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Legislative Bulletin……..…July 14, 2004

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: $21.366 billion over five years

Effect on Revenue: Increases revenue $137 million over five years

Total Change in Mandatory Spending: $4.793 billion over five years

Total New State & Local Government Mandates: 2

Total New Private Sector Mandates: 1

Order of Business: The bill is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3463 would require that state unemployment compensation laws, as a condition of state eligibility for federal unemployment compensation administration grants, provide for the transfer of employees' unemployment experiences upon transfer or acquisition of the employer's business. The Secretary of Labor would be directed to report to Congress on state implementation of this requirement.

The bill would also direct the Secretary of Health and Human Services to disclose additional information on individuals and their employers in the National Directory of New Hires to a state agency that, for purposes of administering a federal or state unemployment compensation law, already transmits such individuals' names and Social Security numbers to the Secretary. Provides for information security, privacy, and penalties for violations.

The provisions of this bill are aimed at preventing people from taking unfair and illegal advantage of federal unemployment compensation.

Additional Background: "SUTA Dumping" in the bill's title stands for **S**tate **U**nemployment **T**ax **A**ct Dumping, which refers to intentional efforts by some businesses to avoid paying (i.e. "dumping") their fair share of state unemployment taxes, as follows. Employers pay state unemployment taxes, which are used to pay unemployment benefits when employees are laid off. These taxes are generally "experience rated," a concept dating back to the 1930s. That means employers who lay off more workers are supposed to have higher tax rates. The U.S. Department of Labor has warned states that employers may try to avoid paying their appropriate level of state taxes through "SUTA dumping" schemes. They do that by manipulating corporate structures to "dump" their experience of laying off employees.

Committee Action: On November 6, 2003, the bill was referred to the Ways & Means Committee, which took no official action on it.

Cost to Taxpayers: A preliminary cost estimate provided to the bill sponsor's office reports that this legislation would reduce mandatory spending by $7 million in FY2005 and by $67 million over the FY2005-FY2009 period. Furthermore, the bill would not affect revenues in FY2005 and would increase revenues by about $431 million over the FY2005-FY2009 period.

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?: The bill would expand certain eligibility requirements for federal grants.

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

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H.Res. 705—Urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization (English)

Order of Business: The resolution is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 705 would resolve that the President, within 120 days after the convening of the 109th Congress,:

- and annually thereafter, should report to Congress on progress in pursuing multilateral and bilateral trade negotiations to eliminate certain trade barriers described in the Trade Act of 2002; and
- should report to Congress on--

  (A) proposed alternatives to the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization; and

  (B) other proposals for redressing the tax disadvantage to United States businesses and workers, either by changes to the United States corporate income tax or by the adoption of an alternative, including--

    (i) assessing the impact of corporate tax rates,

    (ii) a system based on the principal of territoriality, and

    (iii) a border adjustment for exports such as is already allowed by the World Trade Organization for indirect taxes.

Additional Background: The resolution states that the World Trade Organization does not permit direct taxes, such as the corporate income tax, to be rebated or reduced on exports; yet it allows indirect taxes, such as a value-added tax, to be rebated on exports in other countries.

The resolution continues, "The distinction by the World Trade Organization between direct and indirect taxation is arbitrary and may induce economic distortions among nations with disparate tax systems….United States firms pay a high corporate tax rate on their export income and many foreign nations are allowed to rebate their value added taxes, thereby giving exporters in nations imposing value added taxes a competitive advantage over American workers."

Committee Action: On July 7, 2004, the resolution was referred to the Ways & Means 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. 4418—Customs Border Security Act (Crane)

Order of Business: The bill is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4418 would authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, and for the United States International Trade Commission, as follows:

Bureau of Customs and Border Protection (salaries and expenses)
FY2005: $6.199 billion (appropriated from the Customs User Fee Account)
FY2006: $6.466 billion (appropriated from the Customs User Fee Account)

Bureau of Immigration and Customs Enforcement (salaries and expenses)
FY2005: $4.011 billion
FY2006: $4.336 billion

United States Trade Representative (salaries and expenses)
FY2005: $39.55 million
FY2006: $39.55 million

United States International Trade Commission (salaries and expenses)
FY2005: $61.70 million
FY2006: $65.28 million

The bill would also direct the Commissioner of Customs, not later than September 30, 2005, to establish and implement a cost accounting system that would distinguish between commercial and noncommercial operations expenses and between expenditures enforcing customs laws and enforcing immigration laws. The Assistant Secretary for United States Immigration and Customs Enforcement would have to establish and implement an identical accounting system for its expenditures within the same timeframe. Mandates various reports on these accounting systems, including one on the extent to which customs user fees cover the related customs services expenses.

Additionally, H.R. 4418 would instruct the Commissioner of the Customs Service, in consultation with the Canadian Customs and Revenue Agency, to "seek to" establish Integrated Border Inspection Areas (IBIAs), which would be areas on either side of the U.S.-Canada border, in which U.S. Customs officers could inspect vehicles entering the U.S. from Canada *before* they enter the U.S., or Canadian Customs officers could inspect vehicles entering Canada from the U.S. before they enter Canada.

The bill would allow the Secretary of State, in coordination with the Secretary of Homeland Security and the Secretary of Agriculture, to enter into agreements with a foreign country for stationing customs and agriculture inspection officials of that country in the United States (if similar privileges are extended by that country to U.S. officials) for ensuring that persons and merchandise going directly to that country from the U.S., or that have gone directly from that country to the U.S., comply with the customs and other laws of that country governing the importation or exportation of merchandise.

Private charter air carriers would be authorized to pay overtime wages for customs officials who work after hours to provide customs services to a charter flight arriving after regular airport hours.

H.R. 4418 would express a sense of Congress that the Bureau of Customs and Border Protection of the Department of Homeland Security should *broadly* interpret, implement, and enforce the provisions relating to preferential treatment of textile and apparel articles in the African Growth and Opportunity Act (19 U.S.C. 3721), the Andean Trade Preference Act (19 U.S.C. 3203), and the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), in order to "expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries."

Committee Action: On May 20, 2004, the bill was referred simultaneously to the Ways & Means Committee and to the Judiciary Committee. On May 28th, the bill was referred to the Trade Subcommittee. On June 28th, the bill was referred to the Subcommittee on Immigration, Border Security, and Claims. No Judiciary Committee entity took official action on the legislation. On June 24th, the Trade Subcommittee marked up and by voice vote forwarded the bill to the full Ways & Means Committee. On July 8th, the Ways & Means Committee marked up and ordered the bill reported to the full House by a vote of 33-0.

Cost to Taxpayers: H.R. 4418 would authorize appropriations of about $10.3 billion in FY2005 and about $10.9 billion in FY2006.

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.Res. 576—Urging the Government of the People's Republic of China to improve its protection of intellectual property rights (*Watson*)

Order of Business: The resolution is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 576 would resolve that the House:

- "commends the Government of the People's Republic of China for the steps it has taken to improve its legal framework for intellectual property rights protection and for efforts to bring itself toward compliance with international standards for intellectual property rights established by the World Trade Organization (WTO);
- "recognizes, despite the steps referred to [above], the continuing existence of widespread intellectual property rights violations in China and encourages the Chinese Government to take further and immediate steps to improve enforcement of such rights;
- "urges the Chinese Government to undertake a coordinated nationwide intellectual property rights enforcement campaign, to eliminate the high criminal liability threshold and procedural obstacles that impede the effective use of criminal prosecution in addressing intellectual property rights violations, to increase the criminal penalties provided for in its laws and regulations, and to vigorously pursuit counterfeiting and piracy cases;
- "recommends that the Chinese Government implement more effective customs and border measures to prevent the massive exportation of pirated goods into the United States and other countries;
- "encourages the Chinese Government to fully and comprehensively implement a legal framework and effective enforcement mechanisms that would protect not only intellectual property rights held by United States and foreign business enterprises with or without investments in China, but also Chinese intellectual property rights holders, which is crucial to China's own economic development and technological advancement;
- "urges the Chinese Government to give greater market access to the foreign producers of legitimate products such as films and other audio-visual products in order to reduce demand for and prevalence of pirated and counterfeit goods in their absence;

- "calls upon the Chinese Government to promptly accede to the 1996 World Intellectual property Organization (WIPO) Internet-related treaties and harmonize its regulations and implementing rules with the treaties fully; and
- "will continue to monitor closely and work with the Administration to encourage China's efforts to bring its framework of laws, regulations and implementing rules into compliance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and to create and maintain effective intellectual property rights enforcement mechanisms capable of deterring counterfeiting and piracy activities."

Committee Action: On March 24, 2004, the resolution was referred to the International Relations Committee, which, by voice vote on March 31st, agreed to seek full House consideration of the resolution under suspension of the rules.

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. 1587—Viet Nam Human Rights Act of 2003 (Chris Smith)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill. The summary of the bill below reflects amended text that will be considered on the floor, not the introduced bill.

Summary: H.R. 1587 prevents nonhumanitarian assistance to the Government of Vietnam from exceeding the amount provided in fiscal year 2004 unless the President certifies to Congress that certain requirements are met. The requirements of the Government of Vietnam are as follows:

- must make "substantial progress forward releasing all political and religious prisoners;"
- must make "substantial progress toward respecting the right to freedom of religion, including the right to participate in religious activities and institutions without interference by or involvement of the Government;"
- must make "substantial progress toward returning estates and properties confiscated from the churches;"
- must make "substantial progress toward allowing Vietnamese nationals free and open access to United States refugee programs;"
- must make "substantial progress toward respecting the human rights of members of ethnic minority groups;" and

- no government official or agency may be complicit in a severe form of trafficking in persons or the government has taken all appropriate steps to end any such complicity.

If the Government of Vietnam fails to meet the criteria, aid may still be provided if the President determines that it would promote the purposes of the bill or is in the national interest of the United States.

H.R. 1587 also authorizes the President to provide assistance, through appropriate nongovernmental organizations (NGOs), for the support of individuals and organizations promoting democracy and human rights in Vietnam. The bill authorizes $2 million for each of fiscal years 2005 and 2006.

The bill further states that it is the policy of the United States to "take such measures as are necessary to overcome the jamming of Radio Free Asia by the Government of Vietnam, including the active pursuit of broadcast facilities in close geographic proximity to Vietnam." H.R. 1587 authorizes $9.1 million for fiscal year 2005 and $1.1 million for fiscal year 2006 for this purpose.

The bill also requires an annual report by the Secretary of State detailing, among other things, the development of the rule of law in Vietnam, the persons believed to be imprisoned, detained, tortured, or otherwise persecuted by the Government of Vietnam, and if applicable, the certification of the President that the requirements for nonhumanitarian aid (as described above) have been met.

Additional Background: The findings of H.R. 1587 note that the Government of Vietnam "is a one-party State, ruled and controlled by the Communist Party of Vietnam" and "continues to commit serious human rights abuses."

Committee Action: H.R. 1587 was introduced on April 3, 2003, and referred to the Committees on International Relations and Financial Services. On June 26, 2004, the International Relations Committee agreed by unanimous consent to seek consideration of the bill under suspension of the rules.

Cost to Taxpayers: The resolution authorizes $11.1 million for fiscal year 2005 and $3.1 million for fiscal year 2006.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill increases federal involvement in promoting human rights and democracy in Vietnam and increases funding authorized for that purpose, but does not create any new programs.

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

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H.Con.Res. 422 — Concerning the importance of the distribution of food in schools to hungry or malnourished children around the world (*McGovern*)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14, under a motion to suspend the rules and pass the bill.

Summary: The bill resolves:

"That Congress:

"(1) expresses its grave concern about the continuing problem of hunger and the desperate need to feed hungry and malnourished children around the world;

"(2) recognizes that the global distribution of food in schools to children around the world increases attendance, particularly for girls, and improves literacy rates and increases job opportunities, thereby helping to fight poverty;

"(3) recognizes that education of children around the world addresses several of the root causes of international terrorism;

"(4) recognizes that the world will be safer and more promising for children as a result of better school attendance;

"(5) expresses its gratitude to former Senators George McGovern and Robert Dole for supporting the distribution of food in schools around the world to children and for working to eradicate hunger and poverty around the world;

"(6) commends the Department of Agriculture, the Agency for International Development, the Department of State, the United Nations World Food Program, private voluntary organizations, non-governmental organizations, and cooperatives for facilitating the distribution of food in schools around the world;

"(7) expresses its continued support for the distribution of food in schools around the world;

"(8) supports expansion of the George McGovern-Robert Dole International Food for Education and Child Nutrition Program; and

"(9) requests the President to work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world."

Additional Information: According to the Committee, there are more than 300 million chronically hungry and malnourished children in the world. The Global Food for Education Initiative pilot program, established in 2001, donated surplus United States agricultural commodities to the United Nations World Food Program and other recipients for distribution to nearly 7,000,000 hungry and malnourished children in 38 countries. In the 2002 Farm bill, this program was expanded from a pilot program to a full government program: the George McGovern-Robert Dole International Food for Education and Child Nutrition Program. This program, according to the committee, provides food to nearly 2 million hungry or malnourished children in 28 countries.

Committee Action: H.Con.Res. 422 was introduced on May 13, 2004, and referred to the House Committee on International Relations. The committee, by unanimous consent, agreed to seek consideration of the bill under suspension of the rules.

Cost to Taxpayers: While the resolution itself has no cost, it "supports expansion of the George McGovern-Robert Dole International Food for Education and Child Nutrition Program." This program was funded at $49.6 million in FY04 and yesterday the House of Representatives passed (as part of the Agriculture appropriations bill) an increase of $25.3 million for the program for FY05, which if enacted would bring it to $75 million a year.

Does the Bill Expand the Size and Scope of the Federal Government?: The resolution supports the expansion of a current federal government program, though as a resolution, it does not actually increase the size and scope.

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

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H.Res. 615—Expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group (WEOG) at the United Nations (Ros-Lehtinen)

Order of Business: The resolution is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 615 would resolve a sense of the House that:

- "the President should direct the United States Permanent Representative to the United Nations to seek an immediate end to the persistent and deplorable inequality experienced by Israel in the United Nations;
- "United States interests would be well served if Israel were afforded the benefits of full membership in the Western European and Others Group (WEOG) at the United Nations so that it could fully participate in the United Nations system;
- "in accordance with section 405(a) of division C of H.R. 1950, as passed the House of Representatives on July 16, 2003, 'the Secretary of State and other appropriate officials of the United States Government should pursue an aggressive diplomatic effort and should take all necessary steps to ensure the extension and upgrade of Israel's membership in the Western European and Others Group at the United Nations;' and
- "the Secretary of State should submit to Congress on a regular basis a report which describes actions taken by the United States Government to encourage the Western European and Others Group member states to accept Israel as a full member of their regional bloc and describes the responses thereto from the member states."

Additional Background: As the resolution points out, Israel has been refused admission to the Asia geographical region of the United Nations and is therefore the **only** member state of the United Nations that remains outside its appropriate geographical region. As a result, Israel cannot be elected to any major body of the United Nations, is precluded from voting in

any United Nations major body (except the General Assembly), and is denied full participation in the regular work of the United Nations.

On May 30, 2000, Israel accepted an invitation to become a temporary, limited member of the Western European and Others Group (WEOG) at the United Nations. This limited membership prevents Israel from participating in many activities, however, such as conferences on human rights and racism.

Membership in WEOG includes the non-European countries of Canada, Australia, and the United States. This group is the only non-geographical group at the UN and is based more on sharing a Western democratic tradition.

Committee Action: On April 30, 2004, the resolution was referred to the International Relations Committee. On May 11th, the resolution was referred to the Subcommittee on Middle East and Central Asia, which, on the following day, marked up and by unanimous consent forwarded the resolution to the full Committee. On June 24th, the full Committee agreed by unanimous consent to seek full House consideration of the resolution under suspension of the rules.

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.Res. 713--Deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israel Conflict (Pence)

Order of Business: The resolution is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 713 would resolve that the House:

- "condemns the Palestinian leadership for failing to carry out its responsibilities under the Roadmap and under other obligations it has assumed, to engage in a sustained fight against terrorism, to dismantle the terrorist infrastructure, and to bring an end to terrorist attacks directed at Israel;
- "deplores—

--the misuse of the International Court of Justice (ICJ) by a majority of members of the United Nations General Assembly for the narrow political purpose of advancing the Palestinian position on matters Palestinian authorities have said should the subject of negotiations between the parties;
--the ICJ's willingness to acquiesce in efforts that are likely to undermine its reputation and interfere with a resolution of the Palestinian–Israeli conflict; and
--the attempt to infringe upon Israel's right to self defense, including under Article 51 of the Charter of the United Nations;

- "commends the President and the Secretary of State for their leadership in marshaling opposition to the misuse of the ICJ in this case;
- "calls on members of the international community to reflect soberly on—
  --the steps taken by the Government of Israel to mitigate the impact of the security barrier on Palestinians, including steps it has taken by order of its High Court of Justice, without being required to do so by the ICJ; and
  --the damage that will be done to the ICJ, to the United Nations, and to individual Israelis and Palestinians, by actions taken under color of the ICJ's advisory judgment that interfere in the Roadmap process and impede efforts to achieve progress toward a negotiated settlement between Israelis and Palestinians; and
- "cautions members of the international community that they risk a strongly negative impact on their relationship with the people and Government of the United States should they use the ICJ's advisory judgment as an excuse to interfere in the Roadmap process and impede efforts to achieve progress toward a negotiated settlement."

Additional Background: Israel continues to build a temporary security fence in key areas in the West Bank in order to prevent the infiltration of terrorists into the rest of Israel. On December 8, 2003, the United Nations General Assembly adopted Resolution ES–10/14 requesting that the International Court of Justice (ICJ) render an opinion on the international legality of the security fence. The United States, Australia, Belgium, Cameroon, Canada, the Czech Republic, the Federated States of Micronesia, France, Germany, Greece, Ireland (for itself and in addition on behalf of the Member States and Acceding States of the European Union), Italy, Japan, the Marshall Islands, the Netherlands, Norway, Palau, the Russian Federation, South Africa, Spain, Sweden, Switzerland, and the United Kingdom submitted objections on various grounds against the ICJ hearing the case. Nevertheless, the ICJ did hear the case and on July 9, 2004, issued a near-unanimous, non-binding advisory opinion that Israel's security fence was ''illegal'' and should be dismantled, and that Article 51 of the United Nations Charter did not apply to Israeli actions in self-defense with respect to violence emanating from the West Bank.

To read the actual text of the ICJ ruling, visit this webpage:
http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm

The Bush Administration has called on the international community to disregard the ICJ's opinion and to proceed with efforts at a negotiated peace settlement between Israel and the Palestinians.

A report from the Israeli Ministry of Foreign Affairs reports a dramatic drop in the number of terrorist attacks since the construction of the fence: http://www.mfa.gov.il/MFA/About+the+Ministry/MFA+Spokesman/2004/Anti-terrorist+fence+cuts+Samaria-based+attacks+by+90+percent.htm

H.Res. 713 contains various elements in Rep. Mike Pence's H.Con.Res. 371 (introduced in February 2004), which, with 164 co-sponsors, supports the construction by Israel of a security fence to prevent Palestinian terrorist attacks and condemns the decision by the United Nations General Assembly to request the International Court of Justice to render an opinion on the legality of the security fence.

H.Res. 713 also points out that Palestinian terrorism kills American citizens as well. To access the most updated RSC list of Americans killed and injured by Palestinian terrorism, visit this webpage: http://johnshadegg.house.gov/rsc/Americans%20Killed%20by%20Palestinian%20Terrorism--July%202004.pdf

To read the most updated RSC list of the tactics used by Palestinian terrorists, visit this webpage: http://johnshadegg.house.gov/rsc/Tactics%20of%20Palestinian%20Terrorism--July%202004.pdf

Committee Action: On July 13, 2004, the resolution was referred to the International Relations Committee, which took no official action on the resolution.

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.Con.Res. 462—Reaffirming unwavering commitment to the Taiwan Relations Act (Hyde)

Order of Business: The resolution is scheduled to be considered on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 462 would resolve that:

- "Congress reaffirms its unwavering commitment to the Taiwan Relations Act (22 U.S.C. 3301 et seq.) as the cornerstone of United States relations with Taiwan;

- "the military modernization and weapons procurement program of the People's Republic of China is a matter of grave concern, and particularly the current deployment of approximately 500 missiles directed toward Taiwan;
- "the President should direct all appropriate United States Government officials to raise these grave concerns regarding military threats to Taiwan with officials of the Government of the People's Republic of China;
- "the President and Congress should determine whether the escalating arms buildup, including deployment of offensive weaponry and missiles in areas adjacent to the Taiwan Strait, requires that additional defense articles and services be made available to Taiwan, and the United States Government should encourage the leadership of Taiwan to devote sufficient financial resources to the defense of their island;
- "as recommended by the U.S.-China Economic and Security Review Commission, the Department of Defense should provide a comprehensive report on the nature and scope of military sales by the Russian Federation to the People's Republic of China to the Committees on International Relations and Armed Services of the House of Representatives and Committees on Foreign Relations and Armed Services of the Senate;
- "the President should encourage further dialogue between democratic Taiwan and the People's Republic of China; and
- "the United States Government should not discourage current officials of the Taiwan Government from visiting the United States on the basis that doing so would violate the 'one China policy.'"

Additional Background: On April 10, 1979, the Taiwan Relations Act (22 U.S.C. 3301 et seq.), codified the basis for continued commercial, cultural, and other relations between the United States and Taiwan and denied official U.S. diplomatic recognition to Taiwan. The Act affirmed that the decision of the United States to establish diplomatic relations with the People's Republic of China (PRC) was based on the expectation that the future of Taiwan would be determined by peaceful means. However, a Department of Defense report last year documented that the PRC has deployed about 450 short-range ballistic missiles against Taiwan and is adding 75 missiles per year to this arsenal. Section 3 of the Act (22 U.S.C. 3302) requires that the U.S. make available defense articles and services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability and that the U.S. come to the physical defense of Taiwan, if necessary.

The resolution also notes that Taiwan's 1996 election was "the first time in five millennia of recorded Chinese history that a democratically elected president took office."

Committee Action: On June 23, 2004, the resolution was referred to the International Relations Committee. On June 24th, the full Committee agreed by unanimous consent to seek full House consideration of the resolution under suspension of the rules.

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.Res. 688—Commending the Government of Portugal and the Portuguese people for their long-standing friendship, stalwart leadership, and unwavering support of the United States in the effort to combat international terrorism (Nunes)

Order of Business: The resolution is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 688 resolves that the House:

> "(1) is grateful for the support of the people and Government of Portugal;
> "(2) commends the Government of Portugal and the Portuguese people for their steadfast friendship, resolute leadership, and unwavering support;
> "(3) commends the bravery and courage of all members of the Portuguese armed forces who have participated in the effort to bring an end to international terrorism; and
> "(4) expects the unique friendship between the United States and Portugal to continue."

Additional Background: According to the resolution, "Portugal has sent brave soldiers, medical teams, police, flight crews, and other military personnel to Iraq and has continued to authorize the use of Lajes Air Base, in Azores, Portugal, for strategic staging in the War on Terrorism, including the current engagement in Iraq."

Committee Action: The resolution was introduced on June 22, 2004, and referred to the Committee on International Relations. The committee did not consider the resolution.

Cost to Taxpayers: The resolution does not authorize any 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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S. 2264—Northern Uganda Crisis Response Act (*Sen. Feingold*)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

S. 2264 passed the Senate by unanimous consent on May 7, 2004.

Summary: S. 2264 expresses the Sense of Congress that the United States should:

"(1) work vigorously to support ongoing efforts to explore the prospects for a peaceful resolution of the conflict in northern and eastern Uganda;

"(2) work with the Government of Uganda and the international community to make available sufficient resources to meet the immediate relief and development needs of the towns and cities in Uganda that are supporting large numbers of people who have been displaced by the conflict;

"(3) urge the Government of Uganda and the international community to assume greater responsibility for the protection of civilians and economic development in regions in Uganda affected by the conflict, and to place a high priority on providing security, economic development, and humanitarian assistance to the people of Uganda;

"(4) work with the international community, the Government of Uganda, and civil society in northern and eastern Uganda to develop a plan whereby those now displaced may return to their homes or to other locations where they may become economically productive;

"(5) urge the leaders and members of the Lord's Resistance Army to stop the abduction of children, and urge all armed forces in Uganda to stop the use of child soldiers, and seek the release of all individuals who have been abducted;

"(6) make available increased resources for assistance to individuals who were abducted during the conflict, child soldiers, and other children affected by the conflict;

"(7) work with the Government of Uganda, other countries, and international organizations to ensure that sufficient resources and technical support are devoted to the demobilization and reintegration of rebel combatants and abductees forced by their captors to serve in non-combatant support roles;

"(8) cooperate with the international community to support civil society organizations and leaders in Uganda, including Acholi religious leaders, who are working toward a just and lasting resolution to the conflict;

"(9) urge the Government of Uganda to improve the professionalism of Ugandan military personnel currently stationed in northern and eastern Uganda, with an emphasis on respect for human rights, accountability for abuses, and effective civilian protection;

"(10) work with the international community to assist institutions of civil society in Uganda to increase the capacity of such institutions to monitor the human rights situation in northern Uganda and to raise awareness of abuses of human rights that occur in that area;

"(11) urge the Government of Uganda to permit international human rights monitors to establish a presence in northern and eastern Uganda;

"(12) monitor the creation of civilian militia forces in northern and eastern Uganda and publicize any concerns regarding the recruitment of children into such forces or

the potential that the establishment of such forces will invite increased targeting of civilians in the conflict or exacerbate ethnic tension and violence; and

"(13) make clear that the relationship between the Government of Sudan and the Government of the United States cannot improve unless no credible evidence indicates that authorities of the Government of Sudan are complicit in efforts to provide weapons or other support to the Lord's Resistance Army."

The bill also requires the Secretary of State to submit a report to Congress on the conflict in Uganda not later than six months after the date of enactment. The report would have to include the following information:

(1) The individuals or entities that are providing financial and material support for the Lord's Resistance Army, including a description of any such support provided by the Government of Sudan or by senior officials of such Government.

(2) The activities of the Lord's Resistance Army that create obstacles that prohibit the provision of humanitarian assistance or the protection of the civilian population in Uganda.

(3) The practices employed by the Ugandan People's Defense Forces in northern and eastern Uganda to ensure that children and civilians are protected, that civilian complaints are addressed, and that any member of the armed forces that abuses a civilian is held accountable for such abuse.

(4) The actions carried out by the Government of the United States, the Government of Uganda, or the international community to protect civilians, especially women and children, who have been displaced by the conflict in Uganda, including women and children that leave their homes and flee to cities and towns at night in search of security from sexual exploitation and gender-based violence.

Additional Background: For more than 17 years, the Government of Uganda has been engaged in a conflict with the Lord's Resistance Army. The Secretary of State has designated the Lord's Resistance Army as a terrorist organization and placed the Lord's Resistance Army on the Terrorist Exclusion list. It is estimated that more than 1,000,000 people have been displaced from their homes in Uganda as a result of the conflict.

Committee Action: S. 2264 was referred to the Committee on International Relations on May 10, 2004. The committee agreed to seek consideration of the bill under suspension of the rules by unanimous consent on June 24, 2004.

Cost to Taxpayers: According to the Congressional Budget Office, S. 2264 "would result in no significant additional costs to the federal government because preparing the report would not add significantly to the State Department's workload."

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: Senate committee reports are not required to cite constitutional authority.

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H.R. 1914—Jamestown 400th Anniversary Commemorative Coin Act of 2003 (Jo Ann Davis)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1914 requires the Secretary of the Treasury to mint coins in 2007 commemorating the 400th anniversary of the Jamestown settlement in Virginia. Specifically, the Secretary would have to mint not more than 100,000 five-dollar gold coins and not more than 100,000 one-dollar silver coins. The Secretary, in consultation with the Jamestown 2007 Steering Committee, the National Park Service, and the Commission of Fine Arts, would decide the design of the coin. The coins would be sold at face value, plus any cost related to designing and issuing the coins.

Purchases of coins would include a surcharge of $35 for the five-dollar coins and $10 for the one-dollar coins. Half of the surcharge funds would be used for preservation, educational programs, and research activities related to Jamestown. The other half of the surcharge funds would be divided between the Secretary of the Interior, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia. The surcharge would not be collected if the number of commemorative coin programs for the calendar year exceeds two.

Additional Background: Jamestown, Virginia, the first permanent European colony in the United States and the capital of Virginia for 92 years, was founded in 1607.

Committee Action: H.R. 1914 was introduced on May 1, 2003, and referred to the Committee on Financial Services. The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology approved the bill by voice vote on March 10, 2004, and the full committee ordered the bill reported by voice vote on March 17, 2004.

The bill was also referred to the Committee on Ways and Means on April 27, 2004. The committee reported the bill (amended) by voice vote on June 23, 2004.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 1914 could "raise as much as $8.5 million in surcharges if the Mint sells the maximum number of authorized coins. Recent commemorative coin sales, however, suggest that receipts would be about $3 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: The Financial Services Committee, in House Report 108-472 Part 1, cites Article I, Section 8, Clause 1 (general welfare) and Clause 5 (coinage of money). The Ways and Means Committee, in House Report 108-472 Part 2, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 3277—Marine Corps 230th Anniversary Commemorative Coin Act (*Murtha*)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3277 requires the Secretary of the Treasury to mint not more than 500,000 one-dollar silver coins in 2005 commemorating the 230th anniversary of the United States Marine Corps. The Secretary would select the design of the coins, after consultation with the Marine Corps Historical Division and the Commission of Fine Arts. The coins would be sold at face value, plus any cost related to designing and issuing the coins.

Purchases of coins would include a surcharge of $10 per coin. The funds from the surcharge would be used to construct the Marine Corps Heritage Center, as authorized by section 1 of Public Law 106-398. The surcharge would not be collected if the number of commemorative coin programs for the calendar year exceeds two.

Additional Background: November 10, 2005, marks the 230th anniversary of the United States Marine Corps.

Committee Action: H.R. 3277 was introduced on October 8, 2003, and referred to the Committee on Financial Services. The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology approved the bill by voice vote on March 10, 2004, and the full committee ordered the bill reported by voice vote on March 17, 2004.

The bill was also referred to the Committee on Ways and Means on April 27, 2004. The committee reported the bill (amended) by voice vote on June 23, 2004.

Cost to Taxpayers: The Congressional Budget Office estimates that "sales from the coins that would be authorized by H.R. 3277 could raise as much as $5 million in surcharges if the Mint sells the maximum number of authorized coins. However, the experience of recent commemorative coin sales suggests that receipts would be about $3 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: The Financial Services Committee, in House Report 108-474 Part 1, cites Article I, Section 8, Clause 1 (general welfare) and Clause 3 (interstate commerce). The Ways and Means Committee, in House Report 108-474 Part 2, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 2768—John Marshall Commemorative Coin Act (Bachus)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2768 requires the Secretary of the Treasury to mint not more than 400,000 one-dollar silver coins in 2005 commemorating the 250th anniversary of the birth of John Marshall. The Secretary would select the design of the coins after consultation with the Commission of Fine Arts and the Supreme Court Historical Society. The coins would be sold at face value, plus any cost related to designing and issuing the coins.

Purchases of coins would include a surcharge of $10 per coin. The funds from the surcharge would be provided to the Supreme Court Historical Society for historical research and educational programs, supporting fellowship programs, internships, and docents at the Supreme Court, and collecting and preserving antiques, artifacts, and other historical items related to the Supreme Court. The surcharge would not be collected if the number of commemorative coin programs for the calendar year exceeds two.

Additional Background: John Marshall served as the Chief Justice of the United States Supreme Court from 1801 to 1835, the longest tenure of any Chief Justice in the Nation's history. Marshall also served as a soldier in the Revolutionary War, a Member of Congress, and Secretary of State.

Committee Action: H.R. 2768 was introduced on July 17, 2003, and referred to the Committee on Financial Services. The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology approved the bill by voice vote on March 10, 2004, and the full committee ordered the bill reported by voice vote on March 17, 2004.

The bill was also referred to the Committee on Ways and Means on April 27, 2004. The committee reported the bill (amended) by voice vote on June 23, 2004.

Cost to Taxpayers: According to the Congressional Budget Office, H.R. 2768 "could raise as much as $4 million in surcharges if the Mint sells the maximum number of authorized coins. Recent commemorative coin sales, however, suggest that receipts would be about $1.5 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: The Financial Services Committee, in House Report 108-473 Part 1, cites Article I, Section 8, Clause 1 (general welfare) and Clause 5 (coinage of money). The Ways and Means Committee, in House Report 108-473 Part 2, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 3884—Hipolito F. Garcia Federal Building and United States Courthouse Building Designation Act (*Gonzalez*)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3884 would designate the Federal building and United States courthouse located at 615 East Houston Street in San Antonio, Texas, as the "Hipolito F. Garcia Federal Building and United States Courthouse."

Additional Background: Judge Garcia was born December 4, 1925 in San Antonio, Texas. After serving in the Army from 1943 to 1945, Judge Garcia attended St. Mary's University School of Law, where he graduated in 1951. In 1952, he became the assistant criminal attorney for Bexar County, Texas. Judge Garcia was appointed as a Judge to the County Court in 1964 and State District Court in 1975. In 1981, President Carter named Judge Garcia to the United States District Court for the Western District of Texas. Hipolito Garcia passed away January 12, 2002, in Austin, Texas.

Committee Action: H.R. 3884 was introduced on March 3, 2004, and referred to the Committee on Transportation and Infrastructure. The committee reported the bill by voice vote on May 12, 2004.

Cost to Taxpayers: The only costs associated with a building renaming are those for sign and map changes, none of which significantly affect 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 Transportation and Infrastructure Committee, in House Report 108-557, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 4056—Commercial Aviation MANPADS Defense Act of 2004 (Mica)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4056 encourages the President to pursue international diplomatic and cooperative efforts to limit the availability, transfer, and proliferation of man-portable air defense systems (MANPADS) worldwide and to assure the destruction of excess, obsolete, and illicit stocks of MANPADS. No later than 180 days after the date of enactment, the President would have to report to Congress on these efforts, and the Secretary of State would have to provide annual status updates. The President is also encouraged to "pursue strong programs to reduce the number of MANPADS worldwide" and is authorized "such sums as may be necessary" for that purpose.

The bill also requires the Federal Aviation Administration to establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft that have been certified as "effective and functional" by the Department of Homeland Security (DHS).

The Secretary of DHS is required to submit a report to Congress, no later than one year after enactment, describing DHS's plans to secure airports and aircraft from MANPADS attacks. As part of this report, DHS would have to conduct vulnerability assessments for airports and develop contingency plans in the event intelligence is received indicating a high risk of MANPADS attacks on aircraft.

Additional Background: Man-portable air defense systems, or MANPADS, are surface-to-air missile systems designed to be portable and fired by a single individual. The Committee on Transportation and Infrastructure estimates that there are likely over 700,000 MANPADS worldwide and that at least 27 "non-state" or terrorist groups have these weapons.

Committee Action: H.R. 4056 was introduced on March 30, 2004, and referred to the Committee on Transportation and Infrastructure and the Committee on International Relations. The Aviation Subcommittee approved the bill on April 29, 2004, by voice vote and the full Transportation Committee reported the bill by voice vote to the House on May 12, 2004. The International Relations Committee discharged the bill on June 23, 2004.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 4056 would have no significant impact on the federal government.

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 Transportation and Infrastructure Committee, in House Report 108-565, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 4012—A bill to amend the District of Columbia College Access Act of 1999 to reauthorize for 5 additional years the public school and private school tuition assistance programs established under the Act (Tom Davis)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a motion to suspend the rules and pass the bill. The summary below reflects the text of a substitute to the committee-approved version of H.R. 4012 that will be offered on the floor.

Summary: H.R. 4012 would reauthorize the District of Columbia College Access Program for five years (through 2010). The program is currently set to expire in 2005. H.R. 4012 does not change the authorization level in current law of "such sums."

Additional Background: District of Columbia College Access Program was created in 1999 (Public Law 106-98). The program permits D.C. residents who are recent high school graduates to pay in-state tuition rates upon admission to any college or university in the country. The federal government pays the difference between the two rates, with public university grants limited to $10,000 in any award year, with a total cap of $50,000 per individual. Grants are also provided to students to attend private institutions in the D.C. metropolitan area and private Historically Black Colleges and Universities in Maryland and Virginia of $2,500 per year, with a total cap of $12,500 per student.

In FY04, $16.9 million was provided for the program. The President has requested $17 million for FY05 and the FY05 D.C. Appropriations bill recently approved by the Appropriations Committee provides $25.6 million, a 51.5% increase over FY04 and a 50.6% increase over the President's request.

Committee Action: H.R. 4012 was introduced on March 23, 2004, and referred to the Committee on Government Reform. The committee approved the bill by voice vote on April 1, 2004. However, the committee-approved version of the bill permanently reauthorized the D.C. College Access Program.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 4012 would result in additional discretionary spending of $106 million over the 2006-2009 period, subject to appropriations.

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 Committee on Government Reform, in House Report 108-527, cites Article I, Section 8, Clauses 17 (authority to exercise exclusive legislation over the District) and 18 ("all laws necessary and proper").

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H.R. 4759—United States-Australia Free Trade Agreement Implementation Act (DeLay)

Order of Business: The bill is scheduled to be considered on Wednesday, July 14th, subject to a closed rule. Under Trade Promotion Authority (Public Law 107-210), bills implementing trade agreements are not amendable (either in committee or on the House floor).

Summary by Title: H.R. 4759 would approve and implement the U.S.-Australia Free Trade Agreement (FTA), finalized on May 18, 2004 and submitted to Congress on July 6, 2004. The Agreement would be implemented no earlier than January 1, 2005, provided that Australia has taken the necessary compliance steps. The Agreement would reduce and eventually eliminate virtually all barriers to trade in goods and services and to investment. Goods originating from Australia would have preferential tariff treatment in the United States and vice versa. 99% of Australian tariffs on U.S. manufactured and agricultural goods would be eliminated upon implementation. Highlights of H.R. 4759 are as follows:

Title I—Approval of, and General Provisions Relating to, the Agreement

- Makes U.S. law paramount to any provision in the Agreement that conflicts with U.S. law. States that the Agreement would not modify or limit the authority under any U.S. law.
- A state law that conflicts with any provision in the Agreement could only be declared invalid by federal government action.
- Prevents private legal actions against any provision of the Agreement.
- Provides for layover procedures for certain actions made by presidential proclamation under the Agreement.
- Authorizes "such sums" as may be necessary for the President to establish an office within the Department of Commerce to administer the Agreement.

Title II—Customs Provisions

- Allows the President to modify any tariffs or tariff-free treatment in the Agreement and to create additional tariffs as necessary (subject to certain limitations).

- Allows for additional tariffs on "agricultural safeguard goods," which include certain horticultural items and beef (under certain quantity and pricing conditions and exceptions). The additional beef tariffs (on beef imported into the U.S.) could only be applied between 2013 and 2022. Separate additional beef tariffs could only begin in 2023 and afterwards (again under certain quantity and pricing conditions and exceptions).

- The assessment of an additional duty under either the horticulture safeguard or the beef safeguard would cease to apply to a good on the date on which duty-free treatment must be provided to that good. Although there is no termination date for the beef safeguard, the sum of the duties assessed under any agricultural safeguard is capped.

- The U.S. Trade Representative could waive any application of an agricultural safeguard, if, after consultation with Congress and appropriate private sector advisory committees, he determines that extraordinary market conditions demonstrate that a waiver would be in the U.S. national interest.

- Defines in detail what an "originating good" is (originating from either the United States or from Australia) and what "originating materials" are, as they relate to preferential tariff treatment under the Agreement. Allows for the inclusion of a *de minimis* amount of materials from other countries (up to 10%) in goods eligible for preferential tariff treatment under the Agreement.

- To qualify as an "originating good" imported into the U.S. from Australia, an apparel product would have to be cut (or knit to shape) and sewn (or otherwise assembled) in Australia from yarn, or fabric made from yarn, that originates in Australia, the U.S., or both. Allows for a *de minimis* exception (up to 7%) of fibers from other countries in textiles eligible for preferential tariff treatment under this Agreement.

- Textiles or apparel goods classifiable as "goods put up in sets for retail sale" would not be considered to be "originating goods," unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10% of the value of the set determined for purposes of assessing customs duties.

- Details the procedures for determining the value and the originating or non-originating status of certain automotive and other goods.

- Prohibits customs user fees from being charged with respect to "originating goods" under the Agreement.

- Allows importers (without penalty) to voluntarily correct mistaken claims that a good qualifies under the Agreement, as long as they pay the proper duties, subject to regulations to be promulgated by the Secretary of the Treasury.

- Authorizes the President to take certain actions while a verification of the originating status of a textile or apparel good is taking place. Such actions include suspending preferential tariff treatment to the textile or apparel good for which a claim of origin has been made or, in a case where the request for verification was based on a reasonable suspicion of unlawful activity related to such goods, for textile or apparel goods exported or produced by the person subject to a verification.

Title III—Relief from Imports

- Authorizes the filing (with the U.S. International Trade Commission) by an entity, including a trade association, firm, certified or recognized union, or group of representative workers, of a petition requesting adjustment to the obligations of the United States under the Agreement. The Commission would then have to investigate whether "a substantial cause of serious injury or threat thereof to [a] domestic industry" is occurring as a result of the Agreement with Australia (subject to certain exceptions).

- If the Commission finds injury or threat of injury, it would then have to recommend the amount of import relief necessary to correct or prevent harm. Further, the Commission would have to facilitate the efforts of the domestic industry to make a "positive adjustment to import competition."

- The President would not have to provide the suggested import relief if doing so would have greater economic and social costs than benefits.

- Import relief could entail increasing duties or suspending their reductions and would have to occur progressively in intervals if the relief is to last more than one year.

- Import relief is not to last more than two years, subject to extension under certain circumstances.

- No import relief could be commenced after the Agreement has been in force for ten years (subject to an exception).

- Enacts similar, yet more stringent, provisions for import relief for the textile and apparel industries.

- Prohibits the President from releasing information that is submitted in an import relief proceeding and that the President considers to be confidential business information, unless the party submitting the confidential business information had notice at the time of submission that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits such

confidential business information to the President, the party would have to submit a non-confidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

Title IV—Procurement

- Allows the U.S. government to procure products and services from Australia. Current procurement law discriminates against foreign suppliers of goods and services in favor of U.S. providers. Such discrimination is often waived as part of a bilateral or multilateral trade agreement.

Additional Background: To read a **summary of the Agreement by issue-area** (such as pharmaceuticals, agriculture, intellectual property, and the environment), visit this webpage: http://www.ustr.gov/new/fta/Australia/summary.htm

To access the **actual text of the Agreement**, visit this webpage: http://www.ustr.gov/new/fta/Australia/final/ausfta%20text%20june11%20rect.pdf

Committee Action: On July 6, 2004, the implementation bill was referred to the Ways & Means Committee, which, by voice vote on July 8, 2004, ordered the bill reported without amendment (as required by Trade Promotion Authority) to the full House.

Administration Position: Since the Administration negotiated the Agreement, it is strongly supporting this congressional implementing legislation.

Cost to Taxpayers: CBO estimates that implementing the Australia FTA would reduce federal revenues by $29 million in FY2005 and by $294 million over the FY2005-FY2009 period. The FTA also would increase direct spending by less than $500,000 in FY2005 and would authorize about $100,000 a year (subject to appropriations) to administratively implement the Agreement.

Does the Bill Expand the Size and Scope of the Federal Government?: No. This legislation would implement the U.S.-Australia Free Trade Agreement, which would lower and eliminate tariffs (and other barriers to trade) between the two countries, thereby reducing government involvement in the free market.

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

Constitutional Authority: The Ways & Means Committee, in House Report 108-597, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to "lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States").

Outside Organizations: The U.S. Chamber of Commerce, which strongly supports the U.S.-Australia Free Trade Agreement, has issued a notice that it will consider including a vote on the Agreement in its annual ratings of Members of Congress. The Chamber noted that the U.S. enjoys a $10 billion goods and services surplus with Australia. The U.S. is Australia's number two trading partner (behind Japan) and is Australia's number one foreign investor.

The National Council of Textile Organizations issued a statement in support of the Agreement.

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S. 15—Project Bioshield Act of 2004 (Sen. Gregg)

Order of Business: The bill is scheduled for consideration on Wednesday, July 14th, under a unanimous consent agreement.

Note: The House of Representatives passed a similar bill (H.R 2122) on July 16, 2003, 421-2 http://clerk.house.gov/evs/2003/roll373.xml

To see the difference between the House-passed and Senate-passed versions see the CRS report http://www.congress.gov/erp/rl/pdf/RL32416.pdf "Project Bioshield: Side by Side; Comparison of House- and Senate-Passed Versions"

Summary: S. 15 would amend the Public Health Service Act (PHSA) to create permanent, indefinite funding authority for the procurement of certain biomedical countermeasures (drugs, devices, and biological products to treat, identify, and prevent the public health consequences of terrorism). Funding to buy these biomedical countermeasures would be provided to the Department of Homeland Security (DHS), but the Department of Health and Human Services (HHS) would be responsible for procuring and stockpiling the countermeasures.

"Qualified countermeasure" is defined, in part, in the bill as a drug, product, or device that the Secretary determines to be a priority to:

- "treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security."

The bill says the Secretary may not limit competitive bidding processes unless he "determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation."

Strategic National Stockpile: The bill authorizes $640 million for FY02 (and such sums from FY03-06) for the Secretary of HHS in coordination to the DHS Secretary to "maintain a

stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies…to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency." The Secretary is also directed to award contracts to ensure that this stockpile includes quantities of the smallpox vaccine, with an authorization for FY02 of $509 million and such sums as may be necessary for FY03-06. The bill specifies that no federal agency shall disclose any information identifying the location at which materials in the stockpile are stored.

Emergency Defined: An emergency justifying certain actions in the bill may be declared on the basis of:

- "a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents;
- "a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces of attack with a specified biological, chemical, radiological, or nuclear agent or agents; or
- "a determination by the Secretary of a public health emergency under section 319 of the Public Health Service Act that affects, or has a significant potential to affect, national security, and that involves a specified biological, chemical, radiological, or nuclear agent or agents, or a specified disease or condition that may be attributable to such agent or agents."

According to CBO, the bill clarifies a provision of the PHSA related to federal assumption of liability under the Federal Tort Claims Act for injuries related to the administration of the smallpox vaccine.

In addition, S. 15 would relax certain requirements for federal agencies related to the development and approval of countermeasures. The bill would provide the NIH with increased authority and flexibility to award contracts and grants for research and development of biomedical countermeasures, hire technical experts, and procure items necessary for research. The bill also would grant authority for the Food and Drug Administration (FDA) to approve the use of certain biomedical countermeasures during emergencies designated by the Secretary of HHS.

S. 15 would allow the Secretary to seek civil monetary penalties against individuals who violate requirements of the emergency use authorization.

The bill includes certain annual reports, and within four years of enactment, a GAO study.

Diversity: The bill includes a provision stating that the HHS Secretary shall develop "outreach measures to ensure to the extent practicable that diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians,

Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, or other underrepresented populations, are meaningfully aware of available research and development grants, contracts, cooperative agreements, and procurements conducted" in the bill.

Committee Action: S. 15 was introduced in the Senate on March 11, 2003, and passed the Senate 99-0 on May 19, 2004.

Cost to Taxpayers: In total, CBO estimates that implementing the biomedical countermeasure provisions of S. 15 would cost $270 million in 2004 and $8.1 billion over the 2004-2013 period. Total new budget authority for government contracts under Project Bioshield would be about $9.4 billion over the same period. Biomedical countermeasures that would be purchased under the Administration's plan account for $4.8 billion of the estimated spending--acquisition costs would comprise about 70 percent of that amount, while inventory management and replacement costs would make up the balance.

The bill authorizes for security countermeasures "up to $5.593 billion" for the fiscal years 2004 through 2013, with $3.418 billion available from FY04-08 (and no more than $890 million to be obligated in FY04). CBO estimates that enacting the countermeasures provisions of S. 15 would increase direct spending by $270 million in 2004 and $8.1 billion over the 2004-2013 period. CBO estimates that the administrative costs for this program would amount to $7 million in 2004 and $0.1 billion over the 2004-2013 period, subject to appropriations.

CBO estimates that an additional $2.4 billion in spending would be for countermeasures for biological agents. The balance of $900 million would be for diagnostics and devices, as well as for countermeasures for chemical, nuclear, and radiological agents. CBO estimates that acquisition costs would comprise 80 percent to 85 percent of that amount, while inventory management and replacement costs would make up the balance.

CBO also estimates that implementing Project Bioshield would add to the administrative costs of HHS and DHS, both for the contracting process and managing the stockpile. Funding for those costs would come from appropriated funds. Based on current spending for program support services for bioterrorism-related activities (including the SNS) at the Centers for Disease Control and Prevention, **CBO estimates that administrative costs would be about $10 million a year.** Subject to the appropriation of necessary amounts, CBO estimates that discretionary spending would increase by $7 million in 2004 and $0.1 billion over the 2004-2013 period.

The Senate-passed bill is more expensive than the House-passed bill. **CBO estimated that the House-passed bill (H.R. 2122) would have increased discretionary spending by $0.3 billion in 2004, $3.2 billion for fiscal years 2004 through 2008, and $5.7 billion over the 2004-2013 period.**

Does the Bill Expand the Size and Scope of the Federal Government?: Yes.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to CBO, S. 15 would impose two mandates. It would impose an intergovernmental mandate by preempting state laws that would otherwise limit the federal government's ability to recover damages from biomedical contractors. The bill also would allow HHS to require medical practitioners to keep certain records when they authorize the use of certain biomedical products during emergencies; this would be both an intergovernmental and private-sector mandate. CBO reports that it has no basis for estimating the cost of the latter mandate because it would depend on the scope of the requirements that might be imposed by the Secretary and the frequency of emergencies requiring the use of biomedical products.

Constitutional Authority: The Senate does not have a rule that requires they cite constitutional authority and no committee report accompanied the bill.

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