

Legislative Bulletin.....September 23, 2010

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S. 1674 - Improving Access to Clinical Trials Act (*Sen. Wyden, D-OR*)

Order of Business: S. 1674 is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: S. 1674 would amend title XVI (Supplemental Security Income) of the Social Security Act (SSA) to remove a regulatory barrier to participation in certain clinical trials for Social Security beneficiaries with rare diseases. The bill aims to ensure that individuals can still participate in clinical trials (whose protocols include nominal compensation) without losing eligibility for SSI. Supporters of the bill contend that the fear of losing SSI benefits, due to compensation counting toward monthly income, acts as a barrier to patient participation in clinical trials. Specifically, the bill would exclude from income, for SSI eligibility purposes, the first \$2,000 in compensation per year received by an individual (or spouse) for participating in clinical trials – that are reviewed and approved by an institutional review board and meet certain standards of protection – involving research and testing of treatments for rare diseases or conditions (as defined in the Orphan Drug Act).

Additionally, the bill amends title XIX (Medicaid) of SSA to exclude from income, for Medicaid eligibility purposes, the first \$2,000 in compensation per year received by an individual (who is age 19 or older) for participating in clinical trials meeting certain requirements.

Finally, the bill requires the Comptroller General to conduct a study and report to Congress on the impact of the bill on enrollment of SSI beneficiaries in clinical trials for rare diseases or conditions. The study would include analysis and comparison of the percentage of SSI beneficiaries enrolled in clinical trials before and after the bills enactment, the range and amount of compensation for participation, and the overall ability of beneficiaries to participate in clinical trials.

The bill would sunset 5 years after the date of enactment.

Committee Action: S. 1674 was introduced on September 15, 2009, and referred to the Senate Committee on Finance where it received no action. On August 5, 2010, the Senate passed the bill without amendment by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: CBO estimates that implementing S. 1674 would cost less than \$500,000 annually.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

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H.R. __ - Airport and Airways Extension Act of 2010 (*Levin, D-MI*)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: The legislation would extend the Federal Aviation Administration's (FAA) authority to collect taxes and administer FAA programs through December 31, 2010 (under current law this authority lapses on September 30, 2010). Specifically, the legislation would:

- Extend Funding for the Airport and Airway Trust Fund through January 1, 2011;
- Extend the Airport and Airway Trust Fund Expenditure Authority through January 1, 2011; and
- Extend the Airport Improvement Program through December 31, 2011.
 - Authorize appropriations of \$925,000,000 for October - December of 2010.

Additional Background: The previous extension (H.R. 5611) passed the House on April 28, 2010 by voice vote.

Conservative Concerns: This extension only runs through the end of 2010, meaning that Congress would have to return before the 112th Congress convenes to extend the FAA's authority, possibly in a lame duck session. Many Members have expressed numerous concerns about the prospect of a lame duck session.

Committee Action: H.R. __ has yet to be introduced.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 5307 - To include ultralight aircraft under the definition of aircraft for purposes of the aviation smuggling provisions under that Act (*Giffords, D-AZ*)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5307 amends the Tariff Act (19 U.S.C. 1590) and clarifies that the term aircraft includes ultralight aircraft, as defined by the Secretary of Homeland Security and the Administrator of the Federal Aviation Administration.

Additional Information: Under current law, ultralight aircraft are not defined as aircraft by the FAA, and therefore are not subject to the same penalties that come about from smuggling drugs across the border. This legislation could close this loophole and allow law enforcement to prosecute these crimes. If enacted, this legislation would allow individuals caught smuggling with ultralights to be prosecuted for using the aircraft in addition to being prosecuted for the drugs in their possession. When they are convicted of this new offense, they can receive a maximum sentence of 20 years in prison and a \$250,000 fine. This bill will establish the same penalties for smuggling drugs on ultralights as for those who smuggle using airplanes or automobiles.

Committee Action: H.R. 5307 was introduced on May 13, 2010, and referred to the House Ways and Means Subcommittee on Trade, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 6156 - Renewing the Authority of the Secretary of Health and Human Services to Approve Demonstration Projects Designed to Test Innovative Strategies in State Child Welfare Programs
(McDermott, D-WA)

Order of Business: H.R. 6156 is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.R. 6156 would amend the Social Security Act to renew the waiver authority of the Secretary of HHS (which lapsed in 2006) to approve not more than 10 demonstration projects meant to test innovative strategies in state child welfare programs for FY2011 – FY2016. Cost-neutral waivers of federal child welfare law were first authorized in 1994, to allow states to test alternate ways to achieve federal child welfare policy goals.

The bill makes other minor changes to the child welfare waiver programs including:

- Expanding the types of demonstration programs the Secretary may consider when authorizing waivers – including programs that identify barriers resulting in delays of kinship guardianship, provide early intervention that reduce out-of-home placement and improve child outcome, and indentify and address domestic violence that endangers children resulting in foster care placement.
- Requiring the Secretary to look at the State's ability to implement a corrective action when considering the projects.
- Requiring that all states submitting an application must provide an accounting of additional Federal, State, local, and private investments made during the previous 2 fiscal years preceding the application and an assurance that the State will provide an accounting for that same spending (including a comparison of the amounts invested, by service type) during the period of an approved demonstration project.
- Expanding the definition of State, for the purposes of the Act, to include Indian Tribes.

Committee Action: H.R. 6156 was introduced on September 16, 2010, and referred to the House Committee on Ways and Means where it received no action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No CBO score was available at press time.

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. A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

RSC Staff Contact: Emily Henehan Murry; Emily.Murry@mail.house.gov; 202-225-9286

H.Res. 1560 - Supporting the increased understanding of, and interest in, computer science and computing careers among the public and in schools, and to ensure an ample and diverse future technology workforce through the designation of National Computer Science Education Week (Ehlers, R-MI)

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1560 resolves that the House of Representatives:

- “Supports the designation of National Computer Science Education Week;
- “Encourages schools, teachers, researchers, universities, and policymakers to identify mechanisms for teachers to receive cutting edge professional development to provide sustainable learning experiences in computer science at all educational levels and encourage students to be exposed to computer science concepts;
- “Encourages opportunities, including through existing programs, for females and underrepresented minorities in computer science; and

- “Supports research in computer science to address what would motivate increased participation in this field.”

The resolution contains a number of findings, including:

- “National Computer Science Education Week can inform students, teachers, parents, and the general public about the crucial role that computer science plays in transforming our society and how computer science enables innovation in all science, technology, engineering, and mathematics disciplines and creates economic opportunities;
- “All students deserve a thorough preparation in science, technology, engineering, and mathematics education, including access to the qualified teachers, technology, and age-appropriate curriculum needed to learn computer science at the elementary and secondary levels of education;
- “Grace Murray Hopper, one of the first females in the field of computer science, engineered new programming languages and pioneered standards for computer systems which laid the foundation for many advancements in computer science; and
- “The week of December 5, in honor of Grace Hopper's birthday, is designated as ‘National Computer Science Education Week.’”

Committee Action: H.Res. 1560 was introduced on July 27, 2010, and referred to the House Science and Technology Committee and the House Education and Labor Committee. Neither committee took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: The resolution would not authorize any additional expenditures.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1582 - Honoring and saluting Americans for the Arts on its 50th anniversary (Slaughter, D-NY)

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1582 resolves that the House of Representatives:

- “Congratulates and honors Americans for the Arts for its 50 years of service in advancing the arts and arts education in the United States.”

The resolution contains a number of findings, including:

- “Americans for the Arts is the Nation's leading nonprofit organization for advancing the arts and arts education in the United States;
- “Americans for the Arts played a key role in the formation and establishment of the National Endowment for the Arts in 1965;
- “Americans for the Arts continues to produce groundbreaking research that is the industry standard for reliable and credible information on the size and economic impact of the nonprofit arts industry through its series on ‘Arts and Economic Prosperity’, which reports that approximately 100,000 nonprofit cultural organizations generate \$166,200,000,000 in economic activity every year supporting 5,700,000 jobs and generating \$29,600,000,000 in government revenue;
- “Americans for the Arts produces annual events that heighten national visibility for the arts and arts education, including Arts Advocacy Day in cooperation with the Congressional Arts Caucus in Washington, DC, and the Nancy Hanks Lecture on Arts and Public Policy that has featured illustrious artists and policymakers with speakers such as Maya Angelou, Arthur Schlesinger, Leonard Garment, Wynton Marsalis, Representatives John Brademas and Barbara Jordan, Senator Alan K. Simpson, and Robert Redford, National Arts and Humanities Month, and National professional and leadership development convenings annually for 50 consecutive years; and
- “Americans for the Arts has been a leader in promoting active participation in arts education both in and out-of-school through its professional development work and national visibility PSA campaigns, ‘The Arts. Ask for More’.”

Conservative Concerns: According to www.recovery.gov, [Americans for the Arts received \\$50,000](#), from the “stimulus.” This funding created/saved 0.90 jobs within the 98th Congressional District of D.C.

Americans for the Arts was instrumental in forming the National Endowment for the Arts (NEA), and they continue to urge Members of Congress to [support increased funding](#) to the NEA, which is a taxpayer subsidized organization that many conservatives argue should not be receiving federal funding. The [RSC Sunset Caucus](#) highlighted two amendments offered by Rep. Broun, to the FY 2010 Interior Appropriations Bill, that

would have [eliminated the federal subsidy to the NEA](#), and would have thereby saved taxpayers \$167.5 million for FY 2010.

The Americans for the Arts advocates for several initiatives [here](#), and tracks legislation [here](#), and tracks what they determine as “key” votes [here](#).

Committee Action: H.Res. 1582 was introduced on July 29, 2010, and referred to the House Education and Labor Committee, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: The resolution would not authorize any additional expenditures.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Although the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1545 - Expressing support for designation of the week beginning on the third Monday in September as "National Postdoc Appreciation Week" (Stearns, R-FL)

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1545 resolves that the House of Representatives’

- “Supports the designation of ‘National Postdoc Appreciation Week’;
- “Recognizes the accomplishments and contributions postdocs make to relevant departments, institutions, fields, and communities around the United States and the world;
- “Recognizes the career development and other professional needs of postdocs in every field of study; and
- “Encourages the improvement of training and career opportunities in various research fields at all levels of training and stages of all research careers.

The resolution contains a number of findings, including:

- “In order for the United States to maintain a leadership role in the world, citizens must be well educated to harbor the world's best scientists, engineers, and researchers in all fields of study;
- “Postdoctoral scholars (postdocs) make up one of the most substantial driving forces for innovation and research;
- “Given such rapid rates of knowledge expansion, increasing levels of training and education are required beyond the average undergraduate level and even beyond graduate study levels to generate the next generations of innovators in every field of study;
- “Postdocs conduct work and studies in a complex transition period while being both trainees and paid professionals; and
- “The week beginning on the third Monday in September would be an appropriate week to designate as ‘National Postdoc Appreciation Week’.”

Committee Action: H.Res. 1545 was introduced on July 20, 2010, and referred to the House Education and Labor Committee, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The resolution would not authorize any additional expenditures.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 3814 - National Flood Insurance Program Reextension Act of 2010 (Sen. Vitter, R-LA)

Order of Business: The bill is scheduled to be considered on Tuesday September 14, 2010, under a motion to suspend the rules and pass the bill.

Summary: The legislation provides for a one year extension of the National Flood Insurance Program. Specifically, S. 3814 extends the National Flood Insurance Program until September 30, 2011. Currently, the program is set to expire on September 30, 2010.

Additional Information: The National Flood Insurance Program was originally created by the National Flood Insurance Act of 1968 (42 U.S.C. 4026). The National Flood Insurance Program is administered under FEMA, under the Department of Homeland Security. The last extension occurred with H.R. 5569, which passed the House on June 23, 2010, by voice vote.

Conservative Concern: Some conservatives may be concerned that the National Flood Insurance Program (NFIP) dampens the financial and common-sense disincentives to build homes in flood-prone areas by making flood insurance artificially more available than it otherwise would be. In addition, some conservatives may be concerned that the legislation makes the provisions of the bill retroactive to May 31, 2010. Other conservatives have expressed concern over the NFIP's ever growing debt. The program is currently in debt of approximately \$19 billion.

Committee Action: S.1055 was introduced on September 21, 2010, and passed the Senate on September 21, 2010, by unanimous consent. The legislation was then held at the desk.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO was not available at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

**S. 3717 - Amending the Securities Exchange Act of 1934, the
Investment Company Act of 1940, and the Investment Advisers Act
of 1940 to provide for certain disclosures under section 552 of title 5,
United States Code (Sen. Leahy, D-VT)**

Order of Business: The bill is scheduled to be considered on Tuesday September 14, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 3717 would amend the Securities Exchange Act, as it was amended by the Dodd-Frank bill, to require that the Securities and Exchange Commission (SEC) make public certain information mandated by the Freedom of Information Act.

Additional Information: The Dodd-Frank bill exempts the Security and Exchange Commission from releasing information it receives during inspections of companies if the commission is using that information for "surveillance, risk assessments, or other regulatory and oversight activities." This information would otherwise be made available to the public under the Freedom of Information Act.

Similar legislation aimed at correcting this problem has been introduced by Rep. Issa and Rep. Bachus (H.R. 5924), Rep. Campbell (H.R. 5948), and by Rep. Paul (H.R. 5970).

Committee Action: S.3717 was introduced on August 5, 2010, and referred to the Senate Judiciary Committee, which held a markup and reported the bill, without amendment on September 16, 2010. The legislation passed the Senate on September 21, 2010 by unanimous consent, and was held at the desk.

SEC Chairman Mary Schapiro spoke in favor of the current exemption at the House Financial Services Committee on September 16, 2010:

"Section 929I enhances the Commission's ability to examine regulated entities by making clear that the Commission may protect, in appropriate circumstances, information gathered in the examination process."

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO was not available at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 1055 - A bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II (Sen. Boxer, D-CA)

Order of Business: The bill is scheduled to be considered on Tuesday September 14, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 1055 would require the Speaker of the House of Representatives and the President pro tempore of the Senate to award a single gold medal, on behalf of Congress, to the 100th Infantry Battalion, the 442nd Regimental Combat Team, and the Military Intelligence Service, United States Army, in recognition of their service during World War II. The Secretary of the Treasury shall create the medal.

Following the award, the medal shall be given to the Smithsonian Institution, where it will be displayed. This legislation also allows the Secretary of the Treasury to create and sell duplicates of the medal, made of bronze, and sold at a price sufficient to cover the costs. Proceeds of the sale will be deposited in the United States Mint Public Enterprise Fund.

This legislation authorizes \$30,000 from the United States Mint Public Enterprise Fund to pay for the cost of the medal.

Committee Action: S.1055 was introduced on May 14, 2009, and referred to the Senate Banking, Housing, and Urban Affairs Committee, where it was discharged by unanimous consent. This legislation passed the Senate on August 2, 2010, as amended, by unanimous consent, and was then held at the desk.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A report from CBO was not available at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 846 - A bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty (*Sen. Durbin, D-IL*)

Order of Business: The bill is scheduled to be considered on Tuesday September 14, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 846 would require the Speaker of the House of Representatives and the President pro tempore of the Senate to award a single gold medal, on behalf of Congress, to Dr. Muhammad Yunus, recognizing his contributions to the fight against global poverty. The Secretary of the Treasury shall create the medal.

This legislation also allows the Secretary of the Treasury to create and sell duplicates of the medal, made of bronze, and sold at a price sufficient to cover the costs. Proceeds of the sale will be deposited in the United States Mint Public Enterprise Fund.

This legislation authorizes “such amounts as may be necessary” from the United States Mint Public Enterprise Fund, to pay for the cost of the medal.

Additional Information: Dr. Muhammad Yunus established the Gramenn Bank in Bangladesh in 1983. He was fueled by his belief that credit is a fundamental human right. He received the Nobel Peace Prize in 2006. Additional information can be found [here](#).

Committee Action: S.846 was introduced on April 21, 2009, and referred to the Senate Banking, Housing, and Urban Affairs Committee, where it was discharged by unanimous consent. It passed the Senate on October 13, 2009, by unanimous consent. The legislation was then referred to the House Financial Affairs Committee, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

Senate Amendment to H.R. 1517 - To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service (*Engel, D-NY*)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1517 would authorize U.S. Customs and Border Protection (CBP) in the Department of Homeland Security to change the employment status of certain employees to “permanent appointment in the competitive service.” This pertains to employees that have completed at least 2 years of successful continuous service under 1 or more overseas limited appointments.

Employees who are converted shall be held harmless from any claim that arises as a result of that employee exercising official duties. Converted employees will also be held harmless in cases when the individual would have not been liable had that individual held the same privileges and immunities in the foreign country as someone who was a permanent employee, or was not a permanent resident at the time of the event.

The authority for the Commissioner to convert the employment status to these affected employees will expire 2 years after the date of enactment.

Committee Action: H.R. 1517 was introduced on March 16, 2009, and referred to the House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism. A markup was held on November 17, 2009. H.R. 1517 was also referred to the House Oversight and Government Reform Subcommittee on Federal Workforce, Post Office, and the District of Columbia, which took no public action. The legislation passed the House on December 15, 2009, by a [roll call vote of 414-1](#), and was referred to the Senate Committee on Homeland Security and Governmental Affairs. Senator Lieberman amended the bill, and the legislation then passed the Senate on August 5, 2010, by unanimous consent.

Cost to Taxpayers: According to CBO, enacting H.R. 1517 would have no significant cost to the federal government. H.R. 1517 would not change the salaries or significantly alter the benefits of the converted employees. CBO further estimates that this legislation would apply to 35 employees who began service with the former Immigration and Naturalization Service.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

**H.Res. 1618 - Urging the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe National Preparedness Month
(Thompson, D-MS)**

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1618 resolves that the House of Representatives:

- “Commends the public servants of the Department of Homeland Security and other Federal agencies for their outstanding contributions to our Nation's homeland security;
- “Salutes the dedication of State, local, territorial, and tribal government officials, the private sector, and citizens across the country for their efforts to enhance the Nation's ability to prevent, deter, protect against, and prepare to respond to potential acts of terrorism;
- “Expresses the Nation's appreciation for the sacrifices and commitment of our law enforcement and emergency response personnel in preventing and preparing to respond to acts of terrorism;
- “Supports the goals and ideals of National Preparedness Month as they relate to the threat of terrorism; and
- “Urges the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to

observe National Preparedness Month with appropriate events and activities that promote citizen and community preparedness to respond to acts of terrorism.”

The resolution contains a number of findings, including:

- “Terrorists around the world continue to plot and plan attacks against the United States and its interests and foreign allies, and the Department of Homeland Security has stated that the number and pace of attempted attacks against the United States over the past 9 months have surpassed the number of attempts during any other previous one-year period;
- “During the month of September the Nation observes National Preparedness Month, which is sponsored by the Department of Homeland Security, and encourages all citizens to prepare themselves and their families for possible emergencies by getting an emergency supply kit that will last 72 hours, making a family emergency plan, being informed, and getting involved in the community in organizations such as Citizen Corps, which actively involves citizens in making our communities and our Nation safer, stronger, and better prepared;
- “In response to the attacks of September 11, 2001, and the continuing grave threat of terrorism, Congress established the Department of Homeland Security in March 2003, bringing together 22 disparate Federal entities, enhancing their capabilities with major new divisions emphasizing terrorism-related information analysis, infrastructure protection, and science and technology, and focusing their employees on the critical mission of defending our Nation against acts of terrorism; and
- “All people of the United States should take the opportunity during National Preparedness Month in September 2010 to take steps at home, work, and school to enhance their ability to assist in preventing, protecting against, and preparing to respond to acts of terrorism.”

Committee Action: H.Res. 1618 was introduced on September 14, 2010, and referred to the House Homeland Security Committee, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 2853 - All-American Flag Act (*Braley, D-IA*)

Order of Business: The bill is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2853 requires that all United States flags that are acquired for use by the federal government must be 100% manufactured in the United States, from articles, materials, or supplies of which are grown, produced, or manufactured in the United States.

The federal government may only purchase flags from manufacturers that certify that:

- “The manufacturer does not employ aliens who are not authorized to be employed in the United States; and
- “The manufacturer participates in the E-Verify Program under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).”

Potential Conservative Concern: Some conservatives might be concerned that the bill contains buy American provisions that discriminate against less expensive foreign goods. These provisions have the potential to raise the cost of a good or service to taxpayers by requiring that an American product is used over a foreign product.

Committee Action: H.R. 2853 was introduced on June 12, 2009, and referred to the House Oversight and Government Reform Subcommittee on Government Management, Organization, and Procurement, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1546 - Congratulating the Washington Stealth for winning the National Lacrosse League Championship (*Inslee, D-WA*)

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1546 resolves that the House of Representatives:

- “Congratulates the Washington Stealth for winning the National Lacrosse League Championship; and
- “Recognizes the achievements of the players, coaches, students, and support staff who were instrumental in the victory.”

The resolution contains a number of findings, including:

- “On May 15, 2010, the Washington Stealth defeated Toronto Rock 15 to 11 in the National Lacrosse League Championship in Everett, Washington;
- “The Stealth franchise won the Western Division during the regular season with a NLL-best 11 and 5 record, capturing the Western Divisional Championship by defeating the Edmonton Rush;
- “2010 marked the National Lacrosse League's 24th season; and
- “Over 1,000,000 fans enter the doors of the National Lacrosse League arenas on a yearly basis.”

Committee Action: H.Res. 1546 was introduced on July 21, 2010, and referred to the House Oversight and Government Reform Committee, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's

no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1479 - Supporting the United States Paralympics, honoring the Paralympic athletes (Lance, R-NJ)

Order of Business: The resolution is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1479 resolves that the House of Representatives:

- “Supports the work of the United States Paralympics;
- “Congratulates all of the United States Paralympics Team medal winners from the 2010 Winter Paralympic Games in Vancouver, British Columbia;
- “Honors all of the Paralympic athletes for their contributions to the games; and
- “Recognizes the contributions of the athletes' families, schools, and communities to the Paralympic Games, and the United States Team.”

The resolution contains a number of findings, including:

- “Today there are more than 21 million Americans with a physical disability;
- “In the past few years thousands of military personnel have sustained serious injuries during active duty;
- “United States Paralympics, a division of the United States Olympic Committee, is dedicated to becoming the world leader in the Paralympic sports movement, and promoting excellence in the lives of people with physical disabilities;
- “The United States Paralympics Team won gold medals in Ice Hockey (Ice Sledge Hockey), Women's Super Combined (Sitting), Women's Downhill (Sitting), and Women's Giant Slalom (Sitting).”

Committee Action: H.Res. 1479 was introduced on June 25, 2010, and referred to the House Foreign Affairs, and Oversight and Government Committees, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 5264 – Department of Justice Appropriations Authorization Act (Conyers, D-MI)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5264 authorizes the appropriation of funds for FY2011 for the Department of Justice. The authorizations are as follows:

- General Administration: \$223,336,000;
- Administration of pardon and clemency petitions and for immigration-related activities: \$319,220,000;
- Office of Inspector General: \$88,792,000;
- General Legal Activities: \$976,389,000;
- Antitrust Division: \$167,028,000;
- United States Attorneys: \$2,041,269,000;
- Federal Bureau of Investigation: \$8,165,791,000;
- United States Marshals Service: \$1,207,159,000;
- Federal Prison System, including the National Institute of Corrections: \$6,803,512,000;
- Drug Enforcement Administration: \$2,130,117,000;
- Bureau of Alcohol, Tobacco, Firearms, and Explosives: \$1,162,986,000;
- Fees and Expenses of Witnesses: \$270,000,000;
- Interagency Crime and Drug Enforcement: \$579,319,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds;
- Foreign Claims Settlement Commission: \$2,159,000;
- Community Relations Service: \$12,606,000 expenses authorized by section 524(c) of title 28, United States Code: \$20,990,000;

- United States Parole Commission: \$13,582,000;
- Federal Detention Trustee: \$1,533,863,000;
- Administrative expenses of the Office of Justice Programs: \$216,396,000 (including the expenses of the Office of Audit, Assessment, and Management);
- Office on Violence Against Women: \$22,735,000;
- Administrative expenses of the Community Oriented Policing Services Office \$40,312,000;
- National Drug Intelligence Center: \$44,580,000;
- Justice Information Sharing Technology: \$179,785,000;
- Law Enforcement Wireless Communications: \$207,727,000; and
- National Security Division: \$99,537,000.

Potential Conservative Concerns: The bill authorizes approximately \$26.6 billion for the Department of Justice. RSC has been given an indication that this is a 4% increase in funding for DOJ on an apples to apples comparison. Some conservatives might believe that this increase is unwarranted during a time of economic hardship.

Committee Action: H.R. 5264 was introduced on May 11, 2010 and referred to the House Committee on the Judiciary. No further public action was taken.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No CBO score was available at press time. However, the bill authorizes \$26.6 billion.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Although the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, (202) 226-0718.

**H.R. 5932 – Organized Retail Theft Investigation and Prosecution
Act of 2010 (Conyers, D-MI)**

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5932 directs the Attorney General to establish the Organized Retail Theft Investigation and Prosecution Unit (ORTIP), which includes investigators, prosecutors, and other necessary personnel.

“Organized retail theft” means the obtaining of retail merchandise by illegal means in order to resell it or aiding and abetting someone who is going to resell the merchandise.

The duties of ORTIP include:

- Investigating and prosecuting instances of organized retail theft;
- Assisting state and local law enforcement agencies in investigating and prosecuting organized retail theft; and
- Consulting with and advising victims of organized retail theft.

No later than one year after the date of enactment, the bill requires the Attorney General to submit a report to Congress with recommendations on how retailers, online businesses, and law enforcement agencies can prevent and combat organized retail theft.

The bill authorizes \$5 million for each year from FY2010 through FY2015.

Potential Conservative Concerns: Some conservatives might be concerned that this bill creates a new unit within the Department of Justice at an authorization level of \$25 million over five years.

Committee Action: H.R. 5932 was introduced on July 29, 2010 and referred to the House Committee on the Judiciary. No further public action was taken.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No CBO report was available at press time. However, the bill authorizes \$25 million over a five year period.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. The bill creates a new unit within the Department of Justice.

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?: Although the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, (202) 226-0718.

H.R. 3960 - Residential and Commuter Toll Fairness Act (McMahon, D-NY)

Order of Business: The bill is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: The text of this legislation has been amended and is different than what is currently available through LIS.

H.R. 3960 states that a public authority has the ability to authorize discounts in transportation tolls to “captive tollpayers.” This legislation states that it may not be interpreted to limit any other authority to offer transportation toll discounts, and it will not limit the applicability of a state or local law dealing with toll discounts.

“Captive tollpayer” is defined as an individual who:

- “Is a resident of, or regular commuter to, a locality in the United States that is situated on an island, peninsula, or other area where transportation access is substantially constrained by geography; and
- “Is subject to a transportation toll when using a transportation facility to access or depart the locality.”

Public Authority is defined as:

- “A Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.”

Additional Information: Some individuals live in areas that are adversely affected by tolls due to the surrounding geographic location. In response to this, some states, cities and local transportation agencies have enacted toll and fare discount programs. Some of these programs have attracted recent lawsuits.

According to Rep. McMahon’s office “Recently, in a case entitled Selevan v. New York Thruway Authority, the U.S. Court of Appeals for the Second Circuit held that toll discounts for residents of towns bordering the New York State Thruway may be unconstitutional. The plaintiffs in Selevan claimed among other things that these residential toll discounts may violate the dormant commerce clause, but the U.S. District Court for the Northern District of New York dismissed their case. The Second Circuit’s decision remanded and reinstated the action, which will now move forward in the District

Court. H.R. 3960 provides express Congressional authorization for these discounts and makes clear that residential toll and fare discounts are constitutional, fair and necessary to help alleviate the heavy toll burdens paid by so many commuters across the nation.”

Potential Conservative Concern: Some conservatives may be concerned that H.R. 3960 could lead to the discrimination of certain individuals based solely on place of residency. The legislation contains several findings that argue that certain individuals, based on residence, are more negatively affected than others due to tolls. This legislation grants very broad rulemaking authority to all state and community government organizations that manage highways, roads, ferries, etc. to implement programs aimed at reducing the toll burden on specific individuals, based solely on place of residency. Some conservatives may also be concerned that the legislation could violate the Commerce Clause of the U.S. Constitution.

Committee Action: H.R. 3960 was introduced on October 28, 2009, and referred to the House Transportation and Infrastructure Subcommittee on Highways and Transit, which took no public action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 5591 - To designate the facility of the Federal Aviation Administration located at Spokane International Airport in Spokane, Washington, as the "Ray Daves Air Traffic Control Tower" (McMorris Rodgers, R-WA)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5591 would designate the airport traffic control tower located at Spokane International Airport in Spokane, Washington, and any successor airport traffic control tower at that location, as the “Ray Daves Airport Traffic Control Tower.”

Additional Background: Ray Daves was a noncommissioned officer in the U.S. Navy during World War II. He was a radioman aboard many vessels and he was at Pearl Harbor at the time of the Japanese attack, and was at the Battles of the Coral Sea and Midway, where he survived the torpedoing of the Yorktown.

Committee Action: H.R. 5591 was introduced on June 24, 2009 and referred to the House Transportation and Infrastructure Subcommittee on Aviation, which held a markup and then reported the bill.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: CBO estimates that this legislation would have no significant impact on the federal budget and would not affect direct spending or revenues.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 4387 - To designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow Federal Building" (Miller, R-FL)

Order of Business: The bill is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4387 would designate the federal building located at 100 North Palafox Street in Pensacola, Florida, as the “Winston E. Arnow Federal Building.”

Additional Background: Winston E. Arnow was a federal judge who served in the District Court of North Florida. He was nominated by President Lyndon B. Johnson. He served in the JAG Corps during World War II.

Committee Action: H.R. 4387 was introduced on December 16, 2009 and referred to the House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings and Emergency Management, which held a markup and then reported the bill.

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 and would not affect direct spending or revenues.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 4714—National Transportation Safety Board Reauthorization Act (Oberstar, D-MN)

Order of Business: The bill is scheduled to be considered on Thursday, September 23, 2010 under a motion to suspend the rules and pass the bill.

Summary: The legislation authorizes a total of \$483 million over four years (subject to appropriation) for the National Transportation Safety Board. The annual authorized amounts are as follows:

- \$117,368,000 for fiscal year 2011;
- \$120,258,000 for fiscal year 2012;
- \$122,187,000 for fiscal year 2013; and
- \$124,158,000 for fiscal year 2014.

The legislation also makes some changes to National Transportation Safety Board authority, including:

- Expanding the authority of the NTSB to investigate accidents which result in the death of or serious injury to a person, regardless of whether they are accidental or not, as well as accidents that affect transportation safety, but do not involve the destruction or damage of a vehicle, aircraft, or pipeline.
- Prohibits the Board from disclosing publicly any part of a vessel's voice or video recorder recording or transcript of oral communications by or among the crew, pilots, or docking masters of a vessel, vessel traffic services, or other vessels, or between the vessel's crew and company communication centers, related to an accident investigated by the Board.
- Requires the National Transportation Safety Board and the Secretary of the department in which the Coast Guard is operating to issue regulations to provide the Board prompt notification through the Coast Guard of all marine accidents of potential investigative interest to the Board.

Potential Conservative Concern: The legislation authorizes \$483 million over four years (an average of nearly \$121 million annually). By comparison, the Board received \$98 million in appropriations in the regular FY 2010 process.

Cost to Taxpayers: The legislation authorizes a total of \$483 million over four years (subject to appropriation). The legislation would not impact mandatory spending or revenues.

Committee Action: H.R. 4714 was introduced on March 2, 2010 and was referred to the House Committee on Transportation and Infrastructure. The committee ordered the bill to reported (as amended) by voice vote on March 3, 2010.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation increases authorized spending levels.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO: "H.R. 4714 would impose private-sector mandates, as defined in UMRA, but CBO estimates that the total cost of complying with the mandates would be minimal and fall below the annual threshold established in UMRA for private-sector mandates (\$141 million in 2010, adjusted annually for inflation)."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: At press time, no committee report citing any potential earmarks is available.

Constitutional Authority: At press time, no committee report citing constitutional authority is available.

RSC Staff Contact: Brad Watson, brad.watson@mail.house.gov (202) 226-9719

H.R. 3427 - State Ethics Law Protection Act (*Quigley, D-IL*)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3427 amends U.S.C. Section 112 of title 23, dealing with federal aid and highway contracts that are performed by the state Department of Transportation.

This legislation states that in cases where a state has an existing law that limits the amount of money that a certain individual (who is doing business with a state agency with respect to a federal highway program) may contribute to a political campaign, the state will not be considered to have violated a requirement of the federal code.

Additional Information: According to the sponsor of the legislation this bill is a legislative fix to prevent the Federal Highway Administration (FHWA) from withholding federal transportation dollars from state that have anti pay-to-play laws that limit who can bid on contracts based on political contributions.

Rep. Quigley's office states that H.R. 3427 simply "states that no state or locality shall be considered in violation of the competitive bidding requirements if they have a law on the books that limits who can bid on contracts based on political contribution."

According to the office: "Currently the Federal Highway Administration (FHWA) has been selectively enforcing a loophole in Title 23, U.S.C., Sec. 112, to threaten to withhold Federal highway dollars from states that try to clean up corruption with anti pay-to-play laws. Many state and local governments have enacted laws that eliminate pay-to-play. Unfortunately, those entities are being punished by the FHWA, making it difficult, if not impossible, to implement anti-corruption laws if they are interested in receiving Federal highway dollars. In two states – New Jersey in 2004 and Illinois earlier this year – FHWA threatened to withhold money, forcing them to amend their laws, or have millions of Federal Highway dollars withheld."

Committee Action: H.R. 3427 was introduced on July 30, 2009, and referred to the House Transportation and Infrastructure Subcommittee on Highways and Transit, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A CBO report was unavailable at press time.

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 Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 6008 - CLEAN Act (*Schauer, D-MI*)

Order of Business: The legislation is scheduled to be considered on Thursday, September 23, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6008 would require owners or operators of pipeline facilities to immediately telephone the Secretary and the National Response Center (NRC) regarding the release of hazardous liquids or gases. This phone call must occur at the most practicable moment following discovery of the release, and not later than one hour following the time of the discovery.

No later than 60 days after enactment, the Secretary will issue guidance to clarify the meaning of the term “discovery.”

This legislation increases civil penalties for failure to report violations from \$100,000 to \$250,000 per day. The maximum civil penalty is increased from \$1 million to \$2.5 million.

The legislation also mandates the Secretary of Transportation to maintain a public searchable database on the Department of Transportation's website detailing all reportable incidents involving hazardous gas or liquids by owners or operators of pipeline facilities.

Under current law (49 CFR, Part 195.52), pipeline operators are required to notify the NRC at the “earliest practicable moment following discovery” of a release. Because many alarms are false alarms, this current interpretation of the law allows the operator to verify that a release has occurred before notifying the NRC.

Potential Conservative Concern: Some conservatives may be concerned that H.R. 6008 could place a hard cap for pipeline operators to notify the NRC within one hour when there is a report concerning a release of a hazardous liquid or gas, whether or not the operator has been able to verify that a release actually did occur. Under this

legislation, the Secretary will issue guidance regarding the term “discovery” within 60 days of enactment, however some conservatives would argue that this should be clarified before the bill is voted on.

Some industry officials state that “If operators are mandated to provide inaccurate or insufficient information during the early stages of an event, unnecessary mobilization and deployment of government manpower and local resources will result.”

Committee Action: H.R. 6008 was introduced on July 30, 2010, and referred to the House Transportation and Infrastructure Committee and the House Energy and Commerce Committee. Neither committee took public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A CBO score was unavailable at press time. However, this legislation could increase revenues as a result of increased fines.

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?: Yes. This legislation would impose private-sector mandates on pipeline facility owners and operators.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.
