



Legislative Bulletin.....December 5, 2006

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 1

Total Cost of Discretionary Authorizations: \$88 million in 2007; \$325 million over the 2007-2011 period

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$241 million decrease over five years

Total New State & Local Government Mandates: 1

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 7

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 3

H.R. 5076 — National Transportation Safety Board Amendments Act of 2006 — as amended (Young, R-AK)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill, as amended.

Note: Under House Republican Conference Rules, legislation authorizing more than a ten percent increase in authorizations in any given year may not be considered by the House on the Suspension Calendar. This rule may be waived by a vote of the elected Leadership. H.R. 5076, which appears to authorize more than a ten percent increase in authorizations, has not received such a waiver from the elected Leadership.

Summary: H.R. 5076 authorizes \$81.6 million in FY07, \$100.0 million in FY08, and \$104.8 million in FY09, for the National Transportation Safety Board (NTSB).

The bill moves \$2 million from the Air Transportation Safety and System Stabilization fund to the emergency fund for unexpected accident investigation costs. H.R. 5076 authorizes appropriations to maintain the emergency fund at \$4 million.

H.R. 5076 strikes language relating to the NTSB Academy for training accident investigators, and amends the language of the law to allow the Board to collect fees, refunds, and reimbursements for services provided through the Board. The bill strikes the language relating to a separate report on the Academy's activities to incorporate the Academy report into the NTSB's annual report.

The bill expands the power of the NTSB to investigate accidents from investigating accidents on U.S. navigable waters and territorial seas to all waters subject to U.S. jurisdiction. Additionally, H.R. 5076 creates a new, staffed office to investigate and report on marine accidents.

H.R. 5076 removes a provision from current law requiring the NTSB to reimburse the Inspector General of the Department of Transportation for its oversight of NTSB activities.

The bill makes permanent the authority of the NTSB to contract for investigative services.

Finally, the bill directs the Secretary of Transportation to select the least costly alternative to improve runway safety after environmental review.

Additional Information: According to Committee Report [109-512](#), the NTSB's authorization expired September 30, 2006. Additionally, the H.R. 5076 provisions striking the language relating to the Academy, but still allowing the Board to recoup fees, refunds, and reimbursements for services rendered by the Board, is an attempt to reduce the amount of investigative resources used at the Academy.

Committee Action: H.R. 5076 was introduced on April 4, 2006, and referred to the Committee on Transportation and Infrastructure’s Subcommittee on Aviation. The bill was marked-up and was ordered reported to the House by voice vote on April 5, 2006.

Cost to Taxpayers: CBO estimates that H.R. 5076 authorizes \$82 million in 2007; \$287 million over the 2007-2011 period. Additionally, CBO estimates that the bill will have no significant impact on direct spending.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill expands the power of the NTSB to investigate accidents from only on U.S. navigable waters and territorial seas to on or under all waters subject to U.S. jurisdiction. In addition, the bill creates a new, staffed office to investigate and report on marine accidents.

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

Constitutional Authority: Committee Report 109-512 cites constitutional authority for this legislation in Article I, Section 8 of the Constitution, but fails to cite a specific Clause.

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” [*emphasis added*].

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H.Res. 1087—Designating Room H-139 of the Capitol as the “Henry J. Hyde Room”—*as introduced* (Pence, R-IN)

Order of Business: The resolution is scheduled to be considered on Tuesday, December 5th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 1087 would designate room H-139 in the Capitol (currently an annex for the House International Relations Committee) as the “Henry J. Hyde Room,” effective the day after Mr. Hyde is no longer a Member of the U.S. House.

Additional Background: Rep. Hyde is the current chairman of the House International Relations Committee and was a chairman of the House Judiciary Committee. Rep. Hyde was the House’s lead impeachment manager during the impeachment trial of Bill Clinton. As Rep. Hyde’s website says, “Hyde still believes today that the House was constitutionally obligated to impeach Clinton for lying to a federal grand jury.”

Rep. Hyde is known as one of the strongest pro-life leaders the House has ever had. To read more about Rep. Hyde, visit this webpage: <http://www.house.gov/hyde/Biography.htm>.

Committee Action: On November 15, 2006, the resolution was referred to the Transportation and Infrastructure Committee, which took no official action on it.

Cost to Taxpayers: The resolution would authorize no expenditure.

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.

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**H.R. 6316 — To extend through December 31, 2008, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits
— as introduced (Baird, D-WA)**

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6316 amends the Water Resources Development Act of 2000 to extend the time in which the Secretary of the Army may accept and expend non-federal public donations to expedite the evaluation of from December 31, 2006, to December 31, 2008.

Committee Action: H.R. 6316 was introduced on November 13, 2006, and referred to the Committee on Transportation and Infrastructure, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 6316 is unavailable.

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.

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

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H.R. 6111 — To amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending — as introduced (Tauscher, D-CA)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6111 amends the Internal Revenue Code of 1986 by adding several provisions favorable to innocent spouses seeking equitable relief from tax liability for understatements of tax liability on joint tax returns by a divorced or separated spouse, including:

- Allowing the innocent spouse to petition the Tax Court to determine the appropriate relief after the innocent spouse has petitioned the Secretary of the Treasury for equitable relief;
- Delaying levies or proceedings for collections in the tax court for 90 days once the innocent spouse requests equitable relief; and
- Allowing an innocent spouse to enjoin any levy or proceeding during the 90 day period for the amount of tax relief to which the innocent spouse may be entitled.

H.R. 6111 allows the innocent spouse to waive the 90-day delay in levies and proceedings for collection on tax liability.

The bill directs the Tax Court to promulgate rules regarding notification of the divorced or separated spouse to be notified of the innocent spouse's election to seek equitable relief.

The bill states that final decisions of courts with respect to the same taxable year for which the innocent spouse seeks relief are conclusive.

H.R. 6111 directs the Secretary of the Treasury to promulgate rules relating to notice to both spouses with respect to administrative proceedings regarding the innocent spouse's request for equitable relief, and the opportunities for both spouses to participate in such proceedings.

Committee Action: H.R. 6111 was introduced on September 19, 2006, and referred to the Committee on Ways and Means, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 6111 is unavailable.

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?: Yes.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 4 of the Constitution grants Congress the authority to establish uniform laws on bankruptcy throughout the U.S, and Article I, Section 8, Clause 18, the necessary and proper clause, grants Congress the authority to make all laws necessary and proper for executing the bankruptcy laws.

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” *[emphasis added]*.

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H.R. 5666 — Southern Idaho Bureau of Reclamation Repayment Act of 2006 — *as introduced* (Simpson, R-ID)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5666 allows landowners within the A&B Irrigation District in Idaho to repay their portion of the construction costs of the District project facilities at any time. Once a landowner discharges his debt, the land is no longer subject to the full-cost pricing limitations under federal reclamation law. The landowner discharging his debt may request certification from the Secretary of the Interior that the debt has been repaid.

Committee Action: H.R. 5666 was introduced on June 21, 2006, and referred to the Committee on Resources’ Subcommittee on Water and Power. The subcommittee held hearings on July 27, 2006, but took no further official action.

Cost to Taxpayers: A CBO score of H.R. 5666 is unavailable.

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?: Yes.

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” *[emphasis added]*.

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H.R. 5466 — Captain John Smith Chesapeake National Historic Trail Designation Act — *as introduced* (Davis, Jo Ann, R-VA)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5466 amends the National Trails System Act to establish the Captain John Smith Chesapeake National Historic Trail along 3,000 miles of the Chesapeake Bay and its tributaries in Virginia, Maryland, Pennsylvania, Delaware, and the District of Columbia. The bill directs the Secretary of the Interior to coordinate the administration of the historic trail with the Chesapeake Bay Gateways and Watertrails Network; the Chesapeake Bay Program; federal, state, tribal, regional, and local agencies; and the private sector.

Additional Information: The House Committee on Resources website features the April 27, 2006 testimony of J. Peyton Knight, Director of Environmental and Regulatory Affairs at the National Center for Public Policy Research, on the negative property rights implications of National Historical Trails. Knight testified that national scenic trail legislation, “carries significant negative property rights implications for landowners in the path and vicinity” of the trails, “whether the trail be the river itself or an adjacent, land-based trail.” Knight stated, “national scenic and historic trails pose numerous, serious threats to property owners unfortunate enough to lie in their path. These threats include land acquisition, restrictive easements or increased land use controls and restrictive zoning measures. But perhaps chief among the threats posed by such trails to landowners is the condemnation of private property through eminent domain.”

Knight stated that the National Park Service’s modus operandi to gain consent of private landowners is to confront, “a property owner who isn’t interested in selling his land. Next, the Park Service makes the property owner an offer he can’t refuse - he can either capitulate to the Park Service’s demands, or lose his property via eminent domain. Voila! A willing seller is born.” Knight cited two cases; the Franciscan Friars of the Atonement’s Graymoor property in Garrison, New York; and the Breen family, owners of the Saddleback Mountain Ski Area in Maine; where the Park Service bullied property owners into giving up rights to their land. According to Knight, “U.S. Representative Sue Kelly (R-NY) aptly, if not understatedly, described the Park Service’s approach as a ‘strong-arm tactic.’”
(source: <http://resourcescommittee.house.gov/archives/109/testimony/2006/peytonknight.pdf>)

Committee Action: H.R. 5466 was introduced on May 24, 2006, and referred to the Committee on Resources’ Subcommittee on National Parks. The subcommittee held hearings on September 28, 2006, but took no further official action.

Cost to Taxpayers: A CBO score of H.R. 5466 is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill adds 3,000 miles of land to the portfolio of land under federal control.

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

Does the Bill Comply with House Rules Regarding Earmarks?: Yes.

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” [*emphasis added*].

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H.R. 1492 — To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes — *as amended* (Thomas, R-CA)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill, as amended.

Note: Under the House Republican Conference Rules, no bills creating new programs may be considered under suspension of the rules. This rule can be waived by a vote of the elected leadership. H.R. 1492, which would create a new federal grant program, received a waiver from the elected leadership when it first appeared on the suspension calendar. H.R. 1492 has not been granted a second waiver.

Summary: H.R. 1492 would create a **new \$38 million grant program** within the National Park Service to encourage, support, recognize, and work in partnership with citizens, federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites where Japanese Americans were detained during World War II. The Secretary of the Interior is directed to develop the criteria for making grants after consulting state, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations. The Senate amendment increased the requirement of non-federal matching funds from 25 percent to 50 percent. The program would sunset two years after the last of the \$38 million is disbursed.

Funds under this legislation could be used to acquire four non-federal properties (listed in the bill), though the program overall could apply to at least ten internment sites. The grants can not be used to acquire property or an interest in land without the landowner’s written consent.

Additional Information: As the Resources Committee points out, two years after the bombing of Pearl Harbor, President Roosevelt signed Executive Order 9066 that called for all people of Japanese ancestry residing on the west coast of the U.S., most of whom were American citizens, to be placed in relocation camps. The Committee describes this action as the largest forced relocation in U.S. history--over 120,000 Japanese-American citizens and Japanese aliens were uprooted from their homes and interned in sites throughout the country.

There are currently three units in the National Park System that preserve and interpret the internment period: the Manzanar National Historic Site, the Minidoka Internment National Monument, and the Japanese-American Memorial located on New Jersey Avenue and Louisiana Avenue:

<http://www.nps.gov/manz/>

<http://www.nps.gov/miin/>

<http://www.njamf.com/memorial.htm>

Administration Policy: **The Administration OPPOSES this bill:**

<http://resourcescommittee.house.gov/archives/109/testimony/2005/michaelsnyder0414.htm>.

Possible Conservative Concerns: Conservatives may be concerned about creating a new multi-million dollar federal grant program.

Committee Action: H.R. 1492 passed the House on the suspension calendar by voice vote on November 16, 2005. The bill was received from the Senate on November 17, 2006, as amended.

Cost to Taxpayers: CBO estimates that H.R. 1492 would authorize appropriations of \$6 million in 2007, and \$38 million over the 2007-2011 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, it would create a new grant program.

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

Does the Bill Comply with House Rules Regarding Earmarks?:

Constitutional Authority: Committee Report 109-142 cites constitutional authority for this legislation in Article 1, Section 8 of the Constitution, and Article IV, Section 3, but fails to cite a specific Clause in either case.

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” *[emphasis added]*.

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**S. 1219 — A bill to authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc.
— *as received* (Sen. Burns, R-MT)**

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: S. 1219 allows the Assiniboine and Sioux tribes of the Fort Peck Indian Reservation, with the approval of the Secretary of the Interior, to lease their water rights, under the Fort Peck-Montana Compact, to the Dry Prairie Rural Water Association, Inc. The lease may not be for more than 100 years, may be for no monetary compensation in return, and the water rights may not be permanently sold. Under S. 1219, the Secretary of the Interior cannot be held liable for any claim relating to compensation to the tribes under the lease.

Additional Information: The House version of the bill, H.R. 2978, passed the House on the suspension calendar by voice vote on May 16, 2006.

The 106th Congress passed the Fort Peck Reservation Rural Water System Act of 2000 to construct a rural water project in the northeastern corner of Montana to serve the Fort Peck Indian Reservation and parts of Valley, Daniels, Sheridan, and Roosevelt Counties.

Under the Fort Peck-Montana Compact, the tribes have rights to the water in the Dry Prairie Rural Water System. The Montana State Water Compact Commission has already approved the conveyance from the tribes to the Association. The tribes will give the Association 28,000 acre-feet of water per year at no cost since the tribes have plenty of water and are not asking for payment for the water. Upon projected completion in 2011, the Association should be able to serve a population of 31,000.

Committee Action: S. 1219 was received from the Senate on February 7, 2006, and referred to the Committee on Resources' Subcommittee on Water and Power, which took no official action.

Cost to Taxpayers: CBO estimates that implementing S. 1219 would have no significant effect on the federal budget.

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

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

Constitutional Authority: The Senate report, Committee Report [109-213](#), does not cite constitutional authority for this legislation.

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H.R. 5110 — More Water and More Energy Act of 2006
— as amended (Udall, D-CO)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill, as amended.

Summary: H.R. 5110 would authorize \$5 million for the Secretary of the Interior and the Director of the U.S Geological Survey to conduct a study to identify the technical, economic, environmental, legal, and other obstacles to increasing the extent to which produced water can be used for irrigation and other purposes. The bill would direct the Secretary to report to Congress on the results of this study.

H.R. 5110 would also authorize \$1 million for the implementation of several local projects. Specifically, the bill authorizes “at least one project in one of the Upper Basin States,” “at least one project in one of the Lower Basin States other than California,” and “at least one project in California.” The bill defines the local authorized projects as follows: “the provision of financial assistance for the development of a facility to demonstrate the feasibility, effectiveness, and safety of processes to increase the extent to which produced water may be recovered and made suitable for use for irrigation, municipal or industrial uses, or other purposes.”

Committee Action: H.R. 5110 was introduced on April 5, 2006, and was referred to the Committee on Resources, which requested executive comment, but took no further official action.

Cost to Taxpayers: There is no cost estimate available for H.R. 5110. However, the bill authorizes \$6 million.

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.

Constitutional Authority: There is no Committee Report citing constitutional authority available. 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.” *[emphasis added]*

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H.R. 395 — Lowell National Historical Park Boundary Adjustment Act — *as introduced (Meehan, D-MA)*

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill, as amended.

Summary: H.R. 395 would adjust the boundaries of the Lowell National Historical Park to include five parcels of land located in the City of Lowell, Massachusetts.

Committee Action: H.R. 395 was introduced on January 26, 2005, and was referred to the Committee on Resources, which took no official action.

Cost to Taxpayers: There is no CBO estimate available for H.R. 395.

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.

Constitutional Authority: There is no Committee Report citing constitutional authority available.

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.” *[emphasis added]*

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S. 3711—Gulf of Mexico Energy Security Act—*as received* (Sen. Domenici, R-NM)

Order of Business: The bill is scheduled to be considered on Tuesday, December 5th, under a motion to suspend the rules and pass the bill.

Summary: S. 3711 would provide for expanded oil and gas leasing on the Outer Continental Shelf (OCS), the underwater lands adjacent to the coastal areas of the United States. That is, under S. 3711, the Secretary of the Interior would offer some OCS areas for leasing that otherwise could not be leased over the next 10 years under current law. Highlights of the bill are as follows:

- Allows OCS oil and gas leasing in two areas of the Gulf of Mexico (“181 area” and “181 south area”) not currently available for such leasing.
- Places certain OCS areas off the coast of Florida under moratorium for oil and gas leasing through June 30, 2022. Entities that currently have leases in certain of these newly off-limits areas would be eligible to receive royalty and bonus credits equal to the value of the bonus bid plus any rental paid for the lease as of the date the lessee notifies the Secretary of the decision to exchange the lease. Such credits could only be used for new leases in the Gulf of Mexico.
- Reserves the United States’ right to designate national defense areas on the Outer Continental Shelf.
- Allocates revenues from the newly-allowed OCS leasing, as follows:
 - 50% to the general fund of the U.S. Treasury

--50% to a special fund in the U.S. Treasury (capped at \$500 million for each of fiscal years 2016 through 2055), for distribution as mandatory spending without further appropriation (and not in place of any existing funds), as follows:
--75% to the states of Alabama, Louisiana, Mississippi, and Texas
--25% to provide financial assistance to states in accordance with Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460L-8) [funds for land and water conservation programs]

- Allocates the funds from the “75%” line above to each of the four states in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each state that is closest to the geographic center of the applicable leased tract (with no state receiving less than 10% of the funds allocated to the four states under this section). 20% of each state’s share under this section would have to go to coastal political subdivisions (as defined in current law). Up to and including fiscal years 2016, this revenue-sharing could be on new leases in presently accessible areas. After 2016, the revenue-sharing would be just in the areas made accessible by this legislation.
- Requires that the funds from the “75%” line above be used only for:
 - Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;
 - Mitigation of damage to fish, wildlife, or natural resources;
 - Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan;
 - Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects; and
 - Planning assistance and the administrative costs of complying with this section (administrative costs limited to 3% of funds received under this section).

Additional Background: The House passed a related bill, H.R. 4761, on June 29, 2006, by a vote of 232-187: <http://clerk.house.gov/cgi-bin/vote.asp?year=2006&rollnumber=356>. The House bill would allow for considerably more leasing on the OCS, but also contains some new programs and extraneous provisions.

To read the RSC Legislative Bulletin on H.R. 4761, visit this webpage:

http://www.house.gov/pence/rsc/doc/LB_062906_OCS.doc. To read the RSC document on the amendments to H.R. 4761 (amendment numbers 1, 2, and 3 passed; amendment numbers 4 and 5 failed), visit this webpage: http://www.house.gov/pence/rsc/doc/LB_062906_OCSAmdts.doc. The amendments document also indicates the results of RSC negotiations to bring the cost of the bill down so that it saves money over ten years.

According to the House Resources Committee, “the U.S. is more than 60 percent dependent on foreign sources of oil to meet our domestic energy requirements.” The committee also points out that we are nearly 100% dependent on crude oil for our transportation fuel, and population increases continue to strain our energy needs.

Under current law, moratoria through June 2012 generally prohibit new leasing and pre-leasing activities in most OCS areas outside of the western and central Gulf of Mexico (though leasing occurs in small parts of the eastern Gulf of Mexico and the Alaskan OCS).

The House bill (H.R. 4761) has some of the same language that was originally part of the House's Deficit Reduction Act (H.R. 4241) last year. To see the RSC Legislative Bulletin on last year's OCS language, which was not included in the final spending reconciliation bill signed into law, visit this webpage and scroll to page 4:

<http://www.house.gov/pence/rsc/doc/LB%2011-08-05--Resources%20Reconciliation.doc>.

Committee Action: S. 3711 was not referred to a House Committee; it is being held at the desk.

Possible Conservative Concerns: Some conservatives may be concerned about the mandatory spending nature of the revenue-sharing provisions with the states. Other conservatives may feel that this legislation does not open up the OCS for leasing the way the House bill would have. However, because the Senate bill saves money over ten years (within the budget window) and expands *some* OCS leasing, any conservative opposition to the Senate bill is not expected to be widespread.

Administration Position: The Statement of Administration Policy (SAP) on S. 3711 supports passage of the legislation: <http://www.whitehouse.gov/omb/legislative/sap/109-2/s3711sap-s.pdf>.

Cost to Taxpayers: CBO estimates that S. 3711 would have no effect on spending in FY2007, would reduce mandatory spending by \$140 million in FY2008, would reduce mandatory spending by \$241 million over the FY2007-FY2011 period, and would reduce mandatory spending by \$926 million over the FY2007-FY2016 period.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would create a new fund in the Treasury. Otherwise, no.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: CBO confirms that the bill contains no mandates.

Constitutional Authority: Although a Senate committee report citing constitutional authority is unavailable, the House Resources Committee, in House Report 109-531, cites constitutional authority in Article I, Section 8, Clauses 14 (the congressional power to make rules for the government and for the land and naval forces) and 18 (the congressional power to make all laws necessary and proper for carrying into execution the foregoing powers given to Congress). The report does not cite Article IV, Section 3, Clause 2, which grants Congress the power to dispose of and make all "needful" rules and regulations respecting the territory or other property belonging to the United States.

Outside Organizations: The House bill was publicly supported by hundreds of organizations, including:

- American Chemistry Council
- American Conservative Union
- American Farm Bureau Federation
- American Gas Association
- Americans for Tax Reform
- Coalitions for America
- Competitive Enterprise Institute
- Citizens Against Government Waste
- Edison Electric Institute
- FreedomWorks
- Frontiers of Freedom
- National Association of Manufacturers
- National Center for Public Policy Research
- National Mining Association
- 60 Plus Association
- U.S. Chamber of Commerce

It is unclear which, if any, of these groups would not support the Senate bill.

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H.R. 1176 — Nonprofit Athletic Organization Protection Act of 2006 — *as reported (Souder, R-IN)*

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

An almost identical bill, H.R. 3369, received a majority vote but failed to garner the required 2/3s under suspension of the rules during the 108th Congress ([217-176](#)) on September 14, 2004.

Summary: H.R. 1176 would provide legal immunity (with certain conditions and exceptions) to nonprofit athletic organizations, such as Little League, in certain civil suits alleging harm from an act or omission by such an organization in the adoption of rules for athletic competitions or practices. The bill preempts state laws where they are inconsistent with this federal law, unless the state laws provide additional liability protection relating to rule making. The liability immunity becomes effective on the date of enactment. The bill further states that the immunity provided for in this bill would *not* apply to a claim involving antitrust, defamation, civil rights laws, or other laws providing protection from discrimination.

Additional Background: According to the bill sponsor, there has been a significant increase over the last decade in personal injury lawsuits targeted at the rule-making bodies of amateur and education-based athletics. This is a questionable attempt to sue these associations for catastrophic injuries (which are rare) that occur during participation in athletic competition and practice. The legal attacks against rule-making bodies rely on the presumption that rules should

eliminate *all* risk in athletic competition. The increasing frequency and cost of liability claims against rule-making bodies is causing the few insurance companies that offer rule-makers liability coverage to increase premiums substantially, raise deductibles to unaffordable levels, and deny coverage altogether.

The bill would protect rulemaking bodies from “frivolous lawsuits” by raising the standard for liability from *negligence* to *gross negligence*. The litigating party would have to demonstrate that an injury was caused by willful or reckless misconduct on the part of the rule-making organization. The bill would apply this liability standard to all amateur, non-profit rulemaking organizations such as the National Federation of State High School Associations, the NCAA, Little League Baseball or Pop Warner Football.

Committee Action: H.R. 1176 was introduced on March 8, 2005, and referred to the Committee on the Judiciary. The bill was marked-up on March 2, 2006, and it was reported to the House by voice vote the same day (House Report [109-393](#)).

Cost to Taxpayers: CBO estimates that “implementing the legislation would result in no significant costs to the federal government. Enacting H.R. 1176 would not affect direct spending or revenues.”

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would preempt certain state liability laws, as noted above.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to CBO, H.R. 1176 contains an intergovernmental mandate (because it would preempt certain state liability laws) as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the resulting costs, if any, would not be significant and would be well below the \$64 million annual threshold (adjusted for inflation) for intergovernmental mandates established in that act.

Constitutional Authority: The Judiciary Committee, in House Report [109-393](#), cites constitutional authority in Article I, Section 8 (Powers of Congress), but fails to cite a specific Clause. 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.” *[emphasis added]*

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H.R. _____ — To amend title 18, United States Code, to prevent and repress the misuse of the Red Crescent distinctive emblem and the Third Protocol (Red Crystal) distinctive emblem — as introduced (Flake, R-AZ)

Order of Business: The bill is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. ____ would criminalize the fraudulent use of the Red Crescent and Third Protocol emblem (the Red Crystal) or any insignia created to imitate either emblem, and would make violators punishable by a fine, imprisonment up to six months, or both. Current law already stipulates criminal penalties for misuse of the Red Cross emblem, and this legislation would extend these protections to the existing Red Crescent emblem and the newly adopted (into the Geneva Conventions) Red Crystal emblem.

Additional Background: On December 8, 2005, the Third Additional Protocol was adopted to the 1949 Geneva Conventions. The protocol creates a new emblem – the Red Crystal – in addition to the Red Cross and Red Crescent Emblems currently in use.



The American Red Cross stated that “the Protocol paves the way for Magen David Adom, Israel’s national society, to take up full membership in the International Red Cross and Red Crescent Movement. It is an important step toward the Movement’s goal of being truly universal.”

The U.S. Department of State issued the following statement regarding adoption of the Third Additional Protocol: “The United States thanks the Swiss Government for its intensive diplomatic efforts to address this long-standing humanitarian issue. We also congratulate in particular the Palestine Red Crescent Society and Magen David Adom for concluding a Memorandum of Understanding and an operational agreement in advance of the conference, achievements which facilitated the adoption of the Third Protocol.”

For additional information on the Third Additional Protocol and the Magen David Adom Society, please see [this press release](#) from the American Red Cross, or visit: <http://www.afmda.org/>.

Committee Action: H.R. ____ will likely be introduced on December 5, 2006, and referred to the Committee on the Judiciary.

Cost to Taxpayers: A CBO score of H.R. ____ is unavailable, but the bill does not authorize new 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.

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.” *[emphasis added]*

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H.Con.Res. 73 — Supporting the goals and ideals of National High School Seniors Voter Registration Day — *as introduced* (McCrery, R-LA)

Order of Business: The resolution is scheduled for consideration on Tuesday, December 5, 2006, under a motion to suspend the rules and pass the resolution.

Note: The 104th Congress changed House rules to prohibit a bill from being considered on the House floor if “it establishes or expresses a commemoration”, which is defined as “a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time” (<http://clerk.house.gov/legisAct/legisProc/rules/rule12.html>)

This resolution resolves that Congress supports the ideals and goals of the day, and encourages students to register to vote. Because the resolution merely states support for, and urges students to register, but does not establish a commemorative day, the parliamentarian’s office has ruled that it is allowable under House rules.

Summary: H.Con.Res. 73 resolves that, “Congress supports the goals and ideals of National High School Seniors Voter Registration Day, and encourages all eligible students to register to vote.”

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

- “in order for the government of the United States to remain of the people, by the people, and for the people, individuals must take advantage of their right to vote;
- “the right to vote is one of the most important rights of a citizen, and every effort should be made to promote voter registration at school so that students may begin participating in the foundation of the Nation’s representative democracy;
- “the Legislature of Louisiana voted in 2002 to recognize annually the first Tuesday in May as National High School Seniors Voter Registration Day; and
- “the purpose of National High School Seniors Voter Registration Day is to allow students to register to vote at school to encourage their participation in making democracy work.”

Committee Action: H.Con.Res. 73 was introduced on February 17, 2005, and referred to the Committee on House Administration, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

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.

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H.Res. 1070 — Expressing the sense of the House of Representatives that Members of the House should actively engage with employers and the American public at large to encourage the hiring of members and former members of the Armed Forces who were wounded in service and are facing a transition to civilian life — *as introduced* (Hunter, R-CA)

Order of Business: The resolution is scheduled for consideration on Tuesday, December 4, 2006, under a motion to suspend the rules and pass the resolution, as amended.

Summary: H.Res. 1070 resolves that:

- Members of the House should actively engage with employers and the American public at large to encourage the hiring of members and former members of the Armed Forces who were wounded in service and are facing a transition to civilian life; and
- a strong relationship should be forged between Congress, local businesses, and members and former members of the Armed Forces towards the goal of finding employment for those who have sacrificed so much.

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

- “United States soldiers, sailors, airmen, and Marines continue to make significant personal sacrifices to protect and defend the Nation;
- “since the start of Operation Iraqi Freedom and Operation Enduring Freedom in late 2001 over 1,348,000 members of the Armed Forces have served overseas in combat theaters of operations;
- “over 19,600 members of the Armed Forces have been wounded in theater and as a result of their injuries many have been separated from their respective service;
- “as a result of required separation from military service due to their injuries incurred while in service, these members of the Armed Forces are transitioning to civilian careers; and
- “Members of Congress could provide assistance in making businesses and employers aware of the unique skills of wounded veterans and thereby help reduce the jobless rate for wounded veterans.”

Committee Action: H.Res. 1070 was introduced on September 29, 2006, and referred to the House Armed Services Committee’s Subcommittee on Military Personnel and the House Veterans’ Affairs Committee, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

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.

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