105TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
105–446

CORRECTION

MARCH 17, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

# REPORT

[To accompany H.R. 3096]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3096) to correct a provision relating to termination of benefits for convicted persons, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

## PURPOSE

The purpose of H.R. 3096 is to amend the Federal Employees' Compensation Act to provide a technical correction to Title 5, Section 8148(a), United States Code.

## COMMITTEE ACTION

Representative James C. Greenwood introduced H.R. 3096 on January 27, 1998. The Subcommittee on Workforce Protections approved the bill by voice vote on February 4, 1998, and ordered it favorably reported to the Committee on Education and the Workforce. On March 11, 1998, the Committee on Education and the Workforce approved H.R. 3096 by voice vote, and ordered the bill favorably reported to the U.S. House of Representatives.

## COMMITTEE STATEMENT AND VIEWS

The Federal Employees' Compensation Act (FECA), 5 U.S.C. §8101 et. seq., is a comprehensive workers' compensation law for federal employees that is designed to provide uniform coverage for work-related injuries or deaths.

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In the 103d Congress, two legislative changes were enacted to eliminate fraud and abuse in the federal workers' compensation program. First, Congress added a new section, 5 U.S.C. §8148, *forfeiture of benefits by convicted felons,* to FECA to require the termination of an individual's workers' compensation benefits upon that individual's conviction under 18 U.S.C. §1920. Second, Congress amended 18 U.S.C. §1920 to make a violation of Section 1920 a felony for acts occurring on or after September 30, 1994. The amendment to FECA, 5 U.S.C. §8148(a), reads in pertinent part as follows:

> Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for **a receipt** [emphasis added] of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

However, the corresponding wording in 18 U.S.C. §1920 reads as follows:

> Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for **or receipt** [emphasis added] of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty of perjury, and on conviction thereof shall be punished by a fine under this title, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed $1,000, such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or both.

As the bolded statements indicate above, there is a minor difference between the legislative language in 5 U.S.C. §8148(a) and the corresponding language in the criminal code, 18 U.S.C. §1920. It is possible to read the language in FECA as requiring the termination of benefits only where fraud was committed in the initial application for benefits, rather than in conjunction with subsequent receipt of compensation benefits. In effect, this could potentially allow an individual to receive compensation benefits even though the individual was convicted of committing FECA fraud.

A minor clarification—changing "a receipt" in 5 U.S.C. §8148 to "or receipt"—clearly prohibits these individuals from receiving benefits. Changing this wording makes 5 U.S.C. §8148 read the same as the corresponding part in 18 U.S.C. §1920.

The Department of Labor and the Department of Labor's Office of the Inspector General support making this small, but important change and the Committee is pleased to act quickly to eliminate this potential problem.

## Summary

H.R. 3096 corrects a technical problem in FECA by replacing the word “a” with the word “or”.

## Section-by-Section

### SECTION 1. CORRECTION.

H.R. 3096 corrects a technical problem in the Federal Employees' Compensation Act (Section 8148(a) of Title 5) and the parallel language in the criminal code (Section 1920 of Title 18) by replacing the word “a” with the word “or”.

## Explanation of Amendments

The Committee adopted no amendments.

## Constitutional Authority

H.R. 3096 amends the Federal Employees' Compensation Act by correcting an earlier drafting error. Because H.R. 3096 modifies, but does not extend the law, the Committee believes that H.R. 3096 falls within the same scope of congressional authority as the Federal Employees' Compensation Act.

## Committee Estimate

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3096. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

## Application of Law to the Legislative Branch

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill makes a one word change in the Federal Employees Compensation Act which closes a loophole that may have allowed those convicted of FECA fraud to still receive FECA benefits; the bill does not prevent legislative branch employees from receiving the benefits of this legislation.

## Unfunded Mandate Statement

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill makes a one word change in the Federal Employees Compensation Act which closes a loophole that may have allowed those convicted of FECA fraud to still receive FECA benefits, and as such does not contain any unfunded mandates.

## Statement of Oversight Findings and Recommendations of the Committee

In compliance with clause 2(l)(3)(A) of rule XI and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

## Statement of Oversight Findings of the Committee on Government Reform and Oversight

With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3096.

## Budget Authority and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 2(l)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 2(l)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3096 from the Director of the Congressional Budget Act:

U.S. Congress,
Congressional Budget Office,
*Washington, DC, March 12, 1998.*

Hon. William F. Goodling,
*Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.*

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3096, a bill to correct a provision relating to termination of benefits for convicted persons.

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

Sincerely,

June E. O'Neill, *Director.*

Enclosure.

*H.R. 3096—A Bill to Correct a Provision Relating to Termination of Benefits for Convicted Persons*

Summary: H.R. 3096 would amend Title 5 of the U.S. Code to correct a reference to Title 18 of the code. The section to be amended causes individuals convicted of fraud in the application or receipt of benefits under the Federal Employees Compensation Act (FECA) to forfeit their entitlement. Although the current wording in Title 5 is not precisely the same as the section it references in Title 18, 103 individuals have had their benefits terminated upon conviction of fraud under FECA since 1993, when the law first became effective. Absent this change, the ability of the Department of Labor to terminate fraudulently collected benefits could be affected. However, there have been no cases where the inconsistent wording has been used as a defense against a charge of fraud. It is unlikely, therefore, that enactment of this bill would have any significant effect on the federal budget.

H.R. 3096 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would not affect the budgets of state, local, or tribal governments.

This estimate was prepared by Christina Hawley Sadoti (federal cost), Marc Nicole (impact on state, local and tribal governments), and Kathryn Rarick (impact on the private sector).

This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 8148 OF TITLE 5, UNITED STATES CODE

### §8148. Forfeiture of benefits by convicted felons

(a) Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for ⟦a⟧ *or* receipt of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

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