RSC Republican Study Committee

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Legislative Bulletin……………………………………….………January 22, 2009

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Take-Away Points

--The resolution, if enacted, would have the effect of denying the Treasury Department the authority to spend the final $350 billion of TARP funding.

--Therefore, procedurally, a "YES" vote is a vote to end the TARP program; a "NO" vote is a vote to allow the TARP program to continue.

For more details, see below.

H.J.Res. 3 — Relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008 (Foxx, R-NC)

Order of Business: H.J.Res. 3 is scheduled to be considered as a privileged resolution on January 22, 2009. No amendments will be in order.

Summary: H.J.Res. 3 disapproves of the President's request to tap the final $350 billion of TARP funding. If enacted, H.J.Res. 3 would eliminate the Treasury Department's purchasing authority for the final $350 billion of TARP funding. Procedurally, a "YES" vote is a vote to terminate the TARP program; a "NO" vote is a vote to allow the TARP program to continue.

Additional Background: Throughout 2008, the federal government took various actions to respond to the financial crisis:

- In March 2008, the Federal Reserve intervened to prevent Bear Stearns from collapsing by arranging a deal that led to JP Morgan acquiring Bear Stearns.
- In early September, the federal government took over Fannie Mae and Freddie Mac.
- On September 16, 2008, the federal government committed $85 billion to AIG.
- This same month, the Federal Reserve allowed Lehman Brothers to file for bankruptcy.

After a series of ad hoc bailouts, on September 25, 2008, Treasury Secretary Paulson and Federal Reserve Chairman Ben Bernanke put forward a $700 billion plan to give the Treasury Department the authority to buy troubled assets, which quickly led to congressional action. On October 3, 2008, Congress passed H.R. 1424, the Emergency Economic Stabilization Act of 2008, by a vote of 263 to 171, and the legislation was signed into law.

The Emergency Economic Stabilization Act provides a total of $700 billion for the Treasury Secretary to purchase troubled assets from financial institutions. The legislation divided the $700 billion into three tranches: $250 billion of the funding was made available immediately; $100 billion was made available subject to a certification from the President that the money is needed; and the final $350 billion was made available with a presidential request and absent the enactment of a joint resolution disapproving the action, such as the resolution under consideration today.

Since this legislation was enacted, some analysts have argued that the money has not been used as originally envisioned, for the purchase of troubled assets. As Jim Manzi, a TARP supporter puts it:

> The biggest surprise here is that no investments have been made by buying specific troubled assets from banks under reverse auctions, which was how the plan was originally described. Acting within the incredibly broad mandate available to them, the administrators have instead directly purchased equity stakes in banks.

In December, after 26 RSC Members sent a letter to President Bush requesting that TARP money not be used for this purpose, the White House directed TARP funding to $13 billion worth of bridge loans for the "Big Three."

Josh Marshall of Talkingpointsmemo.com notes how the Obama Administration may continue to use the $350 billion in contravention of the original rationale for TARP funding:

> A reader writes in with a point that had occurred to me too after reading this morning's article in the *Post* about Geithner's rejiggering of the TARP program -- namely, separate from the 'Stimulus Bill' proper, ***there's now a move afoot to reprogram the second half of TARP into something that looks a lot more like stuff you'd expect to find in a Stimulus Bill, rather than anything like what the program originally envisaged ...***

RSC Bonus Fact: As of last month, the federal government has committed more than $8 trillion of federal resources in various bailouts meant to combat the financial crisis.

Committee Action: The legislation has not been considered by any committee. On January 15, 2009, the Senate took up the same measure and defeated it by a vote of 42-52.

Administration Position: No Statement of Administration Policy (SAP) is available at press time, though the Bush Administration requested the second $350 billion after conferring with then President-elect Obama.

Cost to Taxpayers: None. The resolution would decrease federal commitments by $350 billion.

Does the Bill Expand the Size and Scope of the Federal Government?: No, the resolution would reduce the role of the federal government in the U.S. financial sector and decrease by $350 billion the amount of money available under the TARP program.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The resolution contains no earmarks, and no committee report is available.

Constitutional Authority: No committee report citing constitutional authority is available.

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