



Legislative Bulletin.....May 15, 2012

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**H.R. 365— National Blue Alert Act of 2011, as amended
(Grimm, R-NY)**

Order of Business: The bill is scheduled to be considered on Tuesday, May 15, 2012, under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 365 directs the Attorney General to create a national Blue Alert communications network within the Department of Justice (DOJ) and appoint an existing DOJ officer to act as national coordinator of the Blue Alert communications network. The Blue Alert communications network will issue “Blue Alerts” throughout the nation relating to the serious injury or death of a law enforcement officer in the line of duty while an alleged suspect(s) has not yet been apprehended. According to the bill’s sponsor, these “Blue Alerts” would be similar to existing “Amber Alerts” for missing children. Its purpose is to quickly apprehend violent criminals responsible for the death or serious injury of a law enforcement officer.

The bill also establishes voluntary guidelines and protocols for states to consider adopting, develops protocols for efforts to apprehend suspects, and establishes an advisory group to assist states, local governments, law enforcement agencies, and other entities in initiating, facilitating, and promoting Blue Alert plans. The original text of H.R. 365 included grant funding to assist states “...in the development or enhancement of programs and activities in support of a Blue Alert plan and the

network...” as well as authorization of appropriations of \$10 million for five years. The manager’s amendment to H.R. 365 has stripped out the grant funding and authorization of appropriations.

Additional Information: According the Judiciary Committee Report ([112-478](#)), hundreds of law enforcement officers are killed or seriously injured each year. It also states that 14 states have blue alert systems already in place.

Committee Action: Representative Michael Grimm (R-NY) introduced H.R. 365 on January 20, 2011. The bill was then referred to the House Committees on Judiciary which favorably reported out the amended bill on April 25, 2012.

Administration Position: As of press time, no Statement of Administration Policy (SAP) has been released.

Outside Group Support: The bill sponsor’s Dear Colleague lists the following groups as supporting H.R. 365: Sergeant’s Benevolent Association, the National Sheriff’s Association, the National Association of Police Officers, the Fraternal Order of Police, & the Federal Law Enforcement Officers Association.

Cost to Taxpayers: The Congressional Budget Office (CBO) released an estimate for H.R. 365 explaining that implementing the bill would cost \$36 million over the FY2013-FY2017 time period. The bill sponsor’s Dear Colleague as well as the Committee Report states that the bill authorizes the use of existing state funding (from Cops on the Beat funding) for Blue Alert implementation, and “therefore, does not increase costs to carry out the program.” CBO released this estimate based on the old bill. *The version the House is voting on today does not include this funding.*

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill creates a new communications network within the DOJ and appoints a current DOJ officer to act as the communications network’s national coordinator.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Committee [Report](#) states that H.R. 365 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 on introduction states, “Congress has the power to enact this legislation pursuant to the following: Clause 18 of Section 8 of Article I of the Constitution.” This is the “Necessary and Proper Clause.”

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H.R. 1864 – Mobile Workforce State Income Tax Simplification Act of 2011, as amended (Coble, R-NC)

Order of Business: H.R. 1864 is scheduled to be considered on Tuesday, May 15, 2012 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1864 creates a uniform national rule for the application of states' income tax laws towards employees who perform out-of-state employment duties. Specifically, the bill prohibits employees' non-resident states from imposing income tax on non-resident employees who work for less than 31 days in the non-resident state. The bill exempts professional athletes, professional entertainers, and certain other public figures (defined as persons of prominence who perform services for compensation on a per-event basis). Also, employers are not required to withhold employee income tax for employee's duties performed in non-resident states if the employee is not liable for the non-resident state income tax under this bill.

Additional Background: The Judiciary Committee Report ([112-386](#)) explains that forty-one states impose a personal income tax on income earned within their borders regardless of whether the earner is a resident of the state, and that income tax and employer withholding laws vary significantly among jurisdictions. What this means is that employees who work and earn income in states other than their state of residency are required to file income tax returns in every state where income is earned. The report maintains that Congress has a constitutional duty to ensure that the disparity among states' income tax policies does not stifle interstate commerce. Therefore, H.R. 1864 creates a *de minimus* threshold whereby an employee can work up to five full weeks outside of his or her state of residency and not be liable to those non-residency states for personal income taxes. An employee's earned income in the non-resident state during this time period will be due to the employee's resident state.

Committee Action: Representative Howard Coble (R-NC) introduced H.R. 1864 on May 12, 2011 where it was referred to the Committee on Judiciary. The Subcommittee on Courts, Commercial and Administrative Law held a legislative hearing on the bill on May 24, 2011. The Full Committee reported the amended bill out favorably by a voice vote on November 17, 2011.

Administration Position: No Statement of Administration Policy (SAP) has been released.

Outside Groups Supporting: Americans for Tax Reform (ATR) and National Taxpayers Union (key vote).

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate on the bill on January 25, 2012. The estimate states that implementing the bill would have no impact on the federal budget. CBO cites New York as likely to lose the most revenue (\$50-\$100 million) while New Jersey and Connecticut stand to gain revenue.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill preempts state income tax laws by creating a national standard that states must comply with respect to state income tax laws on out-of-state employees' earnings.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:

The CBO report explains that the bill imposes an intergovernmental mandate on states by preventing them from taxing the income of employees who work in the state for fewer than 31 days. CBO is charged with including costs of the impact on state revenue in its definition of a mandate. CBO further explains it cannot estimate the net cost of this mandate because:

“Most states that levy a personal income tax allow residents to take a credit for income taxes that the residents pay to another state. The cost of the mandate would equal, for all States collectively, the difference between the amount of revenue that States receive from nonresidents who work in the State for fewer than 31 days and the amount they would receive from residents from residents whose credits would be lower under the bill.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:

According to the Committee [Report](#), H.R. 1864 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

Constitutional Authority: The Constitutional Authority Statement accompanying H.R. 1864 upon introduction states, “Congress has the power to enact this legislation pursuant to the following: The Commerce Clause (Article I, Section 8, Clause 3).” Also, the Committee Report’s *Performance Goals and Objectives* explain that “...H.R. 1864 will facilitate interstate commerce by increasing uniformity among states’ income tax policies.”

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**H.R. 3534 — Security in Bonding Act of 2011, as amended
(Hanna, R-NY)**

Order of Business: The bill is scheduled to be considered on Tuesday, May 15, 2012, under a motion to suspend the rules requiring two-thirds majority for passage.

Summary: H.R. 3534 amends federal contracting law regarding the use of surety bonds for federal construction projects by private contracting companies. Its purpose is to improve the financial security of the United States when it contracts on federal projects.

Under current law, private contracting firms must provide “surety” (i.e., financial insurance that they will perform the contracted federal project) in one of three manners: 1) securing a corporate surety bond approved by the U.S. Treasury; 2) posting an “eligible obligation”, which is a U.S. backed security such as a T-note in lieu of a security bond; or 3) providing an individual surety, which are not approved by the U.S. Treasury. The third option brings the highest risk of default should a private contractor not perform the terms of the federal contract. The bill sponsor’s Dear Colleague cites a lack of oversight on individual sureties which have led to “a number of documented cases where assets pledged to back the bond have been illusory or insufficient, *leaving small businesses and taxpayers without sufficient payment.*”

H.R. 3534 amends current law by requiring individual sureties to post collateral of equal security to the collateral that an individual contractor would have to pledge if he or she chose to secure payment or performance individually. It also requires a Government Accountability Office (GAO) report describing the use of surety bonds by federal contractors over the past 10 years.

Committee Action: Representative Richard Hanna (R-NY) introduced H.R. 3534 on December 1, 2011, and it was referred to the House Judiciary Committee. On March 5, 2012, the Subcommittee on Courts, Commercial and Administrative Law held a legislative hearing, and the Full Committee reported the amended bill out by voice vote.

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

Outside Groups Supporting: National Association of Surety Bond Producers, The Surety & Fidelity Association of America, Associated Builders and Contractors, American Subcontractors Association, Inc., American Insurance Association, Associated General Contractors of America, Mechanical Contractors Association of America, National Association of Minority Contractors, National Electrical Contractors Association, Property Casualty Insurers Association of America, Sheet Metal and Air Conditioning Contractors' National Association.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing H.R. 3534 would cost less than \$500,000 a year.

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

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Committee Report #[112-460](#) explains that H.R. 3534 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the House Rules.

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 enumerated in Clause 3 of Section 8 of Article I of the United States Constitution [the Commerce Clause]."

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H.R. 4119 — Border Tunnel Prevention Act of 2012
(Reyes, D-TX)

Order of Business: The bill is scheduled to be considered on Tuesday, May 15, 2012, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 4119 creates a new federal crime in the U.S. Code (18 U.S.C. Section 555) pertaining to an attempt or conspiring to use, construct, or financing an underground tunnel between the United States and other countries. The bill makes the penalty for attempt or conspiracy to use, construct, or finance a cross-border tunnel the same as those for the offense itself.¹ It also permits the interception of wire, oral, or electronic communications during the investigation of construction or use of cross-border tunnels, and allows the criminal or civil forfeiture of merchandise entering the US through a cross-border tunnel. Additionally, it makes the construction, financing, or use of a cross-border tunnel a predicate offense for a charge of money laundering. Lastly, it requires the Department of Homeland Security (DHS) to submit annual reports to Congress about unlawful tunneling between the U.S. and Mexico.

The Judiciary Committee report #[112-418](#) highlights reports of increased drug smuggling tunnels within the past 10 years, and that a majority of cross-border tunnels are found in California and Arizona.

Committee Action: Representative Silvestre Reyes (*D-TX*) introduced H.R. 4419 on March 1, 2012, and the bill has been referred to the House Committees on the Judiciary, Ways and Means, and Homeland Security. On March 6, 2012, the Judiciary Committee reported the bill out of Committee 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. 1059 on March 12, 2012, explaining that implementing the bill would have no significant costs to the federal government.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill creates a new federal crime related to the construction, use, or investment in underground tunnels between the U.S. and other countries.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. The CBO reports states that “H.R. 4119 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?: Yes. According to House Report [112-418](#), H. R. 4119 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

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.”

¹ Federal law already criminalized the construction, financing, and use of unauthorized tunnels or subterranean passages across a U.S. border under 18 U.S.C. Section 555.

H.R. 2621 - Chimney Rock National Monument Establishment Act (Tipton, R-CO)

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2621 establishes the Chimney Rock National Monument within the state of Colorado. The monument shall be administered by the National Forest System under the Secretary of Agriculture.

This national monument shall consist of approximately 4,726 acres, and the Secretary of Agriculture is allowed to make adjustments to the monument boundaries it include significant archeological resources that are discovered after the date of enactment.

The Secretary is directed to manage the national monument in accordance with the Native American Graves Protection and Repatriation Act, and the Secretary will allow Indian tribes to access the land for traditional ceremonies and as a source of traditional plants and other materials.

The Secretary is directed to allow for the continued use of hunting, fishing and other recreational uses that are currently authorized. The Secretary may implement temporary emergency closures or restrictions on the “smallest practicable” area to provide for public safety, resource conservation, or other purposes.

The legislation allows the Secretary to acquire land, and any interest in land, that is within or adjacent to the boundary of the national monument. The Secretary may purchase this land from willing sellers with donated or appropriated funds. The Secretary may also accept land by donation or through exchange.

Land within the national monument shall be prohibited from:

- (1) entry, appropriation, or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) subject to subsection (b), operation of the mineral leasing, mineral materials, and geothermal leasing laws.

However, this land is not prohibited from the purposes of issuing a right-of-way for a gas pipeline.

Additional Information: According to CBO, the Chimney Rock Archaeological Area is currently managed by volunteers and the Forest Service and it contains a visitor center and a gravel road to access the area. CBO expects that implementing the legislation could eventually lead to a need for expanded trails and increased interpretive displays. However, CBO estimates that such activities would have an insignificant impact on the federal budget over the next five years. CBO does not expect that, under current law, the affected lands would generate any offsetting receipts from

disposal, mining, and mineral leasing activities over the next 10 years. Thus, CBO estimates that enacting the legislation would not affect direct spending.

According to the Committee Report, this land is currently within the San Juan National Forest, and is managed as the San Juan National Forest Archaeological Area in conjunction with the Chimney Rock Interpretive Association, which operates an interpretive program under a special-use permit from the U.S. Forest Service.

More information about the Chimney Rock Archaeological Area can be [found here](#).

H.R. 2621 prohibits the land transferred from being used for future mineral leasing. Many House Republicans have advocated for the increased production of domestic energy and some may be concerned they are blocking lands from this potential use with this provision.

Committee Action: H.R. 2621 was introduced on July 21, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee held hearings and discharged the legislation by unanimous consent. On April 25, 2012, the full committee held a markup and passed the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available. However, on November 3, 2011, the Associate Chief of the Forest Service testified in support of H.R. 2621. That testimony can be [viewed here](#).

Cost to Taxpayers: CBO estimates that completing the management plan for Chimney Rock National Monument would cost about \$310,000 over the next three years.

Section 4(i) of the legislation states that any signs fixtures, alterations, or additions needed in connection with the designation or advertisement of the Monument shall be paid for only with non-federal funds or amounts made available for such purposes in prior Acts of appropriation.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The land affected is currently managed by the U.S. Forest Service, under the Department of Agriculture.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-473 states “H.R. 2621 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Tipton states “Congress has the power to enact this legislation pursuant to the following: Article I. Section 8 of the United States Constitution: to make rules for the government and regulation of land.” The statement can be [viewed here](#).

It can also be noted that Article IV, Section 3, Clause 2 of the United States Constitution grants Congress the “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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H.R. 2745 - To amend the Mesquite Lands Act of 1986 to facilitate implementation of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada, as amended (Heck, R-NV)

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2745 amends the Mesquite Lands Act of 1986 to extend deadlines for Mesquite, NV, to purchase certain public lands to be used as an airport in Clark County, NV. The city of Mesquite shall have the exclusive right to purchase the parcels of public land until November 29, 2020.

The city has until November 29, 2019, to notify the Secretary which of the parcels of public land the city intends to purchase. The proceeds from this sale will be deposited into the General Treasury.

H.R. 2745 also directs the Secretary to convey to the city up to 2,560 acres of public land to be selected by the city. This includes the 218 acres of land depicted as ‘Hiatus’ on the map titled ‘Mesquite Airport Conveyance’ and dated January 13, 2012. The legislation removes these parcels from all forms of entry and appropriation under the public land laws, including mining laws, and from operation of the mineral leasing and geothermal leasing laws.

Additional Information: The following information is provided by the sponsor’s office:

The original Mesquite Lands Act was passed in 1986 and provided the City of Mesquite the exclusive right to purchase, at fair market value, certain federal land under the control of the Bureau of Land Management (BLM). As the City is landlocked by public lands and was the fastest growing city in the country for much of the 1990’s, this legislation was amended in 1996 to allow the City to purchase additional federal lands to ensure Mesquite could continue to grow and prosper in a positive manner.

The legislation gives the City the exclusive right to purchase, at fair market value, the land identified in the Mesquite Lands Act from the Bureau of Land Management for a period of 12 years from the date of enactment of the Land Act. Due to the severe economic conditions that continue to plague Southern Nevada and a delay of the Environmental Impact Statement for the Airport site, the City is not in a position to purchase the final sections of property at this time and, therefore, was not be able to make this deadline. The City of Mesquite remains committed to ensure that it continues to grow in a positive manner, and needs an extension of time to allow economic conditions to improve.

Committee Action: H.R. 2745 was introduced on August 1, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee

held hearings and discharged the legislation by unanimous consent. On February 29, 2012, the full committee held a markup and passed the legislation, as amended, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information from BLM and the city of Mesquite, CBO expects that, under current law, the affected lands would be sold under the Federal Land Policy and Management Act (FLPMA). CBO estimates that proceeds from those sales would total about \$7 million over the 2012-2020 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The legislation would allow the city of Mesquite, Nevada, the right to purchase federal lands currently managed by the Bureau of Land Management.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-474 states “H.R. 2745 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Heck states “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18 and Article IV, Section 3, Clause 2 of the United States Constitution.” The statement can be [viewed here](#).

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H.R. 3874 - Black Hills Cemetery Act (Noem, R-SD)

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3874 directs the Secretary of Agriculture to convey to certain local communities in South Dakota all right, title, and interest in the following:

- (1) The parcels of National Forest System land containing such cemeteries; and
- (2) Up to an additional two acres adjoining each cemetery in order to ensure the conveyances include unmarked gravesites and allow for expansion of the cemeteries.

These lands will be conveyed to the following local communities in South Dakota that are currently managing and maintaining the community cemeteries:

- (1) The Silver City Cemetery to the Silver City Volunteer Fire Department.
- (2) The Hayward Cemetery to the Hayward Volunteer Fire Department.

- (3) The encumbered land adjacent to the Englewood Cemetery (encompassing the cemetery entrance portal, access road, fences, 2,500 gallon reservoir and building housing such reservoir, and piping to provide sprinkling system to the cemetery) to the City of Lead.
- (4) The land adjacent to the Mountain Meadow Cemetery to the Mountain Meadow Cemetery Association.
- (5) The Roubaix Cemetery to the Roubaix Cemetery Association.
- (6) The Nemo Cemetery to the Nemo Cemetery Association.
- (7) The Galena Cemetery to the Galena Historical Society.
- (8) The Rockerville Cemetery to the Rockerville Community Club.
- (9) The Cold Springs Cemetery (including adjacent school yard and log building) to the Cold Springs Historical Society.

The lands conveyed by this legislation shall be used in the same manner and for the same purposes as they were immediately prior to the conveyance.

The recipient of each parcel shall be responsible for providing a survey for the particular parcel that is satisfactory to the Secretary.

Committee Action: H.R. 3874 was introduced on February 1, 2012, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee held hearings and discharged the legislation by unanimous consent. On April 25, 2012, the full committee held a markup and passed the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have a negligible 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?: House Report 112-475 states “H.R. 3874 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Noem 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 [viewed here](#).

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H.R. 205 - HEARTH Act of 2011 (*Heinrich, D-NM*)

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 205 allows any Indian tribe the ability to lease certain lands without the approval of the Secretary of Interior. The Secretary's approval is not required if the lease is executed under tribal regulations that have been approved by the Secretary.

Agricultural leases would be limited to 25 years, except that any lease may include an option to renew for up to 2 additional terms, each not exceeding 25 years. Leases for public, religious, educational, recreational, or residential purposes are limited to 75 years. This leasing authority does not apply to any lease of individually owned Indian allotted land.

The Secretary has the ability to approve or disapprove any proposed tribal regulations. The Secretary is directed to approve tribal regulations if they are consistent with regulations issued by the Secretary, and if they provide for an environmental review process. After a tribe submits regulations to the Secretary, the Secretary shall approve or disapprove of the regulations within 120 days. If the Secretary disapproves, they are required to include written documentation with the disapproval notification that describes the basis for their decision.

The United States government shall not be held liable for losses sustained by any party to a lease executed pursuant to tribal regulations.

Any interested party may submit a petition to the Secretary to review the compliance of the Indian tribe with any tribal regulation. If the Secretary determines the tribal regulations were violated, the Secretary may take any action necessary to remedy the violation, including rescinding the approval of the regulations and reassuming responsibility for the approval of tribal trust lands.

Reporting Requirements: The legislation requires the Bureau of Indian Affairs to submit a report to the House Committee on Natural Resources and the Senate Committee on Indian Affairs regarding the history and experience Indian tribes have chosen to assume responsibility for operating the Indian Land Title and Records Office (LTRO) functions from the Bureau of Indian Affairs.

The report will analyze the following factors:

- (1) Whether and how tribal management of the LTRO functions has expedited the processing and issuance of Indian land title certifications as compared to the period during which the Bureau of Indian Affairs managed the programs.
- (2) Whether and how tribal management of the LTRO **functions has increased home ownership** among the population of the managing Indian tribe.
- (3) What internal preparations and processes were required of the managing Indian tribes prior to assuming management of the LTRO functions.
- (4) Whether tribal management of the LTRO functions resulted in a transfer of financial resources and manpower from the Bureau of Indian Affairs to the managing Indian tribes and, if so, what transfers were undertaken.

- (5) Whether, in appropriate circumstances and with the approval of geographically proximate Indian tribes, the LTRO functions may be performed by a single Indian tribe or a tribal consortium in a cost effective manner.

Background: In 2000, the Long-Term Indian Leasing Act was amended to allow the Navajo Nation to lease their land without the Secretary of Interior's approval. The lease would have to be executed under tribal regulations that were approved by the Secretary.

Because of this provision, the United States is released of liability for potential losses sustained by a party to a lease that was executed under the tribe's regulations. If the Navajo do not adhere to their regulations (which were approved by the Secretary) the Secretary may intervene and rescind a lease or reassume leasing authority.

Committee Action: H.R. 205 was introduced on January 6, 2011, and was referred to the House Natural Resources Subcommittee on Indian and Alaska Native Affairs. The subcommittee discharged the legislation by unanimous consent. On November 17, 2011, the full committee reported the legislation, as amended, by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information from the Department of the Interior, CBO estimates that implementing the legislation 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?: House Report 112-427 states "H.R. 205 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Heinrich states "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution." The statement can be [viewed here](#).

Members and staff may also note that Article IV, Section 3, Clause 2 of the United States Constitution grants Congress the "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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**H.R. 4240 - Ambassador James R. Lilley and Congressman Stephen J. Solarz
North Korea Human Rights Reauthorization Act of 2012, as amended
(Ros-Lehtinen, R-FL)**

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4240 extends the sunset date for the North Korean Human Rights Act of 2004. This Act would otherwise expire at the end of the fiscal year, September 30, 2012.

Support for Human Rights and Democracy Programs: The legislation authorizes the President to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and a market economy in North Korea. This legislation authorizes for appropriation \$2,000,000 for each fiscal year through 2017 to carry out this function.

Radio Broadcasting to North Korea: Within 120 days of enactment, the Broadcasting Board of Governors shall submit to Congress a report that describes the status and content of current U.S. broadcasting to North Korea.

Actions to Promote Freedom of Information: The legislation authorizes the President to take actions to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by North Korea. This legislation authorizes for appropriation \$2,000,000 for each fiscal year through 2017 to carry out this function.

Special Envoy on North Korean Human Rights Issues: The legislation directs the President to appoint a special envoy for human rights in North Korea with the States Department. The Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

Report on United States Humanitarian Assistance: The legislation requires the Administrator of U.S. Agency for International Development (USAID) to submit a report to Congress detailing:

- (1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;
- (2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period; and
- (3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

Assistance Provided Outside of North Korea: The legislation authorizes the President to provide assistance to support organization or persons that provide humanitarian assistance to North Koreans who are outside of North Korea. This legislation authorizes for appropriation \$5,000,000 for each fiscal year through 2017 to carry out this function.

Annual Reports: The legislation directs the Secretary of State, and the Secretary of Homeland Security to submit to Congress a report on the:

- (1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and
- (2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

Sense of Congress: The legislation states that it is the sense of Congress that:

- “The United States should continue to seek cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific countries, and close cooperation with its ally, the Republic of Korea; and
- “Because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the People's Republic of China to--
 - “Immediately halt its forcible repatriation of North Koreans;
 - “Fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China; and
 - “Allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether such North Koreans are refugees requiring protection.”

Findings: The legislation contains a number of finding, including:

- “The North Korean Human Rights Act of 2004 (Public Law 108-333; 22 U.S.C. 7801 et seq.) and the North Korean Human Rights Reauthorization Act of 2008 (Public Law 110-346) were the product of broad, bipartisan consensus regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and the importance of refugee protection;
- “Although the transition to the leadership of Kim Jong-Un after the death of Kim Jong-Il has introduced new uncertainties and possibilities, the fundamental human rights and humanitarian conditions inside North Korea remain deplorable, North Korean refugees remain acutely vulnerable, and the findings in the 2004 Act and 2008 Reauthorization remain substantially accurate today; and
- “Media and nongovernmental organizations have reported a crackdown on unauthorized border crossing during the North Korean leadership transition, including authorization for on-the-spot execution of attempted defectors, as well as an increase in punishments during the 100-day official mourning period after the death of Kim Jong-Il.”

Committee Action: H.R. 4240 was introduced on March 22, 2012, and was referred to the House Foreign Affairs Committee. On March 28, 2012, the committee reported the legislation by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report is unavailable. However the legislation would authorize for appropriation 9,000,000 per fiscal year through 2017.

Does the Bill Expand the Size and Scope of the Federal Government?: No. Currently these provisions are authorized for \$24,000,000 per fiscal year. However, without this legislation the North Korean Human Rights Act would expire and \$9,000,000 less would be authorized for appropriation per fiscal year through FY 2017.

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

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

Constitutional Authority: Rep. Ros-Lehtinen states “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8.” The statement can be [viewed here](#).

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H.Res. 568 - Expressing the sense of the House of Representatives regarding the importance of preventing the Government of Iran from acquiring a nuclear weapons capability, as amended (Ros-Lehtinen, R-FL)

Order of Business: The resolution is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 568 resolves that the House of Representatives:

- (1) “Warns that time is limited to prevent the Government of Iran from acquiring a nuclear weapons capability;
- (2) “Urges continued and increasing economic and diplomatic pressure on Iran to secure an agreement with the Government of Iran that includes--
 - (A) “The full and sustained suspension of all uranium enrichment-related and reprocessing activities;
 - (B) “Complete cooperation with the IAEA on all outstanding questions related to Iran's nuclear activities, including--
 - (i) “The implementation of the Additional Protocol to the Treaty on the Non-Proliferation of Nuclear Weapons; and
 - (ii) “The verified end of Iran's ballistic missile programs; and
 - (C) “A permanent agreement that verifiably assures that Iran's nuclear program is entirely peaceful;
- (3) “Expresses support for the universal rights and democratic aspirations of the Iranian people;
- (4) “Affirms that it is a vital national interest of the United States to prevent the Government of Iran from acquiring a nuclear weapons capability;

- (5) “Strongly supports United States policy to prevent the Government of Iran from acquiring a nuclear weapons capability;
- (6) “Rejects any United States policy that would rely on efforts to contain a nuclear weapons-capable Iran; and
- (7) “Urges the President to reaffirm the unacceptability of an Iran with nuclear-weapons capability and opposition to any policy that would rely on containment as an option in response to the Iranian nuclear threat.”

The legislation contains a number of findings, including:

- “The United Nations Security Council has adopted multiple resolutions since 2006 demanding the full and sustained suspension of all uranium enrichment-related and reprocessing activities by the Iranian Government and its full cooperation with the International Atomic Energy Agency (IAEA) on all outstanding issues related to its nuclear activities, particularly those concerning the possible military dimensions of its nuclear program;
- “On January 9, 2011, IAEA inspectors confirmed that the Iranian Government had begun enrichment activities at the Fordow site, including possibly enrichment of uranium-235 to 20 percent;
- “On December 6, 2011, Prince Turki al-Faisal of Saudi Arabia stated that if international efforts to prevent Iran from obtaining nuclear weapons fail, ‘we must, as a duty to our country and people, look into all options we are given, including obtaining these weapons ourselves’;
- “Top Iranian leaders have repeatedly threatened the existence of the State of Israel, pledging to ‘wipe Israel off the map’;
- “Iran has provided weapons, training, funding, and direction to terrorist groups, including Hamas, Hezbollah, and Shiite militias in Iraq that are responsible for the murders of hundreds of American forces and innocent civilians;
- “On July 28, 2011, the Department of the Treasury charged that the Government of Iran had forged a ‘secret deal’ with al Qaeda to facilitate the movement of al Qaeda fighters and funding through Iranian territory;
- “On March 31, 2010, President Obama stated that the ‘consequences of a nuclear-armed Iran are unacceptable’;
- “In his State of the Union Address on January 24, 2012, President Obama stated: ‘Let there be no doubt: America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal’; and
- “The Department of Defense's January 2012 Strategic Guidance stated that United States defense efforts in the Middle East would be aimed ‘to prevent Iran's development of a nuclear weapons capability and counter its destabilizing policies’.”

Committee Action: H.Res. 568 was introduced on March 1, 2012, and was referred to the House Committee on Foreign Affairs, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: House Rules regarding statements of constitutional authority do not apply to House Resolutions.

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H.R. 4045 - To modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date, as amended (Rep. Kline, R-MN)

Order of Business: The legislation is scheduled to be considered on May 15, 2012, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 4045 gives the Secretary of Defense the ability to determine that changes made by the Secretary to the Post-Deployment/Mobilization Respite Absence administrative absence days to member and former members of the reserve components, as of October 1, 2011, shall not apply to a member of a reserve component, or former reserve member, who was mobilized before October 1, 2011, and continued until the termination of the mobilization.

Offset: The legislation directs the Secretary of Defense to transfer \$4,000,000 from the unobligated balances of the Pentagon Reservation Maintenance Revolving Funding to the Miscellaneous Receipts Fund of the U.S. Treasury.

According to the sponsor: DOD identified an off-set for the mandatory spending costs over the 10yr period and all the legislation gives the DOD the discretionary authority they require to pay out this benefit retroactively. DOD is covering the costs from within their Military Personnel budget. The legislation costs \$1,000,000 in FY12, and saves \$3,000,000 over the 5 year period and \$4,000,000 in mandatory spending over the 10 year period. All discretionary costs are subject to future appropriation and H.R. 4045 gives DOD the authority they requested to go back in and pay this benefit retroactively. DOD is already covering the costs from within their own appropriated dollars, this will not be new money, but CBO doesn't make a distinction.

Additional Information: The following is from the sponsor's office:

Last October, DOD issued new guidelines for Post Deployment Mobilization/Respite Absence (PDMRA) – a program intended to provide leave post deployment for all service members who mobilize and deploy for periods in excess of 12-24 months. These are extremely long deployments and mobilizations, and thus the program was supposed to ensure those deployed the most frequently and longest had additional downtime. The National Guard and Reserve component typically exceed the thresholds set and qualify for the additional down time.

On October 1, 2011, DOD changed the rules of the game while many in the Guard and Reserve were mobilized and deployed. DOD did not grandfather those already deployed during the policy change which immediately reduced their promised leave accrual rates. Under the changed policy, some service members could stand to lose a month of leave they would have when they return to use to look for a job, de-compress, receive follow on medical care, and spend time with their family.

The DOD finally recognized they should grandfather these reserve service members so they weren't affected while deployed by the change and worked with us on legislation to do just that. They said they needed Congressional authority to go back and restore this paid leave, and our bill gives them the authority to do just that.

In January 2007, the DOD instituted PDMRA to allow service members the opportunity to spend more time with their families and readjust after multiple deployments. It was created as an additional leave category so they didn't have to use their regular leave. It's no secret that multiple deployments are leading to stressed families, combat stress, and a high rate of suicides. PDMRA can help combat this stress and high suicide rate.

To recap, the legislation will:

1. Award PDMRA days immediately to those still on active duty orders who have returned from deployment or who are still deployed, and give them the option of cashing out in lieu of leave if they determine that is in their best interest;
2. Authorize a cash pay-out beginning October 2012 (FY13) in lieu of the leave for those service members who have already returned from deployment and off active duty orders, thus not able to take the PDMRA leave days; and
3. Authorize a cash pay-out beginning October 2012 (FY13) in lieu of the PDMRA leave for those who have left the service and are now civilians, but were deployed and affected during this change.

Organizations Supporting: According to the sponsor, this legislation is supported by the:

- Veterans of Foreign Wars
- Military Officers Association of America
National Guard Association of the United States
- Enlisted Association of the National Guard of the United States
- Association of the United States Navy

Committee Action: H.R. 4045 was introduced on February 15, 2012, and was referred to the House Armed Services Subcommittee on Military Personnel, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO 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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Kline states: “Congress has the power to enact this legislation pursuant to the following: This legislation ensures that members of the National Guard and Reserve Component who mobilized and deployed prior to changes made to Department of Defense guidelines pertaining to the earning of the Post Deployment Mobilization Respite Absence Program do not receive a reduction in their earned benefits while deployed in defense of our nation. Specific authority is provided by Article I, section 8 of the United States Constitution (clauses 12, 13, 14, and 16), which grants Congress the power to raise and support an Army; to provide and maintain a Navy; to make rules for the government and regulation of the land and naval forces; and to provide for organizing, arming, and disciplining the militia.” The statement can be [viewed here](#).

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