THE REPUBLICAN STUDY COMMITTEE
Rep. Jim Jordan, Chairman
Paul Teller, Executive Director
RSC
202.226.9717
rsc.jordan.house.gov

Legislative Bulletin.....July 9, 2012

Contents:

H.R. 4155 – Veteran Skills to Jobs Act (Denham R-CA)

Order of Business: The bill is scheduled to be considered under a motion to suspend the rules and pass the bill.

Summary: This legislation would direct the head of each Federal department and agency to treat relevant military training as sufficient to satisfy training or certification requirements for Federal licenses "unless the training received by such applicant is found to be substantially different from the training or certification requirements for the license."

Committee Action: This legislation was introduced on March 7, 2012, and referred to the House Committee on Oversight and Government Reform. If was reported out of Committee on June 27, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The CBO has not scored this bill.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation decreases the size and scope of the Federal Government by removing duplicative certification requirements.

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

Does the Bill Contain Earmarks?: No.

Constitutional Authority: According to its sponsor, "Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the Constitution of the United States."

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

H.R. 4114 – Veterans' Compensation Cost-of-Living Adjustment Act of 2012 (Runyan R-NJ)

Order of Business: The bill is scheduled to be considered under a motion to suspend the rules and pass the bill.

Summary: This legislation would increase the amounts paid to veterans for disability compensation and to their survivors for dependence and indemnity compensation by the same cost-of-living adjustment (COLA) payable to Social Security recipients. This increase would take effect on December 1, 2012, and the resulting adjustment would be rounded to the next lower dollar.

This would apply specifically to:

- "Wartime disability compensation;
- Additional compensation for benefits;
- Clothing allowance;
- Dependency and indemnity compensation to surviving spouse; and
- Dependency and indemnity compensation to children."

Background: The purpose of the disability compensation program is to provide relief from the impaired earning capacity of disabled veterans as a consequence to their military service to the United States. Income and financial need do not factor in determining a surviving spouse or dependent because the nation has assumed, in part, the legal and moral obligation to support the veteran's spouse and children. Congress has provided annual increases in these rates for every fiscal year since 1976. This bill follows the traditional practice of setting veterans' disability compensation COLA by reference to the yet-to-be determined Social Security increase.

Committee Action: This legislation was introduced on February 29, 2012, and referred to the House Committee on Veterans Affairs. This legislation was reported out of Committee on April 27, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget office (CBO) estimates that enacting H.R. 4114 would have no significant increase in direct spending over the 2012-2021 period, *relative to CBO's baseline*. However, relative to current law, CBO estimates that enacting this bill would increase spending by $686 million in fiscal year 2013 (the annualized cost would be about $915 million in subsequent years). The reason for the difference is because the COLA is assumed in CBO's baseline.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, it increases the size of benefits provided to our nations veterans, thereby increasing spending relative to current law.

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

Does the Bill Contain Earmarks: No.

Constitutional Authority: According to its sponsor, "Article I, Section 8 of the Constitution of the United States."

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

H.R. 4367 – To amend the Electronic Fund Transfer Act to limit the fee disclosure requirement for an automatic teller machine to the screen of that machine (Luetkemeyer, R-MO)

Order of Business: H.R. 4367 is scheduled to be considered on Monday, July 9, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4367 would amend Section 904 of the Consumer Credit Protection Act (Electronic Fund Transfer Act'(EFTA)) by repealing the requirement that credit union and banks maintain physical placards or that fee notices be affixed to or displayed on automated teller machines (ATMs) warning that customers may be assessed fees for use of an ATM if they are not an account holder of that financial institution. According to the committee report, "the requirement is unnecessary because ATM operators are required to disclose fees on ATM screens and consumers have the right to decline the transaction without being charged." H.R. 4367 is intended to protect ATM operators from frivolous lawsuits related to this fee notice requirement.

Background: According to the committee report:

> The EFTA and its implementing rule, Regulation E, require ATM operators to display notices in two separate places notifying consumers that they might be charged fees for withdrawing cash from the ATM. The EFTA and Regulation E require that one of these notices must be posted in a prominent and conspicuous location on or at the ATM. The second notice must appear on the screen of the ATM, or on a paper notice issued from the machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction. Today, ATMs are more prominent and better understood, screens are much larger, and they display sharper images. Also, unlike before, when many ATMs were not capable of providing the notice on the monitor, every ATM can notify consumers of possible fees today.
>
> But even though the EFTA's physical disclosure requirement has become obsolete, the requirement exposes banks, credit unions and retailers to frivolous lawsuits and unnecessary costs. Under the EFTA, a consumer who uses an ATM that does not have a fee notice physically attached may recover statutory damages of between $100 and $1,000 for each transaction. The law also permits class action lawsuits to recover up to half a million dollars.

Committee Action: H.R. 4367 was introduced on April 17, 2012, and referred to the House Committee on Financial Services. On April 29, 2012 it was reported by the Committee on Financial Services and placed on the House Calendar.

Administration Position: No Statement of Administration Policy is provided.

Cost to Taxpayers: According to the CBO Report on H.R. 4367, CBO estimates that enacting H.R. 4367 would not have a significant affect direct spending and revenues. CBO also estimates that revising those regulations would not have a significant effect on their workload and any change in direct spending (for the CFPB) or revenues (for the Federal Reserve Board) would be insignificant.

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? According to the CBO Report, H.R. 4367 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? The earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: The accompanying Constitutional Authority Statement reads: "H.R. 4097. Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the explicit power of Congress to regulate commerce in and among the states, as enumerate in Article 1, Section 8,Clause 3, the Commerce Clause, of the United States Constitution."

RSC Staff Contact: Ja'Ron Smith, ja'ron.smith@mail.house.gov (202-226-2076)

H.R. 6019 – Juvenile Accountability Block Grant Reauthorization and the Bullying Prevention and Intervention Act of 2012, as amended *(Jackson Lee, D-TX)*

Order of Business: The bill is scheduled to be considered on Monday, July 9, 2012, under a motion to suspend the rules requiring two thirds majority vote for passage.

Summary: H.R. 6019 reauthorizes funding for the Juvenile Accountability Block Grant Program at $40 million per year for FY2013 through FY 2017. The previous four-year reauthorization at $350 million per year expired in FY2009, yet it has continued to receive appropriations in the subsequent unauthorized years ($46 million in FY2011, and $30 million in FY2012, according to the Judiciary Committee). The bill also ***expands*** the existing anti-bullying purpose area to include intervention in addition to prevention while encouraging the use of best practices for all purpose areas in the grants.

According to its website, this Department of Justice Office of Juvenile Justice and Delinquency Prevention program funds block grants to "states for programs promoting greater accountability in the juvenile justice system." Local and tribal governments apply to the states for funds to support local juvenile programs. The program currently includes 17 program purpose areas.

Additional Information: In 2005, Congress created a new purpose area dedicated to address school safety that includes bullying and cyberbulling prevention for eligible state, local, and tribal governments to receive federal grants. Note: the original program began in 2002.

According to the U.S. Department of Education, 46 states have anti-bullying laws in place that address bullying and related behaviors in schools. 36 states prohibit cyberbullying, and 13 have laws that grant schools the authority to address off-campus behavior that creates a hostile school environment.

Potential Conservative Concerns: With nearly all states having laws on their books to address bullying and school safety, some conservatives may disagree with the creation of a new purpose area of bullying intervention (in addition to the current purpose area for prevention of bullying/cyberbullying) to eligible beneficiaries to receive federal funding at a time of record federal deficits and debts. Additionally, some conservatives may question the appropriateness and constitutionality of the federal government dealing at all with matters so obviously local.

Outside Groups Opposing: Eagle Forum (key scoring).

Committee Action: Representative Sheila Jackson Lee *(D-TX)* introduced H.R. 6019 on June 26, 2012. The Judiciary Committee reported the amended bill out favorably by voice vote. An amendment to strike the new grant purpose area to include establishment and maintenance of "intervention programs regarding bullying" failed by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report detailing the cost to taxpayers is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill creates a new grant purpose area for eligible state, local, and tribal governments to receive federal funding.

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

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: The Constitutional Authority Statement upon introduction of the bill states, "Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the power granted to Congress under Article 1, Section 8, Clause 1 of the United States Constitution."

RSC Staff Contact: Joe Murray, Joe.Murray@mail.house.gov, (202) 226-0678

S. 1959 – Haqqani Network Terrorist Designation Act of 2011 (Sen. Burr, R-NC)

Order of Business: The bill is scheduled to be considered on Monday, July 9, 2012, under a motion to suspend the rules requiring two thirds majority vote for passage.

Summary: The bill requires the Secretary of State to submit a detailed report (in unclassified form, but may include a classified annex) to the appropriate committees of Congress within 30 days of enactment including:

- "…whether the Haqqani Network meets the criteria for designation as a foreign terrorist organization as set forth in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); and
- If the Secretary determines that the Haqqani Network does not meet the criteria set forth under such section 219, a detailed justification as to which criteria have not been met."

The bill defines the term "appropriate committees of Congress" to mean:

- the Committee on Armed Services, Foreign Relations, and the Select Committee on Intelligence in the Senate; and
- the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Reprensentatives.

It also declares, "Nothing in this Act may be construed to infringe upon the sovereignty of Pakistan to combat militant or terrorist groups operating inside the boundaries of Pakistan."

Additional Information: S. 1959 includes the following Congressional findings under the section title, "Report on Designation of the Haqqani Network as a Foreign Terrorist Organization."

(1) "A report of the Congressional Research Service on relations between the United States and Pakistan states that `[t]he terrorist network led by Jalaluddin Haqqani and his son Sirajuddin, based in the FATA, is commonly identified as the most dangerous of Afghan insurgent groups battling U.S.-led forces in eastern Afghanistan'.
(2) The report further states that, in mid-2011, the Haqqanis undertook several high-visibility attacks in Afghanistan. First, a late June assault on the Intercontinental Hotel in Kabul by 8 Haqqani gunmen and suicide bombers left 18 people dead. Then, on September 10, a truck bomb attack on a United States military base by Haqqani fighters in the Wardak province injured 77 United States troops and killed 5 Afghans. A September 13 attack on the United States Embassy compound in Kabul involved an assault that sparked a 20-hour-long gun battle and left 16 Afghans dead, 5 police officers and at least 6 children among them.
(3) The report further states that `U.S. and Afghan officials concluded the Embassy attackers were members of the Haqqani network'.
(4) In September 22, 2011, testimony before the Committee on Armed Services of the Senate, Chairman of the Joint Chiefs of Staff Admiral Mullen stated that `[t]he Haqqani network, for

one, acts as a veritable arm of Pakistan's Inter-Services Intelligence agency. With ISI support, Haqqani operatives plan and conducted that [September 13] truck bomb attack, as well as the assault on our embassy. We also have credible evidence they were behind the June 28th attack on the Intercontinental Hotel in Kabul and a host of other smaller but effective operations',

(5) In October 27, 2011, testimony before the Committee on Foreign Affairs of the House of Representatives, Secretary of State Hillary Clinton stated that `we are taking action to target the Haqqani leadership on both sides of the border. We're increasing international efforts to squeeze them operationally and financially. We are already working with the Pakistanis to target those who are behind a lot of the attacks against Afghans and Americans. And I made it very clear to the Pakistanis that the attack on our embassy was an outrage and the attack on our forward operating base that injured 77 of our soldiers was a similar outrage.'

(6) At the same hearing, Secretary of State Clinton further stated that `I think everyone agrees that the Haqqani Network has safe havens inside Pakistan; that those safe havens give them a place to plan and direct operations that kill Afghans and Americans.'

(7) On November 1, 2011, the United States Government added Haji Mali Kahn to a list of specially designated global terrorists under Executive Order 13224. The Department of State described Khan as `a Haqqani Network commander' who has `overseen hundreds of fighters, and has instructed his subordinates to conduct terrorist acts.' The designation continued, `Mali Khan has provided support and logistics to the Haqqani Network, and has been involved in the planning and execution of attacks in Afghanistan against civilians, coalition forces, and Afghan police'. According to Jason Blazakis, the chief of the Terrorist Designations Unit of the Department of State, Khan also has links to al-Qaeda.

(8) Five other top Haqqani Network leaders have been placed on the list of specially designated global terrorists under Executive Order 13224 since 2008, and three of them have been so placed in the last year. Sirajuddin Haqqani, the overall leader of the Haqqani Network as well as the leader of the Taliban's Mira shah Regional Military Shura, was designated by the Secretary of State as a terrorist in March 2008, and in March 2009, the Secretary of State put out a bounty of $5,000,000 for information leading to his capture. The other four individuals so designated are Nasiruddin Haqqani, Khalil al Rahman Haqqani, Badruddin Haqqani, and Mullah Sangeen Zadran."

Committee Action: Senator Richard Burr (R-NC) introduced S. 1959 on December 11, 2011 where the Senate Foreign Relations Committee took no further action. On December 17, 2011, the Senate passed the bull with an amendment by Unanimous Consent. No House Judiciary Committee action has been taken on the bill.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report detailing the cost to taxpayers is unavailable.

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 Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: No Constitutional Authority Statement has been included with the bill. However, a similar House companion bill (H.R. 6036) declares that, "Congress has the power to enact this legislation pursuant to the following: The bill relates to matters concerning the foreign policy and national security of the United States. Article I, section 8 of the Constitution of the United States provides, in pertinent part, that ``Congress shall have power ... to pay the debts and provide for the common defense and general welfare of the United States"; ``. . . to raise and support armies. . ."; ``To provide and maintain a Navy"; ``To make Rules for the Government and Regulation of the land and naval Forces"; and ``To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution in the Government of the United States, or in any Department or Officer thereof."

RSC Staff Contact: Joe Murray, Joe.Murray@mail.house.gov, (202) 226-0678.

S. 2061 – Former Charleston Naval Base Land Exchange Act of 2012 (Sen. Graham, R-SC)

Order of Business: S. 2061 is scheduled to be considered on Monday, July 9, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: S. 2061 provides the legislative authority necessary for the Department of Homeland Security (DHS) and the South Carolina State Ports Authority (SCSPA) to complete a mutually-agreed-upon transfer of property between the two entities.

Background: According to Senate Report #112-171, DHS currently has administrative jurisdiction over approximately 10 acres of federal land in North Charleston, SC, that formerly housed a U.S. Naval Base complex. The land is vacant—except for the "remains of a small building"—while the federal government has indicated it has no future plans for the parcel. The SCSPA desires to acquire this parcel for future construction of a road to move traffic more effectively from Interstate 26 onto the port facility.

DHS desires to obtain a separate parcel of land that it currently leases from the SCSPA (approximately 25 acres) in Charleston, SC to continue operations administered by the DHS' Federal Law Enforcement Training Center operations.

Upon review, DHS concluded it does not have the legal authority to transfer property under its administrative control. This bill provides the DHS the authority to transfer this property and engage in such an exchange with the SCSPA.

Congressman Tim Scott (R-SC) introduced companion legislation (H.R. 5739) that is the same as S. 2061. According to Rep. Scott's office, the values of the respective properties in negotiation for this exchange are considered equal.

Committee Action: Senator Lindsey Graham (R-SC) introduced S. 2061 on February 1, 2012. On April 25, 2012, the Senate Committee on Homeland Security and Governmental Affairs reported the bill favorably with an amendment by voice vote. On June 5, 2012, the Senate passed the bill by Unanimous Consent. No House Committee action has occurred on the bill.

Administration Position: No Statement of Administration Policy has been released.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for S. 2061 on May 3, 2012 explaining that implementing the bill "would have some small administrative cost to carry out the exchange, but such costs would not be significant."

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? The CBO report indicates that the bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act—any costs to the state would be incurred voluntarily.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

Constitutional Authority: No Constitutional Authority Statement has been included with the Senate bill, but its House companion bill (H.R. 5739) declares that, "Congress has the power to enact this legislation pursuant to the following: Congress has the power to enact this legislation pursuant to the authority enumerated in Clause 2 of Section 3 of Article IV of the United States Constitution.

RSC Staff Contact: Joe Murray, Joe.Murray@mail.house.gov, (202) 226-0678

H.R. 5892 - Hydropower Regulatory Efficiency Act of 2012 (McMorris Rodgers, R-WA)

Order of Business: The legislation is scheduled to be considered on July 9, 2012, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 5892 increases the threshold amount of kilowatts from 5,000 to 10,000 by which small hydroelectric power projects can receive an exemption from Federal Energy Regulatory Commission (FERC) licensing requirements

The legislation states that a "qualifying conduit hydropower facility" are not required to be licensed by FERC. The legislation defines the qualifying facility as one that uses a non-federally owned conduit, has an installed capacity that does not exceed 5 megawatts, and is not licensed (or exempted from a license) on the date of enactment.

Any individual, state, or municipality that proposes to construct a qualifying conduit hydropower facility shall file a notice of intent with FERC. The notice shall include sufficient information to demonstrate that the facility meets the criteria to be a "qualifying conduit hydropower facility."

Within 15 days of receiving of notice of intent, FERC will make an initial determination as to whether the facility meets the criteria to be qualified. FERC will publish the notice of intent if FERC determines the proposed project meets the criteria to be qualified.

The legislation allows FERC to extend the preliminary permit for up to 5 years if they find that the permittee has carried out activities under the permit in good faith and with reasonable diligence.

The legislation directs FERC to investigate the feasibility of the issuance of a license for hydropower development at nonpowered dams and closed loop pumped storage projects in a 2-year period.

FERC is also directed to:

- Within 60 days, hold an initial workshop to solicit public comment and recommendations on how to implement a 2-year process;
- Develop criteria for identifying projects featuring hydropower development at nonpowered dams and closed loop pumped storage projects that may be appropriate for licensing within a 2-year process;
- Within 180 days, develop and implement pilot projects to test a 2-year process; and
- Within 3 years of the implementation of the pilot project testing a 2-year process; hold a workshop to solicit public comment on its effectiveness.

H.R. 5892 requires reports to Congress on the implementation or non-implementation of the pilot project.

The legislation also directs the Secretary of Energy to conduct a study of the technical flexibility that existing pumped storage facilities can provide to support intermittent renewable electric energy generation, and FERC will identify the range of opportunities for hydropower that may be obtained from conduits in the United States. This report is due to Congress within one year of enactment.

Additional Information: The following information is found in Committee Report 112-563:

> Hydropower is the nation's largest renewable energy generation resource, providing nearly 8 percent of the electricity generated in the United States. Including pumped storage facilities, there are approximately 100,000 megawatts (MW) of current installed hydropower capacity in the United States. The hydropower sector employs approximately 200,000-300,000 workers across the United States and nearly 2,500 U.S. companies participate in the development, licensing, construction, and operation of hydropower projects.
>
> Many of these facilities are much smaller than the large federal dams typically associated with hydropower. FERC records show that approximately 71% of non-federal hydropower facilities have a capacity of less than 5 MW, demonstrating the importance of small hydropower projects to the nation's energy portfolio.
>
> Despite abundant resources, the production of electricity from water resources is not fully utilized. With the right federal policies in place, it may be possible to double hydropower capacity and create thousands of new domestic jobs. For instance, a study completed on behalf of the National Hydropower Association (NHA) concluded that by utilizing currently untapped resources, the United States could add approximately 60,000 MW of new hydropower capacity by 2025, potentially creating as many as 700,000 jobs in the process.

> There also is significant growth potential in the small hydropower and conduit power sectors of the industry, as numerous project developers and local governments across the country consider retrofitting local dam infrastructure or investing in irrigation power projects and other conduit applications. For instance, the U.S. Bureau of Reclamation released a study identifying 373 existing canals and conduits that have the combined potential of generating over 365,000 MW-hours of additional hydropower annually.

Committee Action: H.R. 5892 was introduced on June 5, 2012, and was referred to the House Energy and Commerce Subcommittee on Energy and Power. The subcommittee reported the legislation by voice vote on June 7, 2012. On June 19, 2012, the full committee held a markup and the legislation was reported by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing H.R. 5892 would have no significant impact on 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?: According to Committee Report 112-563: H.R. 5892 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. McMorris Rodgers states "Congress has the power to enact this legislation pursuant to the following: The Constitutional authority in which this bill rests is the power of the Congress to regulate Commerce as enumerated by Article I, Section 8, Clause 3 as applied to waterways for the development of hydroelectric power and flood control." The statement can be viewed here.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.