AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

107TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 107–239

TO MAKE PERMANENT THE AUTHORITY TO REDACT FINANCIAL DISCLOSURE STATEMENTS OF JUDICIAL EMPLOYEES AND JUDICIAL OFFICERS

OCTOBER 12, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2336]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2336) to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	2
Committee Consideration	3
Vote of the Committee	3
Committee Oversight Findings	3
Performance Goals and Objectives	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Constitutional Authority Statement	4
Section-by-Section Analysis and Discussion	4
Changes in Existing Law Made by the Bill, as Reported	4
Markup Transcript	5

PURPOSE AND SUMMARY

The purpose of H.R. 2336 is to make permanent the authority of the Judicial Conference of the United States to redact financial disclosure statements of judicial employees and judicial officers where

99–006

the release of the information could endanger the filer or his or her family.

BACKGROUND AND NEED FOR THE LEGISLATION

Under the Ethics in Government Act, judges and other high-level judicial branch officials must file annual financial disclosure reports. However, recognizing the nature of the judicial function and the increased security risks it entails, the 105th Congress enacted section 7 of the "Identity Theft and Assumption Deterrence Act of 1998," which allows the Judicial Conference to redact statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. This provision will sunset on December 31, 2001, in the absence of a legislative extension.

The Judicial Conference delegated to its Committee on Financial Disclosure the responsibility for implementing the financial disclosure requirements for judges and judicial employees under the Ethics in Government Act. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute. The Committee reviews and approves or disapproves any request for the redaction of statutorily mandated information where the filer believes the release of the information could endanger the filer and his family.

The Judicial Conference Committee on Financial Disclosure recently submitted a report on section 7. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute, reviews redaction requests, and approves or disapproves any request for the redaction of statutorily mandated information where the release of the information could endanger a filer. In 2000, the Committee noted that: (1) 13 financial disclosure reports were wholly redacted because the judge was under a specific, active security threat; (2) 140 reports were partially redacted (59 of which were based on specific threats; the other 81 due to general threats and the potential risk of disclosure of a family member's unsecured workplace or a residence of a judge or a judge's family); and (3) a total of 218 financial disclosure reports, which includes reports from previous years, were partially redacted.

The purpose of the annual financial disclosure reports required by the Ethics in Government Act is to increase public confidence in government officials and better enable the public to judge the performance of those officials. The Committee recommended that the sunset of section 7 be repealed because redactions were approved in only a limited number of cases where judges or their family members were endangered by the release of the information. H.R. 2336, therefore, achieves the objectives of providing public access to such information without compromising the safety of Federal judges and their families.

HEARINGS

There were no hearings held on H.R. 2336.

COMMITTEE CONSIDERATION

On October 3, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 2336, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 2336.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2336 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable. The purpose of H.R. 2336 is to make permanent the authority of the Judicial Conference of the United States to redact financial disclosure statements of judicial employees and judicial officers where the release of the information could endanger the filer or his or her family.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 2336, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 2001.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2336, a bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2336—A bill to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

H.R. 2336 would repeal the sunset provision in the Ethics in Government Act of 1978 relating to the authority of certain judicial employees and judicial officers to revise their financial disclosure statements. CBO estimates that implementing H.R. 2336 would have no significant impact on the Federal budget. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures do not apply. H.R. 2336 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Lanette J. Walker, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article III, section 1 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Repeal of Sunset Provision

Section 1 of H.R. 2336 would repeal section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.). This section will make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 and existing law in which no change is proposed is shown in roman):

SECTION 105 OF THE ETHICS IN GOVERNMENT ACT OF 1978

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 105. (a) * * *
(b)(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

[(E) This paragraph shall expire on December 31, 2001, and apply to filings through calendar year 2001.]

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, OCTOBER 3, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 2:00 p.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Committee will be in order. A working quorum is present. Pursuant to notice, I now call up the bill, H.R. 2336, to make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point. The Chair recognizes the gentleman from North Carolina, Mr. Coble, to briefly explain the bill.

[The bill, H.R. 2336, follows:]

I

107TH CONGRESS
1ST SESSION

H. R. 2336

To make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2001

Mr. COBLE (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REPEAL OF SUNSET PROVISION.**

4 Section 105(b)(3)(E) of the Ethics in Government
5 Act of 1978 (5 U.S.C. App.) is repealed.

○

Mr. COBLE. Thank you, Mr. Chairman. This bill, Mr. Chairman, came directly to the full Committee. As you know, it did not clear through Subcommittee. So if I may, I think I can read this, Mr. Chairman, in a couple minutes. Would this be in order?

Chairman SENSENBRENNER. Surely. The gentleman is recognized.

Mr. COBLE. This bill will make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers. Under the Ethics of Government Act, judges and other high-level judicial branch officials must file annual financial disclo-

sure reports. However, due to the nature of the judicial function of the increased security risks it entails, section 7 of the Identity Theft and Assumption Deterrence Act of 1998 allows the Judicial Conference to redact statutorily required information in a financial disclosure report when release of the information could endanger the filer or his or her family.

This provision will sunset on December 31, 2001, in the absence of further legislative action. This is why it is so important, Mr. Chairman, for us to consider this today because at the sunset—if we don't resolve it prior to the sunset effective date, then the redaction, of course, takes full force and they will have to fully disclose. We are not talking about many judges that are involved, but those who are involved who have security risks imposing. I think we do need to address this. As far as I know, Mr. Chairman, there is no opposition, and I move its passage.

[The prepared statement of Mr. Coble follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD COBLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Thank you Mr. Chairman. H.R. 2336 will make permanent the authority to redact financial disclosure statements of judicial employees and judicial officers.

Under the Ethics in Government Act, judges and other high-level judicial branch officials must file annual financial disclosure reports. However, due to the nature of the judicial function and the increased security risks it entails, section 7 of the "Identity Theft and Assumption Deterrence Act of 1998" allows the Judicial Conference to redact statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. This provision will sunset on December 31, 2001, in the absence of further legislative action.

The Judicial Conference Committee on Financial Disclosure recently submitted a report on section 7. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute, reviews redaction requests, and approves or disapproves any request for the redaction of statutorily mandated information where the release of the information could endanger a filer. In 2000, the Committee noted that: (1) 13 financial disclosure reports were wholly redacted because the judge was under a specific, active security threat; (2) 140 judges' reports were partially redacted (59 of which were based on specific threats; the other 81 due to general threats and the potential risk of disclosure of a family member's unsecured workplace or a residence of a judge or a judge's family); and (3) a total of 218 financial disclosure reports, which includes reports from previous years, were partially redacted.

The purpose of the annual financial disclosure reports required by the Ethics in Government Act is to increase public confidence in government officials and better enable the public to judge the performance of those officials. However, federal judges should be allowed to redact certain information from financial disclosures when they or a family member is threatened. Importantly, the practice has never interfered with the release of critical information to the public.

H.R. 2336 will eliminate the sunset in section 7 and permit the Judicial Conference to permanently redact information in financial disclosure reports where the information could endanger the filer or his or her family. H.R. 2336 is a good bill. It enjoys bipartisan support and there is no known opposition. I urge my colleagues to support H.R. 2336.

Chairman SENSENBRENNER. Gentleman yields back the balance of his time. Are there any amendments? Without any objection, any additional statements will appear in the record at this time, there being no amendments.

The report and quorum is now present. Without objection, the previous question is ordered. Further proceedings on the bill will be postponed.

Now the question—the report and quorum is now present, and the Committee will now return to the pending unfinished business upon which the previous question was ordered on H.R. 2336.

Those in favor of the motion to report the bill favorably will signify by saying aye. Opposed no. The ayes appear to have it. The ayes have it. The bill is favorably reported.

Without objection, the Chair is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes and all Members will be given 2 days, as provided by House rules, in which to submit additional dissenting, supplemental or minority views.

[Intervening business.]

And the Committee is adjourned.

[Whereupon, at 8:30 p.m., the Committee was adjourned.]

○