



## Legislative Bulletin.....May 10, 2006

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### Summary of the Bills Under Consideration Today:

**Total Number of New Government Programs:** 1

**Total Cost of Discretionary Authorizations:** \$70 million over 10 years

**Effect on Revenue:** \$0

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:** 0

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 1

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 1

### **H.R. 5143 — H-Prize Act of 2006 — *as amended* (Inglis, R-SC)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, May 10, 2006, under a motion to suspend the rules and pass the bill, as amended. When the bill, as reported from committee, is called up, it will be called up with a new amendment. This write up is based on this new amendment.

**NOTE:** Under House Republican Conference Rules, legislation creating a new federal program is not to be considered by the House on the Suspension Calendar. **The elected Republican leadership has waived this restriction for H.R. 5143, which creates a new program.**

**Summary:** The bill, as it will be amended on the House floor, authorizes the Secretary of Energy to run a program to competitively award cash prizes “to advance the research,

development, demonstration, and commercial application of hydrogen energy technologies.” Six prizes, in three categories, are authorized under H.R. 5143. The Secretary is required to enter into an agreement with a private, non-profit entity to administer the prize competitions, and the entity’s duties will include advertising prize competitions and their results, raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes, and developing criteria for selecting winners, and determining the prize amounts.

**The three categories of prizes are as follows:**

- Biennial (every second year) awards of not more than \$1 million each to each of these four categories for advancements in components or systems related to—
  - ❖ hydrogen production
  - ❖ hydrogen storage;
  - ❖ hydrogen distribution; and
  - ❖ hydrogen utilization;
- Biennial awards of not more than \$4 million for prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and
- One, not less than \$10 million lump-sum prize, for transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology. The federal funding for this award is capped at \$10 million, though the entity is authorized to seek an additional \$40 million (from non-federal sources) to match each dollar of private funding raised by the award recipient for up to three years after the prize is announced.

The bill notes that the Federal Government shall not be entitled “to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant” in these competitions.

The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants’ participation in these competitions.

Registered participants are required to obtain liability insurance or demonstrate financial responsibility, at levels determined by the Secretary, for claims by—

- (1) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in these competitions; and
- (2) the Federal Government for damage or loss to Government property resulting from such an activity.

In addition, the bill states that the Federal Government shall be named as an additional insured under a registered participant’s insurance policy required under (1) above, and

registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.

**Committee Action:** H.R. 5143 was introduced on introduced April 6, 2006 and referred to the Committee on Science. The committee considered the bill, amended it, and ordered it reported to the full House by voice vote on May 3, 2006. An additional amendment will be offered to the bill (by unanimous consent) as it comes up on the House floor today

**Cost to Taxpayers:** The bill, as it was reported from Committee, authorized \$11 million a year for 10 years (\$110 million) for the new program and its prizes, of which no more than \$2 million per year could be used for administrative expenses. The amended text lowers the overall authorized spending level over 10 years (FY07-16) to \$70 million (\$20 million for the first category of prizes, \$20 million for the second, \$10 million for the third, and \$20 million for administrative expenses).

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, the bill creates a new program at the Department of Energy.

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

**Constitutional Authority:** A committee report citing constitutional authority is unavailable. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.”

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**H. Res. 802 — Encouraging all eligible Medicare beneficiaries who have not yet elected enroll in the new Medicare Part D benefit to review the available options and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage — *as introduced* (Johnson, R-CT)**

**Order of Business:** The resolution is scheduled for consideration on Wednesday, May10, 2006, under a motion to suspend the rules and pass the resolution.

**Summary:** H.Res. 802 resolves that the House of Representatives “encourages all Medicare beneficiaries who are not yet enrolled in Part D to review carefully all of the options that are available to them and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage.”

**Additional Information:** The resolution lists a number of findings, including the following:

- “more than 35,900,000 Medicare eligible individuals are receiving prescription drug coverage, of which there are more than 27,000,000, including a substantial

- number of low-income and minority beneficiaries, receiving coverage through the new benefit;
- “8,100,000 beneficiaries have enrolled in stand alone Medicare prescription drug plans;
  - “the average monthly premium for enrolling in a Medicare prescription drug plan is now just \$25 per month, which is far below the initial estimate of \$37 per month;
  - “advocacy groups including the AARP, National Alliance for Hispanic Health, the National Medical Association, and the National Council on Aging have all sponsored enrollment events designed to encourage eligible beneficiaries to enroll in Medicare prescription drug plans; and
  - “the deadline for enrollment in the new prescription drug plan without being subject to any late enrollment penalty is May 15, 2006.”

The Medicare Modernization Act, which created the Medicare prescription drug benefit (Medicare Part D), was first passed by the House of Representatives in June 2003. The creation of Part D significantly expanded the Medicare program, increased the financial burden on taxpayers supporting the program, and accelerated the fiscal instability of the Medicare program. Last week, the Social Security and Medicare Trustees released their annual report on the financial well being of the two programs. The Report continues to point out that Medicare is rapidly headed toward fiscal ruin. Medicare will become insolvent in 2018, two years sooner than expected. In addition, the Trustees point out that more than 45% of Medicare will be subsidized through general revenue transfers in 2012—exceeding the “cost containment” threshold included in the Medicare Modernization Act. If a similar warning is included in next year’s report, the President and Congress will be forced to consider ways to slow the growth of Medicare in 2008.

**Committee Action:** H.R. 802 was introduced on May 9, 2006 and was referred to the Committees on Energy and Commerce and Ways and Means, neither of which took any official action.

**Cost to Taxpayers:** The resolution authorizes no expenditure. However, Medicare Part D is projected to cost taxpayers \$678 billion over 10 years. (Source: <http://www.heritage.org/Press/Commentary/ed021006b.cfm>)

**Does the Bill Expand the Size and Scope of the Federal Government?:** No. However, the creation of Medicare Part D was the largest expansion of entitlement programs and spending since the 1965 enactment of the Medicare program. (Source: <http://www.heritage.org/Research/HealthCare/bg1750.cfm>)

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

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