



Legislative Bulletin.....November 20, 2003

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Summary of the Bills Under Consideration Today

Total Number of New Government Programs: at least 8*

Total Number of New Federal Offices and Advisory Committees: 3*

Total Cost of Discretionary Authorizations: In excess of \$4.45 Billion* over 5 years

Total Amount of Revenue Reductions: Unknown/Unscored Billions in H.R. 3521

Total Increase in Mandatory Spending: At least \$305.4 million*

Total New Private Sector Mandates: 1

**Does not include classified portions of the Intelligence Authorization*

H.J.Res. 78-Making further continuing appropriations for the fiscal year 2004 (Young of Florida)

Order of Business: The joint resolution is scheduled to be considered on Thursday, November 20th, pursuant to a closed rule (H.Res. 450).

Summary: Extends the existing Continuing Resolution through Sunday, November 23, 2003.

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H.R. 2417—Intelligence Authorization Act for Fiscal Year 2004 (Conference Report) (Goss)

Order of Business: The bill is scheduled to be considered on Thursday, November 20th, subject to a closed rule (H.Res. 451). On June 27, 2003, the House passed its version of H.R. 2417 by a vote of 410-9:

<http://clerk.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=333>

The Senate amended and passed the bill by unanimous consent on July 31, 2003. The Conference Report was filed on November 19, 2003.

Note: This Legislative Bulletin addresses only the unclassified portion of the bill. The language of H.R. 2417 provides for the passage of the classified annex. The classified annex is available to the Committees on Appropriations of the House and Senate and to the President. The President shall provide for suitable distribution of appropriate portions of the annex within the executive branch.

Summary: H.R. 2417 would authorize at least **\$221.5 million** in discretionary FY2004 appropriations and **\$226.4 million** in mandatory spending for intelligence activities of the federal government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS). The specific schedule of authorizations for intelligence activities of the federal government (including the CIA, Defense Department, National Security Agency, FBI, etc.) is classified.

Personnel Ceilings. Authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, to exceed by no more than 2% the (classified) FY2004 civilian personnel ceilings, when necessary to perform important intelligence functions and when reported to Congress.

Intelligence Community Management Account. Authorizes FY2004 appropriations of \$221.5 million (up from \$192.6 million in the House bill) to the Intelligence Community Management Account (CMA) to fund 310 full-time personnel (down from 320 unclassified personnel in the House bill) and other administrative requirements.

National Drug Intelligence Center. Of the funds authorized for the CMA, \$47.1 million (up from \$34.2 million in the House bill) is authorized for the National Drug Intelligence Center in Johnstown, Pennsylvania.

New Bureau of Intelligence within the Treasury Department. Establishes within the Department of the Treasury a Bureau of Intelligence and Analysis headed by an Assistant Secretary for Intelligence and Analysis, who shall be appointed by the President (subject to Senate confirmation).

CIARDS. Authorizes mandatory spending of \$226.4 million for CIARDS.

Increase in Employee Compensation. Authorizes such appropriations increases “as may be necessary” for employee salaries, pay, retirement, and other benefits.

Intelligence Restrictions. Emphasizes that this legislation should not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

Report thresholds. Raises the threshold for specific identification of a construction project in the President's annual fiscal year budget request and specific authorization by Congress for such project from \$750,000 to \$5,000,000. Also raises the standard range for notification for any new construction from “\$500,000 to \$750,000” to “\$1,000,000 to \$5,000,000” and for renovations from \$500,000 to \$1,000,000. These thresholds have not been updated in eight years.

Emergency Construction Authority. Gives the Director of Central Intelligence and the Secretary of Defense the authority to proceed immediately with the construction of projects normally subject to a seven-day waiting period (which itself is changed by this bill from the current-law 21-day waiting period), if an emergency relating to the national security or to the protection of health, safety, or environmental quality exists and if delay would irreparably harm any or all of those interests.

CIA Inspection Process. Requires the Director of Central Intelligence to establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States, to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

FBI Counterintelligence Office. Directs the Attorney General, acting through the Director of the Federal Bureau of Investigation, to establish an Office of Counterintelligence within the FBI to investigate potential espionage activities within the FBI.

Annual Review of Classified Information Dissemination Lists. Instructs the Director of Central Intelligence to establish and implement a process for all elements of the intelligence community to annually review individuals included on distribution lists for access to classified information, so that only individuals who have a particularized “need to know” are kept on such distribution lists. Such individuals on the lists would be required to submit financial disclosure forms.

Authority for Aliens to Ship Explosives. Allows qualified aliens to ship, transport, receive, and possess any explosive in or affecting interstate or foreign commerce. A qualified alien is an alien who is lawfully present in the United States in cooperation with the Director of Central Intelligence or who is a member of a NATO or other friendly foreign military force who is present in the United States under military orders for training or other military purpose authorized by the United States.

Federal Prison Industries. Requires the Director of Central Intelligence to ensure that the CIA does not purchase a Federal Prison Industries (FPI) product or service unless a CIA contracting officer determines that the product or service best meets the needs of the agency.

Information Sharing. Authorizes a new pilot program in which the CIA and the Department of Homeland Security would conduct projects in several cities to encourage officials of state and local governments, as well as representatives of industries that comprise the critical infrastructure in those cities, to lawfully collect and pass on to the appropriate federal officials information vital for the prevention of terrorist attacks against the United States. A separate pilot program would be authorized regarding the use of tear-line intelligence reports (i.e. reports in which information relating to intelligence sources and methods is easily severable from the reports to protect such sources and methods from disclosure).

Local Training Program. Authorizes the Director of Central Intelligence to establish a comprehensive training program for qualified state and local officials on accessing and using available resources of the intelligence community.

Lessons Learned from Iraq. Within a year of enactment, the Director of Central Intelligence would be required to submit to Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom.

Tort Liability Limitation. Relieves CIA and National Security Agency personnel from tort liability who, while acting within the scope of their office or employment, take “reasonable” action, which may include the use of force, to:

- protect an individual in the presence of the CIA personnel from a crime of violence;

- provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or
- prevent the escape of any individual whom the CIA personnel reasonably believe to have committed a crime of violence in the presence of such personnel.

Colombian Counterterrorism. Authorizes funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2004 and 2005 (and any unobligated funds from a prior fiscal year) to be available for supporting a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia, the National Liberation Army, and the United Self-Defense Forces of Colombia). American personnel would be prohibited from participating in such activities, subject to certain limited exceptions.

Pilot Program on Women and Minorities. The Director of Central Intelligence would have to carry out a pilot project under this section to test and evaluate alternative, innovative methods to promote equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.

Committee Action: On June 12, 2003, in open session, the Permanent Select Committee on Intelligence, by a recorded vote of 16-0, approved H.R. 2417, as amended. On June 18, 2003, the Permanent Select Committee on Intelligence reported the amended bill to the full House.

Cost to Taxpayers: The unclassified portion of the conference report for H.R. 2417 would authorize at least **\$221.5 million** in discretionary FY2004 appropriations (at least \$327 million over the FY2004-2008 period). No cost estimate is available for the classified annex to the bill.

This bill would also authorize **\$226.4 million** in mandatory spending for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. This amount is the amount assumed in the CBO baseline and thus does not score as an increase in mandatory spending. CBO estimates that the rest of the bill would have an insignificant effect on mandatory spending and receipts.

Does the Bill Create New Federal Programs or Rules?: As detailed above, the bill would create new offices, new programs, and several new authorities for existing intelligence agencies.

Constitutional Authority: The House Permanent Select Committee on Intelligence (in House Report 108-163) cites constitutional authority in the following clauses of Article 1, Section 8: Clause 1 (“provide for the common Defence and general Welfare of the United States”); Clause 12 (“to raise and support Armies”); Clause 13 (“to provide and maintain a Navy”); and Clause 18 (“to make all Laws which shall be necessary and proper...”).

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H.R. 253—Two Floods and You Are Out of the Taxpayers’ Pocket Act (Bereuter)

Order of Business: The bill is scheduled to be considered on Thursday, November 20th, under a unanimous consent agreement, which made an amendment in the nature of a substitute the underlying bill for consideration and made a Rep. Richard Baker (R-LA) amendment in the nature of a substitute in order (debatable for 30 minutes).

Summary of underlying bill, as amended: H.R. 253 would extend the National Flood Insurance Program through the end of FY2008 and establish a new pilot program for the mitigation of “severe repetitive loss properties” (as defined in the legislation) in flood zones. The pilot program would provide federal funds to states and localities for actions taken to reduce damage to severe repetitive loss properties and thereby reduce losses from the National Flood Insurance Fund. The pilot program would be authorized at \$40 million a year for the FY2004-FY2008 period.

Funds under this program could be used for:

- elevation, relocation, demolition, and flood-proofing of structures;
- minor physical localized flood control projects; and
- purchasing severe repetitive loss properties, subject to certain restrictions, the consent of property owners, and an appeals process (as detailed in the bill).

Priority would be given to the activities that would result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time. Property owners would have to be notified of any provision of flood mitigation assistance.

Federal funds could not constitute more than 75% (subject to waiver) of the total assistance given to any state or community for flood mitigation projects.

In addition to creating a new pilot program, H.R. 253 would expand the authority to provide assistance under the existing Federal Mitigation Assistance Program in a nearly exact way to the new pilot program (and at the same \$40 million annual level—for a total of \$80 million annually in new authorizations for such grants).

The bill also would authorize the appropriation of an additional \$10 million a year (FY2004-FY2008) for the mitigation of individual properties in states and communities that do not have the capacity to manage their own mitigation programs.

If an owner of either a severe repetitive loss property or a repetitive claims property (as defined in current law) refuses an offer of mitigation (subject to appeal), no federal disaster relief assistance could be used to make payment for repair, replacement, or restoration of such property.

H.R. 253 would authorize the establishment of a publicly available, electronic database identifying by location and address (but not owner) all repetitive claims properties, repetitive loss structures, and severe repetitive loss properties.

The Director of FEMA would be instructed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, in order to publicize the degree of hazard within each such zone as soon as possible.

Baker Amendment: The Baker amendment would reduce the authorizations for the pilot program to \$40 million each year over **three** years (instead of five years in the base bill) and terminate the program after such time. Further, the Baker amendment would direct FEMA to submit to Congress by the end of 2004 a detailed plan for increasing the number of insured properties in flood zones (with participation targets set at 55% for 2005, 57% for 2006, and 60% for 2007).

Additional Background: According to the “findings” in H.R. 253, approximately 48,000 properties currently insured under the National Flood Insurance Program have experienced, within a 10-year period, two or more flood losses where each such loss exceeded \$1,000. Repetitive-loss properties constitute a significant drain on the resources of the National Flood Insurance Program, costing about \$200 million annually. Repetitive-loss properties comprise approximately one percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses.

Committee Action: On July 23, 2003, the Financial Services Committee marked up and ordered the bill favorably reported to the full House by voice vote.

Cost to Taxpayers: H.R. 253 would authorize appropriations of \$90 million for each of fiscal years 2004-2008.

Does the Bill Create New Federal Programs or Rules?: Yes. It would establish two new flood mitigation grant programs and expand an existing grant program.

Constitutional Authority: The Financial Services Committee, in House Report 108-266, cites constitutional authority in Article I, Section 8, Clause 1 (relating to the defense and general welfare of the United States), and Clause 3 (relating to the power to regulate foreign and interstate commerce).

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S. 189—21st Century Nanotechnology Research and Development Act (*Sen. Wyden*)

Order of Business: The bill is scheduled to be considered on Thursday, November 20th, under a motion to suspend the rules and pass the bill. On November 18, 2003, the Senate passed S. 189 by unanimous consent. On May 7, 2003, the House passed H.R. 766, a substantively similar bill, by a vote of 405-19:
<http://clerk.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=167>

NOTE: “Nanotechnology” refers to science and engineering aimed at creating materials, devices, and systems at the atomic and molecular level. This technology operates at a length scale of about one to 100 nanometers (which is about a billionth of a meter). To put that in perspective, this size is approximately 1/100,000 the diameter of the average human hair. Nanotechnology could have widespread applications in electronics, medicine, and information technology.

Summary (major differences from House bill in red bold below): The bill would direct the President to establish a new National Nanotechnology Research and Development Program to promote Federal nanotechnology research, development, demonstration, education, technology transfer, and commercial application activities as necessary to ensure effective coordination of nanotechnology research and development across Federal agencies and across scientific and engineering disciplines. In total, this legislation would authorize ~~\$713 million in FY2004 and \$2.36 billion~~ **\$3.68 billion** over the ~~FY2004-2006~~ **FY2005-FY2008** period.

The new program would be aimed at:

- Supporting long-term nanotechnology research through grants to investigators and the establishment of interdisciplinary research centers and advanced technology user facilities;
- Ensuring that the solicitation and evaluation of proposals under the program encourage interdisciplinary research;
- Expanding education and training of undergraduate and graduate students (including traditionally under-represented minorities) in interdisciplinary nanotechnology science and engineering;
- Accelerating the commercial application of nanotechnology innovations in the private sector; and
- Ensuring that societal and ethical concerns will be addressed as the technology is developed by establishing a research program to identify such concerns, by widely disseminating the findings, and by doing as much as possible to integrate this ethical research with nanotechnology research and development. “Societal and ethical concerns” would include environmental matters and the

implications of the potential development of non-human intelligence. The amount of money spent researching these concerns would have to be annually reported to Congress.

The interdisciplinary research centers would have to address societal and ethical concerns about nanotechnology (via ongoing public discussions, panels, and educational fora), to exchange technical information and best practices, to partner with states and the nanotechnology industry, to make use of existing expertise in their regions, and to accelerate the commercialization of nanotechnology.

The President would be required to designate an interagency committee to oversee the establishment of the program, its ongoing operations and findings, and its budget (as reported to Congress annually). Further, the interagency committee would have to develop a plan for utilizing existing federal programs, such as the Small Business Innovation Research Program and the Small Business Technology Transfer Research Program, in support of nanotechnology commercialization. The committee would consist of representatives from the National Science Foundation, the Energy Department, NASA, the National Institute of Standards and Technology, the EPA, and any other agency that the President may designate.

Agencies participating in the nanotechnology program would each be required to establish a Science and Technology Graduate Scholarship Program to recruit and prepare students for careers in the federal government that require engineering, scientific, and technical training. Participating students would be required to work for the federal government for two years for every academic year for which a scholarship is accepted.

The President also would be required to either establish an advisory committee on nanotechnology (consisting of qualified non-federal representatives of research and academic institutions and industry) or designate an existing body (such as the President's Council of Advisors on Science and Technology) to serve in that capacity. The advisory committee would make assessments of and recommendations for the nanotechnology program to Congress and the President at least every two years.

The President would be directed to establish a National Nanotechnology Coordination Office, with full-time staff, to:

- provide technical and administrative support to the interagency committee and the advisory committee;
- serve as a point of contact on federal nanotechnology activities for government organizations, academia, industry, professional societies, and others to exchange technical and programmatic information; and
- conduct public outreach, including dissemination of findings and recommendations of the interagency committee and the advisory committee.

The National Academy of Sciences (NAS) would be required to conduct extensive evaluations of the nanotechnology program every three years and make any recommendations for changes to the program director. Further, the NAS would have to study (within three years) the technical feasibility of the manufacture of materials and devices at the molecular scale and (within six years) the need for standards, guidelines, or strategies for ensuring the development of safe nanotechnology.

Authorizations of appropriations for the provisions in this legislation would be as follows:

National Science Foundation

- ~~\$350,000,000 for FY2004 (already authorized in current law)~~
- \$385,000,000 for FY2005
- \$424,000,000 for FY2006
- **\$449,000,000 for FY2007**
- **\$476,000,000 for FY2008**

Energy Department

- ~~\$265,000,000 for FY2004~~
- ~~\$292,000,000~~ **\$317,000,000** for FY2005
- ~~\$322,000,000~~ **\$347,000,000** for FY2006
- **\$380,000,000 for FY2007**
- **\$415,000,000 for FY2008**

NASA

- ~~\$31,000,000 for FY2004~~
- ~~\$34,000,000~~ **\$34,100,000** for FY2005
- ~~\$37,000,000~~ **\$37,500,000** for FY2006
- **\$40,000,000 for FY2007**
- **\$42,300,000 for FY2008**

National Institute of Standards of Technology

- ~~\$62,000,000 for FY2004~~
- ~~\$68,000,000~~ **\$68,200,000** for FY2005
- \$75,000,000 for FY2006
- **\$80,000,000 for FY2007**
- **\$84,000,000 for FY2008**

EPA

- ~~\$5,000,000 for FY2004~~
- \$5,500,000 for FY2005
- ~~\$6,000,000~~ **\$6,050,000** for FY2006
- **\$6,413,000 for FY2007**
- **\$6,800,000 for FY2008**

FY2005 total: \$809.8 million

FY2006 total: \$889.6 million

FY2007 total: \$955.4 million

FY2008 total: \$1,024.1 million

FY2005-FY2008 total: \$3.68 billion

Committee Action: S. 189 is being at the desk on the House floor and thus was not referred to any House committee. On May 1, 2003, the House Science Committee marked up, amended, and favorably reported H.R. 766.

Possible RSC Concerns: Some Members might be concerned about the high authorization levels and the creation of new scholarship programs in the bill.

Administration Position: On March 19, 2003, before the House Science Committee, the Associate Director for Technology at the Office of Science and Technology Policy testified that, “The Administration shares this Committee's belief in the importance of federal support for nanotechnology R&D and coordination of the research efforts that are funded.” The Director added, “Because of the complexity, cost, and high risk associated with nanotechnology research, the private sector is often unable to assure itself of short-to-medium term returns on R&D investments in this field. Consequently, industry is not likely to undertake the basic research investments necessary to overcome the technical barriers that currently exist. ... The Administration's commitment to furthering nanotechnology research and development has never been stronger.”

To read more about the Administration's position, including a detailed elaboration about the promises of nanotechnology, visit this website: <http://www.house.gov/science/hearings/full03/mar19/russell.htm>

Cost to Taxpayers: The bill would authorize appropriations of \$3,678.9 million over the FY2005-FY2008 period. The amounts specified above would not cover costs associated with the external advisory functions and studies, which would cost an average of about \$700,000 annually, according to CBO.

Does the Bill Create New Federal Programs or Rules?: Yes—two new programs, one new advisory committee, and one new office, as detailed above.

Constitutional Authority: The House Science Committee, in House Report 108-089, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause. Senate committees are not required to cite constitutional authority.

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H.R. 2297—Veterans Benefits Act of 2003 (Smith of New Jersey)

Order of Business: The bill is scheduled for consideration on Thursday, November 20th, under a motion to suspend the rules and pass the bill.

The House passed H.R. 2297 on October 8 by a vote of 399–0. The Senate considered the bill on November 19 and passed it, with amendment, on November 19.

Summary: H.R. 2297 makes a variety of changes to benefit programs for veterans, as detailed below.

Changes from the House-passed bill are underlined:

- Expands the Montgomery GI Bill education benefit by allowing educational assistance to be used for job training of less than six months in certain self-employment training programs.
- Increases the monthly payment rates for survivor and dependents educational assistance.
- Allows those eligible for survivors' and dependents' education benefits to have their eligibility extended if involuntarily called-up to full-time National Guard duty after September 11, 2001. Eligibility would be extended equal to the time serving full-time duty plus four months. Current law allows such an extension to reservists.
- Extends the Veterans' Advisory Committee on Education from December 31, 2003, to December 31, 2009, and eliminates the requirement that veterans from World War II, the Korean conflict era, and the post-Korean conflict era serve on the committee.
- Repeals the VA education loan program (no new loans have been issued in recent years but the VA spends \$70,000/year on administration) and discharges any loans currently owed by a veteran under the program.
- Allows a surviving spouse who remarries after age 57 (House bill – age 55) to retain dependency and indemnity compensation (a tax-free monthly benefit paid to the surviving spouse of a veteran who dies as a result of military service).
- Allows a remarried surviving spouse of a veteran to be eligible for burial in a national cemetery.
- Makes permanent the State Cemetery Grants Program, which provides grants to assist states in establishing, expanding, and improving state-owned veterans' cemeteries (current authorization expires at the end of FY2004).
- Increases grant amounts for specially adapted housing for severely disabled veterans from \$48,000 to \$50,000 and for less severely disabled veterans from \$9,250 to \$10,000. Also increases the amount the VA may pay to an eligible disabled servicemember or veteran to purchase an automobile from

\$9,000 to \$11,000. Allows adapted housing assistance for disabled service members remaining on active duty.

- Adds cirrhosis of the liver to the disabilities considered service-connected for former prisoners of war, even if there is no record of the disease during the period of service. Also allows certain psychiatric disabilities, cold weather-related injuries, and traumatic arthritis to be considered service-connected for former prisoners of war regardless of the period of confinement (current law requires confinement of at least 30 days).
- Extends spina bifida benefits to disabled children of veterans who served in an area of Korea near the demilitarized zone between October 1, 1967 and August 31, 1971 (House bill - May 7, 1975). Current law restricts to service in the Republic of Vietnam.
- Makes permanent the home loan program for members of the Selected Reserve, currently set to expire on September 30, 2009.
- Equalizes home loan fees charged to Reserve members with those charged to active duty veterans. Also increases the home loan guaranty fees for veterans qualifying for a second home loan with no down payment.
- Reinstates the vendee loan program, terminated by the VA administratively on January 23, 2003.
- Provides full dependency and indemnity compensation to eligible members of the new Philippine Scouts, other Filipino veterans, and their survivors.
- Extends eligibility for national cemetery burial to new Philippine Scouts who lawfully reside in the United States.
- Extends the authority of the VA to operate a regional office in the Republic of the Philippines through December 31, 2009 (current authority expires December 31, 2003).
- Requires the Department of Labor to place staff in veterans' assistance offices on overseas military installations where VA staff is located within 90 days after enactment as part of the Transition Assistance Program (assists transitioning servicemembers in attaining civilian jobs).
- Establishes a new program allowing the VA to award sole source contracts to small businesses owned by service-disabled veterans.
- Provides means to grant life insurance benefits to alternative beneficiaries in certain circumstances.
- Establishes a one-year time limit on claim applications with incomplete information. Does not apply to claims or applications for life insurance benefits.
- Extends the Advisory Committee on Minority Veterans from December 31, 2003, to December 31, 2009.
- Allows non-VA physicians to conduct exams to determine medical disabilities of applicants. Expires December 31, 2009.
- Requires several new DoD and VA studies.
- Adds the following federal criminal offenses to those under which a conviction would result in a loss of veterans' benefits: prohibitions with respect to biological weapons, prohibited activities with respect to chemical weapons, prohibited transactions involving nuclear materials, genocide, use of certain weapons of mass destruction, and acts of terrorism transcending national boundaries.

Committee Action: The Subcommittee on Benefits of the Committee on Veterans' Affairs favorably reported H.R. 2297 to the full Committee by voice vote on June 25, 2003. The full Committee approved the bill by voice vote on June 26.

Administration Position: Many of the provisions included in H.R. 2297 are based on Administration proposals.

Cost to Taxpayers: A CBO estimate of S. 1132, which is similar to the Senate amendment to H.R. 2297, stated that the bill would reduce direct spending for veterans programs by \$46 million in 2004, increase direct spending by \$2 million over the 2004-2008 period, and reduce direct spending by \$7 million over the

2004-2013 period. In addition, CBO estimated that implementing S. 1132 would cost \$129 million in 2004 and almost \$1.4 billion over the 2004-2008 period, assuming appropriation of the necessary amounts.

CBO estimated that enacting the House-passed version H.R. 2297 would reduce direct spending for veterans programs and for uniformed services' retirement benefits by \$63 million in 2004, about \$135 million over the 2004-2008 period, and about \$300 million over the 2004-2013 period. In addition, CBO estimated that implementing H.R. 2297 would cost \$4 million in 2004 and \$137 million over the 2004-2008 period, assuming appropriation of the necessary amounts.

The savings in the bill, which both offsets other increased spending and results in a reduction in direct spending, are almost entirely attributable to “savings” generated by reinstating the vendee loan program, which was discontinued by the Department of Veterans Affairs (VA) on January 31, 2003. Before that date, when a veteran defaulted on his mortgage and the home went into foreclosure, VA often acquired the property and issued a new direct loan when the property was sold. CBO and the Committee assert that the vendee loan program “saves” approximately \$35 million per year because (1) the VA receives more money for homes sold with vendee financing than those sold with other financing (16 percent more in 2002) and (2) because vendee loans have lower prepayment and default rates than other direct loans made by VA, this provision also would lower subsidy costs for direct loans by an average of \$28 million a year over the 2004-2013 period. Before the program was terminated in 2003, VA sold most vendee loans on the secondary mortgage market and guaranteed their timely repayment. Both the Clinton and Bush Administration have argued for eliminating the vendee loan program because (1) the VA should not be in the business of issuing home loans to non-veterans and (2) guaranteeing these vendee loans increased the liability of the government.

Does the Bill Create New Federal Programs or Rules?: The bill primarily modifies existing programs. However, it does reinstate one program recently eliminated by the VA (the vendee loan program) and establishes a new program for sole source contracts for small businesses owned by service-disabled veterans.

Constitutional Authority: The Committee on Veterans' Affairs, in House Report 108-211, cites Article I, Section 8, but does not cite a specific clause.

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H.J.Res. 63—Compact of Free Association Amendments Act (Leach)

Order of Business: The House passed the joint resolution on October 28, 2003, by voice vote. The Senate amended and passed the resolution by unanimous consent on November 6th. The amended bill is what is now coming back to the House floor. Time does not permit a complete analysis of the Senate amendments, however a preliminary glance at the amended bill indicates that it is substantively similar to the original House-passed bill.

Background: For almost 40 years after World War II, the U.S. administered Micronesia and the Marshall Islands. On the Marshall Islands, the U.S. conducted both underwater and atmospheric nuclear tests during the 1940s and 1950s and has maintained a U.S. Army base and missile test range at Kwajalein atoll since 1964.

In the mid-1980s, Micronesia and the Marshall Islands chose to become sovereign states. Micronesia and the Marshall Islands entered into a joint Compact of Free Association with the U.S. to ensure self-government for the new island nations, establish the special political relationship between the U.S. and the two Pacific nations, assist them in their economic development towards self-sufficiency, and secure certain

national security rights for all three nations. The Compact was implemented by Public Law 99-239 on January 14, 1986.

The original Compact (among other things):

- obligated the U.S. to defend Micronesia and the Marshall Islands;
- gave the U.S. the right of “strategic denial” (i.e. the right to prevent access to the islands and their territorial waters by the militaries of other countries);
- gave the U.S. a “defense veto” (the right to veto Micronesia or Marshall Islands actions that the U.S. deems incompatible with its defense responsibilities, as well as a two-year extension during negotiations for a future veto);
- secured U.S. rights to the Kwajalein missile testing facility until 2016;
- provided for 15 years of direct U.S. financial payments to Micronesia and the Marshall Islands (as well as a two-year extension during negotiations for future assistance);
- authorized the island nations to receive various forms of program assistance and services from U.S. federal agencies;
- allowed Micronesian and Marshall Islands citizens to live, work, and study in the U.S. as resident aliens without passports or visas; and
- included a full and final settlement of all compensation claims regarding U.S. nuclear tests in the Marshall Islands, but also allowed the Marshall Islands to petition Congress for additional compensation on the basis of “changed circumstances” (such a petition was submitted in September 2000 and is currently under review by various federal agencies).

Summary of Resolution (as passed by the House): H.J.Res. 63 would reauthorize and implement the separate Compacts of Free Association that the United States recently renegotiated and finalized with the Federated States of Micronesia and the Republic of the Marshall Islands. Certain defense and economic portions of the existing Compact expired at the end of October 2003.

Overall, H.J. Res. 63, by implementing the new Compacts, would: (1) extend U.S. financial and program assistance to those two nations, yet restructure the way such assistance is provided in order to increase fiscal accountability and economic planning; (2) aim toward the end of U.S. grant assistance in 2023 by capitalizing a U.S.-managed trust fund for each nation; (3) preserve the U.S. “defense veto;” (4) extend U.S. access to the Kwajalein atoll missile testing range on the Marshall Islands; and (5) sharply tighten the unique U.S. immigration status enjoyed by Micronesian and Marshall Island citizens, in order to address concerns of U.S. homeland security.

Some of the economic changes in the new Compacts, as compared to the previous Compact, are as follows:

- Instead of direct cash transfers from the U.S., funds under the new Compacts would be disbursed as sector grants targeted to priority areas such as health, education, and infrastructure.
- A Joint Economic Management Committee would be established in each country (with the majority of committee-members appointed by the U.S.) to increase financial reporting and planning requirements.
- The U.S. would be allowed to withhold funds if either country fails to comply with grant conditions or to cooperate in misuse-of-funds investigations.

The new Compacts would provide for annual grant assistance over the 20-year period from 2004 to 2023, with Micronesia receiving about \$92 million per year and the Marshall Islands receiving about \$57 million (\$42 million in Compact funds plus \$15 million for Kwajalein compensation). H.J. Res. 63 also would include \$15 million per year (through FY2023) in “Compact impact” funding to be apportioned among U.S. jurisdictions (such as Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands) that bear certain health and social services costs associated with the Compacts.

The new Compact with the Marshall Islands would extend U.S. military access to Kwajalein from the current expiration date of 2016 to 2066 (with an option to extend for an additional 20 years to 2086). Annual compensation for Kwajalein use would increase from \$11.3 million to \$15 million through 2013, and then to \$18 million beginning in 2014.

Some of the changes to immigration regulations in the new Compacts, as compared to the previous Compact, are as follows:

- Micronesian and Marshall Islands citizens would now have to have a valid passport to be admitted to the U.S.
- Naturalized citizens of the two island nations would no longer have special immigration status.
- Children traveling from those countries to the U.S. for adoption would no longer have special immigration status.
- The U.S. Attorney General would be directed to promulgate regulations that might condition the admission of Micronesian and Marshall Islands citizens into the U.S.

Committee Action: On June 18, 2003, the Asia and Pacific Subcommittee held a hearing on the new Compacts, at which several Administration officials testified. On July 18th, the Subcommittee marked up and forwarded the resolution to the full International Relations Committee by voice vote. On July 23rd, the full Committee marked up and reported the resolution to the full House by voice vote.

On September 4, 2003, the Resources Committee marked up and reported the resolution to the full House by voice vote. On September 10, 2003, the Judiciary Committee marked up and reported the resolution to the full House by voice vote.

Administration Position: At the subcommittee hearing referenced above, representatives of the State Department, the General Accounting Office (GAO), and the Interior Department testified in favor of reauthorizing the Compacts. To read the testimony from the:

- State Department, visit this website:
http://wwwa.house.gov/international_relations/108/sho0618.htm
- GAO, visit this website:
http://wwwa.house.gov/international_relations/108/wes0618.pdf
- Interior Department, visit this website:
http://wwwa.house.gov/international_relations/108/coh0618.htm

(Note: The link to the GAO testimony contains many detailed tables and charts regarding the financial implications of the new Compacts, as compared to the existing Compact.)

Cost to Taxpayers: CBO estimates that H.J.Res. 63, as originally passed by the House, would increase mandatory spending by \$11 million in FY2004 over the current baseline and by \$77 million during the FY2004-FY2008 period (over the current baseline). CBO's baseline assumed that the Compacts would be reauthorized. Total baseline mandatory spending is currently \$156 million a year. Additionally, CBO estimates that this joint resolution would authorize appropriations of \$60 million in FY2004 and \$312 million during the FY2004-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: For the most part, no. The resolution would reauthorize the existing relationships among the United States, Micronesia, and the Marshall Islands. However, the new Compacts would establish a U.S.-managed trust fund for each nation, make adjustment to existing funding methods, and tighten the immigration rules among the countries.

Constitutional Authority: The House International Relations Committee, in House Report 108-262 Part I, cites constitutional authority in Article I, Section 8 but does not cite a specific clause of authority. The

Resources Committee, in House Report 108-262 Part II, cites constitutional authority in Article I, Section 8 but does not cite a specific clause of authority. The Judiciary Committee, in House Report 108-262 Part III, cites constitutional authority in Article I, Section 8 (but does not cite a specific clause of authority) and in Article III, Section 1 (establishment of federal courts and payment of federal judges).

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H.R. 1828—Syria Accountability and Lebanese Sovereignty Restoration Act (Engel/Ros-Lehtinen)

Order of Business: The bill is scheduled to be considered on Thursday, November 20th, under a motion to suspend the rules and pass the bill. On October 15, 2003, the House passed H.R. 1828 by a vote of 398-4, with 5 Members answering “present.”

<http://clerk.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=543>

On November 11th, the Senate amended the bill and then passed it by a vote of 89-4.

http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=1&vote=00445

The amended bill is what is now coming back to the House floor.

Summary (Senate amendments in red bold below): H.R. 1828 would authorize new sanctions against Syria until Syria meets certain conditions. Specifically, the bill would direct the President to prohibit the export to Syria of any dual-use item (item that has military and non-military application), including the issuance of a license for the export of any such item. Additionally, the President would be required to impose at least two of the following sanctions:

- Prohibit the export of products of the United States (other than food and medicine) to Syria;
- Prohibit United States businesses from investing or operating in Syria;
- Restrict Syrian diplomats in Washington, DC, and at the United Nations in New York City, to travel only within a 25-mile radius of Washington, DC, or the United Nations headquarters building, respectively;
- Prohibit aircraft of any air carrier owned or controlled by Syria to take off from, land in, or fly over the United States;
- Reduce United States diplomatic contacts with Syria (other than those contacts required to protect United States interests or carry out the purposes of this Act); or
- Block transactions in any property in which the Government of Syria has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States.

The President could waive the application of such sanctions (**except including** the dual-use sanction) **for six-month periods** if the President determines and reports to Congress that doing so is in the “**vital** national security interest of the United States.”

The President could only lift the sanctions above and provide assistance to Syria upon certification that the Government of Syria:

- does not provide support for international terrorist groups and does not allow terrorist groups, such as Hamas, Hizballah, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine--General Command to maintain facilities under Syrian control;
- has **withdrawn all Syrian military, intelligence, and other security personnel from ended its occupation of** Lebanon;
- has ceased the development and deployment of medium- and long-range surface-to-surface ballistic missiles, is not pursuing or engaged in the research, development, acquisition, production, transfer, or

deployment of biological, chemical, or nuclear weapons, has provided credible assurances that such behavior will not be undertaken in the future, and has agreed to allow United Nations and other international observers to verify such actions and assurances; and

- has ceased all support for, and facilitation of, all terrorist activities inside of Iraq, including preventing the use of territory under its control by any means whatsoever to support those engaged in terrorist activities inside of Iraq.

Additional requirements for the U.S. provision of foreign aid to Syria are:

- “substantial progress” in Israel-Syria *and* Israel-Lebanon peace negotiations; and
- the Government of Syria’s strict respect of the “sovereignty, territorial integrity, unity, and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese army throughout Lebanon,” as required under UN Security Council Resolution 520.

The Secretary of State would have to report to Congress six months after this bill’s enactment and annually thereafter on Syria’s progress in meeting the conditions of this legislation, the continued connections between the Government of Syria and terrorist organizations (and these organizations’ attacks against the U.S.), and the increased U.S. efforts against Hizballah **and other terrorist organizations supported by Syria. [The Senate amendment struck a reporting requirement about the Syrian connection to the September 11th attacks. The amendment also struck a reference in the reporting requirements to Hizballah as “equally or more capable than al Qaeda.”]**

H.R. 1828 would outline ten statements of United States policy, including:

- “Syria ~~will be held responsible~~ **should bear responsibility** for attacks committed by Hizballah and other terrorist groups with offices, training camps, or other facilities in Syria, or bases in areas of Lebanon occupied by Syria;
- “The United States ~~shall impede Syria’s ability~~ **will work to deny Syria the ability** to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction;
- ~~“Efforts against Hizballah will be expanded given the recognition that Hizballah is equally or more capable than al Qaeda;~~
- “Syria’s acquisition of weapons of mass destruction and ballistic missile programs threaten the security of the Middle East and the national security interests of the United States; and
- “Syria will be held accountable for any harm to Coalition armed forces or to any United States citizen in Iraq **if the Government of Syria is found to be responsible** due to its facilitation of terrorist activities and its shipments of military supplies to Iraq.”

The bill presents dozens of findings, including:

- “The Government of Syria is currently prohibited by United States law from receiving United States assistance because it has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State...;
- “Although the Department of State lists Syria as a state sponsor of terrorism and reports that Syria provides ‘safe haven and support to several terrorist groups,’ fewer United States sanctions apply with respect to Syria than with respect to any other country that is listed as a state sponsor of terrorism;

- “Terrorist groups, including Hizballah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine–General Command, maintain offices, training camps, and other facilities on Syrian territory, and operate in areas of Lebanon occupied by the Syrian armed forces and receive supplies from Iran through Syria;
- “Approximately 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon [in direct contradiction to UN Resolution 520, which called for complete Lebanese sovereignty], exerting undue influence upon its government and undermining its political independence;
- “Israel has withdrawn all of its armed forces from Lebanon...as certified by the United Nations Secretary General;
- “[Because Syria will not allow Lebanese troops into southern Lebanon], the Israeli-Lebanese border and much of southern Lebanon is under the control of Hizballah, which continues to attack Israeli positions, allows Iranian Revolutionary Guards and other militant groups to operate freely in the area, and maintains thousands of rockets along Israel's northern border, destabilizing the entire region;
- “The Government of Syria continues to develop and deploy short and medium range ballistic missiles;
- “The Government of Syria is pursuing the development and production of biological and chemical weapons and has a nuclear research and development program that is cause for concern;
- “Syria’s illegal imports and transshipments of Iraqi oil during Saddam Hussein’s regime earned Syria \$50,000,000 or more per month as Syria continued to sell its own Syrian oil at market prices;
- ~~“The Government of Syria has utilized the railway network linking Mosul, Iraq, to Aleppo, Syria, to transfer a wide range of weaponry and weapon systems to Saddam Hussein’s regime;~~
- “On March 28, 2003, Secretary of Defense Donald Rumsfeld warned: ‘[W]e have information that shipments of military supplies have been crossing the border from Syria into Iraq, including night-vision goggles . . . These deliveries pose a direct threat to the lives of coalition forces. We consider such trafficking as hostile acts, and will hold the Syrian government accountable for such shipments;’
- “On April 13, 2003, Secretary of Defense Donald Rumsfeld charged that ‘busloads’ of Syrian fighters entered Iraq with ‘hundreds of thousands of dollars’ and leaflets offering rewards for dead American soldiers; and
- “During his appearance before the Committee on International Relations of the House of Representatives on September 25, 2003, Ambassador L. Paul Bremer, III, Presidential Envoy to Iraq, stated that out of the 278 third-country nationals who were captured by coalition forces in Iraq, the ‘single largest group are Syrians.’”

The Senate amendment struck a finding about President Bush’s statement about being either “with us or with the terrorists.”

The bill then expresses a sense of Congress that Syria, among other things, end its support of terrorism, stop facilitating the transit of people and materials into Iraq from Syria, withdraw its troops from Lebanon, stop developing and deploying ballistic missiles, and enter into bilateral negotiations with Israel to secure a permanent peace. The bill also calls for the removal of Syria from the UN Security Council.

Additional Background: According to the Department of Commerce, the total value of U.S. dual-use exports to Syria was approximately \$110 million in 2002.

Committee Action: On October 8, 2003, the International Relations Committee marked up and reported the amended legislation to the full House by a vote of 33-2.

Administration Position: The Bush Administration had been against this legislation until recently when it indicated that it would not oppose it. In the 107th Congress, a similar bill (H.R. 4483) was never brought to the House floor because the Bush Administration felt it would not be helpful in getting Syria to cooperate in battling international terrorism. The softening of the waiver requirements in the Senate amendment was presumably a request from the White House.

Cost to Taxpayers: CBO estimates that H.R. 1828 would not significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: The bill would authorize new sanctions against Syria that would require Syrian action to *avoid* (rather than current sanctions which mostly require Syrian action to *initiate*). The export prohibition on dual-use items would be a private sector mandate.

Constitutional Authority: The International Relations Committee cites constitutional authority in Article I, Section 8, Clause 3 (the power to regulate commerce with foreign nations) and Clause 18 (the power to make all laws necessary and proper for carrying out the other powers vested in the U.S. Government by the Constitution).

Outside Organizations: Pro-Israel groups, though they preferred the House version of the bill, are strongly supporting this amended legislation.

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H.Con.Res. 209—A concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and The Former Yugoslav Republic of Macedonia (*Engel*)

Order of Business: The bill is scheduled for consideration on Thursday, November 20, 2003, under a motion to suspend the rules and pass the bill.

Note: The House considered an almost identical resolution on June 23, 2003, which passed 381-1 (<http://clerk.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=299>).

The Senate made a number of minor modifications all related to changing the original references to “Macedonia” to now read, “The Former Yugoslav Republic of Macedonia.”

Summary: The resolution has seven findings regarding Albania, Croatia, and The Former Yugoslav Republic of Macedonia and the United States-Adriatic Charter, which was signed on May 2, 2003. According to the resolution, the Charter affirms these countries’ commitment “to the values and principles” of NATO and to joining the Alliance at the earliest possible time.

The joint resolution resolves that Congress:

- “strongly supports the United States-Adriatic Charter and commends Albania, Croatia, and The Former Yugoslav Republic of Macedonia for their continued efforts to become full-fledged members of the North Atlantic Treaty Organization (NATO) and the European Union;

- “urges NATO to invite Albania, Croatia, and The Former Yugoslav Republic of Macedonia to join NATO as soon as these countries demonstrate the ability to assume the responsibilities of NATO membership;
- “welcomes and supports the aspirations of Albania, Croatia, and The Former Yugoslav Republic of Macedonia to join the European Union at the earliest opportunity;
- “recognizes that Albania, Croatia, and The Former Yugoslav Republic of Macedonia are making important strides to bring their economic, military, and political institutions into conformance with the standards of NATO and other Euro-Atlantic institutions; and
- “commends Secretary of State Powell for his personal support of the Adriatic Charter.”

Additional Information: On May 2, 2003, the Adriatic Charter Partnership was signed by U.S. Secretary of State Colin Powell and the foreign ministers of Albania, Croatia and Macedonia. According to reports, the document underscores U.S. support for the “shared aspirations of Albania, Croatia, and Macedonia to full integration into the Euro-Atlantic community,” including membership in NATO.

(<http://usinfo.state.gov/regional/eur/balkans/030502-adriaticcharter.htm>) While Secretary Powell’s remarks on the Charter may be found here: <http://www.state.gov/secretary/rm/2003/20158.htm>, the text of the Partnership is unavailable.

Committee Action: The resolution was introduced on June 5, 2003 and referred to the House Committee on International Relations, which reported it favorably by unanimous consent on June 12. It passed the House on June 23 and passed the Senate with an amendment on July 29.

Cost to Taxpayers: The resolution has no cost.

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

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S. 1657—To amend section 44921 of title 49, United States Code, to provide for the arming of cargo pilots against terrorism (Sen. Bunning)

Order of Business: The bill is scheduled for consideration on Thursday, November 20, 2003, under a motion to suspend the rules and pass the bill.

Summary: S. 1657 modifies the armed pilots program, created in the Homeland Security Act (P.L. 107-296, Sec. 1402), to allow cargo pilots in addition to passenger plane pilots, to be armed and trained under the federal program. The bill modifies the definition of “pilot” in the following way:

(2) PILOT DEFINED- The term ‘pilot’ means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command **flight or any other flight deck crew member.**

The bill specifies that this modification should not delay or affect the implementation deadlines contained in the original armed pilots program. S. 1657 also states that, “It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.”

Committee Action: The bill was introduced in the Senate on September 25, 2003 and passed the Senate by unanimous consent on November 10, 2003. It was referred to the House Committee on Transportation and Infrastructure, which did not consider the legislation.

Cost to Taxpayers: A CBO cost estimate is unavailable, though the bill does not authorize any additional expenditure.

Does the Bill Create New Federal Programs or Rules?: No, the bill adds a new category of pilots to a currently existing program.

Constitutional Authority: A Committee Report citing authority is unavailable.

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H.R. 3521—Tax Relief Extension Act of 2003 (Thomas)

Order of Business: The bill is scheduled for consideration on Thursday, November 20th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3521 extends the following tax provisions for one year:

- Allowance of nonrefundable personal credits against regular and alternative minimum tax liability.
- Work opportunity credit.
- Welfare-to-work credit.
- Above-the-line deduction for classroom expenses of elementary and secondary school teachers.
- Charitable contributions of computer technology and equipment used for educational purposes.
- Expensing of brownfields environmental remediation costs.
- 5-year carryback of certain net operating losses.
- Medical Savings Accounts.
- Temporary special rules for taxation of life insurance companies.
- Qualified zone academy bonds.
- District of Columbia enterprise zones, tax-exempt economic development bonds, first-time homebuyer credit and zero capital gains rate.
- Work opportunity credit with respect to the New York Liberty Zone.
- Disclosures relating to terrorist activities.
- Cover over of tax on distilled spirits.
- Parity in the application of certain limits to mental health benefits.
- Combined employment tax reporting project.

H.R. 3521 also extends the following pension provisions:

- Two-year replacement of the 30-year Treasury rate for pension balance calculations.
- Two-year extension of funding requirements for defined benefit plans of commercial passenger airlines.

The bill also includes hundreds of new duty suspensions and reductions and extends current duty suspensions and reductions.

Other provisions:

- Allows for the establishment of integrated border areas with Canada
- Make permanent Normal Trade Relations with Armenia

- Established new definition of “proper cellar treatment” for imported wine
- Requires a GAO study of customs user fees
- Increases the Virgin Islands duty exemption to \$1,600

The text of H.R. 3521 can be found here - <http://waysandmeans.house.gov/media/pdf/hr3521/hr3521.pdf>

Committee Action: H.R. 3521 was referred to the Committee on Ways and Means on November 19, but was not considered.

Cost to Taxpayers: A cost estimate is not available.

Does the Bill Create New Federal Programs or Rules?: The bill primarily extends expiring tax, pension, and trade provisions, but does include new duty suspensions and reductions and other new miscellaneous provisions.

Constitutional Authority: A committee report citing constitutional authority is not available, but Article I, Section 8, Clause I gives Congress the “Power To lay and collect Taxes, Duties, Imposts and Excises.”

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