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Legislative Bulletin…………………………………....…………June 29, 2006

Contents:

H.R. 4761, the **Deep Ocean Energy Resources Act** (sponsored by Rep. Jindal, R-LA), is scheduled to be considered on the House floor on Thursday, June 29th, subject to a structured rule (H.Res. 897). Below are the summaries of the five amendments made in order under the rule. All amendments are debatable for 10 minutes. **Note:** summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released yesterday.

According to CBO, H.R. 4761, as reported from committee, violates the FY2007 budget resolution by $3.2 billion by exceeding the 302(a) allocation provided for the Resources Committee. As a result, Members will be asked to waive points of order lying against H.R. 4761 (and thus waive the budget resolution) in voting for the rule governing consideration of the bill. However, CBO confirms that the manager's amendment will address the budget violations and remove the cost of the bill over one, five, and ten years. **In other words, once the manager's amendment passes, the bill will no longer increase direct spending but will reduce it.**

Since the points of order lie against *consideration* of H.R. 4761, they must still be waived by the rule before the House can even consider and pass the manager's amendment. In the past, the RSC has requested that such changes to bring bills into budget compliance be "self-executed" by the rule (instead of a manager's amendment made in order under a structured rule), so as to avoid the precedent of waiving the Budget Act—a practice that has been employed in the past. However, **the RSC Chairman and the RSC Budget and Spending Taskforce Chairman will be voting for the rule**, knowing that the manager's amendment is scored by CBO to fully address the budget violations, and having been assured by Leadership that the manager's amendment will pass.

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1. Pombo (R-CA). Manager's Amendment. Because the Manager's Amendment addresses the cost concerns raised by the RSC and the Budget Committee, RSC Members are strongly encouraged to support this amendment. CBO estimates that the passage of this amendment would bring the score of the bill down to the following:

--Decrease mandatory spending by about $100 million in FY2007
--Decrease mandatory spending by a net $2.3 billion over the FY2007-FY2011 period
--Decrease mandatory spending by a net $900 million over the FY2007-FY2016 period

NOTE: neither the original nor the revised CBO score accounts for the dynamic effects of mineral leasing (e.g. corporate tax revenues and jobs generated from the increased energy production). The increased revenues to the federal government are likely to be significantly higher than forecasted under current scoring rules.

The Manager's Amendment would:

- Apply the bill's lease renegotiation provisions (regarding price thresholds for royalty relief) only to leases in 1998 and 1999 (instead of those issued between December 1, 1995, and December 31, 2000, as in the underlying bill).
- Remove the bill's requirement for a uniform royalty rate for all of the OCS.
- Change the bill's conservation of resources fee for non-producing leases from a $1-to-4-per-acre range to a fixed $3.75-per-acre.
- Alter the provision phasing in the revenue-sharing with the states from existing leases. The underlying bill starts at 6% in FY2006, gradually goes up to 24% in FY2014, and peaks at 50% in FY2022 and each subsequent fiscal year. The manager's amendment would start at 4.6% in FY2006, gradually go up to 20.4% in FY2014, and peak at 42.5% in FY2022 and each subsequent fiscal year.
- Strike the bill's provision immediately implementing a 75% revenue-share with the states for all OCS leases in production beginning October 1, 2005, within 12 miles of any coastline and replace it with a 12-mile-zone revenue-share as follows:
  - --25% share with the states from October 1, 2005 to September 30, 2010 for certain leases within 12 miles of shore
  - --Increase this share in 5% increments each year, but the maximum could not exceed 42.5%
  - --Beginning in FY2017, this state revenue share would be increased in accordance with a formula (detailed in the amendment)—but only if the total revenues from the 12-mile zone exceed $4 billion in total during the FY2007-FY2016 period. If the $4 billion trigger is not met, the revenue share would remain at 42.5%.
  - --The FY2017 revenue share could be no more than 55%, and subsequent years' revenue shares could be as high as (but not higher than) 63.75%, if certain total revenue thresholds are met.
  - --Keeps certain other leases within the 12-mile zone not covered in the above formulas and triggers at an immediate 63.75% state revenue share.
- Provide that all of a state's revenue share would go directly to the state. None of the state's share would go to the three new funds established by the underlying bill.
- Reduce from 50% to 25% the immediate revenue sharing provisions on areas more than 100 miles from the coastline for states that do not allow any leasing within 100 of its coastline.
- Strike sections 8, 13, and 19 of the bill, regarding new requirements for exploration and development plan reviews.
- Place some new restrictions on the President's authority to make OCS areas unavailable for leasing and fully negates all previous withdrawals from leasing.
- Require the Secretary to hold Lease Sale 181 by April 30, 2007 (instead of June 30, 2007, in the underling bill).

- Prohibit OCS leasing, notwithstanding any other provision in this legislation, east of the military mission line (86 degrees, 41 minutes West Longitude, extending south from the coast of Florida to the outer boundary of U.S. territorial waters in the Gulf of Mexico).
- Make the bill's three new direct-spending funds (<u>not</u> the rural schools funding) subject to appropriations (i.e. they will no longer be entitlement programs):
  --<u>Federal Energy Natural Resources Enhancement Program</u>: $150 million for each of fiscal years 2007 through 2017 (subject to annual appropriations action by Congress)
  --<u>Federal Energy and Mineral Resources Professional Development Program</u>: $150 million for each of fiscal years 2007 through 2017 (subject to annual appropriations action by Congress)
  --<u>National Geo Program</u>: At least $35 million for each of fiscal years 2007 through 2011 for the strategic unconventional resources subprogram; at least $5 million for each of fiscal years 2007 through 2011 for the geothermal subprogram; $65 million for fiscal year 2007 and $37.5 million for each of fiscal years 2008 through 2013 for the liquid fuels subprogram; and at least $6 million for each of fiscal years 2007 through 2011 for the ocean waves subprogram.

- Exempt leases already in litigation in the Court of Federal Claims on January 1, 2006, from the provision of bill that authorizes the Secretary of the Interior to repurchase and cancel onshore and offshore leases if the lease is not allowed to be explored and/or developed (e.g. because the government would not issue actual drilling permits).
- Make the rural schools funding in the underlying bill contingent on the reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 1060-393) through each applicable fiscal year.
- Adjust the regulations regarding the documenting, registering, and manning of vessels, rigs, and platforms to require that they be consistent with the U.S. Constitution and laws of the United States—except insofar as such laws would otherwise apply to individuals who have extraordinary abilities in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim.
- Make a variety of truly technical and confirming changes.

2. ***Inslee (D-WA):*** Increases the authorization for the ocean wave program from at least $6 million to at least $20 million for each of fiscal years 2007 through 2011.

3. Davis, Tom (R-VA): Authorizes $150 million for each of fiscal years 2007 through 2016 (subject to appropriation), derived from OCS receipts, for funding capital and preventive maintenance projects for the Washington Metropolitan Area Transit Authority (the "metro"). **<u>Conservatives may be concerned that this amendment would divert new energy-related receipts to non-energy-related, local spending</u>.**

Just a few days ago, RSC Chairman Pence and RSC Budget and Spending Taskforce Chairman Hensarling sent a letter to House Leadership, urging them not to bring a bill (H.R. 3496) that is substantively similar to this amendment to the House floor.

Since Metrorail is a mature transit system, many conservatives believe that funding for these capital projects should principally come from passenger fares and nonfederal subsidies from WMATA's various member jurisdictions, and only be supplemented by federal grant funding from the various mass transit programs authorized by federal surface transportation bills such as the recently enacted SAFETEA-LU. According to the Government Accountability Office, WMATA's 2006 budget already depends on federal funds for 34% of its capital budget.

4. *Markey (D-MA)*: Strikes the vast majority of the bill, including most of its provisions allowing expanding leasing on the OCS. Leaves intact the bill's provisions regarding the renegotiation of existing leases that fail to include market-based price caps for the suspension of royalty-free drilling and regarding the fees on nonproducing leases. <u>The Resources Committee is urging a no vote on this amendment since it would gut the bill.</u>

5. Bilirakis (R-FL)/Diaz-Balart, Mario (R-FL)/ Harris (R-FL)/ *Wasserman Schultz (D-FL) /Wexler (D-FL)*/ Young, C.W. Bill (R-FL)/ Brown-Waite (R-FL): Extends from 50 miles to 125 miles the underlying bill's blanket prohibition on all leasing in areas currently unavailable for leasing, <u>unless</u> a state petitions to allow such leasing. Strikes the provision in the underlying bill providing that, for areas between 50 and 100 miles of shore, states would have one year in which to petition to <u>prevent</u> (opt in) natural gas leasing in areas currently unavailable for leasing, and three years in which to petition to prevent oil and gas leasing (--if the state fails to act within those time periods, its offshore areas between 50 and 100 miles would be made available for leasing). Increases from beyond 100 miles to beyond 125 miles the area of the OCS currently under moratoria that would become immediately available for leasing.

<u>Note</u>: the rule would also lay the following unused and now inapplicable House resolutions on the table (i.e. prevent future consideration of them):

H.Res. 162 provides for consideration of the bill H.R. 1334, the Protection of Incapacitated Persons Act of 2005, which amends title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, among other things.
H.Res. 163 waives a requirement of clause 6(a) of rule XIII to provide for consideration of a bill relating to the rights of an incapacitated person or persons.
H.Res. 181 waives Waiving a requirement of clause 6(a) of rule XIII with to provide for consideration of a bill relating to the rights of an incapacitated person or persons.
H.Res. 182 provides for consideration of the bill S. 686, a bill to provide for the relief of the parents of Theresa Marie Schiavo.
H.Res. 393 resolves that the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of July 28, 2005, providing for consideration or disposition of a conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.
H.Res. 395 -- suspend the rules for 7/28/05.
H.Res. 400 -- waives the requirement (clause 6(a) of rule XIII) for a two-thirds vote to consider same-day rule for legislation (for 7/29/05).

H.Res. 401 -- rule for Surface Trans Extension Act (H.R. 3514) on 7/29/05.
H.Res. 468 -- waives the requirement for a two-thirds vote to consider same-day rule for legislation (for 9/28/05).
H.Res. 620 -- waives the requirement for a two-thirds vote to consider same-day rule for legislation (for 12/16/05).

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