



**Legislative Bulletin.....September 17, 2002**

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**Year-to-Date Spending Totals**

As of the end of last week, the House has passed legislation this year that if enacted into law would authorize the expenditure of approximately **\$471 billion** of taxpayer funds over the next five years.

In addition, the House has approved mandatory spending increases that if enacted would cost taxpayers approximately **\$235 billion** over the next five years.

**H.Con.Res. 435—Expressing the sense of the Congress that the therapeutic technique known as rebirthing is a dangerous and harmful practice and should be prohibited (Myrick)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, September 17<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.Con.Res. 435 would express a sense of Congress that “the therapeutic technique known as rebirthing is dangerous and harmful, and the Congress encourages each State to enact a law that prohibits such technique.”

The resolution defines “rebirthing” as “a therapy to reenact the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death.” Rebirthing is a form of “attachment therapy,” which is used to try to forge new bonds between adoptive parents and their adopted children.

The resolution notes that Candace Newmaker, a child from North Carolina, died from the rebirthing technique, and four other children have died from other forms of attachment therapy.

**Additional Background:** For additional background provided by Rep. Myrick's office, please visit this website: <http://www.house.gov/burton/RSC/word/Myrick1.doc>

**Cost to Taxpayers:** The resolution would authorize no expenditure.

**Does the Bill Create New Federal Programs or Rules?:** No. The resolution recognizes that rebirthing is a state issue and therefore only *encourages* states to enact laws that prohibit the technique.

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## H.R. 4687—National Construction Safety Team Act (Boehlert)

**Order of Business:** On July 12, 2002, the House passed H.R. 4687 by a vote of 338-23 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=295>). On September 9, 2002, the Senate passed H.R. 4687 with an amendment by unanimous consent. The amended bill is scheduled to be considered in the House on Tuesday, September 17<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary (changes from the House-passed version in red bold):** H.R. 4687 would authorize ~~such sums as may be necessary for each of fiscal years 2003–2005~~ **funds otherwise authorized by law** for the Director of the National Institute of Standards and Technology (NIST) to establish National Construction Safety Teams for deployment (within 48 hours, if possible) after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. The Director, in consultation with the United States Fire Administration and other appropriate federal agencies, would be charged with developing procedures for the establishment and deployment of the Teams.

Teams would be led by an individual chosen by the NIST Director. The Teams would include at least one NIST employee and non-NIST experts (who may include experts from the private sector, universities, relevant professional organizations, and federal, state, or local governments). Team members who are not federal employees would be considered federal government contractors.

National Construction Safety Teams would:

- conduct investigations to establish the likely technical cause or causes of the building failure;
- evaluate the technical aspects of evacuation and emergency response procedures;
- recommend specific improvements to building standards, codes, and practices based on the findings made from their investigations and evaluations; and

- recommend research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of investigations.

Team members (and/or the NIST Director, where relevant) would be authorized (and in some cases directed) to:

- enter and inspect buildings and building records (while preserving evidence as much as possible and reasonably avoiding interfering with building services);
- test building components and other relevant parts or materials (while preserving evidence as much as possible and reasonably avoiding interfering with building services);
- coordinate (and not interfere) with search-and-rescue efforts on site;
- coordinate investigations with engineering or other scientific researchers;
- coordinate investigations (via memoranda of understanding) with other federal agencies;
- **cooperate with state and local authorities carrying out any activities related to a Team's investigation;**
- hold hearings and briefings;
- subpoena witnesses;
- hire consultants;
- request the use of available services, equipment, personnel, and facilities of a federal agency or instrumentality on a reimbursable or other basis;
- confer with employees of and request the use of services, records, and facilities of state and local governments;
- accept and use gifts of money and other property (to the extent provided in advance in appropriations acts); and
- accept contributions and voluntary, uncompensated services.

The NIST Director could make contracts with nonprofit entities to carry out studies related to the purpose, functions, and authorities of the Teams and provide *non-governmental* members of Teams reasonable compensation.

A National Construction Safety Team investigation would be given priority over the investigation of any other federal agency except that of the National Transportation Safety Board and that of any federal agency investigating an alleged criminal act on the property (relating to the building failure).

H.R. 4687 would outline various provisions regarding the public disclosure (or non-disclosure) of different types of information involved in the work of the Teams.

Within 90 days of completing an investigation, a Team would have to issue a public report on its findings. The NIST would then be charged with implementing the recommendations of the Team (after comprehensive review in conjunction with other appropriate federal agencies). No part of any report resulting from a Team investigation could be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report.

The NIST Director, under guidance from an advisory committee, would be required to report annually to Congress on the activities and findings of the National Construction Safety Teams.

No new requirements for the adoption of building standards, codes, or practices would be imposed on NIST.

The provisions of this legislation would apply retroactively to NIST activities in response to the terrorist attacks of September 11, 2001.

To view the RSC Legislative Bulletin for H.R. 4687, as it originally came to the House floor on July 12, 2002, please visit this website: <http://www.house.gov/burton/RSC/Lb71202.pdf>

**Cost to Taxpayers:** The version of H.R. 4687 that was originally brought to the House floor would have authorized appropriations of \$25 million in each of fiscal years 2003-2005. The bill was amended on the House floor to authorize “such sums as may be necessary for each of fiscal years 2003-2005.” The Senate-passed version under consideration today would authorize “funds otherwise authorized by law” and would not sunset the authorization.

For the House-introduced version, CBO estimated that the bill could generate revenue (from authorized contributions) of less than \$500,000 annually. The same expectation would apply to the bill as amended by the Senate.

**Does the Bill Create New Federal Programs or Rules?:** Yes, the bill would authorize the creation of National Construction Safety Teams (i.e. national building inspectors) to respond quickly to and have priority in investigating building collapses or near-collapses that cause or threaten to cause significant loss of life.

**Constitutional Authority:** The Science Committee, in House Report 107-530, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause.

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## **H.R. 3253—Department of Veterans Affairs Emergency Preparedness Act (Smith, Chris)**

**Order of Business:** On May 20, 2002, the House passed H.R. 3253 by voice vote. On August 1, 2002, the Senate passed the bill (with amendments) by unanimous consent. The amended bill is now scheduled to be considered in the House on Tuesday, September 17<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary (changes from the House-passed version in red bold):** H.R. 3253 would authorize \$20 million for each of fiscal years 2003-2007 for the Department of Veterans Affairs to establish at least four medical emergency preparedness centers within VA medical

centers and using VA staff. **No center would be authorized for more than \$5 million per year.** The mission of the centers would be to:

- **“carry out research on the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices, including the development of methods for the detection, diagnosis, prevention, and treatment of such injuries, diseases, and illnesses;**
- **“provide to health-care professionals in the Veterans Health Administration education, training, and advice on the treatment of the medical consequences of the use of chemical, biological, radiological, or incendiary or other explosive weapons or devices;**
- **“provide education, training, and advice to health-care professionals outside the Department through the National Disaster Medical System or through interagency agreements entered into by the Secretary for that purpose; and**
- **“provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to a national emergency.”**

**The centers would be authorized to furnish hospital care and medical services to individuals (whether military or not) responding to, involved in, or otherwise affected by major disasters and medical emergencies.**

The centers would have to be selected on a competitive and regionally diverse basis. ~~At least one would have to focus on chemical threats; at least one would have to focus on biological threats; and at least one would have to focus on radiological threats.~~ Each center would also have to be affiliated with a qualifying medical school, qualifying school of public health, or other such educational institutions. ~~The VA would be required to seek the advice of toxicological, biohazards, and radiological experts in establishing the centers.~~

~~The Under Secretary for Health in the VA could allocate additional funds to the centers from pre-existing accounts for medical care and medical and prosthetics research.~~

**The Secretary would be given increased flexibility to use and re-program dollars appropriated for research or education and training. “Research corporations” established by the Secretary would have permanent statutory authority.**

~~Each center would be required to conduct research, with funds from public and private sources, if so desired, on improved medical preparedness to protect the nation from threats in the area of that center's expertise. Such research would be made available to the health care providers and the appropriate federal agencies.~~

~~H.R. 3253 would also direct the Secretary of Veterans Affairs and the Secretary of Defense to establish, within 90 days of this bill's enactment, a joint program to develop and disseminate a series of model education and training programs on the medical responses to the consequences of terrorist activities. This joint program would include, at a minimum, training for health care professionals and students at various levels in the following:~~

- ~~• Recognition of chemical, biological, and radiological agents that may be used in terrorist activities;~~
- ~~• Identification of the potential symptoms of those agents;~~
- ~~• Understanding of the potential long-term health consequences, including psychological effects, resulting from exposure to those agents;~~
- ~~• Emergency treatment for exposure to those agents;~~
- ~~• An appropriate course of follow-up treatment, supportive care, and referral;~~
- ~~• Actions that can be taken while providing care for exposure to those agents to protect against contamination; and~~
- ~~• Information on how to seek consultative support and to report suspected or actual use of those agents.~~

H.R. 3253 would also increase from six to seven the authorized number of Assistant Secretaries of Veterans Affairs and include “operations, preparedness, security, and law enforcement functions” in the job descriptions of the Assistant Secretaries. **The number of authorized Deputy Assistant Secretaries of Veterans Affairs would increase from 18 to 20.**

**Bush Administration Position:** On April 10, 2002, Deputy Secretary of Veterans Affairs, Leo MacKay, told the Health Subcommittee of the Veterans’ Affairs Committee that the Bush Administration “strongly supports the goals” of H.R. 3253 and believes that the VA’s expertise and infrastructure are needed for the nation’s response to a biological, chemical, or radiological attack.

**Cost to Taxpayers:** H.R. 3253 would authorize appropriations of \$20 million in FY2003 and a total of \$100 million over the FY2003-FY2007 period. The bill would not affect mandatory spending or receipts.

**Does the Bill Create New Federal Programs or Rules?:** Yes. The bill would create new medical emergency preparedness centers, a new Assistant Secretary of Veterans Affairs, and two new Deputy Assistant Secretaries of Veterans Affairs.

**Constitutional Authority:** The Veterans’ Affairs Committee, in House Report 107-471, cites constitutional authority in Article I, Section 8, Clause 1 (regarding Congress’ power to “provide for the common Defence and general Welfare of the United States”).

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## **H.R.1784—Women's Health Office Act of 2002 (Morella)**

**Order of Business:** The bill is scheduled to be considered on Tuesday, September 17, 2002, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 1784 authorizes “such sums as may be necessary” from FY03 through FY07 for four new Women's Health Offices: an office at Health and Human Services (HHS);

the Centers for Disease Control and Prevention (CDC); the Health Resources and Services Administration (HRSA); and in the Food and Drug Administration (FDA). The bill authorizes four new Coordinating Committees, one in each Office, and requires each Office to file a report to Congress every two years.

**HHS office:**

The current staff and functions of the administratively created Office on Women's Health of the Public Health Service will be transferred to the new HHS office. The office will be headed by a Deputy Assistant Secretary and will have seven mandatory duties including to “provide expert advice and consultation to the Secretary concerning scientific, legal, ethical, and policy issues relating to women's health.”

The bill authorizes the Secretary to make grants and contracts for the creation of a new National Women’s Health Information Center, which will among other things “coordinate efforts to promote women’s health programs and policies with the private sector.” The center, which was created administratively, is currently in existence, and H.R. 1784 will authorize it.

**CDC Office:**

A director appointed by the CDC director will head the CDC Office of Women’s Health. The office has five mandatory duties including to report on CDC involvement with “women’s health conditions” and to “consult with health professionals, nongovernmental organizations, consumer organizations, women's health professionals, and other individuals and groups, as appropriate, on the policy of the Centers with regard to women.” The bill defines “women's health conditions,” with respect to women of all age, ethnic, and racial groups, means diseases, disorders, and conditions— (1) unique to, significantly more serious for, or significantly more prevalent in women; and (2) for which the factors of medical risk or type of medical intervention are different for women.

**HRSA Office:**

The HRSA office (located in the Agency for Health Care Research and Quality Activities (AHRQ)) is authorized as the Office of Priority Populations Health to report on all aspects of the Agencies work on women’s health, including those in “sociocultural contexts” (which is not defined). This office is also authorized to consult with nongovernmental organizations, among others.

**FDA Office of Woman’s Health:**

The new FDA Office of Women’s Health will report on FDA’s activity regarding female participation in clinical trails and analysis of data including in “sociocultural contexts” (which again is not defined). This office is also authorized to “consult with pharmaceutical, biologics, and device manufacturers, health professionals with expertise in women's issues, consumer organizations, and women's health professionals on Administration policy with regard to women.”

Most of the offices created in H.R. 1784 are specifically required to consult nongovernmental organizations, which could include groups such as Planned Parenthood.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 1784 would cost \$27 million in 2003 and \$144 million over the 2003-2007 period, subject to appropriations. (CBO estimates the new HHS office would cost \$18 million, the CDC would cost \$2 million in 2003, the HRSA Office would cost \$1 million in 2003, and the FDA office \$6 million in 2003). According to the Committee Report, the federal government currently spends almost \$70 billion on crosscutting programs to address women's health.

**Additional Information:** According to the Committee, in 1991, President George H. Bush administratively created the Office on Women's Health at HHS. Currently, 10 HHS Regional Offices also have a women's health coordinator and the CDC, FDA, and HRSA maintain separate offices to focus on women's health. In 1992, Congress mandated the establishment of an Associate Administrator for Women's Services at the Substance Abuse and Mental Health Services Administration (SAMSA) and, in 1993, an Office of Research on Women's Health at the National Institutes of Health (NIH). This legislation will bring to at least six, the number of Women's Health Offices throughout HHS.

**Does the Bill Create New Federal Programs or Rules?:** Yes, the bill changes one administratively created Office of Women's Health at HHS, and creates three new Offices of Women's Health at CDC, AHRQ, and FDA. According to CBO, each of the agencies affected currently engages in research on women's health and executes many of the provisions of H.R. 1784, but those activities are not specifically authorized under the Public Health Service Act. The bill creates numerous new reporting requirements and creates four new coordinating committees along with each new agency's office.

**Constitutional Authority:** The Energy and Commerce Committee (in Rpt. # 107-616) finds authority under Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

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