LEGISLATIVE DIGEST
HOUSE REPUBLICAN CONFERENCE | CHAIRMAN ADAM PUTNAM
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H.R. 6578– TO PROVIDE FOR THE SALE OF LIGHT GRADE PETROLEUM FROM THE STRATEGIC PETROLEUM RESERVE AND ITS REPLACEMENT WITH HEAVY GRADE PETROLEUM

FLOOR SITUATION

H.R. 6578 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Nick Lampson (D-TX) on July 23, 2008. The resolution was referred to the House Committee on Energy and Commerce, but was never considered.

H.R. 6578 is expected to be considered on the floor of the House on July 24, 2008.

SUMMARY

H.R. 6578 requires the Secretary of Energy, within fifteen days of this bill's enactment, to publish a plan for the sale of 70 million barrels of light grade petroleum held in the Strategic Petroleum Reserve (SPR) and to replace it with an equivalent amount of heavy grade petroleum. The legislation prohibits sales provided for by this bill if the if they would result in the SPR containing less than 90 percent of the amount that it held prior to the initial date of sale.

The bill requires the sale to commence, regardless of whether the Secretary has published a sale plan, no later than thirty days after this bills enactment and completed within six months. At least 20 million barrels of oil must be available for sale within the first sixty days. Replacement of the higher quality light crude with lesser quality heavy crude could not begin until at least six months following enactment and could take up to five years. Under the bill, all funds collected from the sale of SPR light petroleum are to be deposited into the SPR Petroleum Account and used to cover any costs related to the sale and later acquisition.

Additionally, the Secretary is to grant requests deferring scheduled deliveries of petroleum to the SPR when doing so would be economically beneficial to the overall market.

BACKGROUND

The U.S. Strategic Petroleum Reserve (SPR) was created in the wake of the Organization of Arab Exporting Countries (OAPEC) imposed oil embargo on the United States that occurred from 1973 to 1974. The SPR is managed by the Department of Energy and provides the United States with an emergency oil supply should a disruption in commercial oil sales threaten the U.S. economy and for national defense purposes in times of emergency. Additionally, the SPR allows the U.S. to meet its obligation to maintain an emergency oil supply in accordance with the rules agreed to by the International Energy Agency.

Between 1999 and 2007, about 139 million barrels of oil were added to the SPR using a royalty-in-kind agreement, in which oil companies give oil to the U.S. instead of cash royalties owed to the Department of the Treasury on federal leases for offshore oil production. Today, the maximum capacity of the SPR is approximately 727 million barrels, with current levels around 706 million barrels. According to the Department of Energy, over 20 million barrels of oil are consumed in the U.S. every day.

The Energy Policy Act of 2005 permanently authorized the SPR, and directed the Secretary of Energy to fill it to maximum capacity only if doing so does not negatively impact the price of oil in the U.S. In addition, it authorizes the Secretary of Energy to increase capacity of the SPR to one billion barrels. President George W. Bush has advocated filling the SPR to capacity and then expanding it to 1.5 billion barrels in order to provide the United States with additional energy security. He has requested $346.9 million for SPR activities for fiscal year 2009.

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On May 13, 2008, 'H.R. 6022 - Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008' passed the House under suspension by a vote of 385-25. The bill was signed into law as P.L. 110-232, on May 19, 2008. This bill temporarily suspends filling the SPR, but did not allow drawing it down. (Click here for the Legislative Digest for H.R. 6022)

ADDITIONAL VIEWS

Department of Energy – Strategic Petroleum Reserve Profile

COST

The Congressional Budget Office has not scored this legislation.

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The Senate Amendment to H.R. 5501 – Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008

EXECUTIVE SUMMARY

The House is expected to consider the Senate amendment to H.R. 5501 on the floor on July 24, 2008. The House passed their version of H.R. 5501 on April 2, 2008, by a vote of 308-116, and the Senate passed the Senate Amendment to H.R. 5501 on July 16, 2008, by a vote of 80-16.

This legislation authorizes $48 billion for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009-2013 and $2 billion for Indian health care, law enforcement, and drinking water programs for fiscal years 2009-2013. The bill requires the Coordinator to provide balanced funding for prevention activities for sexual transmission HIV/AIDS and requires that one-half of the amounts appropriated for bilateral global HIV/AIDS assistance should be used for treatment and care of individuals with HIV/AIDS. The bill also strengthens the existing conscience clause by clarifying that groups receiving funds are not required to endorse, utilize, or refer for any activities or programs that they find morally or religiously objectionable.

The bill does not include House passed language that would have authorized HIV/AIDS services at family planning programs that receive U.S. Government family planning funding, specifically excluding funding for programs that provide abortions. Without explicit restrictions on cooperation with family planning groups that provide abortions, the next Administration could overturn the current Executive Order and allow the U.S. to fund these programs. In addition, the bill includes a provision that would lift the United States travel restriction on HIV positive foreign nationals.

The Administration and Committee Ranking Member Ileana Ros-Lehtinen (R-FL) support the passage of the bill. The Congressional Budget Office has not scored the current version of this legislation.

FLOOR SITUATION

The Senate Amendment to H.R. 5501 is being considered on the floor under a closed rule. The Rule:

- Provides for the consideration of the Senate Amendment to H.R. 5501.
- Makes in order a motion by the chairman of the Committee on Foreign Affairs to concur in the Senate amendment.
- Waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI.
- Provides that the Senate amendment and the motion shall be considered as read.
- Provides one hour of debate on the motion equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

This legislation was introduced by Representative Howard Berman (D-CA) on February 27, 2008. The bill was reported by the Committee on Foreign Affairs on March 10, 2008, by voice vote. The House passed the bill by a vote of 308-116 on April 2, 2008, and the Senate passed an amended version of H.R. 5501 by a vote of 80-16 on July 16, 2008.

H.R. 5501 is expected to be considered on the House floor on July 24, 2008.

BACKGROUND

In his 2003 State of the Union Address, President George W. Bush announced the President's Emergency Plan for AIDS Relief (PEPFAR) and requested that Congress appropriate $15 billion to "turn the tide against AIDS in the most afflicted nations." Congress passed the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (P.L. 108-25), which provided the largest commitment to an international health initiative by a single nation.

According to the latest results on PEPFAR's website (www.pepfar.gov), the Emergency Plan has supported antiretroviral treatment for approximately 1.73 million individuals globally. In addition, PEPFAR funding has supported the prevention of mother-to-child HIV transmission services for women during more than 12.7 million pregnancies, prevented an estimated 194,000 infant infections, as well as provided care for more than 6.6 million individuals, including 2.7 million orphans and vulnerable children.

On May 30, 2007, President Bush announced a five-year, $30 billion plan to continue America's commitment to fighting HIV/AIDS around the world. The President's plan focuses on continuing support for current PEPFAR initiatives and strengthening health systems in order to transition from an emergency plan to one that can provide sustainable treatment, prevention, and care. (White House Fact Sheet on HIV/AIDS Plan)

The House passed the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (H.R. 5501) by a vote of 308-116 on April 2, 2008. H.R. 5501, as passed by the House, authorizes $50 billion over five years for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013. In addition, the bill adds Vietnam and 14 Caribbean nations to the list of PEPFAR focus countries. The bill strengthens the "conscience clause" by clarifying that groups receiving funds are not required to endorse or utilize any activities of programs that they find morally or religiously objectionable and contains a provision that authorizes the provision of HIV/AIDS services only at family planning programs that receive U.S. Government family planning funding.

On July 16, 2008, the Senate approved an amended version of H.R. 5501 by a vote of 80-16. The Senate passed bill reduces the authorization for HIV/AIDS, tuberculosis, and malaria programs from $50 billion to $48 billion, while authorizing an additional $2 billion for an Emergency Plan for Indian security and health care. In addition, the bill includes a provision that would lift the United States travel restriction on HIV positive foreign nationals.

SUMMARY

The Senate Amendment to H.R. 5501 (referred to as H.R. 5501 below) authorizes $48 billion for programs to combat HIV/AIDS, tuberculosis, and malaria for fiscal years 2009 to 2013 and $2 billion for Indian health care, law enforcement, and drinking water programs for fiscal years 2009-2013.

Title I – Policy Planning and Coordination

Development of a Comprehensive, Five-Year, Global Strategy: H.R. 5501 directs the President to expand the prevention strategies to include the reduction of behavioral risks associated with HIV/AIDS, including promoting abstinence, encouraging delay of sexual debut, monogamy, fidelity, and partner reduction, and promoting the effective use of male and female condoms. In addition, it requires the President to include specific plans for linkage to organizations that provide a variety of public services, including food and nutrition support, child health services, and HIV/AIDS education.

Interagency Working Group: The bill establishes the interagency working group on HIV/AIDS, which will be headed by the Global AIDS Coordinator and be comprised of representatives from USAID and the Department of Health and Human Services.

Title II – Support for Multilateral Funds, Programs, and Public-Private Partnerships

Participation in the Global Fund: H.R. 5501 authorizes $2 billion for fiscal years 2009 and such sums as necessary for fiscal years 2010 to 2013.

- The bill states that U.S. support for the Global Fund should be based on transparency and accountability benchmarks, including that a well-staffed independent office of Inspector General report to the Fund Board and the Fund Secretariat establishes a database that tracks funds that have been disbursed and the distribution of resources. The bill also includes a Sense of the Senate that the Global Fund should not support activities involving the Affordable Medicines Facility-Malaria until the initiative is shown to be effective.

- In addition, it mandates the withholding of 20 percent of the United States contribution to the Global Fund if the Global Fund fails to meet certain transparency benchmarks, consistent with Section 625 of the Consolidated Appropriations Act, 2008 (P.L. 110-161).

Duties on Goods and Services: The bill states that it is the policy of the United States that countries should not impose taxes or tariffs on goods or services that are provided by the Global Fund.

Sudan: Consistent with current law, H.R. 5501 allows the President to provide assistance for marginalized areas of Sudan including Southern Sudan, southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify a waiver of the prohibition of assistance to a State Sponsor of Terrorism.

Microbicide Availability: H.R. 5501 authorizes the U.S. Agency for International Development in coordination with the Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally to develop and implement a program to facilitate the availability of microbicides that prevent the transmission of HIV after microbicides are proven safe and effective.

Vaccine Development: The bill allows public-private partnerships to be utilized by the Administrator of USAID to collect and review data that could lead to the development of vaccines for HIV, TB, or Malaria and provides market incentives toward that end.

Title III – Bilateral Efforts

Subtitle A – General Assistance and Programs

HIV/AIDS Policy: H.R. 5501 sets forth the policy of the United States to prevent 12 million new HIV infections worldwide, support treatment of at least 3 million individuals with HIV/AIDS with the goal of treating 450,000 children, provide care for 12 million individuals affected by HIV/AIDS, including 5 million orphans and vulnerable children, support care and treatment for children in proportion to their percentage within the HIV-infected population in a given partner country, train at least 140,000 new health care professionals and workers for HIV/AIDS prevention, treatment, and care, and help countries achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 individuals, as called for by the World Health Organization, by 2013.

Food Security: The bill states that it is the policy of the United States to fully integrate food and nutrition support into HIV/AIDS prevention, treatment, and care programs. It requires the Coordinator, where feasible, to ensure that people enrolled in treatment programs have access to a nutritional assessment and nutritional counseling.

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Family Planning Programs: The Senate bill does not include House passed language that would have authorized HIV/AIDS services at family planning programs that receive U.S. Government family planning funding, specifically excluding funding for family planning programs that provide abortions due to an Executive Order. Without explicit restrictions on cooperation with family planning programs that provide abortions, the next Administration could overturn the current Executive Order and allow the U.S. to fund these programs. The 2003 law was also silent on the family planning issue.

Conscience Clause: H.R. 5501 strengthens the existing conscience clause by clarifying that groups receiving funds are not required to endorse, utilize, or refer for any activities or programs that they find morally or religiously objectionable.

Tuberculosis (TB): H.R. 5501 sets the goals of reducing by one-half the tuberculosis death and disease burden from the 1990 baseline; sustaining or exceeding the detection of at least 70 percent of sputum smear-positive cases to TB; and curing at least 85 percent of detected TB cases by December 31, 2015. It also allows for priority to be given to activities described in the World Health Organization's "Stop TB Strategy."

> **Note: This provision includes the language of the Stop TB Now Act (H.R. 1567) which passed the House by voice vote under suspension of the rules on November 5, 2007. The full Senate has not considered H.R. 1567 or related legislation. (Legislative Digest for H.R. 1567)*

Malaria: H.R. 5501 requires the President to establish a comprehensive, five-year strategy to combat global malaria and creates a Coordinator of United States Government Activities to Combat Malaria Globally within the USAID.

Visas: The bill removes the provision of the Immigration and Nationality Act that bars individuals who are HIV positive from receiving a U.S. visa.

Subtitle B – Assistance for Women, Children, and Families

Goals: H.R. 5501 establishes a target for prevention and treatment of mother-to-child transmission of HIV that will reach at least 80 percent of pregnant women in countries most affected by HIV/AIDS and a target requiring that children represent a percentage in proportion to their number within the population of persons infected are receiving care and treatment by 2013. In addition, the bill sets a goal of preventing 12 million new HIV infections worldwide by pursuing a strategy that addresses the needs vulnerabilities of women and youth to HIV infection and seeks to reduce the factors that lead to gender disparities in the rate of HIV infection.

TITLE IV – Authorization of Appropriations

Funding Allocation: H.R. 5501 authorizes $48 billion over five years for PEPFAR. The bill requires that one-half of the amounts appropriated for bilateral global HIV/AIDS assistance should be used for treatment and care of individuals with HIV/AIDS.

Balanced Funding: H.R. 5501 requires the Coordinator to provide balanced funding for prevention activities for sexual transmission of HIV/AIDS. It also ensures that activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction are funded in a "meaningful and equitable way." In addition, the bill requires the Coordinator to establish a HIV sexual transmission prevention strategy in each host country with a generalized epidemic and provide justification to Congress in the form of a report if less than 50 percent of prevention funds in a given country are used for activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction.

> **Note: Current law includes a one-third funding directive for "abstinence until marriage" programs. According to Foreign Relations Committee Republicans, the Senate modification is a*

welcomed addition because it clarifies the House compromise by excluding other behavior change programs, such as condoms promotion from counting toward the 50 percent threshold.

TITLE V – Miscellaneous
Visa Fee: The bill increases the fee for processing machine readable nonimmigrant visas and border crossing identification cards and nonimmigrant visas by $1 beginning on October 1, 2010, and by $2 by October 1, 2013.

**Note: According to Committee Republicans, this provision is intended to be an offset for the lifting of visa restrictions.*

TITLE VI – Emergency Plan for Indian Safety and Health
Fund: The bill establishes a $2 billion Emergency Fund for Indian Safety and Health within the U.S. Department of Treasury.

Plan: H.R. 5501 requires the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services to consult with Indian tribes to establish an emergency plan that addresses law enforcement, water and health care needs of Indian tribes.

ADDITIONAL VIEWS

According to the Statement of Administration Policy for the Senate-passed bill, "The Emergency Plan is creating strong partnerships and allies in countries where five years ago AIDS threatened to destroy entire generations. Congress and the American people should be proud of this compassionate program, which is bringing hope and healing to millions of people around the world. The Administration strongly supports S. 2731, the Tom Lantos and Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008." (SAP for S. 2731)

**Note: The Senate substituted the text of S. 2731 for the text of H.R. 5501 and passed the bill under the House number.*

"Millions around the world now depend on our country's willingness to be a partner in the battle to halt this deadly pandemic. Senate passage of the Lantos-Hyde Act brings us a step closer to achieving an important milestone in U.S. policy toward the world's most vulnerable people. It does honor to our country that five years ago we undertook this mission of true mercy. We are fortunate to have the opportunity to reaffirm that commitment again. Endless numbers of children have already been orphaned and deprived of the protection and love of their parents because of AIDS, TB, and malaria. We cannot make their world whole again, but there is much we can do to comfort and care for them and to prevent others from suffering the same fate. We look forward to sending this measure to the President for signature before the end of this month." – *Ranking Republican Ileana Ros-Lehtinen (R-FL)*

COST

The Congressional Budget Office (CBO) has not scored the most recent of version of H.R. 5501. However, prior to the Senate consideration of the bill, CBO scored the version of the bill that was reported by the Senate Committee on Foreign Relations. This is the most recent cost estimate for the bill, "CBO estimates that implementing S. 2731 would cost $35 billion over the 2009-2013 period, assuming appropriation of the authorized amounts. (Additional amounts would be spent after 2013.)" (CBO Score for S. 2731, April 11, 2008)

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H.Res. 1368 - Delay of Implementation of Section 803 of the Medicare Modernization Act of 2003

FLOOR SITUATION

H.Res. is a stand alone rule, as required by the Medicare Prescription Drug, Modernization, and Improvement Act. It is expected to be considered by the House on July 24, 2008.

SUMMARY

The rule provides that section 803 of the MMA shall not apply during the remainder of the 110^{th} Congress, effectively turning off the Medicare Trigger for the remainder of this Congress. Section 803 of the MMA contains the procedures the House of Representatives must follow once the Medicare funding warning is triggered.

BACKGROUND

The Medicare Prescription Drug, Modernization, and Improvement Act of 2003 (P.L. 108-173, MMA) included a provision that requires Presidential and Congressional action if general taxpayer revenues provide more than 45 percent of Medicare funding for two consecutive years. In 2006, the Medicare Board of Trustees reported that the percentage of general revenue that funds Medicare exceeds 45 percent. The 2007 Medicare Trustees report echoed the findings from the previous year and officially triggered the "Medicare funding warning."

> **Note: According to the 2007 Medicare Trustees Report, "Medicare expenditures were $408 billion in 2006 and are expected to increase in future years at a faster pace than either workers' earnings or the economy overall."*

Once the Medicare funding warning has been issued, the President is required to submit a legislative proposal to lower the percentage of general revenue used to fund Medicare to Congress within fifteen days of submitting the fiscal year 2009 Budget. Congress is then required by the MMA to expedite consideration of a proposal (not necessarily the Administration's proposal) to lower the percentage of general revenue used to fund Medicare.

On February 15, 2008, the President submitted the Medicare Funding Warning Response Act of 2008 to Congress. The proposal requires the Secretary of Health and Human Services (HHS) to develop and implement a system of interoperable electronic health records, to make information about prices and payments for Medicare services more transparent, to develop an incentive program for Medicare providers and suppliers that ties a portion of their Medicare payments to the quality and efficiency of care provided. In addition, the President's proposal included medical liability reform provisions, and a Medicare Part D income threshold.

As required by the MMA, Majority Leader Steny Hoyer and Republican Leader John Boehner (along with their Senate counterparts) introduced the President's proposal (H.R. 5480) on February 25, 2008 – three legislative days after the President submitted his proposal to Congress. The bill was referred to the House Committee on Energy and Commerce, Committee on the Judiciary, and the Committee on Ways and Means, but was not considered by any of them.

The MMA requires that legislation be voted on in the House by July 30, 2008. If the House has not considered the legislation by that date, a motion to discharge the bill from committee may be made by a Member that supports the legislation, may be made only if supported by one-fifth of the total membership of the House, and is highly privileged in the House.

The Democrat majority has failed to act on the Medicare trigger and as a result is facing a July 30, 2008, deadline with nothing to offer to control Medicare spending. In 2008, Medicare spending is expected to top $400 billion.

ADDITIONAL VIEWS

Michael O. Leavitt, Secretary of the Department of Health and Human Services, "The Medicare program is on an unsustainable path, driven by two principal factors: projected growth in its per-capita costs, and increases in the beneficiary population as a result of population aging. Excess cost growth will not be brought under control until there is comprehensive reform changing Medicare's underlying structure. The funding warning is merely one near-term signal illuminating a small piece of a much larger problem. That problem is an unsustainable design in which government controls too many aspects of health care." (Letter of Transmittal to Speaker Pelosi)

Representative Joe Barton (R-TX), Ranking Member of the Committee on Energy and Commerce, "the Medicare trustees have reported that if current policies are not changed within the next 11 years, the Medicare trust fund will go bankrupt. What that means is if you are 54 years old or younger, when you retire there will be no money in the Medicare trust fund to pay your Medicare benefits which you are, by law, entitled to at age 65. This is a problem that we can't put off for 20 years or 50 years. In my opinion, we can't put it off for any years. Again, we need to begin to address it immediately, we need to address it in this Congress, and we need to hopefully address it in a bipartisan fashion." (Press Release, 3/5/2008)

Representative Jim McCrery (R-LA), Ranking Republican of the Committee on Ways and Means, "Medicare is not sustainable on its current path. Soaring costs and a growing number of beneficiaries threaten to overwhelm the program. Recognizing this problem is one thing but we must do more than just that. We must take action." (Press Release, 2/25/08)

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H.R. 3999 – National Highway Bridge Reconstruction and Inspection Act of 2007

EXECUTIVE SUMMARY

This legislation was introduced by Representative James Oberstar (D-MN) on October 30, 2007. The House Committee on Transportation and Infrastructure ordered the bill to be reported by voice vote, as amended, on October 31, 2007. H.R. 3999 is expected to be considered on the floor of the House under a structured rule on July 23, 2008.

H.R. 3999 expands the Highway Bridge Program and authorizes appropriations of $2 billion (The Amendment in the Nature of a Substitute eliminates the authorization for FY 2008 resulting in an authorization of only $1 billion) for replacing or rehabilitating deficient and obsolete bridges on federal-aid highways. The bill also includes several reporting requirements on the status of bridges and increases standards for bridge inspectors.

The vast majority of bridges are owned by State and local governments, the Federal government owns only about 9,000, or one percent, of bridges in the U.S. Currently, the Federal government establishes bridge inspection requirements, and the States carry out bridge inspection, repair, and replacement efforts. The Federal government provides funding for these activities via the Highway Bridge Program, which is administered by the Federal Highway Administration (FHWA).

The Congressional Budget Office (CBO) estimates that "implementing the legislation would cost nearly $1.9 billion over the 2008-2012 period."

FLOOR SITUATION

H.R. 3999 is expected to be considered on the floor of the House on July 23, 2008. The bill is being considered on the floor under a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure;
- Waives all points of order against consideration of the bill except those arising under clause 9 (regarding earmark disclosure) or 10 (regarding PAYGO) of rule XXI;
- Provides that the amendment in the nature of a substitute printed in part A of the Rules Committee report accompanying the resolution shall be considered as an original bill for the purpose of amendment and shall be considered as read;
- Waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 (regarding PAYGO) of rule XXI. This does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure);
- Makes in order only those further amendments printed in part B of the Rules Committee report accompanying the resolution;
- Provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole;
- Waives all points of order against the amendments printed in part B of the Rules Committee report except for those arising under clause 9 or 10 of rule XXI;
- Provides one motion to recommit with or without instructions; and
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

This legislation was introduced by Representative James Oberstar (D-MN) on October 30, 2007. The House Committee on Transportation and Infrastructure ordered the bill to be reported by voice vote, as amended, on October 31, 2007.

SUMMARY

Highway Bridge Program: H.R. 3999 requires the Secretary of Transportation to develop a system assigning risk-based priority for the repair, rehabilitation, or replacement of each "structurally deficient" or "functionally obsolete" bridge on the Federal-aid highway system. This bill also requires the Secretary to inventory all bridges in the federal system and assign a risk-based priority for the rehabilitation or replacement of all "structurally deficient" or "functionally obsolete" bridges, and to determine the cost of this action for each bridge. H.R. 3999 authorizes the appropriation of $2 million for fiscal year 2009 for this purpose.

> ***Note***: *A "structurally deficient" bridge is defined as having elements in poor condition due to deterioration or damage or a waterway opening that causes significant traffic interruptions. A "functionally obsolete" no longer meets current design standards for the traffic demands of the bridge.*

H.R. 3999 establishes requirements for State participation in the Highway Bridge Program (HBP). States must inspect all highway bridges every two years. Following such inspections, States must provide updated information to the Federal Highway Administration for inclusion in the National Bridge Inventory. In addition, States must establish five-year performance plans for bridge inspections. These plans must be submitted and approved by the Secretary of Transportation.

The Secretary must submit a report to Congress on the process for assigning these risk-based priorities. The National Academy of Sciences is also required to review this process to ensure that investment and resource decisions are need-based. H.R. 3999 requires the Secretary to report to Congress on the priority assigned to each "structurally deficient" or "functionally obsolete" bridge on a federal-aid highway.

H.R. 3999 changes existing federal highway law so that states are only allowed to transfer Highway Bridge Program funds to other apportioned highway programs if the State can satisfactorily demonstrate to the Secretary that there are no structurally-deficient bridges eligible for replacement on the National Highway System in the State. Under this approach only the State of Delaware would currently be eligible to transfer funds from the Highway Bridge program to other highway programs. Under current law states are permitted to transfer up to 50 percent of the funding in any one highway program to any other highway program. Over the past four years 18 state Departments of Transportation have transferred funding into or out of the Highway Bridge Program. H.R. 3999 as currently drafted would eliminate that flexibility.

National Bridge Inspection Program: The bill requires the Department of Transportation to update national bridge inspection standards within one year of enactment. H.R. 3999 also requires States to inspect structurally deficient highway bridges annually, and highway bridges that are not structurally-deficient must be inspected every two years, unless granted an extension by the Secretary of Transportation.

The bill also revises regulations for highway bridge inspection personnel. Under this provision, a State "program manager" must be a professionally licensed engineer. In addition, State "team leaders" must be licensed engineers and have at least 10 years of bridge inspection experience.

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Surface Transportation Research: H.R. 3999 expands the activities eligible to receive funding under the Department of Transportation highway research program to include non-destructive tests to determine the structural integrity of facilities.

Authorization of Appropriations: This bill authorizes the appropriation of $1 billion from the General Fund for 2009 for the purposes of this Act. None of these funds may be earmarked for a specific project or activity.

BACKGROUND

On August 1, 2007, the I-35W Bridge in Minneapolis, Minnesota collapsed over the Mississippi River, killing 13 people. The bridge had been rated as "structurally deficient" since 1990, and was being annually inspected by the Minnesota Department of Transportation. According to the U.S. Department of Transportation, one in eight bridges is structurally deficient – there are around 597,000 bridges in the United States.

The vast majority of bridges are owned by State and local governments, the Federal government owns only about 9,000, or one percent, of bridges in the U.S. Currently, the Federal government establishes bridge inspection requirements, and the States carry out bridge inspection, repair, and replacement efforts. The Federal government provides funding for these activities via the Highway Bridge Program, which is administered by the Federal Highway Administration (FHWA).

The Highway Bridge Program is currently authorized at $4.5 billion for fiscal year 2009. This program provides funding to enable States to improve the condition of their highway bridges through replacement, rehabilitation, and systematic preventive maintenance. The Federal share of this funding ranges from 80 to 90 percent, and funds are distributed based on a formula which considers each State's relative share of the total cost to repair or replace deficient highway bridges.

Federal Highway Administration

ADDITIONAL VIEWS

Statement of Administration Policy: "The Administration supports a risk-based approach to highway bridge reconstruction and inspection, but objects to the provisions in H.R. 3999 that run counter to this objective, such as requiring shorter inspection frequencies and stipulating inspection technology that may be superseded by future developments. The Administration looks forward to working with Congress to ensure that all regulatory and reporting deadlines in the bill are realistically achievable. However, the Administration opposes House passage of H.R. 3999 unless it is amended to delete the bill's additional authorization of appropriations of $1 billion for FY 2009 for highway bridge replacement and rehabilitation. The Administration's requested funding level of $39.4 billion for the Federal-aid Highway program is both responsive to current needs and consistent with budgetary realities. The Administration does not intend to request additional funding." (Statement of Administration Policy, 7/15/06)

COST

The Congressional Budget Office (CBO) estimates that "implementing the legislation would cost nearly $1.9 billion over the 2008-2012 period." Full CBO Cost Estimate

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