



Legislative Bulletin..... Monday, June 18, 2012

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H.R. 4027– To clarify authority granted under the Act entitled "An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes" (Matheson, D-UT)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary: Utah’s School and Institutional Trust Land Administration (SITLA) currently owns the subsurface mineral rights to approximately 18,000 acres in the Hill Creek Extension of the reservation; however, the surface rights to that land are held in trust for the Ute Indian Tribe by the federal government. The [legislation](#) would authorize SITLA to relinquish to the Ute Indian Tribe its subsurface mineral rights in exchange for the subsurface rights to about 18,000 acres of other land within the Hill Creek Extension owned by the federal government.

Background: According to the [Committee Report](#):

“The Uintah and Ouray Indian Reservation, located in northeastern Utah, is the second largest Indian reservation in the country and the homeland for approximately 20,000 Ute Indians. Under the Act of March 11, 1948, (62 Stat. 72, the ‘Hill Creek Act’) Congress added 510,000 acres of public domain known as the ‘Hill Creek Extension’ to the Reservation to protect tribal grazing rights. In making this addition to the Indian Reservation, the United States retained the subsurface rights to lands held in trust for the

Tribe, while the State of Utah retained 38,000 acres of land it previously acquired in a checkerboard pattern typical in Western states. The State lands in the Hill Creek Extension are administered by SITLA for the benefit of K-12 schools and other State institutions.”

“In 1955, Congress authorized the State to relinquish its lands in the Hill Creek Extension to the United States for the benefit of the Tribe, in exchange for replacement lands that are mineral in character. The State subsequently sold much of the surface estate in the Hill Creek Extension to the Tribe, while retaining 38,000 of subsurface minerals and the right of ingress and egress to develop them. The State today wants to relinquish to the United States (for the benefit of the Tribe) 18,000 acres of subsurface in the remote, southern (Grand County) portion of the Hill Creek Extension, in exchange for 18,000 acres of subsurface in the northern (Uintah County) area of the Extension.”

Committee Action: This legislation was introduced on February 14, 2012 and assigned to the House Natural Resource Committee. On March 20, 2012, the Subcommittee on Indian and Alaska Native Affairs held a hearing on H.R. 4027. Witnesses included an official with the BLM, the Chairwoman of the Ute Tribe, the Director of SITLA, and the Director of Wilderness Policy for the Wilderness Society.

The Tribe, SITLA, and the Wilderness Society testified in support of H.R. 4027. The BLM testified in support of the goals of the bill, but in opposition to it as written. The Administration was concerned with the bill's termination of the overriding financial interests after 30 years without an obligation to lease. It also wanted authority to raise the federal royalty rate for oil and gas produced on the State's leases. Finally, it pointed out that current federal policy is for land exchanges with the United States to be of equal value.

It was reported out of the committee on May 31, 2012 (H. Rept. [112-509](#)).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO [estimates](#) that this legislation would have no significant impact on the federal budget over the 2013-2022 period. The legislation “would authorize a transfer of federally owned subsurface mineral rights for an equivalent number of acres of state land. However, the acres transferred may not have the same value because mineral deposits are not evenly spread across all areas. To compensate for such a potential imbalance, H.R. 4027 would preserve the federal government’s existing financial rights to the value of any subsurface minerals that are developed on all properties for the next 30 years.”

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation decreases the size of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No, CBO [finds](#) that it contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Does the Bill Contain Earmarks?: No, the [Committee Report](#) certifies that the bill does “not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.”

Constitutional Authority: [According](#) to its sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the United States Constitution.”

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

H.R. 1272 – Minnesota Chippewa Tribe Judgment Fund Distribution Act of 2012 (*Peterson, D-MN*)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary: This [legislation](#), according to the [CBO report](#) “would authorize the Secretary of the Interior to disburse amounts held in trust for the Minnesota Chippewa Tribe. In 1999, a \$20 million settlement was transferred from the Treasury’s Judgment Fund to the Department of the Interior (DOI) and held in trust for the Minnesota Chippewa Tribe pending legislation to release the funds. Under the Indian Tribal Judgment Funds Use or Distribution Act of 1973, if the Secretary of the Interior cannot obtain consent from the tribal governing body concerning the distribution of an award within 180 days after the funds have been appropriated, legislation is required to authorize the distribution of such funds. In fiscal year 2010, the Chippewa’s Tribal Executive Council (TEC) approved a resolution describing how to distribute the settlement amount among the bands of the Tribe and individuals. Though the federal government transferred ownership of the funds to the Tribe when the funds were expended from the Judgment Fund, the federal government has retained fiduciary responsibility over the amounts until they are distributed. The bill would make the disbursement of the funds contingent on the Tribe submitting updated membership rolls.”

Background: According to the [Committee Report](#):

“On January 22, 1948, and August 2, 1951, the Minnesota Chippewa Tribe, representing all Chippewa Bands in Minnesota except for the Red Lake Band, filed a number of claims before the Indian Claims Commission. These claims (later referred to as Docket Numbers 19 and 188) are related to various accounting obligations of the federal government pursuant to the Nelson Act and various treaties that are not covered by the Nelson Act. The Minnesota Chippewa Tribe filed these claims against the federal

government alleging that the six bands were not adequately compensated for lands ceded under the Nelson Act and for improper timber valuations. All six bands equally shared the risk and expense of prosecuting the cases. The United States Court of Federal Claims awarded a \$20 million settlement for Docket Nos. 19 and 188. These funds have been held in trust since June 22, 1999, and with interest they total \$28.5 million.”

Indian Tribal Judgment Funds Use or Distribution Act

“This Act, first enacted on October 19, 1973, sets forth a convoluted procedure to handle the distribution of settlement funds where more than one tribe is involved and the parties do not agree on a distribution formula. The Bureau of Indian Affairs (BIA) was tasked with executing the responsibilities of the Act. On June 6, 2001, the BIA issued a Results of Research Report on the Judgment in Favor of the Minnesota Chippewa Tribe, et al., v. United States, Dockets 19 and 188 (Report). The Report recommended an alternative distribution that would acknowledge the losses suffered by each of the Bands. Under the proposal, 35 percent of the fund would have been distributed to each of the bands in proportion to their losses. The remaining 65 percent would have been distributed to each of the bands in proportion to their current tribal enrollment.”

“After discussing this Report with the Tribal Executive Committee and the Bands' representatives, the BIA sent the Tribal Executive Committee a draft legislative proposal for the division of judgment funds on November 25, 2005. However, the Tribal Executive Committee was firm in its opposition to any legislative proposal that did not split the funds evenly. On May 1, 2006, Chairman Norman Deschampe of the Grand Portage Reservation Tribal Council sent a letter to the BIA requesting that the Department forego any recommendations to Congress. “

“However, as noted earlier, the BIA has a responsibility to prepare and submit to Congress a plan for the use and distribution of judgment funds awarded by the Indian Claims Commission or the United States Court of Federal Claims. It was not until April 26, 2007, that the BIA sent a letter to then-Speaker of the House of Representatives Nancy Pelosi with draft legislation to disburse the settlement funds. The draft bill would have divided the funds on a per-capita basis, as recommended in the 2001 Report by the BIA. However, on May 22, 2008, the BIA sent a letter to the then-Chairman of the Natural Resources Committee, Nick Rahall, withdrawing its support of the draft bill that was sent on April 26, 2007.”

“In the 110th Congress, two bills, H.R. 2306 and H.R. 3699, were introduced to provide for a distribution of the Minnesota Chippewa funds. H.R. 2306 (Collin Peterson, D-MN) would have distributed the funds on a per-capita basis. H.R. 3699 (James Oberstar, D-MN) would have split the funds evenly among the six bands. A hearing was held on both bills with the Bush Administration supporting H.R. 2306. No further action was taken on either bill.”

“In the 112th Congress, on March 1, 2012, a legislative hearing was held on H.R. 1272. Witnesses included Congressmen Peterson and Chip Cravaack (R-MN), the Director of

the Bureau of Indian Affairs, the President of the Minnesota Chippewa Tribe, the Chairwoman of the White Earth Band, the Chief Executive of the Mille Lacs Band, and the Chairman of the Leech Lake Band of Ojibwe.”

“The Department of the Interior supports H.R. 1272 because the bill ‘respects the decisions of the governing body of the Minnesota Chippewa Tribe.’ However, it should be noted that H.R. 1272 does not have unanimous support among the six member bands. As noted above, the Leech Lake Band of Ojibwe expressed its opposition to the distribution plan.”

Leech Lake Band

“The Leech Lake Band of Ojibwe is a sovereign tribe and is one of six bands which make up the Minnesota Chippewa Tribe. Leech Lake Band opposes H.R. 1272 because it alleges more actual damages (land and timber sold improperly or taken and mismanaged) were suffered on its reservation as a result of the Nelson Act than the reservations for the other five bands. Therefore, Leech Lake does not agree with H.R. 1272 providing of per-capita payments for all the bands' members and then evenly splitting the difference among the bands.”

“During Full Committee consideration of the bill, the Committee adopted an amendment offered by Congressman Don Young (R-AK) that would clarify: (1) that parents or legal guardians can accept per capita payments on behalf of dependents; and (2) the liability of the Secretary of the Interior once a Band withdraws such funds. These amendments were suggested by the Department of the Interior in its oral and written remarks.”

Committee Action: Introduced March 30, 2011, and referred to the House Natural Resources Committee. It was reported out of committee on April 25, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO [estimates](#) that “[b]ased on information provided by DOI, CBO estimates that implementing H.R. 1272 would have no significant cost to distribute the settlement funds. The settlement amount was considered a federal expenditure when it was transferred from the Judgment Fund to DOI because the Tribe received ownership of the funds. Therefore, the ultimate distribution of the settlement and accrued interest is not a budgetary outlay of the federal government. CBO estimates that the total amount to be distributed under the bill would be about \$29 million, which includes the \$20 million settlement and about \$9 million in accrued interest payments.”

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation reduces the size of the Federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No, CBO [finds](#) that it contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Does the Bill Contain Earmarks: No, the [committee report](#) certifies that it does not.

Constitutional Authority: [According](#) to its sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 9; Article 1, Clause 8, Section 18; and Article III, Section 1 of the United States Constitution.”

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

H.R. 1556– To amend the Omnibus Indian Advancement Act to allow certain land to be used to generate income to provide funding for academic programs, and for other purposes (*Lujan, D-NM*)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary: This [legislation](#) would allow the 19 Pueblos of New Mexico, which operate the Sante Fe Indian School, to use property held in trust by the federal government for economic development activities. Under current law, the property can only be used for educational, health-related, or cultural purposes of the Sante Fe Indian School. Any income generated from economic development activities could be used by the Pueblos to promote educational, health-related, or cultural outcomes among students of the Sante Fe Indian School.

Background: According to the [Committee Report](#):

“The Santa Fe Indian School in Santa Fe, New Mexico, is owned and operated by the 19 Pueblo Governors of New Mexico and is comprised of middle and high school students. Established in the late 1800s as a federal off-reservation boarding school, it later became a Tribally Controlled and Operated Grant School with funding through the Bureau of Indian Affairs Schools Program, under provisions of Public Law 100-297.”

Committee Action: This legislation was introduced on April 14, 2011. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On September 22, 2011, the Subcommittee held a hearing on the bill. On October 5, 2011, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. No amendments were offered to the bill, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO [estimates](#) that the legislation would have an insignificant impact on the Department of the Interior’s administrative costs. They estimate that it

would have no effect on direct spending or revenues because any income resulting from new economic development activities would be paid directly to the Pueblos.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation reduces the size of the Federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No, CBO [certifies](#) that the legislation does not.

Does the Bill Contain Earmarks: No. The [Committee Report](#) certifies that it does not.

Constitutional Authority: [According](#) to the sponsor, “Congress has the power to enact this legislation pursuant to the following: The United States Constitution specifically mentions the relationship between the United States federal government and Native American tribes three times:

Article I, Section 2, Clause 3

Article I, Section 8

The Fourteenth Amendment, Section 2”

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S. 684 – A bill to provide for the conveyance of certain parcels of land to the town of Alta, Utah (Lee, R-UT)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary: This [legislation](#) would direct the Secretary of Agriculture to convey certain lands in Utah to the town of Alta.

Background: According to the [Committee Report](#):

“The town of Alta, Utah, (hereinafter ‘Town’) is home to a permanent population of 370 people and a popular ski area. The Town does not own any land within its municipality, and much of its municipal infrastructure is located on National Forest System land in the Wasatch-Cache National Forest pursuant to--as the Department of Agriculture describes it-- ‘a complex suite of existing special use permits.’”

“The Town's administration building and public service building were constructed pursuant to a non-assignable special use permit (SLC102708) authorizing buildings for the Town's emergency operations center, marshal's office, central dispatch, community center, emergency equipment storage, and library, for example. A water service building was constructed pursuant to another non-assignable special use permit (SLC102707) to house municipal water infrastructure. S. 684 would provide for the conveyance of the

Federal land under three municipal buildings to the Town to provide it with greater certainty and flexibility in the maintenance and continued use of those buildings for the purposes specified in the special use permits.”

Committee Action: This legislation was introduced in the Senate on March 30, 2011, and referred to the Committee on Energy and Natural Resources. It was reported out of committee on August 30, 2011, and passed by unanimous consent on November 2, 2011. The House Committee on Natural Resources reported the legislation on April 16, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO [estimates](#) that enacting this legislation would reduce offsetting receipts by less than \$200,000 over the 2012-2022 period. “Because the act would require the town to pay the administrative costs associated with the land conveyance, CBO estimates that implementing this legislation would not have a significant impact on spending subject to appropriation.”

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation would shrink the size of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. The [CBO](#) certifies that this legislation contains no intergovernmental or private-sector mandates.

Does the Bill Contain Earmarks: No. The [Committee Report](#) certifies that the legislation does not.

Constitutional Authority: Senate-based legislation does not require a Constitutional Authority Statement.

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

S. 404 – A bill to modify a land grant patent issued by the Secretary of the Interior (*Levin, D-MI*)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary: This [legislation](#) modifies a land grant patent issued by the Secretary of the Interior pertaining to the Whitefish Point Light Station in Michigan. This involves a 43-acre piece of land jutting into Lake Superior.

Background: According to the [Committee Report](#):

“In the late 18th and 19th centuries, the United States built a series of lighthouses in and around Lake Michigan, Lake Huron, and Lake Superior to aid in navigation of the Great Lakes. The role played by these lighthouses in the westward expansion and economic growth of the United States is part of our national heritage, with ships and shipwrecks recalled in story and song. The Great Lakes lighthouses--including the Whitefish Point Light Station at issue in S. 404--are listed on the National Register of Historic Properties.”

“The U.S. Coast Guard retains responsibility for aid to navigation in the Great Lakes, as it (or its predecessor, the Revenue Marine) has since 1790. In the mid-1990s, concerns reached the Congress that the Coast Guard, in carrying out its mission in the Great Lakes, was unable to assure preservation of the historic lighthouses. Interest in preserving the Whitefish Point Light Station led the Congress, in 1996, to convey land adjacent to the Light Station to two non-profit organizations dedicated to conservation and historic preservation--an 8.27 acre parcel to the Great Lakes Shipwreck Historical Society (Historical Society) and a 2.69 acre parcel to the Michigan Audubon Society (Audubon Society) of Chippewa County--and a 33 acre parcel to the U.S. Fish and Wildlife Service (FWS) (Public Law 104-208, Omnibus Consolidated Appropriations Act, Fiscal Year 1997, Section 5505).”

“This law contains limitations on development at the historic lighthouse, and explicitly requires compliance with the ‘Whitefish Point Comprehensive Plan of October 1992.’ The patents the BLM issued under this authority (including the most recent, number 61-2000-0007, issued March 10, 2000, to the Historical Society) contain this reference.”

“In 1999, the Audubon Society brought suit against the Historical Society and the FWS over plans to develop a museum at the site. The parties reached a settlement agreement under which the three groups developed the ‘Human Use/Natural Resource Plan for Whitefish Point, December 2002,’ to supersede the Whitefish Point Comprehensive Plan of 1992.”

Committee Action: This legislation was introduced in the Senate on February 17, 2011 and referred to the Committee on Energy and Natural Resources. It was reported out of Committee on August 30, 2011, and agreed upon by unanimous consent on October 18, 2011. S. 404 was reported out of the House Committee on Natural Resources on April 16, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO [estimates](#) that implementing S. 404 would have no effect on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: The legislation has no effect on the size and scope of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No, [CBO](#) certifies that this legislation contains no intergovernmental or private-sector mandates.

Does the Bill Contain Earmarks: No. The [Committee Report](#) certifies that the legislation does not.

Constitutional Authority: Senate Rules do not require that legislation be accompanied by a Constitutional Authority Statement.

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.

S. 997 - East Bench Irrigation District Water Contract Extension Act (Tester, D-MT)

Order of Business: The bill is scheduled to be considered on June 18, 2012, under a motion to suspend the rules and pass the bill.

Summary of the Legislation: This [legislation](#) would authorize the Secretary of the Interior to extend a contract for water services between the United States and the East Bench Irrigation District. The contract would be extended until four years after the date of the expiration of the current contract, unless a new long-term contract is created in the meantime.

Background: On the Beaverhead River in Montana there is the East Bench Unit of the Pick-Sloan Missouri Basin Program, which was authorized originally in 1944. This particular unit provides irrigation to about 28,000 acres of land.

The water supply contract between the Bureau of Reclamation and the East Bench Irrigation District, and Congressional approval is needed to extend the contract deadline. Similar extensions occurred in previous Congresses (108th and 109th). The Montana Water Court is currently adjudicating the water rights to the system. The only requirement remaining is for the Montana Courts to confirm the contract terms.

Committee Action: [S. 997](#) was introduced in the Senate on May 12, 2012, and was reported out of the Committee on Energy and Natural Resources without amendment on August 2, 2011. On November 2, 2011 the legislation passed in the Senate by unanimous consent. On June 15, 2012, it was reported out of the House Committee on Natural Resources.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information from the Bureau of Reclamation, CBO [estimates](#) that enacting S. 997 would have no impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

Does the Bill Contain Earmarks: No, the legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Senate Rules do not require that legislation be accompanied by a Constitutional Authority Statement.

RSC Staff Contact: Rick Eberstadt, Rick.Eberstadt@mail.house.gov, (202) 226-9720.

H.R. 2938 – Gila Bend Indian Reservation Lands Replacement Clarification Act (Franks, R-AZ)

Order of Business: The bill is scheduled to be considered on June 18, under a motion to suspend the rules and pass the bill.

Summary: This [legislation](#) would amend the Gila Bend Indian Reservation Lands Replacement Act to prohibit gambling other than social games for prizes of minimal value on lands located north of latitude 33 degrees, 4 minutes north purchased by the Tohono O’odham Nation in exchange for granting the federal government the right, title, and interest to the Gila Bend Indian Reservation.

However, this legislation does not affect the gaming rights on lands located south of latitude 33 degrees, 4 minutes north.

Committee Action: The legislation was introduced on September 15, 2011, and was reported as amended by the Committee on Natural Resources on June 16, 2012.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: [CBO](#) estimates that the bill would have no significant impact on the federal budget as it would not affect direct spending or revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: Expands by expanding federal prohibitions on gambling.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. [CBO](#) states: “H.R. 2938 contains no private-sector mandates as defined in UMRA.”

Does the Bill Contain Earmarks: No.

Constitutional Authority: [According](#) to the sponsor: “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 3.”

RSC Staff Contact: Rick Eberstadt, Rick.Eberstadt@mail.house.gov, (202-226-9720).

H. Res. 683 — Expressing the regret of the House of Representatives for the passage of laws that adversely affected the Chinese in the United States, including the Chinese Exclusion Act (*Chu, D-CA*)

Order of Business: The [resolution](#) is scheduled to be considered on Monday, June 18, 2012 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: [H.Res. 683](#) acknowledges the regret of the House of Representatives of passage of previous legislation that adversely affected people of Chinese origin in the United States because of their ethnicity. It also prevents any part of this resolution from being used for “monetary compensation or claims for equitable relief against the United States or any other party, or serve as a settlement of any claim against the United States.”

“The resolution states:”

“Whereas many Chinese came to the United States in the 19th and 20th centuries, as did people from other countries, in search of the opportunity to create a better life;”

“Whereas the United States ratified the Burlingame Treaty on October 19, 1868, which permitted the free movement of the Chinese people to, from, and within the United States and made China a ‘most favored nation’;”

“Whereas in 1878, the House of Representatives passed a resolution requesting that President Rutherford B. Hayes renegotiate the Burlingame Treaty so Congress could limit Chinese immigration to the United States;”

“Whereas, on February 22, 1879, the House of Representatives passed the Fifteen Passenger Bill, which only permitted 15 Chinese passengers on any ship coming to the United States;”

“Whereas, on March 1, 1879, President Hayes vetoed the Fifteen Passenger Bill as being incompatible with the Burlingame Treaty;”

“Whereas, on May 9, 1881, the United States ratified the Angell Treaty, which allowed the United States to suspend, but not prohibit, immigration of Chinese laborers, declared that ‘Chinese laborers who are now in the United States shall be allowed to go and come of their own free will,’ and reaffirmed that Chinese persons possessed ‘all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most favored nation’;”

“Whereas the House of Representatives passed legislation that adversely affected Chinese persons in the United States and limited their civil rights, including—“

“(1) on March 23, 1882, the first Chinese Exclusion bill, which excluded for 20 years skilled and unskilled Chinese laborers and expressly denied Chinese persons alone the right to be naturalized as American citizens, and which was opposed by President Chester A. Arthur as incompatible with the terms and spirit of the Angell Treaty;”

“(2) on April 17, 1882, intending to address President Arthur's concerns, the House passed a new Chinese Exclusion bill, which prohibited Chinese workers from entering the United States for 10 years instead of 20, required certain Chinese laborers already legally present in the United States who later wished to reenter the United States to obtain ‘certificates of return,’ and prohibited courts from naturalizing Chinese individuals;”

“(3) on May 3, 1884, an expansion of the Chinese Exclusion Act, which applied it to all persons of Chinese descent, ‘whether subjects of China or any other foreign power;’”

“(4) on September 3, 1888, the Scott Act, which prohibited legal Chinese laborers from reentering the United States and cancelled all previously issued ‘certificates of return,’ and which was later determined by the Supreme Court to have abrogated the Angell Treaty; and”

“(5) on April 4, 1892, the Geary Act, which reauthorized the Chinese Exclusion Act for another ten years, denied Chinese immigrants the right to be released on bail upon application for a writ of habeas corpus, and contrary to customary legal standards regarding the presumption of innocence, authorized the deportation of Chinese persons who could not produce a certificate of residence unless they could establish residence through the testimony of ‘at least one credible white witness;’”

“Whereas in the 1894 Gresham-Yang Treaty, the Chinese government consented to a prohibition of Chinese immigration and the enforcement of the Geary Act in exchange for readmission to the United States of Chinese persons who were United States residents;”

“Whereas in 1898, the United States annexed Hawaii, took control of the Philippines, and excluded only the residents of Chinese ancestry of these territories from entering the United States mainland;”

“Whereas, on April 29, 1902, as the Geary Act was expiring, Congress indefinitely extended all laws regulating and restricting Chinese immigration and residence, to the extent consistent with Treaty commitments;”

“Whereas in 1904, after the Chinese government withdrew from the Gresham-Yang Treaty, Congress permanently extended, ‘without modification, limitation, or condition,’ the prohibition on Chinese naturalization and immigration;”

“Whereas these Federal statutes enshrined in law the exclusion of the Chinese from the democratic process and the promise of American freedom;”

“Whereas in an attempt to undermine the American-Chinese alliance during World War II, enemy forces used the Chinese exclusion legislation passed in Congress as evidence of anti-Chinese attitudes in the United States;”

“Whereas in 1943, in furtherance of American war objectives, at the urging of President Franklin D. Roosevelt, Congress repealed previously enacted legislation and permitted Chinese persons to become United States citizens;”

“Whereas Chinese-Americans continue to play a significant role in the success of the United States; and”

“Whereas the United States was founded on the principle that all persons are created equal:”

Committee Action: Representative Judy Chu (D-CA) introduced H. Res. 683 on June 8, 2012. After being referred to the House Judiciary, no further action on the resolution has occurred.

Administration Position: As of press time, no Statement of Administration Policy (SAP) has been released.

Cost to Taxpayers: No Congressional Budget Office (CBO) cost estimate has been released. However, the resolution does not spend any money.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

Does the Bill Contain Earmarks: No.

Constitutional Authority: House rules do not require House Resolutions to include Constitutional Authority Statements like those for bills that, if enacted, have the force of public law.

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H.R. 3668 – Counterfeit Drug Penalty Enhancement Act of 2012, as amended (Meehan, R-PA)

Order of Business: The [bill](#) is scheduled to be considered on Monday, June 18, 2012 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: [H.R. 3668](#) amends Title 18 of the U.S. code by increasing the federal financial penalties and prison terms for individuals and entities who are convicted of trafficking counterfeit drugs in interstate commerce. Under current law, convictions for trafficking counterfeit drugs carry fines similar to those of counterfeiting other goods and services. These fines and prison terms range up to \$2 million, 10 years of prison, or both (\$5 million/20 years for entities, or both) as well as steeper penalties if a victim experiences serious bodily injury or death. This bill differentiates the penalties and prison times for counterfeit drugs by increasing the fines and prison terms for such to include up to \$5 million, 20 years of prison, or both (\$15 million for entities) and \$15 million, 30 years of prison, or both for subsequent offenses (\$30 million for entities).

The bill requires the Attorney General to “give increased priority to efforts to investigate and prosecute” such offenses that involve counterfeit drugs. It also directs the [United States Sentencing Commission](#) to review its guidelines for those convicted of trafficking counterfeit drugs (under this bill) to reflect Congress’ intent to increase penalties and prison times compared to current guidelines.

Background: The sponsor’s Dear Colleague estimates that \$75 billion worth of dangerous counterfeit drug sales occur each year, and that the bill accordingly increases penalties to a level commensurate with offenses similar to those assessed for trafficking narcotics under the Controlled Substances Act.

The World Health Organization estimates that counterfeit drugs constitute up to 25% of the total medicine supply in less developed countries. According to a [report](#) from the International Policy Network, fake drugs pose three direct threats to patients: 1. Failure to provide effective treatment, 2. Adulteration with toxic chemicals often leads to death or injury, 3. If a drug contains some active ingredient but too little to kill all disease agents, it can lead to the emergence of drug resistant strains of disease. (Fox News article available [here](#)).

Outside Group Support: According to the bill sponsor, the following groups have endorsed the bill: AARP, Alliance for Safe Online Pharmacies (ASOP), Healthcare Distribution Management Association, U.S. Black Chamber, Inc., Women Impacting Public Policy, Pfizer, AstraZeneca, and PhRMA.

Committee Action: Representative Patrick Meehan (R-PA) introduced H.R. 3668 on December 14, 2011. The Judiciary Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on March 28, 2012, and the full committee favorably reported the bill, as amended, by voice vote on June 6, 2012.

Administration Position: As of press time, there is no Statement of Administration Policy (SAP) is provided.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost [estimate](#) for the committee-reported bill on July 14, 2012, explaining that implementing this bill will have no significant cost to the federal government.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. The CBO [estimate](#) states that the bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Does the Bill Contain Earmarks: No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: “Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to Article I, Section 8, Clause 3 of the Constitution of the United States [Commerce Clause] and Article I, Section 8, Clause 18 of the Constitution of the United States [Necessary and Proper Clause].”

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