



**Legislative Bulletin.....March 5, 2013**

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**H.R. 668 – To amend section 1105(a) of title 31, United States Code, to require that annual budget submissions of the President to Congress provide an estimate of the cost per taxpayer of the deficit, and for other purposes (Messer, R-IN)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, March 4, under a motion to suspend the rules and pass the bill.

**Summary:** This straightforward budget transparency bill amends [31 USC §1105](#), the section of law that governs presidential budget submissions, to include a requirement that the president’s budget submission show the per-taxpayer cost of any yearly deficit shown in that budget.

**Additional Background:** Language substantially similar to H.R. 668 was submitted by Rep. Messer (R-IN) as an [amendment](#) to H.R. 444, the Require a PLAN Act, which passed the House.

**RSC Bonus Fact:** The section of law amended by this bill (31 USC § 1105) also requires the president to submit a budget to Congress by the first Monday in February of each year, something President Obama has only managed to do in one out of five years (.200 is not even a good batting average).

**What Is the Constitutional Authority for the Legislation?:**

By Rep. Messer (R-IN): Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 1, which provides that, “The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence [sic] and general Welfare of the United States; but all Duties, Imposts and Excises shall

be uniform throughout the United States," and Article 1, Section 9, Clause 7, which provides that, "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." Section 1105(a) of Title 31, United States Code, requires the President to submit to Congress the Administration's annual budget request and stipulates the contents of that submission. It is within the Constitutional Authority of Congress to provide oversight and guidance on these requirements.

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## **H.R. 338 – Stop Tobacco Smuggling in the Territories Act of 2013** *(Del. Faleomavaega, D-American Samoa)*

**Order of Business:** H.R. 338 is scheduled to be considered on Tuesday, March 5, 2013, under a motion to suspend the rules and pass the bill requiring a two-thirds majority vote for passage.

**Summary:** H.R. 338 is the same bill which passed the House by voice vote last Congress on November 14, 2012 ([H.R. 5934](#)). The bill extends current federal criminal law prohibitions against contraband cigarettes and smokeless tobacco within the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands also to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Current federal law (P.L. 97-449) prohibits the shipment, possession, sale, distribution, or purchase of 10,000 or more contraband cigarettes or 500 single, consumer cans of smokeless tobacco in the specified areas described above. It defines contraband cigarettes as those quantities of cigarettes "which bears no evidence of the payment of applicable State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes" and are in possession of an authorized person or entity. Contraband smokeless tobacco is similarly defined without mention to the lack of evidence of taxes paid to a State or locality. Fines and prison sentences up to five years apply to violators of this law.

**Additional Background:** Reports explain that contraband tobacco smuggling in the areas of the South Pacific has proliferated. Community leaders in these specific territories have requested Congress to extend jurisdiction of federal law regarding contraband tobacco trafficking to their territories. The bill's sponsor released a [statement](#) in 2012 explaining that an estimated 5.8 million cigarettes were smuggled into American Samoa in 2010, which represented a \$724,000 revenue loss to the American Samoan government.

**Committee Action:** Delegate Eni F.H. Faleomavaega (*D-American Samoa*) introduced H.R. 338 on January 22, 2013. No further Committee action has occurred on the bill.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No Congressional Budget Office (CBO) cost estimate has been released for the bill.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The bill extends federal criminal jurisdiction prohibiting contraband tobacco trafficking to three American territories in the South Pacific.

**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 states, “Congress has the power to enact this legislation pursuant to the following: Article IV Section 3 Clause 2 ‘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 any particular state.’”

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