loss insurance or indemnification insurance coverage, if, without such payments, coverage under the plan would be terminated.

- The Secretary can allow an AHP to substitute some or all of the required reserves with such security, guarantee, hold-harmless arrangements, insurance, or other financial arrangement as the Secretary deems adequate for enabling the plan to fully meet its benefit liabilities.

Requirements for AHP Sponsors:

- Must have been in existence for a continuous period of not less than three years.

- Must be operated under a three-year plan by a board of trustees. The board must consist of owners, officers, directors or employees of the employers who participate in the plan, and must have full fiscal control and responsibility for the plans operations.

- May voluntarily terminate plan only if the board of trustees provides 60-day advance written notice to participants and provides for "timely" payment of all benefit obligations.

Participation and Coverage Requirements:

- All employers who are AHP members must be eligible for participation under the terms of the plan.

- Eligible employers must be informed of all benefit options available under the plan.

- Eligible employees may not be excluded from the plan because of health status.

- Employers may not exclude employees from the plan by purchasing an individual health insurance policy for the employee based on his or her health status.

Other Provisions:

- The Secretary may petition in federal court to become the trustee of an insolvent AHP, if the Secretary determines that the plan will not be able to provide benefits or is otherwise in "financially hazardous condition" (as defined by the Secretary in regulation).

- States may collect a contribution tax from a newly established AHP to the same extent that such a tax is collected from other insurance plans.

- For certified AHPs, state law is preempted to the extent it would prevent the AHP from operating in the state. This includes exempting the AHP from state benefit mandates, except that the plan must comply with any state laws requiring coverage of specific diseases, minimum maternity stays, mental health benefits, and reconstructive surgery following mastectomies.

- Penalties are established for uncertified AHPs and entities deliberately misrepresenting themselves as an AHP.

- Establishes a 15-member "Solvency Standards Working Group" for the purpose of providing input to the Secretary with respect to solvency requirements for AHPs.

Additional Background: This bill today is substantively identical to H.R. 660 from last Congress, as passed by the House on June 19, 2003 (http://clerk.house.gov/evs/2003/roll296.xml) and to H.R. 4281, as passed by the House on May 13, 2004 (http://clerk.house.gov/evs/2004/roll174.xml). The Senate acted on neither bill from the 108th Congress.

Amendment Made in Order under the Rule (H.Res. 379):

Kind (D-WI)/ Andrews (D-NJ): Amendment in the Nature of a Substitute. In the last Congress, this virtually identical amendment failed twice:

- By a vote of 183-238-1 on June 19, 2003 (http://clerk.house.gov/evs/2003/roll294.xml); and
- By a vote of 193-224 on May 13, 2004 (http://clerk.house.gov/evs/2004/roll172.xml).

Strikes all of the current provisions of H.R. 525 and replaces them with a requirement that the Secretary of Labor establish a Small Employer Health Benefits Plan (SEHB), similar to the pooling and premium-support nature of the Federal Employees Health Benefit Plan (FEHB), for all businesses with fewer than 100 employees, as follows:

- **Although this amendment authorizes "such sums as may be necessary" for the Labor Department to provide small employer health coverage subsidies (premium support and pooling arrangements), previous Kind substitutes have explicitly authorized $50 billion for these purposes in fiscal years 2004-2014 (in his amendment offered in 2003) and $50 billion in fiscal years 2005-2014 (in his amendment offered in 2004).**

- All employers with fewer than 100 employees during the previous calendar year would be eligible to apply for coverage under SEHB. Employers would have to offer coverage to all employees who have completed three months of service. Employees working fewer than 30 hours a week would be eligible for pro rata coverage.
- Requires the Secretary to establish an initial open enrollment period and thereafter an annual enrollment period.
- Requires the Department of Labor to annually contract with state licensed health insurers to offer health insurance coverage in a state. Participating insurers would remain subject to state laws applicable to the states in which they cover residents.
- Requires all participating insurers to offer benefits equivalent to or greater than the options offered under the four largest FEHB plans.
- Coverage could not be denied based on current health status or preexisting health conditions.
- Covered employees would have to have at least two plans from which to choose.
- Requires employers joining SEHB to contribute at least 50% of premium costs. Employers with fewer than 25 employees would be eligible for a coverage incentive discount of 5% to employers joining SEHB.
- Small employers with fewer than 50 employees would be eligible for a sliding scale premium subsidy for employees earning less than 200% of the poverty level (50% for firms with an average of under 11 employees; 35% for firms with an average of 11-25 employees; and 25% for firms with an average of 26-50 employees). Employee premiums for employees earning under 200% of the poverty level, adjusted for family size, would be eligible for 100% subsidies for premium contribution over 5% of salary, if not covered by another federal or state health insurance program.
- Allows the Secretary to expand premium assistance, "to the extent of available funding," to employees whose family income is at or below **300%** of the poverty line.
- Prohibits the SEHB from preempting state laws that provide "protections in excess of" the protections on health coverage provided in the amendment.
- Requires the Secretary to widely disseminate information about SEHB through the media, Internet, public service announcements, and other employer and employee directed communications.
- Directs the Institute of Medicine of the National Academy of Sciences to study the operation of the qualified state health pooling arrangements in this amendment.

Committee Action: On March 16, 2005, the Education and the Workforce Committee marked up and, without amendment, ordered H.R. 525 reported to the full House by a vote of 25-22.

Administration Position: Although a Statement of Administration Policy (SAP) for H.R. 525 is currently unavailable, the SAP for H.R. 660 in the previous Congress indicated support for passage of the legislation. Visit this webpage to read the SAP in its entirety: http://www.whitehouse.gov/omb/legislative/sap/108-1/hr660sap-h.pdf

Cost to Taxpayers: CBO estimates that H.R. 525 would authorize $4 million in FY2006 and a total of $56 million over the FY2006-FY2010 period. Additionally, the bill would *reduce* mandatory spending by $1 million in FY2006 and by a total of $25 million over the FY2006-

FY2010 period. Lastly, the bill would *reduce* revenues (including Social Security payroll taxes) by $3 million in FY2006 and by a total of $71 million over the FY2006-FY2010 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. CBO estimates that this bill would require the hiring of about 150 new employees at the Department of Labor.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. The bill would preempt state laws that would limit an AHP's ability to determine which services or items are part of its health benefits package. The bill would also prevent states from regulating plan reserve levels, contribution amounts, and trusts of AHPs. And the bill may limit the ability of states to tax existing AHPs, though that is unclear. CBO confirms that there are no private-sector mandates in the bill.

Constitutional Authority: The Education and the Workforce Committee, in House Report 109-41, cites constitutional authority in Article 1, Section 8, Clause 3 (the congressional power to regulate interstate commerce) and also cites various court-rulings as precedent for Congress regulating employee benefit plans.

Outside Organizations: The U.S. Chamber of Commerce strongly supports this legislation and has indicated that it may include votes related to H.R. 525 in its annual voting scorecard.

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H.R. 22 – Postal Accountability and Enhancement Act (McHugh)

Order of Business: The bill is scheduled for consideration on Tuesday, July 26 2005, under a structured rule (H.Res. 380) providing for the consideration of four amendments.

Background: In 2003, the President's Commission on the Postal Service made recommendations for reforming the U.S. Postal Service (USPS). As a result, H.R. 22, the Postal Accountability and Enhancement Act, was introduced to address some of the Commission's recommendations.

To read the Commission's report, please see: http://www.treas.gov/offices/domestic-finance/usps/pdf/freport.pdf

For a quick reference guide on USPS from Postal Watch, a non-profit group that tracks USPS policy, please see: http://www.postalwatch.org/pw2003/2003_quick_ref.pdf

Summary by Title:

Title I: Definitions; Postal Services

- Defines "postal service" as "the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery and other functions." This definition is currently absent from current law.
- Prohibits USPS from offering products and services unrelated to postal service but exempts any such products or services already provided as of January 2005.
- Adds to USPS' mandate that its finances are to be subject to a high degree of transparency in order to ensure fairness for both its customers and competitors, especially in the area of market-dominated products.

Title II: Modern Rate Regulation

- Revises the current rate-setting process by requiring a new Postal Regulatory Commission (PRC, established in H.R. 22) to establish a new rate-setting process within two years for market-dominated products.
- Defines market-dominated products as: first-class letters and cards (but not priority or express mail), periodicals, standard mail (advertisements, catalogs, etc.), special services (certified mail, delivery confirmation, etc.) and library mail.
- Limits any annual increase in postal rates to inflation as measured by the Consumer Price Index. However, this rate cap may be breached whenever it is "reasonable, equitable, and necessary to enable the Postal Service…to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States." In addition, the CBO states that USPS will still be able to increase rates by roughly the same amount as under current law but will do so more frequently in smaller increments.
- Defines competitive products as priority and express mail, mailgrams, international mail, and parcel post.
- Authorizes the Board of Governors to set rates for competitive products once 30 days notice is provided in the Federal Register.
- Requires the PRC to issue regulations within 18 months to prohibit the subsidization of its competitive product business by its protected monopoly service and ensure that any competitive product business covers its costs and contributes to the overall health of USPS.
- Allows USPS to test "experimental products" over a two-year span so long as it is labeled either a market-dominated product or a competitive product, total revenues are not expected to exceed $10 million nationwide in any one year, and the product contributes to the overall health of the Service. This new section is exempt from the provision above that ensures competitive products cover their costs and are not being subsidized by monopoly protected services. The PRC is provided the authority to cancel a market test at any time or to allow tests that earn in excess of the $10 million nationwide cap (up to $50 million).
- Requires the PRC to conduct an annual audit of USPS' finances to be submitted to both the President and Congress. USPS must provide any information the PRC deems necessary to prepare this audit but may obtain confidential treatment for any proprietary information.
- Requires USPS (in addition to other reports necessary for the PRC to conduct the audit outlined above) to submit quarterly reports to the PRC including information required

of SEC registrants and to comply with the internal control requirements of the Sarbanes-Oxley Act. These reports must also include detailed information pertaining to USPS' large unfunded pension and health care liabilities and be independently audited.

- Provides the PRC with the ability to respond to complaints and ensure USPS complies with the law, including adjusting rates for competitive products to lawful levels if they are set below costs (meaning they are being subsidized) and levying fines.
- Requires the PRC to regulate workshare discounts to ensure that such discounts do not exceed the cost that USPS avoids as the result of workshare activity, unless the discount is associated with a new service, the discount is necessary to secure mailer participation and will be phased out over time, the reduction in the discount will lead to a loss of mail volume, the discount is necessary to mitigate against a rate shock, or it is in conjunction with mailing certain forms of educational or cultural material.

  Note: Workshare discounts are agreements whereby mailers perform functions such as presorting by ZIP Code, barcode, and transport mail to help minimize USPS' workforce and infrastructure in exchange for reduced postage rates. Some conservatives may be concerned that the standard for determining the appropriateness of such discounts will now be "cost" alone, instead of cost plus profit, thereby undermining workshare agreements. For example, if Kinkos can produce, copy, staple, fold, and insert in envelopes monthly advertisements at a cheaper rate than a small business can in-house, Kinkos' prices of these services reflect both its costs and what it takes to make a profit.

  According to the American Postal Workers Union (APWU), the union opposed worksharing discounts "from their inception. The discounts were arbitrary exceptions to the principle of uniform rates, a hallmark of the Postal Service, we pointed out. And they were a gift to mailers with influential lobbyists that would ultimately harm the Postal Service, we said." APWU supports this provision suggesting that it will affect the arrangements APWU opposes. Please see: http://www.apwu.org/news/burrus/2005/update04-2005-031505.html

<u>Title III: Provisions Relating to Fair Competition</u>

- Establishes a Postal Service Competitive Products Fund (CPF) for the payment of costs attributable and revenues stemming from competitive products. USPS would be authorized to borrow against the Treasury and issue corporate debt with the implicit guarantee that it will be backed by the full-faith-and-credit of the federal government.
- Requires USPS to compute an "assumed federal income tax" for its competitive products income *if* such income was taxable and transfer that amount from the CPF to the Postal Service Fund for the purpose of monopoly operations.
- Prohibits USPS from engaging in anticompetitive behavior.
- Allows USPS to be sued as a person and states that it is not immune from suit, including from antitrust laws, in federal court under the doctrine of sovereign immunity with respect to its competitive product services.

- Requires USPS to construct its buildings ("to the maximum extent possible as determined by the Postal Service") in compliance with nationally recognized building codes and to comply with State zoning, land use, and applicable environment laws.
- Provides a framework for international postal arrangements whereby the Secretary of State may engage in treaties or agreements with regard to market-dominated products.

Title IV: General Provisions

- Requires that four of the nine Board of Governors be chosen on the basis of their ability to manage large organizations or corporations, but they "shall not be representatives of specific interests using the Postal Service."
- **Requires the first vacant slot on the Board of Governors to be filled by an individual with unanimous backing by the labor unions**. Some conservatives have expressed concern that this provision would ensure that labor would always have the deciding vote on the Board, which is composed of nine members (with no more than five from the same party), and would be unable to make impartial determinations.
- Consolidates the separate annual limits on USPS' borrowing ($2 billion for capital improvements and $1 billion for operating expenses) into an overall $3 billion annual cap. In addition, the current law limitation of $15 billion in the aggregate is retained.
- Allows a letter to be carried privately or outside the mail if: (1) the amount paid to the private carrier is 6 times the amount paid on the first ounce of a single first-class letter, (2) the letter weighs at least 12.5 ounces, or (3) the private carrier is already delivering such mail under current USPS regulations. According to the Committee Report, this provision "protects mailers and private carriers who have relied upon regulations that the Postal Service has adopted to date…and clarifies the scope of the statutory monopoly that historically has been defined solely by the Service."
- Provides a hold-harmless clause that nothing in the legislation "shall restrict, expand, or otherwise affect any rights, privileges, or benefits" of labor employees either under current law or through collective bargaining agreements. Some conservatives are concerned that -- despite the fact 80% of USPS' revenue is consumed by labor costs and therefore represents a significant area for future cost-control – this provision would prohibit any of reforms contained in this bill from achieving savings on the labor side.
- Authorizes USPS to establish bonus awards programs so long as total compensation does not exceed that of the annual compensation of the Vice President of the United States. In addition, the bill authorizes up to 12 officers or employees to receive up to 120% of the annual compensation of the Vice President.
- Adds a mediation stage and replaces the fact-finding panel that is currently the first step in the collective bargaining process.

Title V: Enhanced Regulatory Commission

- Replaces the Postal Rate Commission with a new Postal Regulatory Commission (PRC) composed of five commissioners, with not more than three coming from the same political party. The commissioners would serve six-year terms.

- Authorizes the appropriation of such sums as are necessary for the expenses, supplies, and compensation of the PRC. According to CBO, "enacting this [provision] would reduce direct spending—and therefore, increase spending subject to appropriation."

Title VI: Inspectors General

- Amends current law to provide an Inspector General (IG) of the PRC and authorizes the appropriation of such sums as are necessary for its expenses.
- Provides for appointment of the IG by the President with Senate confirmation.
- Includes similar hold-harmless language as Title IV concerning the rights, benefits, or privileges enjoyed by employees and labor unions. However, this provision amends the Inspector General Act of 1978 (governing the Inspectors General government-wide), and the ramifications of this provision are unknown.

Title VII: Evaluations

- Requires USPS to make a comprehensive review of universal postal service, including its history, scope, current practices, a description of geographic areas currently not covered, and an assessment of what will be "required in the future in order to meet the needs and expectations of the American public."
- Requires USPS to report at least every five years concerning the changes made in this legislation with recommendations for any other legislation.
- Requires the Federal Trade Commission to prepare a report within one year identifying federal and state laws that apply differently to USPS with respect to their competitive products.
- Requires the Board of Governors within one year to submit a report "concerning the extent to which women and minorities are represented in supervisory or management positions" within USPS. In addition, USPS must give appropriate consideration for meeting "affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce."
- Requires USPS to develop and implement a reemployment plan to employees displaced because of automation or privatization.
- Requires the Board of Governors to study the number and value of contracts USPS has entered into with women, minorities, and small businesses.
- Requires a "network optimization" report on USPS' processing, transportation, and distribution networks, including the identification of statutory and regulatory obstacles to consolidating facilities. Some conservatives are concerned that this report stands in the place of a recommendation by the President's Commission to establish a BRAC-style process to consolidate and shut-down facilities that lose money.
- Requires a two-year study by an impartial research organization to undertake a cost-benefit analysis of whether USPS should continue as "an independent establishment in the executive branch" or should be privatized.

Title VIII: Miscellaneous Amendments

- Provides permanent authority for the USPS to employ a police force to protect its property, enforce federal laws and regulations, carry firearms, and make arrests "if the officer has reasonable grounds to believe" a felony has been committed. Some conservatives may question the appropriateness and the cost involved with USPS having permanent authority for its own police force. This authority – already used to employ more than one thousand police officers – currently exists as an unauthorized appropriation included on a year-to-year basis in appropriations bills.

<u>Title IX: Postal Pension Funding Reform Amendments</u>

- Eliminates the requirement that savings from reduced CSRS payments under P.L. 108-18 be put in an "escrow account" within the general fund of the Treasury. USPS is required to cover all pension costs accrued by their employees and make contributions to the Civil Service Retirement System (CSRS). USPS makes these payments to CSRS based on the number of their retirees, the cost of providing pension benefits, and the amount of interest that should be credited for transferring such funds to the federal treasury prospectively.

  In essence, USPS makes a contribution to the general fund of the Treasury. The funds are credited to CSRS in a "trust fund," though historically they are spent each year by Congress on other government programs. This is not unlike the manner in which Social Security operates where bonds are issued to the Social Security Trust Fund, or in other words, the Trust Fund receives a series of government IOUs. As a result of government bonds being worth more than expected on the financial markets, the interest rate that USPS was paying exceeded what was necessary to fund its pension liability, and in 2002, the Office of Personnel Management (OPM) concluded that USPS would "overfund" its contribution to CSRS at its current contribution rate at a later date.

  In 2003, President Bush signed the Postal Civil Service Retirement System Funding Reform Act (P.L. 108-18), costing $7.1 billion over ten years, which allowed USPS to reduce its CSRS contributions to reflect this overfunding. However, since these reduced payments would come from the general fund of the Treasury, it would have cost a sizable amount over ten years. Thus, P.L. 108-18 required that the savings be put in an escrow account within the general fund until a later date. H.R. 22 eliminates this requirement and allows for this money to be used by USPS – meaning that $43 billion will flow from general revenues to USPS. According to CBO, this will "allow the USPS to pay down debt, increase spending for capital improvements or other projects, postpone or diminish future rate increases, or some combination of the activities."

- Transfers the pension costs of military service credits of USPS employees in CSRS from USPS to the Treasury. Under current law, if a service member leaves the military with pension credits accrued but not vested, a person loses those credits unless his or her next employment is with the federal government, including USPS. These costs are normally paid out of general revenues, but because USPS is held out

as a government corporation competing with private sector companies, it has been required to pay for these "military credits" so as to not to benefit from a subsidy. Some conservatives have expressed concern that H.R. 22 transfers these pension costs from postal ratepayers to the taxpayer at a cost of $11.7 billion. The issue of concern is not with this subsidy, but rather who should bear its costs.

- Requires USPS to use two-thirds of the total savings from its reduced CSRS contributions and no longer pay the military service credits of its employees to begin to address the large unfunded liability of providing health care to current and future retirees. H.R. 22 requires USPS to contribute to a new Postal Service Retiree Health Benefits Fund to pre-fund its health care costs on an accrued basis instead of simply paying a portion of their retirees' health premiums each year. As a result, these increased contributions would result in an additional $47.3 billion being infused into the general fund. However, this requirement to pre-fund its healthcare liabilities expires in 2015 and may be waived by the Postal Regulatory Commission if it is "reasonable, equitable, and necessary to enable the Postal Service…to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States."

Additional Background: RSC Members Reps. Mike Pence, Jeb Hensarling, and Jeff Flake distributed a one-pager, discussing their concerns with H.R. 22. It can be read at: http://johnshadegg.house.gov/rsc/Postal%20Reform.pdf

Committee Action: H.R. 22 was introduced on January 4, 2005, and referred to House Committee on Government Reform, which considered it, held a mark-up, and reported it to the House by a vote of 39-0 on April 28, 2005.

Cost to Taxpayers: Although USPS – like Social Security – is classified as "off budget," and therefore excluded by law from budget totals, H.R. 22 has a substantial impact on the deficit. According to the Congressional Budget Office, the net cost of H.R. 22 is $5.9 billion over ten years. The following table shows each change to current law that impacts the deficit (each has been discussed above).

	Impact for Fiscal Years 2006-15
Reduction in CSRS Pension Contributions	-$43.0 billion
Transfer of Military Pension Costs	-$11.7 billion
Increase USPS Health Care Contributions	+$47.3 billion
Potential Increase in the Federal Deficit	**$7.4 billion**
Shift of PRC and IG to Discretionary (subject to approps)	*-$1.6 billion*
Direct Increase in the Federal Deficit	**$5.9 billion***

*Numbers shown are rounded

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill requires the federal government to pay for the CSRS pension costs associated with USPS employees' service in the employee, costing $11.7 billion over ten years.

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 7 of the Constitution, granting Congress the authority to establish Post Offices.

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