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REPORT
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CAPITOL POLICE ADMINISTRATIVE TECHNICAL CORRECTIONS ACT OF 2009

MARCH 30, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 1299]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 1299) 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 provisions, including some that addressed single purposes without examining their full ramifications for 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 management, the officers and employees about precisely what Congress intended.

In order to address this problem, the Committee recommends passage of the Capitol Police Administrative Technical Corrections Act of 2009 (H.R. 1299). Working with the Chief of Police, Phillip D. Morse, Sr.; his General Counsel, Gretchen DeMar; and with others, the Committee has developed this bill to make technical corrections to sundry laws and repeal obsolete or duplicative provisions without substantive policy change.

This bill, focused on the USCP's administrative authorities, is by no means comprehensive. Other statutory provisions governing the USCP and the Capitol Police Board constitute a hodgepodge in need of technical correction in some cases, and in need of thorough policy reevaluation in others. The Committee will continue working with the USCP, with the 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, however, the Committee recommends H.R. 1299 as a timely and necessary improvement and urges the House to enact it.

COMMITTEE CONSIDERATION

On March 25, 2009, the Committee considered H.R. 1299, introduced on March 4, 2009, by the Chairman, Representative Robert Brady of Pennsylvania, with the co-sponsorship of the Ranking Minority Member, Representative Daniel Lungren of California and the Chairman of the Capitol Security Subcommittee, Representative Michael Capuano of Massachusetts. By voice vote, the Committee ordered H.R. 1299 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. 1299

Section 1. Short Title: "Capitol Police Administrative Technical Corrections Act of 2009"

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

(a)—Clarification of Certain Hiring Authorities.

Paragraph (1) modernizes the provision that created the position of USCP Chief Administrative Officer (CAO) (2 U.S.C. 1903(a)). Paragraph (2) clarifies the Chief's responsibility over the CAO. Paragraph (3) clarifies appointment and duties of the USCP certifying officer. Paragraph (4) 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. Paragraph (5) makes a conforming change to the Congressional Accountability Act of 1995. Paragraph (6) clarifies that the subsection (a) may not be construed to affect the status of any officer or employee on the date of enactment.

The Committee wishes to emphasize that nothing in this bill should be construed to diminish the application of the federal antinepotism 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. 1299, 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 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. 1299 to personal or professional liability for certifications preceding his incumbency.

(b)—Deposit of Reimbursements for Law Enforcement Assistance.

Paragraph (1) makes technical correction to provision authorizing deposit and expenditure of funds received by USCP as reimbursement for law-enforcement assistance to other agencies. Paragraph (2) makes this 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)—Prior Notice to Authorizing Committees of Deployment Outside Jurisdiction.

Subsection makes technical correction to add the Committee on House Administration and the Senate Committee on Rules and Administration to those requiring prior notice of certain out-of-jurisdiction deployments of USCP officers.

(d)—Advance Payments for Subscription Services.

This subsection includes the House and Senate authorizing committees among those requiring notice of certain payments in advance of appropriations. The subsection would make this technical correction to the Legislative Branch Appropriations Act, 2008, to take effect 30 days after enactment of this bill and apply to payments made on or after that effective date. 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 urges the Capitol Police to take maximum advantage of the services offered by FEDLINK, the Library of Congress program that helps numerous federal agencies save money on their procurements.

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

Subsection (a) clarifies in law the duties and responsibilities of the General Counsel to the Chief of Police and the Capitol Police as currently established. Subsection (b) makes technical and conforming changes to a related providing with respect to legal representation by the General Counsel.

Section 4. Employment Counsel to the Chief of Police and the United States Capitol Police

Subsection (a) amends position title of USCP Employment Counsel to render similar in form to position title of the USCP General Counsel (as amended by in Section 3 above). Subsection (b) clarifies that the section should be construed to affect the status of the person holding the position of Employment Counsel on the date of enactment of the bill.

Section 5. Clarification of authorities regarding certain personnel benefits

(a) Technical correction to current law already 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.

Subsection 5(b) 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 6. Other miscellaneous technical corrections

(a) Repeals obsolete provisions 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 providing for completion of the USCP—Library of Congress police merger.

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

Subsection 6(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 questions about the authority or actions of the Chief if consistent with the Act either before or after enactment of this technical correction bill.

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.

Here, 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. 1299) 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. 1299.

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 402 of the CBA, if timely submitted. The Director submitted the following estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 26, 2009.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1299, the Capitol Police Administrative Technical Corrections Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

H.R. 1299—Capitol Police Administrative Technical Corrections Act of 2009

H.R. 1299 would make technical corrections to federal laws that govern the administrative activities of the U.S. Capitol Police. Enacting the bill would have no impact on discretionary spending, direct spending, or revenues.

H.R. 1299 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. 1299 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. 1299 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. 1299 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 for which the measure authorizes funding. H.R. 1299 authorizes no appropriations. The Committee believes that enactment of H.R. 1299 will advance the Congress's goal of improving the Capitol Police's day-to-day administration—an effort in which this Committee and the Congress as a whole have invested significant sums in recent years.

Congressional "earmarks"

Clause 9(a)(1) of House rule XXI creates a point-of-order against consideration of a public bill or joint resolution the committee report on which does not identify congressional "earmarks," limited tax benefits, limited tariff benefits, and the names of the requesting Member(s). 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 (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 applies 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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