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REPORT
110–679

UNITED STATES CAPITOL POLICE ADMINISTRATIVE TECHNICAL CORRECTIONS ACT OF 2008

JUNE 4, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Pennsylvania, from the Committee on House Administration, submitted the following

R E P O R T

[To accompany H.R. 5972]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 5972) to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY OF THE LEGISLATION

Over the years, Congress has enacted numerous provisions governing the administration of the U.S. Capitol Police (USCP). Some of those past provisions, including some that addressed single purposes without examining the full structure of the laws governing the USCP, contain drafting errors, conflict with previous laws, or have other technical flaws. Such flaws can confuse the interpretation of the law and deplete the limited resources of the agency by creating uncertainty for the Capitol Police, its officers and employees about what Congress intended.

In order to address this problem, the Committee recommends passage of the United States Capitol Police Administrative Technical Corrections Act of 2008 (H.R. 5972). Working with the Chief of Police, Phillip D. Morse, Sr.; his General Counsel, Gretchen DeMar; and others, the Committee has developed this bill to make technical corrections, repeal obsolete or duplicative provisions and clarify others without substantive policy changes.

This bill, focused on the USCP's administrative authorities, is by no means comprehensive. Provisions addressing other aspects of

the USCP, and the Capitol Police Board, constitute a hodgepodge in need of technical correction in some cases, and in need of thorough policy evaluation in others. The Committee will continue working with the USCP, Capitol Police Board, and the Committee's Senate counterpart to identify and effect positive change for the agency and for its "customer," the Congress. For the moment, the Committee recommends H.R. 5972 as a timely and necessary step in the right direction and urges the House to enact it.

COMMITTEE CONSIDERATION

On May 7, 2008, the Committee considered H.R. 5972, introduced on May 6, 2008, by the Chairman, Representative Robert A. Brady of Pennsylvania, with the co-sponsorship of the Ranking Minority Member, Representative Vernon J. Ehlers of Michigan and the Chairman of the Capitol Security Subcommittee, Representative Michael Capuano of Massachusetts. By voice vote, the Committee ordered H.R. 5972 reported to the House with a favorable recommendation and without amendment. No recorded votes were taken during the Committee's consideration of the bill.

ANALYSIS OF H.R. 5972

Section 1. Short title: "The United States Capitol Police Administrative Technical Corrections Act of 2008."

Section 2. Administrative authorities of the Chief of the Capitol Police

(a) Technical correction to outdate language creating the position of USCP Chief Administrative Officer (CAO) and Chief's responsibility for that office. Clarifies the Chief's responsibility as USCP certifying officer. Clarifies provisions relating to the Capitol Police Board, the Chief of Police, the Committee on House Administration and the Senate Committee on Rules and Administration regarding certain USCP personnel actions and organizational changes; conforms language to the requirements of the Congressional Accountability Act of 1995.

The Committee wishes to emphasize that nothing in this subsection (or elsewhere in this bill) should be construed to alter or supersede any Capitol Police Board policy, directive, or operating procedure that may require the Chief to notify the Board of certain personnel actions or organizational changes.

The Committee further wishes to emphasize that nothing in this subsection (or anywhere else in this bill) should be construed to diminish the application of the federal anti-nepotism law (5 U.S.C. 3110) to officials of the Capitol Police. The Committee remains mindful that a covered official of the prior USCP administration may have appointed a relative to a position in violation of that statute. Following enactment of H.R. 5972, as it does today, federal law will continue to prohibit the appointment or promotion of a "relative," which term includes a:

> * * * father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, step-

daughter, stepbrother, stepsister, half brother or half sister. 5 U.S.C. 3110(a)(3).

The Committee wishes to emphasize that nothing in this subsection (or elsewhere in the bill) is intended to alter the effect of past certifications or to expose the person serving as Chief of Police on the date of enactment of H.R. 5972 to personal or professional liability for certifications preceding his incumbency.

(b) Technical correction to provision authorizing deposit and expenditure of funds received by USCP as reimbursement for law-enforcement assistance of other federal, state or local agencies.

Subsection 2(b) would make this technical correction to the Supplemental Appropriations Act, 2001, effective as if included in the original Act. The Committee recommends this effective date in order to validate the deposit and use of reimbursements received during the interim if consistent with the Act either before or after enactment of this technical correction.

(c) Clarifies the authority of the Chief to waive claims for erroneous payments of pay and allowances to USCP personnel.

Subsection 2(c) would make this technical correction to the Legislative Branch Appropriations Act, 2003, effective as if included in the original Act. The Committee recommends this effective date in order to validate waivers granted during the interim if consistent with the Act either before or after enactment of this technical correction.

(d) Correction to provision authorizing certain advance payments to require written determinations by the Chief, notification to authorizing committees, and to correct the error concerning duration of the authority.

Subsection 2(d) would make this technical correction to the Legislative Branch Appropriations Act, 2008, effective as if included in the original Act. The Committee recommends this effective date in order to validate any advance payments made during the interim if consistent with the Act either before or after enactment of this technical correction.

The Committee concurs with language in the House Appropriations Committee's report to accompany H.R. 2771, 110th Cong., the Legislative Branch Appropriations Act, 2008, suggesting that the Chief should not approve an advance payment unless a discount offered exceeds the cost of the funds required per the rate published by the United States Treasury (I TFM 6–8040.40). The Committee also urges the Capitol Police to take maximum advantage of the services offered by FEDLINK, the Library of Congress service that helps numerous federal agencies save money on their procurements.

(e) Technical correction to provision requiring prior notice to authorizing committees of certain out-of-jurisdiction deployments.

Section 3. General Counsel to the Chief of Police and the United States Capitol Police

(a) Clarifies duties and responsibilities of General Counsel to the Chief of Police and the Capitol Police.

(b) Technical and conforming amendments to related provision.

Section 4. Clarification of authorities regarding certain personnel benefits

(a) Technical correction to current statute prohibiting certain payments to terminated USCP personnel.

(b) Technical corrections to statute authorizing compensation in the form of additional pay or compensatory time off for officers and employees exempt from the Fair Labor Standards Act of 1938.

(c) Technical correction to statute governing suspensions from duty.

Subsection 4(d) would make this technical correction to the Legislative Branch Appropriations Act, 2003, effective as if included in the original Act, but that it shall not apply with respect to any overtime work performed prior to the enactment of this technical correction. The Committee recommends this effective date in order to validate overtime payments made during the interim if consistent with the Act before or after enactment of this technical correction.

Section 5. Other miscellaneous technical corrections

(a) Repeals outdated provision related to establishment of the position of USCP Chief Administrative Officer.

(b) Repeals outdated provision requiring USCP officers to purchase their own uniforms.

(c) Technical corrections to references to USCP officers related to the House and Senate office buildings.

(d) Repeal of duplicate provision related to USCP-Library of Congress police merger.

(e) Technical corrections to provisions regarding the position and authority of Chief of Police.

Subsection 5(e) would make this technical correction to the Legislative Branch Appropriations Act, 2003, effective as if included in the original Act. The Committee recommends this effective date in order to preclude question about the authority or actions of the Chief if consistent with the Act either before or after enactment of this technical correction.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Constitutional authority

Clause 3(d)(1) of House rule XIII requires each committee report on a public bill or joint resolution to include a statement citing the specific constitutional power(s) granted to the Congress on which the Committee relies for enactment of the measure under consideration.

The Committee cites the legislative power broadly granted to Congress under Article I. The Congress has since 1828 employed the Capitol Police as an instrumentality of its exercise of exclusive jurisdiction over the District constituting the seat of Government. The bill H.R. 5972 is necessary to the proper and effective exercise of that jurisdiction. The Committee finds this legislation clearly within constitutional authority granted to the Congress by Article I.

Committee votes

Clause 3(b) of House rule XIII requires the results of each recorded vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report.

No recorded votes were taken during the Committee's consideration of H.R. 5972.

Congressional Budget Office estimate

Clause 3(c)(3) of House rule XIII requires the report of a committee on a measure which has been approved by the committee to include a cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the CBA, if timely submitted. The Director submitted the following estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 8, 2008.

Hon. ROBERT A. BRADY,
Chairman, Committee on House Administration,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has completed the enclosed cost estimate for H.R. 5972, the United States Capitol Police Administrative Technical Corrections Act of 2008.

The CBO staff contact for this estimate is Deborah Reis.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 5972—United States Capitol Police Administrative Technical Corrections Act of 2008

H.R. 5972 would make technical corrections to federal laws that govern the administrative activities of the U.S. Capitol Police. The bill would have no effect on police operations, and CBO estimates that enacting the legislation would have no impact on discretionary spending, direct spending, or revenues.

H.R. 5972 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.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Federal mandates

Section 423 of the CBA requires a committee report on any public bill or joint resolution that includes a federal mandate to include specific information about such mandates. The Committee states that H.R. 5972 imposes no federal mandates.

Preemption clarification

Section 423 of the CBA requires a committee report on any public bill or joint resolution to include a committee statement on the extent to which the measure is intended to preempt state or local

law. The Committee states that H.R. 5972 is not intended to preempt any state or local law.

Oversight findings

Clause 3(c)(1) of rule XIII requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of House rule X. The Committee has general oversight responsibility for the U.S. Capitol Police.

In the exercise of its oversight of the Capitol Police, the Committee finds that the presence of sundry obsolete, duplicative, and inconsistent legislative provisions has impaired the efficient administration of the Capitol Police in the past and will continue to do so in the future without congressional action. The Committee recommends enactment of H.R. 5972 as reported to the House.

Statement of general performance goals and objectives

Clause 3(c)(4) of House rule XIII requires committee reports to include a statement of general performance goals and objectives. The Committee believes that enactment of H.R. 5972 will advance the agency's goal of improving its day-to-day administration—an effort in which this Committee and the Congress as a whole has invested significant sums in recent years.

Congressional "earmarks"

Clause 9 of House rule XXI requires committee reports on public bills and resolutions to contain an identification of congressional "earmarks," limited tax benefits, limited tariff benefits, and the names of requesting Members. The bill contains no such items either as introduced or as reported to the House.

Congressional Accountability Act applicability

Section 102(b)(3) of the Congressional Accountability Act of 1995 (CAA) (Pub. L. 104–1) requires each report on a public bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations to describe the manner in which the legislation apply to the Legislative Branch.

The bill makes technical corrections to existing laws by repealing obsolete or duplicate provisions and correcting drafting errors in others in order to clarify their meaning. As such, the bill makes no change to the terms and conditions of employment, access to public services, or accommodations in the Legislative Branch.

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