



Legislative Bulletin.....September 24, 2008

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 2

Total Cost of Discretionary Authorizations: \$969 million over the FY 2009 through FY 2013 period

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 6

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

**H.R. 6849—To amend the commodity provisions of the Food, Conservation, and Energy Act of 2008 to permit producers to aggregate base acres and reconstitute farms to avoid the prohibition on receiving direct payments, counter-cyclical payments, or average crop revenue election payments when the sum of the base acres of a farm is 10 acres or less, and for other purposes
(Etheridge, D-NC)**

Order of Business: H.R. 6849 is scheduled to be considered on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6849 would suspend section 1101(d) of the Farm Bill (P.L. 110-246) for two years, through 2010. Section 1101(d) of the Food, Conservation, and Energy Act of 2008 states: “a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less.” By suspending this provision H.R. 6849 would allow agricultural producers on farms with less than 10 acres of land to receive payments under the Farm Bill.

In addition, the bill would extend the period for farmers to sign up for USDA programs in the 2008 season for 45 days or until November 14, 2008, whichever is first. This would allow producers with less than 10 acres to sign up for USDA farm programs and receive payments for 2008, even though the sign up period has expired.

Additional Background: The Food, Conservation, and Energy Act of 2008 stipulates that producers on a farm with 10 acres or less may not receive USDA farm subsidy payments unless that farmer is a socially disadvantaged or limited resource farmer (as determined by the Secretary of Agriculture). However, the [Manager’s Joint Explanatory Statement](#) of the bill indicated that it was the Manager’s goal to eventually allow agricultural produces to combine the aggregate total of all their farms to meet the 10 acre requirement to receive direct payments, counter-cyclical payments, or average crop revenue election payments. According to the Statement, “The Managers intend for the Department to allow for aggregation of farms for purposes of determining the suspension of payments on farms with 10 base acres or less.” Because this provision would increase eligibility for subsidies under the bill, it would increase the total cost of the legislation. To avoid a possible PAYGO violation, the farm bill banned aggregation of farms to meet the 10 acre requirement. H.R. 6849 would suspend that ban for two years and allow produces on farms smaller than 10 acres to receive farm subsidy payments during that time period.

Possible Conservative Concerns: Some conservatives may be concerned that the cost of increased farm program eligibility for small farmers would not be offset by reducing subsidies to large-scale farming operations that receive the vast majority of federal subsidies.

Committee Action: H.R. 6849 was introduced on September 9, 2008, and was referred to the Committee on Agriculture, which held a mark-up and reported the bill, as amended, by voice vote.

Cost to Taxpayers: A CBO score for H.R. 6849 is not currently available.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee report designating compliance with clause 9 of rule XXI is unavailable.

Constitutional Authority: A Committee report citing Constitutional authority is unavailable. House Rule XIII, Section 3(d)(1), requires that all committee reports contain a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution. [*emphasis added*]

RSC Staff Contact: Andy Koenig; andy.koenig@mail.house.gov; 202-226-9717.

S. 2324—Improving Government Accountability Act (*McCaskill, D-MO*)

Order of Business: The bill is scheduled to be considered on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: S. 2324 would prohibit the removal of any Inspectors General (IGs) without Congressional notification, authorize IGs to submit budget requests independently of the executive branch, establish the Inspectors General Council, and establish new payment levels for IGs. The specific provisions of the bill are as follows:

Removal of IGs:

- Specifies that if an IG appointed by the President is removed from office or is transferred to another position or location within an agency, the President must notify both Houses of Congress with the reasons for the removal at least 30 days prior.
- Specifies that if an IG is removed from a Legislative Branch agency (the Library of Congress, the Capitol Police, the Government Printing Office), the administrator of such agency must notify both Houses of Congress with the reasons for the removal at least 30 days prior.

Compensation for IGs:

- Prohibits IGs from receiving any cash awards or bonuses and increases the annual rate of basic pay for presidentially appointed IGs from level IV of the Executive Schedule (\$145,400 in 2007) to level III plus three percent (\$159,238).
- Requires that IGs appointed by their agency heads in designated federal entities are paid at a level comparable to other senior staff members of the agency.

Inspectors General Council:

- Establishes the Inspectors General Council within the executive branch. The Council is made up of every IG and supplants the President's Council on Integrity and Efficiency (PCIE), which oversees presidentially appointed IGs, and the Executive Council on Integrity and Efficiency (ECIC) which oversees IGs appointed by agency heads.
- Requires that the Council elect a chair from among the IGs to serve for a period of two years. The chair will be responsible for appointing a vice chair, convening meetings, carrying out the duties of the Council, and making payments to carry out the Council's duties.
- Requires the Council to continually review federal programs vulnerable to waste, fraud, and abuse, conduct inter-agency audits and investigations, maintain a website, establish one or more academies to train auditors and investigators, and submit reports to Congress per the chair's request.
- Establishes the Integrity Committee within the Council, headed by the IG of the FBI, for the purpose of investigating allegations of wrongdoing that are made against IGs and senior-level staff.

Expanded IG Authority and Other Provisions:

- Authorizes IGs to submit their own appropriation estimate and budget request to the Office of Management and Budget (OMB) and directly to Congress. The budget requests will be separate from and in addition to the individual agency's request (currently IG budgets are requested by each agency).
- Expands the IGs power to subpoena to include electronic information as well as any "tangible thing" (hard drives and computers).
- Requires the President's budget to show each separate IG request and include a statement comparing the IG's requests to the requests of their respective agency.
- Authorizes the Treasury Inspector General for Tax Administration's agents to provide armed escorts to protect the physical security of IRS employees.

- Requires the GAO to submit a report examining the adequacy of mechanisms to ensure accountability of the Offices of Inspector General within one year the date of enactment.

Additional Background: The Inspector General Act of 1978 established a series of independent Inspectors General (IGs) that answer to the President and operate within executive departments and agencies. IGs function as supervisory bodies within the agency, conducting audits and investigations to prevent government waste, fraud, and abuse. Since their creation, IGs have conducted investigations and audits that have led to countless prosecutions, debarments, and suspensions. According to [House Report 110-354](#), audits and investigations conducted by IGs resulted in \$9.9 billion in potential savings and \$6.8 billion in investigative recoveries in 2006 alone.

There are currently 58 Offices of Inspector General (OIGs) operating under the authorization of the IG bill. Each IG is appointed to his or her position either by President, with confirmation in the Senate, or by the respective agency. Currently, 29 IGs are presidential appointees and 29 have been appointed by their agency. In 1992, [Executive Order 12805](#) was signed to coordinate and enhance the efforts of individual IGs by establishing the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). The PCIE is made up of presidentially appointed IGs, while the ECIE consists of all agency-appointed IGs. Under the terms of the Executive Order, a PCIE IG may only be removed from office by the President, while an ECIE IG may be removed by the head of the presiding agency. In either case, the President or the agency head must give Congress notice and an explanation before an IG may be removed.

According to [House Report 110-354](#), a number of recent events have called into question the independence and accountability of IGs and have led to this legislation. Incidents that have called into question IGs position as a neutral supervisor include:

- Department of State Inspector General Howard Krongard allegedly interfered with numerous department investigations. The House Report suggests that “Krongard’s strong affinity with State Department leadership, support for the current administration, and partisan political ties have led him to halt investigations, censor reports, and refuse to cooperate with law enforcement agencies.” To read more, [click here](#).
- Current NASA Inspector General Robert Cobb allegedly intimidated and punished his own staff for investigating allegations of theft and safety violations.
- Department of Commerce Inspector General Johnnie Frazier, who retired in June 2007, was under investigation for taking vacations with taxpayer dollars. To read more, [click here](#).
- Legal Services Corporation (LSC) Inspector General Kirt West was considered for dismissal after conducting investigations into the LSC traveling expenses.

A version of this bill, H.R. 928, was considered and passed in the House by a vote of [404-11](#) on October 3, 2007. The Bush Administration initially opposed that legislation and threatened to

veto the bill. The Administration cited a number of provisions it opposed in H.R. 928, including a section that barred the President from removing an IG without cause. That section is not included in S. 2324.

The Administration also stated that allowing IGs to submit their own budget requests directly to Congress would supersede a longstanding process that gives the executive branch full control of its budget request. Like the House passed version of the bill, S. 2324 would allow IGs to submit their own budget requests to Congress. There is no official indication of the Administrations' position on S. 2324 at this time.

Committee Action: S. 2324 was introduced on November 11, 2008, and referred to the Committee on Homeland Security and Governmental Affairs, which reported the bill on February 22, 2008. On April 24, 2008, the bill passed the Senate and was forwarded to the House, which took no official action.

Cost to Taxpayers: According to CBO, implementing S. 2324 would cost \$13 million in FY 2008 and \$83 million of the FY 2009—FY 2013 period (subject to appropriation).

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.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? [Senate Report 110-262](#) does not cite compliance with these rules.

Constitutional Authority: [Senate Report 110-262](#) does not cite constitutional authority.

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H.R. 6406—To elevate the Inspector General of the Commodity Futures Trading Commission to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978 (*Larson, D-WA*)

Order of Business: The bill is scheduled to be considered on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6406 would make statutory (under the Inspector General Act of 1978) an Inspector General for the Commodity Futures Trading Commission (CFTC). The CFTC currently has a non-statutory inspector general.

Additional Background: Established by Congress in 1974, the U.S. Commodity Futures Trading Commission (CFTC) is an independent federal agency with the mission of regulating commodity futures and option markets in the United States. The goal was to replace the Commodity Exchange Authority with a more robust regulator. According to its website, “the

CFTC assures the economic utility of the futures markets by encouraging their competitiveness and efficiency, protecting market participants against fraud, manipulation, and abusive trading practices, and by ensuring the financial integrity of the clearing process. Through effective oversight, the CFTC enables the futures markets to serve the important function of providing a means for price discovery and offsetting price risk.” Learn more [here](#).

7 U.S.C. 6a(a) gives the CFTC the authority to rein in “excessive speculation,” as follows:

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the Commission shall, from time to time, after due notice and opportunity for hearing, by rule, regulation, or order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

7 U.S.C. 12a(9) gives the CFTC the authority:

...to direct the registered entity, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action. The term “emergency” as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity.

As the *Wall Street Journal* points out, futures markets are price-discovery mechanisms. Investors, traders—and in the case of oil and gas futures, major energy consumers, like refiners and airlines—buy and sell these contracts to lock in goods at a future price, as a hedge against volatility. Oil futures contracts are guesses about coming oil supply and demand, as well as the rate of inflation. The more participants there are in a futures market, the better the price discovery is.

The text of H.R. 6406 was originally part of the Commodity Markets Transparency and Accountability Act (H.R. 6604), when it was unsuccessfully considered in the House in July 2008, but was removed when the House passed H.R. 6604 earlier this month. See more details here: http://www.house.gov/hensarling/rsc/doc/lb_091808_energyfutures.pdf.

Committee Action: H.R. 6406 was introduced on June 26, 2008, and referred to the Oversight and Government Reform, which took no official action.

Cost to Taxpayers: A CBO score for H.R. 6406 is not available.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee report designating compliance with clause 9 of rule XXI is unavailable.

Constitutional Authority: A Committee report citing Constitutional authority is unavailable. House Rule XIII, Section 3(d)(1), requires that all committee reports contain a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution. [*emphasis added*]

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H.R. 6847— To designate the facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, as the “First Lieutenant Noah Harris Ellijay Post Office Building” (Deal, R-GA)

Order of Business: H.R. 6847 is scheduled for consideration on Tuesday, September 23, 2008, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6847 would designate the facility of the United States Postal Service located at 801 Industrial Boulevard in Ellijay, Georgia, as the “First Lieutenant Noah Harris Ellijay Post Office Building.”

Additional Background: Ellijay, aged 23, was assigned to the 2nd Battalion, 69th Armor Regiment, 3rd Brigade, 3rd Infantry Division, Fort Benning, Ga. He died June 18, 2008 in Baqubah, Iraq, of injuries sustained on June 17, 2008, when he was on mounted patrol and his Humvee was attacked by enemy forces using rocket-propelled grenades in Buritz, Iraq.

Committee Action: H.R. 6847 was introduced on September 9, 2008, and was referred to the Committee on Oversight and Government Reform, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 6847 is unavailable, but the only costs associated with a U.S. post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

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**H. Res. ___—Providing for agreement by the House of Representatives to the Senate amendment to the bill, H.R. 2095, with an amendment
(Oberstar, D-MN)**

Order of Business: H. Res. ___ is scheduled to be considered on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the resolution.

Summary: H. Res. ___ would provide for an agreement by the House to the Senate amendment to H.R. 2095, the Federal Railroad Safety Improvement Act of 2007. The text of the resolution is not currently available.

The Federal Railroad Safety Improvement Act of 2007 was introduced on May 1, 2007, and passed the House on October 17, 2007, by a vote of [377-38](#). As passed in the House, the bill would rename the Federal Railroad Administration (FRA) the Federal Rail Safety Administration (FRSA) and authorize \$1.12 billion for FRSA programs through 2011.

To read the RSC's original summary of H.R. 2095, [click here](#).

Committee Action: H. Res. ___ is likely to be introduced on September 24, 2008.

Cost to Taxpayers: A CBO score for H. Res. ___ is not currently available.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee report designating compliance with clause 9 of rule XXI is unavailable.

Constitutional Authority: A Committee report citing Constitutional authority is unavailable. House Rule XIII, Section 3(d)(1), requires that all committee reports contain a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution. *[emphasis added]*

RSC Staff Contact: Andy Koenig; andy.koenig@mail.house.gov; 202-226-9717.

H.R. 6999—To restructure the Coast Guard Integrated Deepwater Program, and for other purposes (*Cummings, D-MD*)

Order of Business: The bill is scheduled for consideration on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6999 would overhaul and place new requirements on the U.S. Coast Guard's Integrated Deepwater Program. The \$25 billion program was designed to upgrade and replace dilapidated Coast Guard ships, aircraft and equipment that are specifically designed for deepwater use.

The bill would ban the use of a private sector Lead System Integrator (LSI) for the program within 90 days of enactment. The bill would provide some exceptions to this ban to allow private-sector entities already operating to continue their projects and make deliveries of ordered equipment through fiscal year 2011.

H.R. 6999 would require the Department of Homeland Security (DHS), in coordination with the LSI, to conduct a "full and open" competition in any acquisition that uses a private sector contractor. Under certain circumstances, the Secretary may forego competition if it is in the best interest of the government. The bill would prohibit the LSI from having any financial interest in a subcontractor that was selected for a contract if the subcontractor received their contract without going through a full and open competition.

The bill would require DHS to ensure that every contract is certified for procurement by the department or by an independent third party. Private contractors would be barred from certifying subcontractors and self-certification would be prohibited. In addition, H.R. 6999 would set testing and verification standards for assets that are acquired through the Deepwater program. The bill would prohibit a contract of more than \$10 million from being executed until DHS certifies certain standards.

H.R. 6999 would establish the Agency Chief Acquisition Officer and require the Commandant of the Coast Guard to appoint a person to the position. This individual would be responsible for monitoring the Deepwater Program and ensuring the use of detailed performance specifications and performance based contracts. H.R. 6999 also requires DHS to alter and update the Integrated Deepwater Program's project management plan within 180 days of enactment.

The bill would require the DHS to work with the Department of Defense while obtain contracts for the Integrated Deepwater Program and to leverage DOD contracts to get the best possible price. The bill would also require the Integrated Deepwater Program's Executive office to submit a report to Congress as soon as the program experiences an 8% cost overrun, a delay of 180 days or longer, or an anticipated project failure. The bill would also require the Secretary to submit to Congress reports regarding various Coast Guard security and technology programs.

Additional Information: In 1998, the Coast Guard unveiled the Integrated Deepwater Program for replacing and refurbishing aging and decrepit ships, aircraft, and other deepwater equipment (50 miles offshore). The project was initially slated to be complete in 2018 and cost an estimated

\$17 billion. In 2002 Integrated Coast Guard Systems (ICGS), a joint venture of Northrop Grumman and Lockheed Martin was awarded the contract as the Lead System Integrator (LSI) for the program. Since that time the costs and timetables for the program have grown. In 2005, an estimate stated that the project would be completed in 2028 and now cost \$28 billion. During that same time period the GAO has released a number of reports critical of the projects handling and Congress has passed two bills (H.R. 2722 and S. 924) to overhaul the project. Neither body has appointed conferees to resolve the bills' differences.

On September 23, 2008, the Commandant of the Coast Guard, Admiral Thad W. Allen, sent a letter to Transportation and Infrastructure Committee Chairman Oberstar, stating his opposition to H.R. 6999. Admiral Allen points out that H.R. 2722, as passed by the House, would have given the Coast Guard until 2011 to phase out the use of a private sector LSI, while H.R. 6999 gives them only 90 days. The Admiral's letter states:

That bill terminated the use of a private sector Lead System Integrator (LSI) for the Integrated Deepwater Program (Deepwater) on September 30, 2011, or an earlier date on which the Commandant certifies that the Coast Guard has and can retain the expertise to carry out the functions and responsibilities of the LSI in an efficient and cost-effective manner. We felt this was a fair compromise that allowed the service time to make a smooth transition from the LSI process to a fully developed in-house acquisition directorate. We cannot support a bill that terminates the LSI within 90 days.

Like you, we understand that Deepwater has been plagued by start up problems, many of which stem from allowing the LSI to make asset choices that should have been made by the Coast Guard, and by inadequate oversight of the LSI. However, the Coast Guard chose the unusual LSI approach because the service acknowledged that it lacked the in-house expertise to carry out a 25-year, \$24 billion acquisition system. The Coast Guard is now developing that expertise, but for the foreseeable future will need to rely on contractors to keep Deepwater on time and on budget. However desirable a goal it might be, eliminating the LSI contractors within 90-days is not a practical solution.

Committee Action: H.R. 6999 was introduced on September 23, 2008, and referred to the Committee on Transportation and Infrastructure, which took no further action.

Cost to Taxpayers: A CBO score for H.R. 6999.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Constitutional Authority: A committee report citing constitutional authority is not available. However, House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution" [*emphasis added*].

RSC Staff Contact: Andy Koenig; andy.koenig@mail.house.gov; 202-226-9717.

S. 3009—A bill to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the “J. James Exon Federal Bureau of Investigation Building” (Nelson, D-NE)

Order of Business: S. 3009 is scheduled for consideration on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: S. 3009 would designate the Federal Bureau of Investigation building under construction at the intersection of 120th and L Streets in Omaha, Nebraska as the ‘J. James Exon Federal Bureau of Investigation Building’.

Additional Information: According to the Biographical Directory of the U.S. Congress:

EXON, J. James, a Senator from Nebraska; born in Geddes, Charles Mix County, S. Dak., August 9, 1921; attended the public schools; attended University of Omaha, Omaha, Nebr., 1939-1941; United States Army Signal Corps 1942-1945; United States Army Reserve 1945-1949; branch manager of a financial corporation; founder and president of an office equipment firm 1953-1971; Governor of Nebraska 1971-1979; elected as a Democrat to the United States Senate in 1978; reelected in 1984 and again in 1990 and served from January 3, 1979 to January 3, 1997; not a candidate for reelection in 1996; was a resident of Lincoln, Neb., until his death, due to cancer, on June 10, 2005; lay in state in the rotunda of the Nebraska state capitol, June 14-15, 2005; interment in Wyuka Cemetery, Lincoln.

Committee Action: S. 3009 was introduced on May 12, 2008 and passed the Senate on June 24, 2008 by unanimous consent. The bill was referred to the House Committee on Transportation and Infrastructure, which has taken no official action.

Cost to Taxpayers: A CBO score for .R. 6340 is unavailable, but the only costs associated with a U.S. Courthouse renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits was not available. Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

RSC Staff Contact: Sarah Makin; sarah.makin@mail.house.gov; 202-226-0718.

**H. Res. 1376— Commemorating the 80th anniversary of the Okeechobee
Hurricane of September 1928 and its associated tragic loss of life
(Hastings, D-FL)**

Order of Business: The resolution is scheduled to be considered on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the resolution.

Summary: H. Res. 1376 would express the sense that the House or Representatives:

- “memorializes the tragic loss of approximately 3,000 lives in the United States and its territories due to the Okeechobee Hurricane of 1928;
- “recognizes the enduring importance of hurricane preparedness measures, enhanced evacuation, emergency plans, and disaster response training especially in economically disadvantaged communities to prevent a disproportionate impact of natural disasters and disparities in disaster response;
- “recognizes the role of relevant Federal agencies, research institutes, universities, and disaster response organizations in providing intensity forecasting, long-range projections of hurricane activity, emergency management, and hurricane and storm damage reduction to better prepare for, respond to, and mitigate the extensive loss of life and devastating impacts of hurricanes and storms;
- “ fully supports initiatives to enhance our understanding of storm impacts on physical structures, including water management systems and other infrastructure that may be vulnerable to the most intense of storms;
- “urges the State of Florida and local governments to commemorate and memorialize the 80th anniversary of the Okeechobee Hurricane of 1928 and its associated tragic loss of approximately 3,000 lives in the United States and its territories; and appropriately recognize mass graves of the victims of the Okeechobee Hurricane;
- “urges the Federal government, and State and local governments, to take appropriate actions to encourage hurricane and disaster preparedness, education, response, and mitigation; and support programs and initiatives that promote disaster preparedness, education, response, and mitigation especially in economically disadvantaged and migrant communities;
- “commends the Army Corps of Engineers for its ongoing rehabilitation of the Herbert Hoover Dike and encourages continued collaboration among Federal, State, and local governments toward expeditious completion of the rehabilitation effort; and
- “recommits itself to hurricane preparedness, safety education, response, and mitigation for all communities in the 110th Congress.”

The resolution lists a number of findings, including:

- “the Okeechobee Hurricane, also known as Hurricane San Felipe Segundo, formed in the Atlantic Ocean, traveled through the Caribbean Sea, and up the eastern coast of the United States between September 10 and September 20, 1928;
- “on September 16, 1928, the Okeechobee Hurricane made landfall in the continental United States at Palm Beach County, Florida, and proceeded north over Lake

Okeechobee, after which it decreased steadily in intensity before dying in Ontario, Canada;

- “the Okeechobee Hurricane attained the highest classification of Category 5 for tropical cyclone intensity on the Saffir-Simpson Hurricane Scale, with winds exceeding 160 miles per hour;
- “the Okeechobee Hurricane is officially recognized by the National Oceanic and Atmospheric Administration as the second deadliest hurricane on record in United States history, exacting the tragic loss of approximately 3,000 lives in the United States and its territories;
- “approximately 75 percent of fatalities from the Okeechobee Hurricane in the United States were migrant farm workers, the vast majority of which were African-American;
- “the Okeechobee Hurricane exacted horrendous damage valued at over \$16,000,000,000, adjusted for inflation, to the infrastructure and towns of western Palm Beach County alone;
- “many of those killed by the Okeechobee Hurricane in southern Florida were buried in segregated mass graves, such as the more than 670 African-American victims in a mass grave in West Palm Beach;
- “the Nation and the State of Florida have taken steps to respond to the Okeechobee Hurricane and other storm events with the construction of storm damage reduction projects to mitigate the loss of life and property;
- “ a breach of the Herbert Hoover Dike or similarly designated structures throughout the Nation could potentially cause catastrophic loss of life and poses grave economic and environmental consequences to the surrounding communities; and
- “economically disadvantaged and migrant communities are at increased risk for extensive damage and loss of life associated with natural disasters.”

Committee Action: H. Res. 1376 was introduced on July 24, 2008, and referred to the House Committee on Transportation and Infrastructure, which held a mark-up of the bill on July 31, 2008, and ordered the bill reported, as amended, by voice vote.

Cost to Taxpayers: The resolution does not authorize expenditures.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

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S. 2162— Veterans’ Mental Health and Other Care Improvements Act of 2008 (Akaka, D-HI)

Order of Business: S. 2162 is scheduled for consideration on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: The following is a summary of the major components of the bill (according to the House Committee on Veterans Affairs Republican Staff):

Title I—Substance Use Disorders and Mental Health Care

1. The bill pays tribute to Justin Bailey, an Operation Enduring Freedom veteran who died in a VA domiciliary while receiving care for Post-Traumatic Stress Disorder (PTSD) and Substance Use Disorder (SUD).
2. The bill would expand VA medical centers to require that they provide a full continuum of SUD care.
3. The bill authorizes \$1.5 million for FY 2010 and 2011 to carry out an internet based pilot program for the treatment of SUD for veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF).
4. The bill would require that the VA Inspector General conduct a six month review of all VA residential mental health care facilities, and report to Congress. In addition, the bill requires a follow-up review within two years to evaluate progress.
5. The bill establishes a three year pilot program for peer outreach services, readjustment counseling services, and other mental health services for OIF and OEF veterans residing in rural areas, especially members of the National Guard and Reserve.

Title II—Mental Health Research

1. The bill would require that the VA establish a research program on comorbid PTSD and SUD in coordination with the National Center for PTSD. The bill authorizes \$2 million for each of fiscal years 2009-2012 for this research program.
2. The bill extends the authorization for the Special Committee on PTSD through 2012.

Title III—Assistance for Families of Veterans

1. The bill clarifies the VA’s authority to provide marriage and family counseling.
2. The bill authorizes \$1 million for fiscal years 2009-2011 to establish a three-year pilot program for readjustment and transition assistance for veterans and their families through contracts with any for-profit or non-profit organization in cooperation with 10 Vet Centers.

Title IV—Health Care Matters

1. The bill would allow the VA to provide for the cost of emergency treatment for enrolled veterans until transferred to a VA or other federal facility.
2. The bill establishes a three-year pilot program in five Veterans Integrated Service Networks (VISNs) for veterans in highly rural areas to receive healthcare from non-VA healthcare providers. The bill would require that three VISNs include at least three highly rural counties, and two VISNs include only one highly rural county.

3. The bill would establish between four and six epilepsy centers to serve in the diagnosis and treatment of epilepsy. The bill sets certain requirements for where these centers must be located and authorizes \$6 million for each of fiscal years 2009-2013 for the centers.
4. The bill would require the VA to provide comprehensive health care services for a child of a Vietnam veteran born with Spina Bifida.
5. The bill would exempt all hospice care provided by VA from co-payment requirements.

Title V—Pain Care

1. The bill would require the VA to develop and implement a policy on pain management that is developed and updated periodically in consultation with VSOs and experts in pain management. The bill also requires an annual report on implementation of the policy

Title VI—Homeless Veterans Matters

1. The bill increases the authorization level for the homeless grant and per diem program from \$130 million to \$150 million.
2. The bill makes permanent the authority for VA to provide referral and counseling services for at-risk veterans, expands the program from 6 to 12 locations, and extends the program through September 30, 2011.
3. The bill would require the VA to provide grants to very low-income veteran families residing in permanent housing for supportive in obtaining VA benefits and other public benefits. The bill authorizes \$15 million for FY 2009, \$20 million for FY 2010, and \$25 million for FY 2011. The bill authorizes no more than \$750,000 for technical assistance, and authorizes \$1 million for fiscal years 2008-2010.

Title VII—Authorization of Medical Facility Projects and Major Medical Facility Leases

1. The bill authorizes the VA to carry out three major medical facility projects as follows: \$54 million for seismic corrections at the Palo Alto VAMC; \$66 million for the construction of a polytrauma center at the San Antonio VAMC; and \$225.9 million for seismic corrections at the Puerto Rico VAMC.
2. The bill amends the Veterans Benefits, Health Care, and Information Technology Act of 2006 to increase the amount authorized under such Act for the following major medical facility projects:
 - a. \$625 million for new construction or replacement of the VAMC in New Orleans, LA;
 - b. \$568.4 million for a replacement VAMC in Denver, CO;
 - c. \$136.7 million for the correction of patient privacy deficiencies at the VAMC in Gainesville, FL;
 - d. \$600.4 million for the construction of a new VAMC in Las Vegas, NV;
 - e. \$131.8 million for the construction of a new outpatient clinic in Lee County, FL;
 - f. \$656.8 million for the construction of a new VAMC in Orlando, FL; and
 - g. \$295.6 million for the consolidation of medical facility campuses in Pittsburgh, PA.
3. The bill authorizes the VA to carryout 13 major medical facility leases for fiscal year 2009 as follows:
 - a. \$4.326 million for an outpatient clinic in Brandon, FL;
 - b. \$10.3 million for an outpatient clinic in Colorado Springs, CO;

- c. \$5.826 million for an outpatient clinic in Eugene, OR;
 - d. \$5.891 million for the expansion of an outpatient clinic in Green Bay, WI;
 - e. \$3.731 million for an outpatient clinic in Greenville, SC;
 - f. \$2.212 million for an outpatient clinic in Mansfield, OH;
 - g. \$6.276 million for an outpatient clinic in Mayaguez, PR;
 - h. \$5.106 million for an outpatient clinic in Mesa, AZ;
 - i. \$8.636 million for interim research space in Palo Alto, CA;
 - j. \$3.168 million for an outpatient clinic in Savannah, GA;
 - k. \$2.295 million for an outpatient clinic in Sun City, AZ;
 - l. \$8.652 million for a primary care annex in Tampa, FL; and
 - m. \$3.6 million for an outpatient clinic in Peoria, IL.
4. The bill increase the threshold for major medical facility leases requiring Congressional authorization from \$600,000 to \$1 million.

Title VIII—Extension of Certain Authorities

- 1. The bill includes numerous extensions of current activities including copayment authority, nursing home care, etc.
- 2. The bill extends the authority for VA to conduct a pilot program to improve VA assistance provided to caregivers, particularly in home-based settings through 2009.

Committee Action: S. 2162 was introduced on October 15, 2007 and on June 3, 2008, the Senate passed S. 2162 by unanimous consent with an amendment. The bill was then referred to the House Committee on Veterans' Affairs, which took no official action.

Cost to Taxpayers: According to CBO, implementing S. 3023 would cost about \$880 million over the 2008-2013 period, assuming appropriation of the specified and estimated amounts. Enacting the bill would not affect direct spending or revenues.

Conservative Concerns: Some conservatives may be concerned that this legislation should be considered under a rule, due to the nature and extent of the reforms included. In addition, some conservatives may be concerned that we are considering a bill that would cost approximately \$880 million over five years.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill adds new requirements to the Department of Veterans Affairs.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A Committee Report citing constitutional authority was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

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S. 3023— Veterans’ Benefits Improvement Act of 2008 *(Akaka, D-HI)*

Order of Business: S. 3023 is scheduled for consideration on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: The following is a summary of the major components of the bill (according to the House Committee on Veterans Affairs Republican Staff):

Title I—Compensation and Pension Matters

1. The bill direct the Secretary to prescribe regulations relating to the contents of notice to veterans provided for claims decisions to ensure that specific information is provided for different types of claims such as housing, education, etc.
2. The bill provides judicial review for adoption and revision by the Secretary of Veterans Affairs for the reduction of veterans claims eligibility ratings.
3. The bill would require the Secretary of Veterans Affairs to provide a report on the progress in addressing differences in compensation payments for veterans with service-connected disabilities.
4. The bill adds osteoporosis to the list of disabilities that may be service-connected in former prisoners of war with post-traumatic stress disorder.

Title II—Modernization of Department of Veterans Affairs

1. The bill codifies existing regulations that give the Secretary the authority to provide temporary disability ratings.
2. The bill would require the Secretary to provide a report on compensation of veterans for loss of earnings and quality of life, and on long-term transition payments for veterans undergoing rehabilitation.
3. The bill would require the Secretary to conduct a pilot program on expedited treatment of fully developed claims, and would require that a checklist including substantiating evidence for individuals submitting incomplete claims be part of the program.
4. The bill establishes an Office of Survivors’ Assistance to provide for surviving families.
5. The bill would require the Secretary to develop a certification and training program for claims benefits processors, and would require that there be performance measures for claims benefits processors.

Title III—Labor and Education Matters

1. The bill would require additional training for federal human resources personnel regarding ways to better serve veterans and find them employment.

2. The bill would require the Department of Labor to report and make recommendations on the employment needs of Native American veterans living on tribal lands.
3. Makes numerous changes to the current code to ensure greater access for veterans.

Title IV—Insurance Matters

1. The bill would require that PTSD (Post Traumatic Stress Disorder) is covered by traumatic injury protection.
2. The bill would amend title 10 to cover stillborn children as dependents under Servicemembers Group life Insurance (SGLI) in order to cover funeral costs.

Title V—Housing Matters

1. The bill extends the Stimulus Act's increase VA loan limits through 2011.
2. The bill would require the Department of Veterans Affairs to report on the impact of home loan foreclosures on veterans and update the Specially Adapted Housing Design Handbook every six years.
3. The bill lowers the equity requirements for a VA-guaranteed loan to 0%.
4. The bill extends the Department of Veterans Affairs' authority to guarantee Adjustable and Hybrid Adjustable home loans to September 30, 2012.

Title VI—Court Matters

1. The bill increases the number of judges in the U.S. Court of Appeals for Veterans Claims from seven to nine.
2. The bill repeals the limit on service of recalled retired judges and provide them pay at the level of active judges.
3. The bill grant the U.S. Court of Appeals for Veterans Claims additional discretion in the imposition of practice and registration fees.
4. The bill would require the General Services Administration to study and report on the feasibility of expanding the facilities of the United States Court of Appeals for Veterans Claims.

Title VII—Assistance to U.S. Paralympic Integrates Adaptive Sports Program

1. The bill authorizes the Department of Veterans Affairs to conduct a four-year pilot program beginning in 2010 with U.S. Paralympics, Inc. to promote participation in sports by disabled veterans.
2. The bill includes an authorization amount of \$10 million for this program, and monthly living assistance payments for participants at elite levels.
3. The bill establishes the Department of Veterans Affairs Office of National Veteran Sports Programs and Special Events.

Title VIII—Other Matters

1. The bill would require a report on the adequacy of dependency and compensation to assist survivors of veterans who die from service-connected disabilities.
2. The bill would require the Secretary of Veterans Affairs to contract with the Institute of Medicine of the National Academies to conduct an epidemiological study to identify any increased risk of developing multiple sclerosis as a result of service in the Persian Gulf or in the Post 9/11 global operations theaters.

3. The bill makes permanent the Department of Veterans Affairs Advisory Committee on Minority Veterans.
4. The bill provides Memorial headstones and markers for deceased remarried surviving spouses of veterans.

Conservative Concerns: Some conservatives may be concerned that this legislation should be considered under a rule, due to the nature and extent of the reforms included.

Committee Action: S. 3023 was introduced on May 15, 2008 and on September 16, 2009 passed the Senate with an amendment and an amendment to the title by unanimous consent.

Cost to Taxpayers: No CBO score exists for the compromised version of this bill.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the bill adds new requirements to the Department of Veterans Affairs.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A Committee Report citing constitutional authority was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

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**H.R. 6980— To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to increase the amount of the Medal of Honor special pension provided under that title by up to \$1,000
(Brown, R-SC)**

Order of Business: H.R. 6980 is scheduled for consideration on Wednesday, September 24, 2008, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6980 would increase the rate of special pension for recipients of the Medal of Honor by no more than \$1,000. The bill also allows that after the Secretary has expended all the funds specifically provided for increasing the pay, the Secretary may not increase the rate of a special monthly pension. The bill sets the authority for this increase in special pension to expire on September 30, 2013.

Committee Action: H.R. 6980 was introduced on September 22, 2008 and referred to the House Committee on Veterans' Affairs, where no official action was taken.

Cost to Taxpayers: Though no formal CBO score exists, the CBO provided an informal cost estimate of \$6 million over five years.

Does the Bill Expand the Size and Scope of the Federal Government? No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A Committee Report citing constitutional authority was not available. Such a report is not required because the bill is being considered under a suspension of the rules.

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