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Legislative Bulletin……..July 31, 2012

Contents:

H.R. 828– Federal Employee Tax Accountability Act of 2011 (Chaffetz, R-UT)

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

Summary: This legislation provides that persons having seriously eloquent tax debts would be ineligible to be appointed or continue serving as an employee of the federal government. The legislation defines seriously delinquent tax debt as outstanding tax debt for which a notice of lien has been filed to the federal government. However, this does

not apply to tax debt that is being paid in a timely manner or as part of a collection process.

Background: According to the bill's sponsor, "The IRS reports that 100,000 federal civilian employees are seriously delinquent on their federal taxes. These aren't just people who fell behind. These are people who have actively defied IRS letters and phone calls seeking payment. In 2009, the US government failed to collect $1 billion a year from federal employees alone. While the number of delinquent federal employees has remained fairly constant since 2004, the amount owed has increased nearly 70%. The bill further prohibits the hiring of future employees who have failed to pay taxes. We've got to tackle this problem." (read editorial here).

According to records released by the IRS, active and retired federal employees and military personnel owed $3.4 billion in unpaid taxes.

Committee Action: H.R. 828 was introduced on February 28, 2011, and reported out of the Committee on Oversight and Government Reform on June 23, 2011 (H. Rept. 112-115).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to the CBO, H.R. 828 will authorize new spending of $1 million in 2012, subject to appropriations, and less than $500,000 in subsequent years to create certification forms, develop new regulations, and review records of current and prospective employees.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation decreases the size of the federal government.

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?: No.

Constitutional Authority: According to the bill's sponsor, "Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the powers granted to Congress under Article 1, Section 8, Clauses 1 and 2."

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

S. 679 – Presidential Appointment Efficiency and Streamlining Act of 2011 (*Schumer, D-NY*)

Order of Business: The bill is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: This legislation would remove the requirement of Senate approval for a number of Presidential appointments. This would reduce the estimated 1215 positions that require Senate confirmation to around 1000 positions. Among these positions, the legislation would no longer require ratification for:

- Assistant Secretary of Agriculture for Administration
- Rural Utilities Service Administrator
- Chief scientist of the National Oceanic and Atmospheric Administration (NOAA)
- Members of the National Security Education Board
- Director of Selective Service
- Assistant Secretary for Public Affairs at the Department of Health and Human Services
- Director of the Office for Domestic Preparedness at the Department of Homeland Security (DHS)
- Assistant Administrator of the Federal Emergency Management Agency (FEMA) Grant programs
- Administrator of the United States Fire Administrator
- Director of the office of Counter-narcotics Enforcement
- Chief Medical Officer at the DHS
- Assistant Secretaries at the DHS
- Director of the Bureau of Justice Assistance at the Department of Justice (DOJ)
- Administrator of the Office of Juvenile Justice and Delinquency Prevention (DOJ)
- Director of the Office for Victims of Crime (DOJ)
- Assistant Secretaries for Administration and Management and Public Affairs at the Department of Labor (DOL)
- Director of the Women's Bureau (DOL)
- Assistant Secretary for Public Affairs and Assistant Secretary for Administration at the State Department.

In addition, section 4 establishes a working group on streamlining paperwork for executive nominations to allow for an electronic system that is less burdensome on potential nominees.

Lastly, within 180 days of enactment, the Government Accountability Office (GAO) shall conduct a study and submit a report on covered positions (defined as a position in an agency that requires appointment by the President without the advice and consent of the Senate) to Congress and the President. This report shall include an evaluation on whether maintaining the total number of covered positions is necessary.

Background: According to the Congressional Research Service (CRS) (report here), the past fifty years has brought a steady growth in the number of presidential appointee' who must face Senate confirmation. When President Kennedy entered office, he had 850 Senate-confirmed positions to fill. That number had increased to 1143 by the time

President George W. Bush took office. By the beginning of the Obama Administration, there were 1215 executive branch positions subject to Senate confirmation.

Conservative Concerns: Some conservatives worry that this legislation will remove a critical element of Congressional oversight over the Executive branch.

David Addington with the Heritage Foundation wrote a webmemo on this topic in April, 2011. He argues that the "sponsors of S. 679 have identified a valid problem, but proposed the wrong solution."

Addington argues that the appointment clause is "among the significant structural safeguards of the constitutional scheme" (*Edmond v. United States*, 520 U.S. 651, 659 (1997)) and "is a bulwark against one branch aggrandizing its power at the expense of another branch." (*Ryder v. United States*, 515 U.S. 177, 182 (1995)).

From Addington's memo:

"The Congress should not decide by law to relinquish the Senate role in filling a federal office and leave filling the office to the President alone, unless the Congress concludes for each such office that the Senate's checking influence on the President is of no value because the office is of little or no authority or consequence. Generally, each time Congress by law removes the Senate from a role in the appointment to a federal office, the institutional influence of the Senate diminishes by a marginal amount and the influence of a President increases by a marginal amount. If the office is of little or no authority or consequence, the shift in influence may be immaterial, but if the office wields power that affects the American people, the Congress should not abdicate the Senate checking function."

"It does not appear that the sponsors of S. 679 have determined that each of the offices the bill converts from appointments made by the President with Senate consent to appointments made by the President alone is an office of little or no authority or consequence. Instead, it appears that the principal sponsors simply concluded that the Senate is too slow in performing its duty to consider and consent (or not) to presidential nominations and hope to accelerate the Senate process by simply reducing the number of such nominations the President must make."

"The Congress should not reduce the number of Senate-confirmed appointments as a means of dealing with its cumbersome and inefficient internal process for considering nominations. Doing so gives away Senate influence over a number of significant appointments, does nothing to improve the Senate process, and still leaves nominees whose offices require nominations mired in the Senate process. The proper solution to the problem of a slow Senate is to speed up the Senate rather than to diminish the role of the Senate. The Senate should look inward and streamline its internal procedures for considering all nominations. The proper solution also is the faster one, as the Senate can accomplish the solution by acting on its own in the exercise of its power to make Senate rules, while S. 679 requires approval by both Houses of Congress."

Conservative Action Project Letter:

Previous Attorney General Edwin Meese's Conservative Action Project released a letter signed by 29 conservative activists (complete list here), including:

- Al Cardenas, Chairman, American Conservative Union
- J. Kenneth Blackwell, Chairman, Coalition for a Conservative Majority
- William Wilson, President, Americans for Limited Government
- Edwin Meese III, former Attorney General
- Tom Schatz, President, Council for Citizens Against Government Waste
- Duane Parde, President, National Taxpayers Union
- Tony Perkins, President, Family Research Council

The Conservative Action Project's letter found that this legislation removes the only check the legislative branch has over many Presidential appointments. Their letter explains seven reasons why they are against this legislation:

1. "The President already controls a little over 2700 political appointees not subject to Senate confirmation. This would increase the number and expand the list to include positions with more responsibility and authority such as agency Chief Financial Officers, Assistant Secretaries for Congressional Affairs and Public Affairs, Bureau Directors at Department of Justice, Positions at the IMF and African Development Foundation and the Treasurer of the United States—to name just a few."

2. "Aids in the Growth of Big Government. The single biggest reason there are more Presidential Appointees subject to Senate Confirmation then there were 50 years ago is because of the growth of government. When President Kennedy was elected there were no presidential appointees at the Departments of Education, Energy, Housing & Urban Development, Transportation, the EPA, OSHA or the Peace Institute because none of these bureaucracies existed."

3. "Weakens the Appointments Clause of the Constitution. Advice & Consent is required by the Constitution—it should not be a discretionary matter left for Presidents of either party to determine. The Congress should not decide by law to relinquish the Senate role in filing a federal office and leave filling the office to the President alone. Key positions at almost every major cabinet department and agency would be affected, including Treasury, State, Defense, Commerce, Education, Energy, Labor, Homeland Security and Justice."

4. "Reduces Opportunity for Congressional Oversight. The best time to fix a leaky roof is when the sun is shining—eliminating the possibility of a confirmation hearing allows for less transparency in the process. Once an individual is appointed to their position, the oversight role of Congress is an after the fact event. The confirmation process is a crucial part of the congressional oversight process."

5. "Takes Effect Immediately. Unlike changes to executive branch governance rules in the past, this proposal would be effective immediately rather than wait until 2013 and the next administration. In effect President Obama would be immediately free of the traditional Senate oversight of Presidential appointments and could appoint individuals at a moment's notice."

6. "Creates More Czars and Reduces Transparency. The problems of this administration with complying with the Freedom of Information Act are legendary and just this past February the House of Representatives voted to eliminate many of the 'Czars' the President had been appointing to circumvent the accountability and scrutiny that comes with Senate confirmation."

7. "Undermines Civility between the Branches of Government. The confirmation process ensures that individuals truly outside the constitutional mainstream are not appointed to influential positions in the executive branch without certain conditions placed on them by members of the Senate."

American Conservative Union is opposing this legislation. Heritage Action, Concerned Women for America, and FRC Action will be key voting this legislation.

Committee Action: This legislation was introduced on March 20, 2011, and referred to the Senate Committee on Homeland Security and Government Affairs. It was reported out of committee on June 21, 2011, (Report No. 112-24) and the legislation passed the Senate on June 29, 2011, with 60 votes in favor.

Administration Position: None available.

Cost to Taxpayers: "CBO expects that enacting this legislation could reduce the workload of certain federal employees; however, because these employees would probably be retained and assigned other tasks, we estimate that implementing the legislation would lead to a negligible reduction in spending 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 Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Not required in Senate legislation

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H.R. 4365 – To amend title 5, United States Code, to make clear that accounts in the Thrift Savings Funds are subject to certain Federal tax levies, as amended (Buerkle, R-NY)

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 amend the Internal Revenue Code to make Thrift Savings Fund accounts subject to a federal tax levy if the individual has unpaid tax liability. The legislation would bring the TSP in line with the private sector, as 401(k) savings plans are already subject to such a levy. All revenue gained from enacting this legislation would be used to pay down the deficit.

Background: By the end of 2010, 279,000 federal employees owed a total of $3.4 billion in federal taxes. The TSP's governing statute does not explicitly authorize the IRS to levy an individual's TSP account to try to recoup the loss, so the Federal Retirement Thrift Investment Board has not honored notice of levies against TSP accounts.

However, in May 2010, the Department of Justice Office of Legal Counsel provided a formal opinion that concluded that the IRS was allowed to levy TSP accounts under the Internal Revenue Code, and this legislation would codify that opinion.

Committee Action: This legislation was introduced on April 17, 2012, and referred to the House Committee on Oversight and Government Reform where a mark-up session was held on April 18, 2012. H.R. 4365 was reported out by the Committee on July 30, 2012 (Committee Report H. Rept. 112-630).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to the CBO, implementing H.R. 4365 would increase revenue by $24 million over the 2012-2022 period.

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?: No.

Constitutional Authority: According to its sponsor, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, The Congress shall have Power to lay and collect Taxes. . ."

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S. 300 – Government Charge Card Abuse Prevention Act of 2011 (Grassley, R-IA)

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 require each executive branch agency to establish controls regarding the use of government credit cards issued to federal employees. These safeguards and internal controls ensure several requirements including the following:

1. There is a record in each executive agency of each holder of a purchase card issued by the agency, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card.
2. Each purchase card holder issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.
3. The holder of a purchase card and each official with authority to authorize expenditures are responsible for potential abuse.

It would also require each agency's inspector general to assess the risk of illegal or improper credit card use and to conduct periodic audits to identify potentially fraudulent activities. S. 300 would also allow agencies to dismiss employees who are found guilty of misusing government credit cards.

Background: The Washington Post discusses previous allegations of impropriety through misuse of government charge cards.

Committee Action: S. 300 was introduced on February 8, 2011, and reported out of the Senate Homeland Security and Government Affairs Committee on July 18, 2011 (Report No. 112-37). S. 300 passed the Senate on July 22, 2011, and was reported out of the House Committee on Oversight and Government Reform on January 27, 2011 (H. Rept. 112-376).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to CBO, implementing S. 300 would cost less than $500,000 a year, subject to the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation decreases the size of the federal government.

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?: No.

Constitutional Authority: Not required in Senate-based legislation.

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Concur in the Senate Amendment to H.R. 1627 – Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 (Miller, R-FL)

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

Summary: This legislation, originally passed unanimously by the House, created rules for the types of monuments that can be placed in Arlington National Cemetery. The Senate amended this legislation to include a number of new provisions.

The current version of the bill, as passed by the Senate, includes numerous new provisions. The first is a section that provides medical care to veterans who were stationed at Camp Lejeune in North Carolina from 1957-1987 if they develop specific forms of cancer. Care is given also to family members of those veterans if the family members resided at Camp Lejeune during that period.

Additionally, the Senate version of the bill modifies the housing, compensation, and education benefits provided by the Department of Veteran Affairs, among other changes to the department. CBO suggests that these changes would result in a net savings over ten years of $215 million.

The original legislation that passed in the House mandated that proposed monuments at Arlington not containing interred remains must either commemorate the military service of the individual being honored by the monument or commemorate a particular military event. These monuments may not be placed in Arlington until 25 years has elapsed from the date of the service or event, unless such a wait time would constitute a "manifest injustice" to the level of service that is being commemorated. Additionally, H.R. 1627 requires that these monuments be funded and sponsored by a non-governmental private entity, under approve from the Commission of Fine Arts in the monument's design.

Background: The Camp Lejeune provisions of the legislation are in response to cases of widespread water contamination at the base. From 1957-1987 service members and their families ingested and bathed in tap water that was contaminated with toxins. These chemicals, including perchloroethylene (dry cleaning solvent) and trichloroethylene (degreaser), have been linked to cases of cancer among veterans and their families at the base. The bill would provide for the cancer-related medical costs of members stationed at the base during the affected period.

The original provisions of the legislation, to regulate the types of monuments that can be placed in Arlington, arose out of a concern for the limited space remaining in the 624 acre cemetery. Current projections estimate that the Cemetery will reach capacity by 2060.

Committee Action: H.R. 1627 was introduced on April 15, 2011 and reported amended by the Committee on Veterans' Affairs on May 20, 2011. On May 23, 2011, the legislation was unanimously passed on motion to suspend the rules. On July 18, 2012 the Senate Committee on Veterans' Affairs was discharged by unanimous consent, and the legislation was passed as amended by the Senate by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to the CBO, H.R. 1627 would cost less than $500,000 in 2012, subject to appropriations.

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?: No.

Constitutional Authority: According to the bill's sponsor, Congress has the authority to enact this legislation because "Article I, Section 8, of the United States Constitution reserves to Congress the power to raise and support Armies and provide and maintain a Navy, as well as make Rules for the Government and Regulation of the land and naval Forces."

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H.R. 4073 - To authorize the Secretary of Agriculture to accept the quitclaim, disclaimer, and relinquishment of a railroad right of way within and adjacent to Pike National Forest in El Paso County, Colorado, originally granted to the Mt. Manitou Park and Incline Railway Company pursuant to the Act of March 3, 1875 (Lamborn, R-CO)

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: The legislation authorizes the Secretary of Agriculture to accept the railroad right-of-way that is currently held by the Manitou and Pikes Peak Railway Company. The right of way is within and adjacent to Pike National Forest.

Additional Information: According to the House Report: H.R. 4073 would authorize the Secretary of Agriculture to accept the abandoned right-of-way, known as the `Manitou Incline,' to manage as part of the Pike National Forest. The Manitou Incline was granted as a railroad right-of-way to the Mt. Manitou Park and Incline Railway Company (now the Manitou and Pikes Peak Railway Company) for a one mile cable tram to support the construction of a hydroelectric plant and water line. After completion of the hydroelectric facility, the tram was turned into a tourist attraction that operated until damaged by a landslide in 1990.

Since that time, the abandoned cable track has become a popular hiking route and training area for athletes. However, all users of the area are technically unauthorized to do so since the Manitou and Pikes Peak Railway Company has never opened the Manitou Incline for public use. This legislation would allow the Secretary to accept ownership of the right-of-way to properly manage the Manitou Incline as a recreational site.

Committee Action: H.R. 4073 was introduced on February 17, 2012, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The full committee held a markup on June 7, 2012, and the legislation was favorably reported, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that any additional costs to administer the affected lands would be minimal.

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: Rep. Lamborn states "Congress has the power to enact this legislation pursuant to the following: Article 4, Section 3, Clause 2, relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The statement can be found here.

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H.R. 4606 - To authorize the issuance of right-of-way permits for natural gas pipelines in Glacier National Park, and for other purpose (Rehberg, R-MT)

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: The legislation authorizes the Secretary of the Interior to issue right-of-way permits for natural gas pipelines (including all appurtenances used in the operation of the natural gas pipeline) that, as of March 1, 2012, were located within the boundary of Glacier National Park.

The permits may not be over 25 feet in width from the centerline of the natural gas pipeline, and are subject to all existing laws and regulations within units of the National Park System.

Additional Information: According to the House Report: In 1962, the Montana Power Company (MPC) constructed the natural gas transmission line serving Kalispell and the Flathead Valley. Approximately 3.5 miles (of the 118-mile line) is located within the southwestern boundary of Glacier National Park along the right-of-way for U.S. Highway 2. The portion of the line located in the Park was constructed pursuant to a Special Use Permit issued by the National Park Service (NPS) to MPC on April 10, 1962. NPS renewed the permit three times, the last of which expired on April 14, 1990. At that time, NPS determined that it lacked the authority to issue or renew a permit for a natural gas line. The line serves as the sole source of natural gas for the nearly 25,000 Kalispell residents in the Flathead Valley. The line also serves the Park's facilities, including NPS headquarter buildings.

Relocation of the line outside the Park is not a viable option. Relocating the line would prove extremely difficult due to the terrain and the resulting disturbance of lands in the proximity of the Middle Fork of the Flathead River, which is designated as a Wild and Scenic River, and the Great Bear Wilderness Area. Moving the line outside the Park would require detailed planning, siting and construction permits, which likely would take months if not years to secure and complete. Moreover, relocation costs would be significant. In short, relocation of the 3.5 mile section would be an inefficient, expensive and lengthy process.

H.R. 4606 authorizes the NPS to grant a right-of-way permit so that the existing line and its appurtenances may continue to be operated and maintained.

Committee Action: H.R. 4606 was introduced on April 24, 2012, and was referred to the House Natural Resources Subcommittee on Energy and Mineral Resources, and the Subcommittee on National Parks, Forests and Public Lands. A full committee markup was held on June 11, 2012, and the legislation was favorably reported, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that the legislation would have no significant impact on the federal budget. CBO estimates that, under H.R. 4606, the owner of that pipeline would pay less than $40,000 in fees over the 2013-2022 period to maintain permits and leases necessary to continue operating the pipeline.

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: Rep. Rehberg states "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the United States Constitution." The statement can be found here.

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H.R. 3641 - Pinnacles National Park Act *(Farr, D-CA)*

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3641 establishes the Pinnacles National Park within California, as a unit of the National Park System. In establishing the National Park, the legislation abolishes the current Pinnacles National Monument.

According to Committee staff, the current National Monument is managed as a National Park. The legislation would have no effect on the management of the National Park. The legislation does not grant the authority to expand the Park, via land acquisition. The boundaries of the National Park would be the same as those of the National Monument. This legislation would have the effect of a name change, which proponents argue would increase awareness about the location.

Additional Information: Pinnacles National Monument was created by President Roosevelt in January 1908. According to the National Park Service, the Monument is currently around 26,000 acres.

Committee Action: H.R. 3641 was introduced on December 13, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public

Lands. On June 11, 2012, the full committee held a markup and favorably reported the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that the bill would have no significant impact on the federal budget. CBO expects that the proposed change in designation would have no significant effect on the costs of operating and maintaining the affected lands.

Does the Bill Expand the Size and Scope of the Federal Government?: This legislation establishes Pinnacles National Park as a unit of the National Park System. However, the legislation abolishes the Pinnacles National Monument.

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: Rep. Farr states "Congress has the power to enact this legislation pursuant to the following: Art. I, Sec. 8 U.S. Constitution." The statement can be found here.

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H.R. 3706 - To create the Office of Chief Financial Officer of the Government of the Virgin Islands, and for other purposes
(Del. Donna Christensen, D-VI)

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: The legislation allows the Governor of the Virgin Islands to appoint a Chief Financial Officer (CFO), subject to the advice and consent of the Legislature of the Virgin Islands.

The CFO shall:

- Develop and report on the financial status of the Government of the Virgin Islands not later than 6 months after appointment and quarterly thereafter. These reports will be available to the public.
- Each year prepare and certify spending limits of the annual budget, including annual estimates of all revenues of the territory without regard to sources, and whether or not the annual budget is balanced.

- Revise and update standards for financial management, including inventory and contracting, for the Government of the Virgin Islands in general and for each agency in conjunction with the agency head.

The CFO shall serve a term of 5 years, and may be removed from office by another CFO being appointed with the advice and consent of the Legislature of the Virgin Islands. The CFO's salary shall not exceed the highest rate of pay for a cabinet officer for the Government of the Virgin Islands.

As part of the next regularly scheduled island-wide election in the Virgin Islands, the Board of Elections of the Virgin Islands shall hold a referendum to seek the approval of the people of the Virgin Islands regarding if the position of CFO shall be a permanent part of the executive branch of the Virgin Islands.

The legislation also establishes the Virgin Island Chief Financial Officer Search Commission. The Commission will recommend at least 3 candidates to the Governor for the CFO position. The Commission shall be composed of 8 members appointed within 30 days of enactment of this act. Persons appointed as member must have recognized business, government, or financial expertise and experience, and shall be appointed as follows:

- 1 individual appointed by the Governor of the Virgin Islands.
- 1 individual appointed by the President of the Legislature of the Virgin Islands.
- 1 individual, who is an employee of the Government of the Virgin Islands, appointed by the Central Labor Council of the Virgin Islands.
- 1 individual appointed by the Chamber of Commerce of St. Thomas-St. John.
- 1 individual appointed by the Chamber of Commerce of St. Croix.
- 1 individual appointed by the President of the University of the Virgin Islands.
- 1 individual, who is a resident of St. John, appointed by the At-Large Member of the Legislature of the Virgin Islands.
- 1 individual appointed by the President of AARP Virgin Islands.

The Commission members will serve without pay, and their appointment to the Commission is a lifelong appointment. The legislation dictates that five members will constitute a quorum. The Commission shall terminate upon the nomination and confirmation of the CFO. The Commission shall submit a report to the Virgin Islands Governor, as well as to the U.S. Congress.

Additional Information: According to the House Report, the U.S. Virgin Island has outstanding debts totaling over $1.2 billion. The Assistant Secretary for Insular Affairs of the U.S. Department of the Interior testified at a Subcommittee hearing that this type of deficit situation arises due to disputes between the executive and legislative branches over revenue projections. This `estimation discrepancy' leads to revenue management issues, resulting in the accumulation of harmful debt over a period of years. The charges on such debt interferes with the territory's ability to solve current fiscal issues.

Committee Action: H.R. 3706 was introduced on December 16, 2011, and was referred to the House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs. The full committee held a markup on June 7, 2012, and favorably reported the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting H.R. 3706 would have no significant effect 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?: 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: Del. Christensen states "Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3 of the US Constitution which provides: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of particular State." The statement can be found here.

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S. 270 - La Pine Land Conveyance Act *(Sen. Ron Wyden, D-OR)*

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: The legislation directs the Secretary of Interior to transfer to the City of La Pine, Oregon, or the Country of Deschutes, Oregon, all right and title of 3 parcels that total approximately 910 acres (150 acres, 750 acres, and 10 acres), all are currently managed by the Bureau of Land Management.

The 150 acre parcel shall be used for outdoor recreation, open space, or public parks, including a rodeo ground. The 750 acre parcel shall be used for a public sewer system. The 10 acre parcel shall be used for a public library, public park, or open space. If the land is not used for these purposes then it shall revert back to the U.S.

All administrative costs shall be borne by the Country of Deschutes, Oregon.

Committee Action: S. 270 was introduced on February 3, 2011, and was referred to the Senate Energy and Natural Resources Subcommittee on Public Lands for Forest. The legislation passed the Senate on October 18, 2011, as amended, by unanimous consent. The legislation was the referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. A full committee markup was held on June 7, 2012, and the legislation was favorably reported by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing S. 270 would have no significant impact on discretionary spending.

Does the Bill Expand the Size and Scope of the Federal Government?: No. This legislation arguably reduces the size and scope of the federal government.

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: Senate rules do not require a statement of constitutional authority to accompany legislation upon introduction.

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

S. 271 - Wallowa Forest Service Compound Conveyance Act
(Sen. Wyden, D-OR)

Order of Business: The bill is scheduled to be considered on July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: At the request of the city of Wallowa, Oregon, the Secretary of Agriculture shall convey all right and title in the Wallowa Forest Service Compound to the city of Wallowa, Oregon.

The Wallowa Forest Service Compound consists of approximately 1.11 acres of National Forest System land that is located at 602 First Street, Wallowa, Oregon. This legislation was donated to the Forest Service, by the city, on March 18, 1936.

The city of Wallowa shall use the Wallowa Forest Service Compound as a historical and cultural interpretation and education center and, they shall ensure that the Wallowa Forest Services Compound is managed by a nonprofit entity. The city shall also agree to manage the Wallowa Forest Service Compound with due consideration and protection for the historic values of the Wallowa Forest Service Compound, and to pay the reasonable

administrative costs associated with the conveyance. If the land is not used for these purposes then it shall revert back to the Secretary.

Committee Action: S. 271 was introduced on February 3, 2011, and was referred to the Senate Energy and Natural Resources Subcommittee on Public Lands for Forest. The legislation passed the Senate on November 2, 2011, as amended, by unanimous consent. The legislation was the referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. A full committee markup was held on February 29, 2012, and the legislation was favorably reported by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the legislation would have no significant net effect 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?: 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: Senate rules do not require a statement of constitutional authority to accompany legislation upon introduction.

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

H.R. 3803 – District of Columbia Pain-Capable Unborn Child Protection Act (Franks, R-AZ)

Order of Business: H.R. 3803 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3803 would amend the federal criminal code to prohibit any person from performing or attempting to perform an abortion within the District of Columbia except in conformity with the following requirements:

- The physician performing or attempting the abortion shall first make a determination of the probable post-fertilization age of the unborn child or reasonably rely upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the

medical conditions involved, would consider necessary to make an accurate determination of post-fertilization age.

- Except, as provided above, the abortion shall not be performed or attempted, if the probable post-fertilization age of the unborn child is 20 weeks or greater.

- The law does not apply if, in reasonable medical judgment, the abortion is necessary to save the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, but not including psychological or emotional conditions or any claim or diagnosis that the woman will engage in conduct which she intends to result in her death.

- A physician terminating or attempting to terminate a pregnancy under the probable post-fertilization age of the unborn child is 20 weeks or greater, may do so only in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk of:

    - the death of the pregnant woman; or
    - the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the pregnant woman; than would other available methods.

The legislation also requires that whoever violates the revised federal criminal code described above shall be fined under this title or imprisoned for not more than 2 years, or both. The bill prohibits the prosecution of the woman obtaining the abortion, however either as the perpetrator or as a conspirator to violate the ban. The legislation also calls for a woman of whom an illegal abortion was performed, or the father of an unborn child, may in a civil action against any person who engaged in the violation, obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion from the offending doctor or other personnel that took part in the abortion. In cases where the woman is an unemancipated minor, the maternal grandmother of the fetus would have standing to commence a civil action. Defendants would be allowed to seek attorneys' fees and damages against a woman who brings a civil case that is found to be frivolous and in bad faith. The legislation calls for appropriate relief in a civil action to include:

- objectively verifiable money damages for all injuries, psychological and physical, occasioned by the violation of this section;
- statutory damages equal to three times the cost of the abortion; and
- punitive damages.

The legislation defines qualified plaintiff to mean the woman or her spouse, parent or guardian, sibling, or current or former medical professional, and the United States

Attorney for the District of Columbia. The qualified plaintiff could seek injunctive relief against the abortion provider to prevent them from conducting future abortions in violation of the ban. The legislation requires the court to award a reasonable attorney's fee as part of the costs to a prevailing plaintiff in a civil action. If a defendant in a civil action under this section prevails and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant against the plaintiff.

The legislation provides privacy protections to ensure the anonymity of a woman on whom an illegal abortion was performed. The bill also requires that court shall issue appropriate orders this Act to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman must be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists.

The legislation requires that any physician who performs or attempts an abortion within the District of Columbia shall report that abortion to the relevant District of Columbia health agency on a schedule and in accordance with forms and regulations prescribed by the health agency. The report shall include for the determination of probable postfertilization age of the unborn child, whether ultrasound was employed in making the determination, and the week of probable post-fertilization age that was determined. The report shall also include the following methods or combination of methods that were employed:

- Dilation, dismemberment, and evacuation of fetal parts also known as “dilation and evacuation”;
- Intra-amniotic instillation of saline, urea, or other substance (specify substance) to kill the unborn child, followed by induction of labor.
- Intracardiac or other intra-fetal injection of digoxin, potassium chloride, or other substance (specify substance) intended to kill the unborn child, followed by induction of labor.
- Partial-birth abortion.
- Manual vacuum aspiration without other methods.
- Electrical vacuum aspiration without other methods.
- Abortion induced by use of mifepristone in combination with misoprostol; or
- if none of the methods described in the other clauses of this subparagraph was employed, whatever method was employed.

The report will also include the age or approximate age of the pregnant woman and the facts relied upon and the basis for any determinations required to establish compliance with the requirements for the exception provided in this bill. The legislation excludes from the report:

- the name or the address of the woman whose pregnancy was terminated, nor shall the report contain any other information identifying the woman.
- Such report shall contain a unique Medical Record Number, to enable matching the report to the woman's medical records.
- Such reports shall be maintained in strict confidence by the health agency, shall not be available for public inspection, and shall not be made available except:
    - to the United States Attorney for the District of Columbia or that Attorney's delegate for a criminal investigation or a civil investigation of conduct that may violate this section; or
    - pursuant to court order in an action.

The legislation requires that not later than June 30 of each year beginning after the date of enactment of this law, the health agency shall issue a public report providing statistics for the previous calendar year compiled from all of the reports made to the health agency under this subsection for that year for each of the items listed in bill. The report shall also provide the statistics for all previous calendar years during which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The health agency shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted. Any physician who fails to submit a report not later than 30 days after the date that report is due shall be subject to a late fee of $1,000 for each additional 30-day period or portion of a 30-day period the report is overdue.

Groups Key Voting in Favor:
National Right to Life Committee
Concerned Women for America
Catholic Advocate
Citizen Link
Americans United for Life Action
Family Research Council Action
Liberty Council Action

Groups Supporting in Favor:
Susan B. Anthony List
Christian Medical Association
Southern Baptist Ethics and Religious Liberty Commission
American Association of Christian Schools

Committee Action: H.R. 3803 was introduced on January 23, 2012, and referred to the House Committee on Judiciary and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On July 18, 2012, the bill was reported by the Committee on Judiciary by Yeas and Nays: 18-14.

Administration Position: No Statement of Administration Policy is provided.

Cost to Taxpayers: No CBO statement is provided.

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the legislation expands the federal criminal code to prohibit any person from performing or attempting to perform an abortion within the District of Columbia

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? Yes it mandates reporting requirements for physicians when performing abortions.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? The bill does not contain any earmarks

Constitutional Authority: The accompanying Constitutional Authority Statement reads: "H.R. 3803. Congress has the power to enact this legislation pursuant to the following: The District of Columbia Pain-Capable Unborn Child Protection Act is introduced pursuant to Article I, Section 8, clause 17: ``The Congress shall have Power . . . to exercise exclusive legislation in all Cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of the particular states, and the Acceptance of Congress, become the seat of government of the United States."

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H.R. 1950 – To enact title 54, United States Code, "National Park System," as positive law, as amended (Smith, R-TX)

Order of Business: The bill is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two thirds majority vote for passage.

Summary: H.R. 1950 establishes a new title 54 in the United States Code exclusively related to the National Park System. The bill compiles all current laws found throughout the U.S. Code's title 16, "Conservation," into its own distinct new title. All changes in existing law made by this bill are solely technical and conform to the understood congressional policy, intent, and purpose in the original enactments.

Additional Background: According to the Office of the Law Revision Counsel (OLRC), this bill furthers its responsibility "to prepare, and submit to the Committee on the Judiciary one title at a time, a complete compilation, restatement, and revision of the general and permanent laws of the United States."[1] The OLRC states:

[1] Section 205 (c) of House Resolution No. 988, 93rd Congress (P.L. 93-554, 2 U.S.C. 285b)

> "Since the mid-19th century, numerous laws relating to the organization and management of the National Park System by the National Park Service have been enacted. The Service also is responsible for carrying out the Historic Sites, Buildings, and Antiquities Act, the National Historic Preservation Act, and other laws relating to protecting and preserving sites that illustrate America's history. These laws have been classified as part of title 16, 'Conservation', but are classified throughout title 16 rather than being in one distinct place in the title. Furthermore, as laws relating to the National Park System are amended and new laws are enacted that relate closely to these laws, the Code classifications have become cumbersome to use."

Committee Action: Judiciary Committee Chairman Lamar Smith (R-TX) introduced H.R. 1950 on May 23, 2011. The full Committee reported the amended bill out favorably by voice vote on July 10, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for the bill on July 26, 2012 stating that enacting the bill would have only a minimal impact on the federal budget and that it would not affect direct spending or revenues.

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?: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the the bill states, "Congress has the power to enact this legislation pursuant to the following: Congress has the power to enact this legislation, which restates certain existing laws as part of a positive law title of the United States Code, pursuant to Article I, Section 8, Clause 18 of the Constitution."

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

H.R. 3120 – Student Visa Reform Act *(Lofgren, D-CA)*

Order of Business: The bill is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two thirds majority vote for passage.

Summary: H.R. 3120 amends the Immigration and Nationality Act (8 U.S.C. section 1101(a)) to require U.S. colleges, universities, or language training programs that enroll foreign nationals on temporary visas to be accredited by an accrediting agency that is

officially recognized by the Secretary of Education. It provides the Secretary of Homeland Security (DHS) the discretion to require accreditation of academic institutions like conservatories, academic high schools, or elementary schools (except seminaries or other religious institutions) if the institution enrolls 25 or more alien students.

H.R. 3120 also prohibits any person from having any ownership interest or principal decision-making authority at any academic institution that participates in the Student and Exchange Visitor Program (SEVP) if that person has been convicted of any of the following felonies:

- human trafficking (Chapter 77 of title 18);
- human trafficking for sexual activity and related crimes (Chapter 117 of title 18);
- unlawful bringing of aliens into the US (Section 274 of 8 U.S.C. sec. 1324); or
- fraud or misuse of visas relating to an academic institution's participation in SEVP (Section 1546 of title 18).

These requirements take effect six months after enactment of the bill.

Additional Background: Under current law[2], foreign nationals can temporarily enter the United States to pursue an education at an "established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program…", in which, the institution agrees to report to the Attorney General the termination of attendance of each nonimmigrant student. The visas granted to nonimmigrant students are referred to as "F" visas.

According to the Committee report #112-595, the bill was introduced in response to reports of visa fraud activity by two academic institutions, the International Technological University in San Jose, California and Tri-Valley University in Pleasanton, California. News reports described how such "visa mills" recruit foreign nationals to enroll in their institutions on student F visas while charging considerable fees and awarding essentially worthless degrees and educational training.

The Committee report also notes that this bill is similar to Public Law 111-306 (enacted in December 2010) that requires English-language training programs to be accredited before these programs can enroll foreign nationals with F visas. This law was "intended to prevent fraudulent or fly-by-night English-training programs from exploiting foreign students in the United States." H.R. 3120 applies similar accreditation requirements for U.S. colleges and universities to accomplish goals of legitimate visa procurement for foreign national students at U.S. colleges, universities, and language training programs.

Committee Action: Representative Zoe Lofgren *(D-CA)* introduced H.R. 3120 on October 6, 2011. On June 28, 2012, the full Judiciary Committee reported the amended bill favorably by voice vote.

Administration Position: No Statement of Administration Policy is available.

[2] 8 U.S.C. 1101(a)(15)(F).

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for the bill on July 11, 2012 explaining that implementing it would have no significant cost to the federal government. It also estimates that the bill could reduce the number of academic institutions available to foreign students, which would lower the collection of fees collected by DHS and the State Department to administer international student programs and related security measures. This reduction would be offset by lower spending, so CBO believes the bill would not affect net direct spending.

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?: CBO explains that the bill has private-sector mandates, but that these mandates fall below the annual, $146 million threshold of the Unfunded Mandates Reform Act (UMRA). The private-sector mandates involve requiring U.S. colleges and universities that admit foreign nations as students on F visas to become accredited by an accrediting agency that is recognized by the Secretary of Education.

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 accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 4 of the Constitution."

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

H.R. 6029 – Foreign and Economic Espionage Penalty Enhancement Act of 2012 (Smith, R-TX)

Order of Business: H.R. 6029 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 6029 amends section 1831 of title 18 by increasing the maximum federal criminal penalties for individuals or organizations convicted of knowingly engaging in economic espionage to benefit a foreign country. The bill increases the penalties for individuals from a maximum of $500,000 in fines and 15 years in prison, or both, to $5 million and 20 years of prison, or both, respectively. Organizations can be fined the greater of $10 million (maximum of $10 million under current law) or three times the value of the stolen trade secret including research and development expenses and other costs to reproduce the trade secrets the organization has avoided through acts of espionage. Also, the bill directs the United States Sentencing Commission to determine amending sentencing guidelines for economic espionage.

Additional Background: The performance goals of the bill described in Committee Report #112-610 explain that it "will improve the U.S. Government's ability to deter acts of foreign espionage and provide a more appropriate range of penalties for those convicted of the theft of trade secrets from U.S. companies," namely corporate trade secrets, marketing strategies, and other business tactics. Recent reports from the National Counterintelligence Executive and the Director of National Intelligence formally recognize the increased threat of economic intrusions into US computer networks and theft of US intellectual property—particularly by China and Russia.

Committee Action: Judiciary Committee Lamar Smith (R-TX) introduced H.R. 6029 on June 27, 2012. No further committee action has occurred with respect to 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 H.R. 6029 on July 17, 2012 explaining that implementing the bill would have no significant impact on the federal budget. According to the estimate, the federal government "might" collect additional fines if the bill becomes law. However, CBO expects that any additional revenue and direct spending would not be significant because of the small number of cases to be affected.

Does the Bill Expand the Size and Scope of the Federal Government? The bill increases the monetary fines and prison sentences for individuals, as well as the monetary fines for organizations that violate the federal criminal code with regard to economic espionage for the benefit of foreign entities.

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 (UMRA).

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No. The Committee Report explains that, the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 of the United States Constitution."

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H.R. 6063 – Child Protection Act of 2012 (Smith, R-TX)

Order of Business: H.R. 6063 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 6063 amends current law addressing online child pornography by increasing criminal penalties for child pornography possession. Specifically, it increases the maximum prison term of up to 20 years for convictions of knowingly possessing with intent to view "any visual depiction" or "any image of child pornography" involving a minor under the age of 12 years on federal government property or through interstate commerce. Current law penalties include fines and a 10 year maximum prison sentence for sexually explicit images of minors under the age of 12.

Also, the bill amends section 1514 of title 18 to require federal courts to issue civil protective orders for minor victims or witnesses participating in an investigation or trial of a sex crime or child pornography offense if it determines that harassment or intimidation of the minor is likely to occur (in the context of attempting to deter testifying). If the protective order is violated, criminal fines as well as a new five year prison sentence can be imposed upon the violator. Under current law, violators can face a contempt of court citation, but not criminal penalties as created in this bill. Distributing a minor victim's or witness' personal information or posting a photograph of the minor serves "no legitimate purpose" under the bill and constitutes harassment or intimidation subject to rebuttal by the violator.

H.R. 6063 grants the U.S. Marshals Service the authority to issue administrative subpoenas for investigating sex offenders[3] who have failed to meet certain registration requirements. Under current law, these investigatory subpoenas are only approved and granted by federal courts.

Additionally, the bill reauthorizes for an additional five years through fiscal year 2018 at $60 million per year the Internet Crimes Against Children (ICAC) Task Force, a program designed to aid state and local law enforcement agency responses to sexual exploitation of minors. The program is currently funded at $60 million a year through FY2013. It received $30 million in appropriations in FY2012 down from $75 million in FY2009 ($25 million appropriated as well as an additional $50 million provided in the Stimulus). The bill raises the $2 million annual cap on local task force training programs to $4 million annually.

[3] The bill defines the term "sex offender" to mean an individual required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et. seq.).

H.R. 6063 also changes the definition of a "high priority suspect" by eliminating the requirement that law enforcement consider the volume of criminal activity by a suspect when running mandated reports every thirty days to identify such suspects through the National Internet Crimes Against Children Data System.[4] This data system has not yet been established. Therefore, the bill requires the Attorney General to submit a report to the Committee on the Judiciary in the House and Senate within 90 days of enactment on the status of the Attorney General's establishment of this data system as required under the Protect Our Children Act of 2008 (42 U.S.C. 17615).

Additional Background: Judiciary Committee Chairman Lamar Smith explained in the bill's markup that, "Trafficking of child pornography images was almost completely eradicated in America by the mid 1980s. But the advent of the internet reversed this accomplishment… [and allowed] online criminals [to] prey on our children with virtual anonymity."

Committee Action: Judiciary Committee Lamar Smith (R-TX) introduced H.R. 6063 on June 29, 2012. The full Judiciary Committee reported the bill out favorably by voice vote on July 10, 2012.

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

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 6063 on July 30, 2012 explaining that implementing the bill would cost $121 million over the 2013-2017 period, assuming appropriations of the authorized amounts. It also explains that any net effects on direct spending and revenues would be "insignificant" for each year.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. The bill increases the maximum prison sentences from 10 years to 20 years for child pornography offenses that involve minors under the age of 12. It also extends subpoenas authority to investigate unregistered sex offenders to the U.S. Marshals Service without federal court approval. Persons who intimidate or harass minor victims or witnesses to sexual crimes under protective federal court order can be subject to up to five years of prison, which is an increase of federal penalties under current law which only allows for contempt penalties.

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? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 of the United States Constitution."

[4] Created by P.L. 110-401, title I (2008); 42 U.S.C. 17615(e)(1)(B)(i).

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H.R. 4362 – STOP Identity Theft Act of 2012
(Wasserman Schultz, D-FL)

Order of Business: H.R. 4362 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 4362 seeks to reduce identify theft through the filing of tax returns through three provisions. First, it recommends that the Attorney General use "all existing resources of the Department of Justice…to bring more perpetrators of tax return identity theft to justice" by taking into consideration:

- "The need to concentrate efforts in those areas of the country where the crime is most frequently reported.
- The need to coordinate with State and local authorities for the most efficient use of their laws and resources to prosecute and prevent the crime.
- The need to protect vulnerable groups, such as veterans, seniors, and minors (especially foster children) from becoming victims or otherwise used in the offense."

The bill requires the Attorney General to report to Congress on the progress of implementing the statutory tools within this bill with regard to prosecuting tax return identity theft violators.

It also includes organizations such as businesses and charities as victims of identity theft, whereas current law only includes individuals as identity theft victims.

Lastly, H.R. 4362 increases criminal prison sentences against identity theft violators through tax returns by adding fraudulent tax returns or fraudulent or false statements on tax documents to the felony offenses for which aggravated identify theft can be charged. If convicted, in addition to the punishment for such a felony, an additional two years of imprisonment can be added to felons who engage in identify theft through fraudulent use of an individual or organization's tax returns.

Additional Background: Reports indicate that tax return identity thefts have steadily increased by 300% since 2008.

Committee Action: Representative Debbie Wasserman Schultz *(D-FL)* introduced H.R. 4362 on April 16, 2012. The full Judiciary Committee reported the bill out favorably on July 10, 2012 by voice vote.

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

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 4362 on July 26, 2012 explaining that implementing the bill would have no significant net cost to the federal government.

Does the Bill Expand the Size and Scope of the Federal Government? The bill increases prison sentences for individuals convicted of identity theft through fraudulent actions relating to the filing of tax returns. It also adds organizations as potential victims to fraudulent tax return identity theft.

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 (UMRA).

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

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states,

> "Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the power of the Congress to provide for the general welfare of the United States, as enumerated in Article I, Section 8, Clause 1 of the United States Constitution, and to make all laws which shall be necessary and proper for carrying into execution such power as enumerated in Article I, Section 8, Clause 18 of the Constitution.

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H.R. 3796 – Adam Walsh Reauthorization Act of 2012, as amended (Sensenbrenner, R-WI)

Order of Business: H.R. 3796 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 3796 amends the Adam Walsh Child Protection and Safety Act (P.L. 109-248), a bill enacted into law in 2006 with goals to protect children from sexual exploitation, violent crime, child abuse, child pornography, and promote internet safety through state and local law enforcement grants for online tracking of child sex offenders. The bill reauthorizes three federal grant programs, reduces penalties for states that have not complied with national registry standards established under the original law, and requires that juvenile offenders continue to be registered with the national child sex offender registry within 15 years of their sex offense (as opposed to 25 years required under current law). States will have discretion to determine whether to include

information regarding specific sex offenses committed by juvenile offenders within a sex offender registry.

- *Reauthorizations*

  - $20 million for each year through FY2017 for the Sex Offender Management Program—these funds assist state and local law enforcement and community supervision agencies in the management of sex offenders under community supervision. This funding can also be applied to state funding for enhanced tracking of current addresses of sex offender through the Jessica Lunsford Address Verification Grant Program. The previous authorization provided "such sums as necessary," and expired in FY2009. However, Congress appropriated approximately $20 million in FY2012 for these activities;
  - $46 million for each year through FY2017 for grants to states to help apprehend sex offenders who are in violation of sex offender registry requirements; and
  - $2.97 million for each year through FY2017 for juvenile sex offender treatment grants.

- Current law requires that states who are not compliant in establishing the national sex offender registry shall not receive federal grants through the Edward Byrne Memorial Grant Program—a program that assists state and local government law enforcement activities. H.R. 3796 reduces the threat of complete withholding of these funds to non-compliant states by requiring them to "return to the Attorney General" ten percent of the Byrne funds. According to the National Conference of State Legislatures (NCSL), the Department of Justice reports that 15 states, two territories, and 31 tribes had substantially complied with the federal Adam Walsh Act requirements. Discussions about the financial and policy merits of state compliance with the Adam Walsh Act's federal requirements have been reported through the blogosphere.

- The bill requires the National Institute of Justice to submit a report to Congress within one year of enactment explaining how the long-term registration of juvenile sex offenders impacts public safety.

Additional Background: For a list of federal sex offender legislation, please see the website for the Department of Justice's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART).

Committee Action: Representative James F. Sensenbrenner (R-WI) introduced H.R. 3796 on January 19, 2012. The full Judiciary Committee reported the amended bill out favorably on July 18, 2012 by voice vote.

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

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 3796 on July 30, 2012 explaining the bill would cost $298 million over the 2013-2017 period assuming appropriations of the authorized amounts.

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 (UMRA).

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

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause I."

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H.R. 6062 – Edward Byrne Memorial Justice Assistance Grant Program Reauthorization (Marino, R-PA)

Order of Business: H.R. 6062 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 6062 reauthorizes the Edward Byrne Memorial Justice Assistance Grant Program at $800 million per year from FY2013-FY2017. The last reauthorization provided authority for $1.095 billion a year from FY2006-FY2012. Congress appropriated nearly $470 million for this current fiscal year to the grant program.

Additional Background: The Edward Byrne Memorial Justice Assistance Grant Program was established in 1988 as an anti-drug program to provide federal law enforcement grants to state and local governments. The program offers grants for local drug task-force agencies, crime prevention initiatives and substance abuse programs, among other efforts.

Previous Republican Administrations have proposed eliminating funding for the program. Also, previous RSC Budgets have recommended consolidating this grant program with other justice assistance programs as well as highlighting that this (and other similar) grant programs address problems that are not federal responsibilities.

Possible Conservative Concerns: Some conservatives may be concerned that H.R. 6062

authorizes $800 million annually for a federal grant program that previous Republican Administration have attempted to defund. Many conservatives believe that funding for this program is a power reserved to state and local governments, and is not a federal responsibility. Further, the authorized funding level exceeds the appropriated amount in recent years (though it is lower than the authorized amounts).

Committee Action: Representative Tom Marino (R-PA) introduced H.R. 6062 on June 29, 2012. The full Judiciary Committee reported the amended bill out favorably on July 18, 2012 by voice vote.

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

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 6062 on July 25, 2012 explaining the bill would costs about $2.7 billion over the 2013-2017 period assuming appropriations of the authorized amounts.

Does the Bill Expand the Size and Scope of the Federal Government? The bill reduces the current year authorization of the grant program from $1.095 billion to $800 million. The current year appropriated amount is approximately $470 million.

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 (UMRA).

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

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 1 and Clause 3 of the Constitution."

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H.R. 1550 – Federal Law Enforcement Personnel and Resources Allocation Improvement Act of 2012, as amended
(Del. Pierluisi, D-PR)

Order of Business: H.R. 1550 is scheduled to be considered on Tuesday, July 31, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1550 requires the Department of Justice (DOJ) to give priority in allocating federal law enforcement personnel and resources to states and local jurisdictions that "have a high incidence of homicide or other violent crimes" based on

crime records from the National Uniform Crime Reports (or other information determined by the Attorney General). The bill defines "federal law enforcement personnel" as personnel employed by the DOJ at the Drug Enforcement Administration, the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the United States Marshals Service.

It also requires the Attorney General within 30 days of enactment to create a new official within the DOJ to:

- "develop practices and procedures to carry out…" these new priorities; and
- "to monitor compliance with those practices and procedures by the bureaus, agencies, and other subdivisions of the Department."

A year after enactment (as well as each subsequent year), the Attorney General must submit to the Committees on Appropriations and Judiciary in the Senate and the House a progress report on the bill's implementation that:

- specifies which states and local jurisdictions have a high incidence of homicide or other violent crimes;
- identifies the specific steps the Attorney General has taken to implement the bill's requirements; and
- describes the methodology the Attorney General has used to determine the total number of authorized federal law enforcement positions, their allocation among states and local jurisdictions, as well as how personnel is assigned to fill those authorized position.

Additional Background: The Judiciary Committee Report #112-293 states:

> "Violent crime is continuing a decades-long decline in the United States. However, there are areas of the country where homicides and other violent crimes remain a serious problem and, in some cases, are even on the rise. For example, Puerto Rico had a homicide rate of 22.5 per 100,000 inhabitants in 2009, as compared to the national average of 5 homicides per 100,000 inhabitants. The crime in these areas of the United States is often further compounded by the fact that many Federal law enforcement positions remain unfilled in high-crime jurisdictions. In 2000, a representative of the Drug Enforcement Administration testified before the House Government Reform Committee that `few personnel from the Continental United States are willing to accept a transfer to Puerto Rico.'"

Committee Action: Delegate Pedro R. Pierluisi *(D-PR)* introduced H.R. 1550 on April 14, 2011. The full Judiciary Committee reported the amended bill out favorably on July 11, 2011 by voice vote.

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

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for the committee-reported H.R. 1550 on November, 14, 2011, explaining the bill would costs about $1 million annually assuming appropriations of the authorized amounts. This estimate reviewed the bill when it included a provision that established a new program. The amended bill considered on the House floor today does not create a new program. Rather, it instructs DOJ to allocate existing resources.

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? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states:

> "The constitutional authority on which this bill rests is the power of the Congress to provide for the general welfare of the United States, as enumerated in Article I, Section 8, Clause 1 of the United States Constitution, and to make all laws which shall be necessary and proper for carrying into execution such power as enumerated in Article I, Section 8, Clause 18 of the Constitution."

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