

Calendar No. 501

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-243 }

NO CONGRESSIONALLY OBLIGATED
RECURRING REVENUE USED AS PENSIONS
TO INCARCERATED OFFICIALS NOW ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3332

TO AMEND TITLE 5, UNITED STATES CODE, TO PROVIDE FOR THE
HALT IN PENSION PAYMENTS FOR MEMBERS OF CONGRESS
SENTENCED FOR CERTAIN OFFENSES, AND FOR OTHER PUR-
POSES



JULY 29, 2020.—Ordered to be printed

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3332]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3332) to amend title 5, United States Code, to provide for the halt in pension payments for Members of Congress sentenced for certain offenses, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 3332, the No Congressionally-Obligated Recurring Revenue Used as Pensions To Incarcerated Officials Now Act, or the No CORRUPTION Act, prohibits a Member of Congress who has been convicted of certain felonies¹ from receiving any payment of an an-

¹See 5 U.S.C. § 8332(o)(2). Relevant public corruption felony charges include bribery of public officials and witnesses; acting as an agent of a foreign principal while a federal public official;

Continued

nunity pursuant to the Federal employee retirement system even during the appeals process. If the relevant conviction is held to be invalid, the individual will be entitled to receive any payments which were withheld under the statute.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The No CORRUPTION Act prevents the possibility that a Member of Congress who has been convicted of certain felonies may continue to receive Federal employee retirement system annuity payments during the appeals process. Under current law, a Member of Congress is prohibited from receiving a Federal pension if he or she is convicted of certain public corruption felony charges based on actions taken while serving as a Member (e.g., bribery of officials and witnesses, etc.).² However, a convicted Member may continue receiving his or her Federal pension while appealing the conviction.³

The No CORRUPTION Act forecloses this possibility by withholding pension benefits immediately upon conviction. If the conviction is overturned on appeal, or otherwise held to be invalid, the pension will be restored and the Member will be eligible to receive any pension benefits which were withheld under the legislation. The No CORRUPTION Act is applied prospectively, to any covered conviction after the date of enactment.

III. LEGISLATIVE HISTORY

Senator Jackie Rosen (D–NV) introduced S. 3332, the No CORRUPTION Act, on February 25, 2020, with Senator Rick Scott (R–FL). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3332 at a business meeting on March 11, 2020. During the business meeting, the bill was reported favorably *en bloc* by voice vote with Senators Johnson, Portman, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section established that the bill may be cited as the “No Congressionally-Obligated Recurring Revenue Used as Pensions To Incarcerated Officials Now Act” or the “No CORRUPTION Act.”

Section 2. Forfeiture of pension

Subsection (a) requires that if a Member is convicted of certain felonies, the individual is prohibited from receiving any payment of an annuity pursuant to the Federal employee retirement system unless and until the conviction is held to be invalid. The prohibition is prospective to apply only to covered convictions that occur after the date of enactment.

fraud by wire, radio, or television, including as part of a scheme to deprive citizens of honest services; prohibited foreign trade practices by domestic concerns; engaging in monetary transactions in property derived from specified unlawful activity; tampering with a witness, victim, or an informant; racketeer influenced and corrupt organizations; conspiracy to commit an offense or to defraud the United States; perjury; or subornation of perjury.

²*Id.*

³*Id.* at § 8332(o)(3).

Subsection (b) makes a technical and conforming amendment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 12, 2020.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3332, the No CORRUPTION Act.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S.3332, No CORRUPTION Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 11, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	0	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and zero.			

S. 3332 would eliminate the payment of current and future retirement annuities to Members of Congress who are convicted of certain criminal offenses already specified in law. Under current law, Members forgo receipt of such payments only after a final con-

viction (that is, after the exhaustion of all appeals under the judicial process). The bill would eliminate retirement annuities for Members for any conviction following enactment.

CBO estimates that the resulting forfeitures of retirement annuities would reduce direct spending by less than \$500,000 over the 2020–2030 period. Based on the number of previous convictions of Members of Congress, CBO anticipates that the number of future convictions would be small. In addition, any associated reductions in direct spending would show a budgetary effect only once a convicted Member reached eligibility for retirement, which could be beyond the current budget window. On average, Members of Congress currently retiring under the Federal Employees Retirement System receive an annuity of about \$45,000 per year. However, a criminal conviction could shorten a Member’s career. To the extent that happens, the forfeited annuity would probably be less than the average.

The CBO staff contact for this estimate is Amber Marcellino. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

CHAPTER 83—RETIREMENT

* * * * *

Subchapter III—Civil Service Retirement

* * * * *

SEC. 8332. CREDITABLE SERVICE.

(a) * * *

* * * * *

(o) * * *

(1) * * *

* * * * *

(4)

(A) Subject to subparagraph (B), an individual convicted of an offense described in paragraph (2) shall not be eligible to receive any payment of an annuity pursuant to the retirement system under this subchapter or chapter 84, except that this sentence applies only to such payments based on service rendered as a Member (irrespective of when rendered).

(B) If the conviction of an individual described in subparagraph (A) is held to be invalid, the individual shall receive payments that the individual would have received but for the application of subparagraph (A).

(C) This paragraph applies only to a conviction that occurs after the date of enactment of this paragraph.

[(4)](5) The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection. Such regulations shall include—

(A) * * *

(B) provisions under which the Office may provide for—

(i) the payment, to the spouse or children of any individual referred to in the first sentence of paragraph (1), of any amounts which (but for this clause) would otherwise have been nonpayable by reason of such first sentence, subject to [paragraph (5)] paragraph (6); and

(ii) an appropriate adjustment in the amount of any lump-sum payment under the second sentence of paragraph (1) to reflect the application of clause (i).

[(5)](6) Regulations to carry out clause (i) of [paragraph (4)(B)] paragraph (5)(B) shall include provisions to ensure that the authority to make any payment to the spouse or children of an individual under such clause shall be available only to the extent that the application of such clause is considered necessary and appropriate taking into account the totality of the circumstances, including the financial needs of the spouse or children, whether the spouse or children participated in an offense described in paragraph (2) of which such individual was finally convicted, and what measures, if any, may be necessary to ensure that the convicted individual does not benefit from any such payment.

[(6)](7) * * *

* * * * *

TITLE 38—VETERANS’ BENEFITS

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 7—EMPLOYEES

* * * * *

Subchapter I—General Employee Matters

* * * * *

SEC. 719. REDUCTION OF BENEFITS OF EMPLOYEES CONVICTED OF CERTAIN CRIMES.

(a) * * *

* * * * *

(e) * * *

(1) * * *

(2) Regulations prescribed under paragraph (1) shall be consistent with the requirements of **section 8332(o)(5)** *section 8332(o)(6)* and 8411(1)(5) of title 5, as the case may be.