



Rep. Jeb Hensarling (R-TX), Chairman
Russ Vought, Executive Director

132 Cannon House Office Building
Washington, DC 20515



www.house.gov/hensarling/rsc

ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin.....July 18, 2007

Contents:

H.R. 3043 – PART III – Amendments to the Labor, Health and Human Services, and Education Appropriations Bill, FY 2008

H.R. 3043, the Labor, Health and Human Services, and Education Appropriations Act, FY 2008 (sponsored by Rep. Obey, D-WI), is continuing to be considered on the House floor on Wednesday, July 18, 2007, subject to an open rule ([H.Res. 547](#)), making in order any germane amendment under the five-minute rule. However, a **unanimous consent agreement limiting amendments has recently been propounded**. The amendment summaries below reflect the amendments made in order under the UC. No other amendments are in order.

All amendments are debatable for 10 minutes, except where indicated below. An amendment will be considered to fit the description stated in the UC request if it addresses in whole or in part the object described.

Note: The summaries below are based on RSC staff’s review of *actual amendment text*, when available. At times, Democrat offices do not provide the text of amendments to the RSC; in such cases, we may base our summaries on Dear Colleague and other available information.

Any numbers before amendments below represent their *Congressional Record* number. Amendments without numbers were not pre-filed in the *Congressional Record*.

For a summary of the underlying bill and other amendments, see separate RSC documents released yesterday and today.

RSC Staff Contact: Paul Teller; paul.teller@mail.house.gov; (202) 226-9718

Amendments Made in Order under the UC

NOTE: some of the Hensarling amendments below may be offered by a designee.

Pascrell (D-NJ). Decreases funds for the Department of Labor, Departmental Management, salaries and expenses by \$424,666; decreases funds for HHS Departmental Management, Office of the Secretary, General Departmental Management by \$424,667; decreases funds for Department of Education, Departmental Management, Program Administration by \$424,667; increases funds for HHS Resources and Services Administration, Health Resources and Services by \$1.09 million;

increases funds for the Centers for Disease Control and Prevention (CDC), Disease Control, Research, and Training by \$184,000.

Nadler (D-NY). Amendment regarding eligibility for 9/11 health programs. WILL NOT BE OFFERED.

Nadler (D-NY). Another amendment regarding eligibility for 9/11 health programs. WILL NOT OFFER.

Barton (R-TX). Prohibits funds for the National Institutes of Health from being used for activities under section 241(a) of the Public Health Service Act (42 U.S.C. 238j(a)). The amendment sponsor writes, "Section 241 of the Public Health Service Act permits the Secretary of HHS to set aside appropriated funds for the evaluation of the implementation and effectiveness of programs. It's a provision that has been in statute for many decades. If this money were truly used for evaluation purposes, that would be one thing. What many Members do not know is that this money is often transferred out of NIH to fund 'other' programs. A slush fund of sorts, the evaluation tap not always a true evaluation account."

Garrett (R-NJ). Increases funds for the National Institute of Neurological Disorders and Stroke by \$10 million (to \$1.57 billion) and decreases funds for school improvement programs by \$10 million (to \$5.67 billion).

33. Holt (D-NJ). Reduces Education Department funds for program administration by \$25 million and increases funds for school improvement programs by \$25 million.

Cooper (D-TN). Increases funds in the Act for Higher Education by \$100 million (from \$2.05 billion to \$2.15 billion), and increases funds for Higher Education to remain available for until September 30, 2009 by \$25 million; decreases funds in the Act for Department of Education Departmental Management Program Administration by \$125 million. The sponsor states that these increased Higher Education funds are to be used for Historically Black Colleges and Universities.

17. Flake (R-AZ). Decreases funds in the Act for the National and Community Service Act of 1990 by \$255.6 million; decreases funds in the Act for National Service Trust program by \$55 million.

1. Conaway (R-TX). Prohibits funds made available by this Act for the Low-Income Home Energy Assistance Program from being used while there continues in effect a Federal prohibition on the exploration, leasing, development, or production of oil or natural gas in the Arctic National Wildlife Refuge or the Outer Continental Shelf.

2. Conaway (R-TX). Expresses a sense of the House of Representatives that any reduction in the amount appropriated by this Act achieved as a result of amendments adopted by the House should be dedicated to deficit reduction.

Dingell (D-MI). Prohibits funds in the Act from being used to pay the basic pay of any individual serving as Deputy Commissioner of Social Security, Social Security Administration, whose

appointment to the position has not been confirmed by a vote of the Senate (pursuant to section 702(b)(1) of the Social Security Act).

3. Gingrey (R-GA). Prohibits funds from being used by the Commissioner of Social Security or the Social Security Administration to pay the compensation of employees of the Social Security Administration to administer Social Security benefit payments, under any agreement between the United States and Mexico establishing totalization arrangements between the social security system established by title II of the Social Security Act and the social security system of Mexico, which would not otherwise be payable but for such agreement.

A totalization agreement is a coordination of the payment of Social Security taxes and benefits for workers who divide their careers between the United States and another country. In June 2004, the United States and Mexico signed a totalization agreement. In early 2007, a copy of the agreement was made publicly available, but it has not been transmitted to Congress for review, and thus is not final. The main point of controversy over this agreement is its allowance of U.S. Social Security benefits to be paid to the *dependents and survivors* of Mexicans who have legally worked in the United States, even if such dependents and survivors have never lived in the United States.

For more information on totalization agreements and related issues, visit this webpage:
<http://www.congress.gov/erp/rl/html/RL32004.html>.

Hare (D-IL). Amendment regarding critical access hospitals that have been subject to geographic reclassification. WILL BE OFFERED AND WITHDRAWN.

6. Jordan (R-OH). 30 MINUTES. Reduces total appropriations in the bill by 4.6% (which would bring the funding back to last year's levels).

22. Moore (D-WI). Prohibits funds in the Act from being used to carry out the evaluation of the Upward Bound program described in the absolute priority for Upward Bound Program participant selection and evaluation published by the Department of Education in the Federal register on September 22, 2006.

23. Musgrave (R-CO). 30 MINUTES. Reduces total appropriations in the bill by 0.5%.

4. Price (R-GA). 30 MINUTES. Reduces total appropriations in the bill by \$1,517,480,000 (which is 1% of the total).

7 or 63. Campbell (R-CA). 30 MINUTES. Reduces total appropriations in the bill by 0.25%.

Obey (D-WI). Prohibiting funding for any earmark in the committee report.

Scott (D-VA). Prohibits funds from being used to carry out the student drug testing pilot program of the Department of Education. The amendment notes that the underlying prohibition in the amendment does not prohibit the use of funds to complete the evaluation of the program currently taking place and does not prohibit the use of funds to carry out the program if the evaluation determines that the program is cost-effective.

Lewis (D-GA)/ Welch (D-VT). Prohibits funds from being used to take any action to finalize (or otherwise implement) provisions contained in the proposed rule published on May 3, 2007, on pages 24680 through 25135 of volume 72, Federal Register, insofar as such provisions propose

- to alter payments for services under the hospital inpatient prospective payment system under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) based on use of a Medicare severity diagnosis related group (MS-DRG) system; or
- to implement a prospective 2.4% behavioral offset in response to the implementation of such a Medicare Severity Diagnosis Related Group (MS-DRG) system for purposes of such hospital inpatient prospective payment system.

The amendment sponsors writes, “Last month, 269 of you joined us in sending a letter to the Centers for Medicare and Medicaid Services (CMS) expressing our concern about proposed changes to the hospital inpatient prospective payment system which would severely restrict beneficiary access to critical hospital services in urban and rural areas.

“CMS has proposed nearly \$25 billion in cuts over five years to hospital payments for providing care to seniors and the disabled under Medicare. A key misstep in the proposed rule is the 2.4 percent so-called "behavioral offset" payment cut to all inpatient operating and capital payments of \$24 billion over five years.

“CMS proposed this cut to eliminate what the agency inaccurately claims will be the effect of greater use of coding as hospitals move to the new system. These extreme cuts in reimbursements, which are based on conjecture, will impose an added burden on all hospitals.”

20 or 30. Jackson-Lee (D-TX). Decreases then increases funds in the Act for the Department of Education Office for Civil Rights by \$2 million, thus no net funding change. The sponsor is likely attempting to earmark \$2 million for a specific (unknown) purpose. No further information was available.

31. Jackson-Lee (D-TX). Increases and then decreases by \$2 million the funds for the Education Department’s funding for education for the disadvantaged.

Upton (R-MI). Prohibits funds from being used to purchase light bulbs, unless the light bulbs have the “ENERGY STAR” or “Federal Energy Management Program” designation.

Pence (R-IN). Prohibits funds in the bill from funding Planned Parenthood Federation of America or any of its affiliates. Essentially, this amendment would prohibit Title X funds from going to Planned Parenthood. In FY2007, Planned Parenthood received approximately \$65 million in Title X federal funds.

8. Ehlers (R-MI). Decreases funds in the Act for the Department of Labor, Management Salaries and Expenses by \$15.6 million; increases finds in the Act for the Department of Education School Improvement Programs by \$15.6 million.

Gingrey (R-GA) / Jordan (R-OH). Prohibits funds in the bill from funding any mandatory school HPV (human papillomavirus) vaccination program.

26. Ryan (R-WI). Prohibits funds from being used for:

- The Entertainment Education Program, which employs a Hollywood Liaison to advise TV shows and films on their medical content;
- The CDC Ombudsman Program, which is a \$250,000 per year expenditure used to improve employee morale; and
- Facility upgrades that would provide additional rotating pastel lights, zero-gravity chairs, or dry-heat saunas for the CDC fitness center.

Garrett (R-NJ). Prohibits funds in this Act from being used to send or otherwise pay for the attendance of more than 50 employees from a federal department or agency at any single conference occurring outside the United States.

38. King (R-IA). Prohibits funds from being used to employ illegal workers (workers described in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

37. King (R-IA). Prohibits funds from being used by the Public Broadcasting Service to sponsor events at the Filmmaker Lodge at the Sundance Film Festival.

Davis (R-KY). Prohibits funds from being used to pay a bonus or other performance-based cash award to any employee of the Social Security Administration or the Centers for Medicare & Medicaid Services who holds a political appointee or Senior Executive Service position.

Davis (R-KY). Prohibits funds from being used to pay a bonus or other performance-based cash award to any employee of the Social Security Administration (SSA) or the Centers for Medicare & Medicaid Services (CMMS) who holds a political appointee or Senior Executive Service position, until certain conditions are met:

- SSA and CMMS jointly submit (within 90 days of enactment of this Act) a report to Congress on a plan of action for resolving the issue of proper withholding of and where necessary reimbursing Medicare Part D premiums from Social Security benefit payments;
- SSA and CMMS jointly submit a report to Congress that certifies that refunds of Medicare Part D premiums that were improperly withheld are processed within 60 days of the date of the determination that they are owed; and
- SSA and CMS jointly submit a report to Congress on a plan of action on how to improve interagency communications to avoid similar, future problems relating to the proper withholding of, and where necessary reimbursing, Medicare Part D premiums from Social Security benefit payments.

Schmidt (R-OH). Prohibits funds in the bill from going to Title X grantees that fail to comply with state law reporting requirements (as determined by a federal or state agency or court) regarding child abuse, child molestation, sexual abuse, rape or incest.

16. Flake (R-AZ). Prohibits funds from being used for the American Jazz Museum (Rep. Cleaver, \$200,000).

15. Flake (R-AZ). Prohibits funds from being used for the American Ballet Theatre, New York City, (Rep. Maloney, \$150,000).

14. Flake (R-AZ). Prohibits funds from being used for the Portuguese and Lusophone Studies Program at Rhode Island College (Rep. Kennedy, \$100,000).

13. Flake (R-AZ). Prohibits funds from being used for the Shedd Aquarium, Chicago, IL (Reps. Bean and Emmanuel, \$150,000).

12. Flake (R-AZ). Prohibits funds from being used for the Kansas Regional Prisons Museum (Rep. Boyda, \$100,000).

11. Flake (R-AZ). Prohibits funds from being used for the Corporation for Jefferson's Poplar Forest, VA (Rep. Goodlatte, \$200,000).

10. Flake (R-AZ). Prohibits funds from being used for the South Carolina Aquarium (Rep. Brown, \$150,000).

9. Flake (R-AZ). Prohibits funds from being used for the Burpee Museum, IL (Rep. Manzullo, \$150,000).

18. Flake (R-AZ). Prohibits funds from being used for the Missouri State University, College Preparatory Pilot Program (Rep. Blunt, \$100,000).

19. Flake (R-AZ). Prohibits funds from being used for the Bay Area Science Exploratorium, Teacher Recruitment, Retention, and Improvement Initiative (Rep. Pelosi, \$300,000).

32. Musgrave (R-CO). Prohibits funds from being used for Attachment Therapy (AT) or Holding Therapy. The amendment sponsor writes that, "The objective of AT is — literally — to force the children into attaching to their parents. A typical holding or rage reduction session might include placing a child on the ground with their arms and legs pinned. The child is yelled at over and over again in order to establish who is in control. The brutal methods employed in AT are intended to overcome the resistance of a child to total obedience. They are employed until the child's will is completely broken."

Souder (R-IN). Prohibits funds from being used for the Centers for Medicare & Medicaid's (CMS) new rules mandating that hospitals perform a minimum amount of heart transplant surgeries in order to maintain their eligibility for Medicare reimbursement. The amendment sponsor's office writes that, "[The new CMS rule] would effectively close numerous heart centers around the country, in some cases forcing patients to travel over 150 miles for truly life-saving surgery. Over the past several years numerous advances have been made in medicine that allows patients to forgo heart transplant surgery. Hospitals that utilize these advances are now being punished because they may have only performed eight or nine transplants instead of the required ten."

Souder (R-IN). Prohibits funds from being used by the National Labor Relations Board to recognize as the exclusive bargaining representative of employees any labor organization that has

not been certified as such by the National Labor Relations Board pursuant to section 9(c) of the National Labor Relations Act (29 U.S.C. 159)—that is, that has not been elected by a secret-ballot election.

58. Hensarling (R-TX). Prohibits funds from being used for the Centers for Disease Control and Prevention’s Entertainment Education Program.

Westmoreland (R-GA). Prohibits funds from being used by the Department of Education to provide or process the Free Application for Federal Student Aid (FAFSA) form in any language other than English. The amendment sponsor writes that, “to be eligible to receive federal student aid, a student must meet certain eligibility requirements. Importantly one of those requirements is that the student be a U.S. citizen or eligible non-citizen – basically a legal permanent resident. They also have to have a high school diploma or a GED and be enrolled or accepted at a school that participates in the federal student aid programs.”

ProEnglish is urging a yes vote on this amendment.

61. Campbell (R-CA). Prohibits funds from being used for the Andre Agassi College Preparatory Academy (Rep. Berkley, \$200,000).

62. Campbell (R-CA). Prohibits funds from being used for the Rangel Center for Public Service (Rep. Rangel, \$2,000,000).

40. Campbell (R-CA). **20 MINUTES.** Prohibits funds for all earmarks in the committee report.

Camp (R-MI). Prohibits funds from being used to implement any policy prohibiting a Medicare beneficiary from electing during a coverage election period described in section 1851(e) of the Social Security Act (42 U.S.C. 1395w-21(e)) to receive health care benefits under title XVIII of such Act through enrollment in a Medicare Advantage plan under part C of such title. In other words, as the amendment sponsor writes, “This amendment would prohibit CMS from using funds in this Act to implement any policy that would prohibit a Medicare beneficiary from enrolling in Medicare Advantage.”

Crowley (D-NY). Prohibits funds from being used for the North Carolina Technology Association Education Foundation (Rep. Foxx).

Crowley (D-NY). Prohibits funds from being used for the Alleghany Memorial Hospital (Rep. Foxx).

Crowley (D-NY). Prohibits funds from being used for the Caldwell Community College and Technical Institute (Rep. McHenry).

Crowley (D-NY). Prohibits funds from being used for the North Carolina Center for Engineering Technologies (Rep. McHenry).

Crowley (D-NY). Prohibits funds from being used for the Southeastern Center for Emerging Biologic Threats (Rep. Price of Georgia).

47. Hensarling (R-TX). Eliminates funding for eliminate funding in the bill for Education for Native Hawaiians (\$33.9 million). Native Hawaiians are a racial group not a tribe and dispensing benefits to them would likely be subject to strict scrutiny in federal courts. Providing additional financial assistance to this group is not only duplicative of numerous current federal education programs, but is also likely unconstitutional. The President did not request funds for this in his FY2008 budget.

54. Barrett (R-SC). Eliminates funding in the bill for the Byrd Honors Scholarship program (\$40.6 million). This program, which awards merit-based scholarships to high school seniors through formula grants to state educational agencies, received a 2007 PART Assessment rating from the Administration of “results not demonstrated.” The scholarship program is duplicative of many other state, local, and federal scholarship programs. In addition, many universities and private entities provide scholarships to high school seniors entering college. The President did not request funds for this program for FY2008.

56. Lamborn (R-CO). Eliminates funding in the bill for the Corporation for Public Broadcasting (CPB) (\$420.0 million in FY2010). Funding for CPB has historically been provided two years in advance. The most recent appropriation for CPB was \$400.0 million for FY2009. CPB funds 15% of the Public Broadcasting Service’s annual budget. The other 85% of PBS’ budget comes from viewer donations, local governments, and universities.

CPB and PBS continue to use federal funding to pay for questionable programming, such as a documentary on sex education promoted and partially paid for by the Playboy Foundation. They also have prevented certain programming from airing that expressed politically incorrect viewpoints (e.g. conveying the views of moderate Muslims). In addition, much of the programming on PBS, such as Sesame Street, could bring in enough annual revenues to cover the loss of federal funding.

Lastly, nowhere in the Constitution is the federal government given the power to support entertainment, even if such entertainment is educational.

The Administration proposed that \$50 million in CPB’s FY2008 appropriation be rescinded and that the two-year advance practice be terminated.

57. Hensarling (R-TX). Prohibits funds from being used for the Twin Cities Public Television for the Minnesota Digital Public Media Archive (Rep. McCollum, \$500,000).

59. Hensarling (R-TX). Prohibits funds from being used for West Los Angeles College, Culver City, CA (Rep. Watson, \$300,000).

60. Hensarling (R-TX). Prohibits funds from being used for the Families in Schools program, Los Angeles, CA (Rep. Becerra, \$150,000).

Obey (D-WI). Amendment(s) regarding funding levels. Such amendments are often used by the bill manager to shuffle funding levels so that any funding reductions are restored elsewhere in the bill.

###