



Wednesday, September 29, 2010

House Meets At...	Votes Predicted At...
10:00 a.m. For Legislative Business Fifteen “One-minutes” Per Side	First Vote: 11:00 a.m. – 12:00 p.m. Last vote: Evening

**ANY ANTICIPATED MEMBER ABSENCES FOR VOTES TODAY SHOULD BE REPORTED IMMEDIATELY TO THE OFFICE OF THE MAJORITY WHIP AT 226-3210.**

**Floor Schedule and Procedure**

- **H. Res. 1674 – Rule to provide for consideration of a H.R. 847 – James Zadroga 9/11 Health and Compensation Act of 2010 AND H.R. 2378, the Currency Reform for Fair Trade Act AND Senate Amendment to H.R. 2701 – Intelligence Authorization Act for 2010 (Rep. Arcuri – Rules):** The rule provides a closed rule for consideration of **H.R. 847**. The rule further provides one hour of debate in the House, with 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce, 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary, and 10 minute equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that in lieu of the amendments recommended by the Committee on Energy and Commerce and the Committee on the Judiciary, the amendment in the nature of a substitute printed in the report of the Committee on Rules shall be considered as adopted. The rule provides that the bill, as amended, shall be considered as read. The rule waives all points of order against the bill, as amended. This does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The rule provides one motion to recommit with or without instructions. The rule further provides a closed rule for consideration of **H.R. 2378**. The rule provides one hour of debate in the House equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the committee amendment in the nature of a substitute recommended by the Committee on Ways and Means shall be considered as adopted. The rule further provides that the bill, as amended, shall be considered as read. The rule waives all points of order against provisions of the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The rule provides one motion to recommit with or without instructions. The rule further provides for consideration of the **Senate amendment to H.R. 2701**. The rule makes in order a motion offered by the chair of the Permanent Select Committee on Intelligence that the House concur in the Senate amendment. The rule provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment and the motion shall be considered as read. Debate on the rule will be managed by Rep. Arcuri, and consideration will proceed as follows:
  - One hour of debate on the rule.
  - Possible vote on a Democratic Motion ordering the previous question. **Members are urged to VOTE YES.**
  - Vote on adoption of the rule. **Members are urged to VOTE YES.**

- **H.R. 847 - James Zadroga 9/11 Health and Compensation Act (Rep. Maloney - Energy and Commerce):** Pursuant to H.Res. 1674, debate on the bill will be managed by Energy and Commerce Committee Chairman Henry Waxman, Judiciary Committee Chairman John Conyers, and Ways and Means Committee Chairman Sander Levin or their designees. Consideration of the bill will begin as follows:
  - One hour of general debate on the bill.
  - Possible debate and vote on Republican motion to recommit the bill.
  - Vote on final passage of the bill. **Members are urged to VOTE YES.**
  
- **H.R. 2378 - Currency Reform for Fair Trade Act (Rep. Ryan (OH) – Ways and Means):** Pursuant to H.Res. 1674, debate on the bill will be managed by Ways and Means Committee Chairman Sander Levin, or his designee. Consideration of the bill will begin as follows:
  - One hour of general debate on the bill.
  - Possible debate and vote on Republican motion to recommit the bill.
  - Vote on final passage of the bill. **Members are urged to VOTE YES.**
  
- **Motion to Concur in the Senate Amendment to H.R. 2701 - Intelligence Authorization Act for Fiscal Year 2010 (Rep. Reyes – Intelligence):** Pursuant to H.Res. 1674, debate on the motion will be managed by Intelligence Committee Chairman Silvestre Reyes, or his designee. Consideration of the bill will begin as follows:
  - One hour of general debate on the motion.
  - Vote on motion to concur. **Members are urged to VOTE YES.**
  
- **Motion to Concur in the Senate Amendment to H.R. 3081 - Making Further Continuing Appropriations for Fiscal Year 2011 (Rep. Obey – Appropriations):** Upon Senate passage it is expected that the House will consider the Motion to Concur in the Senate Amendment to H.R. 3081.
  
- **Suspension Bills:** Today, the House will consider several bills on the Suspension calendar. Bills considered on the Suspension calendar are debatable for 40 minutes; may not be amended; and require a two-thirds vote for passage. If a recorded vote is requested, it will be postponed.
  1. **Senate Amendments to H.R. 946 - Plain Language Act (Rep. Braley - Oversight and Government Reform)**
  2. **H.R. 6162 - Coin Modernization, Oversight, and Continuity Act of 2010 (Rep. Watt - Financial Services)**
  3. **S. 3397 - Secure and Responsible Drug Disposal Act of 2010 (Sen. Klobuchar - Energy and Commerce)**
  4. **S. 1132 - Law Enforcement Officers Safety Act Improvements Act of 2010 (Sen. Leahy - Judiciary)**
  5. **Senate Amendment to H.R. 3219 - Veterans' Insurance and Health Care Improvements Act (Rep. Filner - Veterans' Affairs)**
  6. **S. 3729 - National Aeronautics and Space Administration Authorization Act of 2010 (Sen. Rockefeller - Science and Technology)**

- **Postponed Suspension Votes:**

1. **H.R. 3685** - To require the Secretary of Veterans Affairs to include on the main page of the Internet website of the Department of Veterans Affairs a hyperlink to the VetSuccess Internet website and to publicize such Internet website (Rep. Stearns - Veterans' Affairs)
2. **H.R. 5993** - SAVINGS Act of 2010 (Rep. Halvorson - Veterans' Affairs)
3. **H.R. 2853** - All-American Flag Act (Rep. Braley - Oversight and Government Reform)
4. **H.R. 4602** - To designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office" (Rep. Boccieri - Oversight and Government Reform)
5. **H.R. 5606** - To designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building" (Rep. Critz - Oversight and Government Reform)
6. **H.R. 5605** - To designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office" (Rep. Critz - Oversight and Government Reform)
7. **H.R. 6014** - To designate the facility of the United States Postal Service located at 212 Main Street in Hartman, Arkansas, as the "M.R. 'Bucky' Walters Post Office" (Rep. Boozman - Oversight and Government Reform)
8. **H.Res. 1442** - Supporting the goals and ideals of United States Military History Month (Rep. Duncan - Oversight and Government Reform)
9. **H.Res. 1546** - Congratulating the Washington Stealth for winning the National Lacrosse League Championship (Rep. Inslee - Oversight and Government Reform)
10. **H.Res. 1479** - Supporting the United States Paralympics, honoring the Paralympic athletes (Rep. Lance - Oversight and Government Reform)
11. **H.R. 6118** - To designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, N.E., in Washington, D.C., as the "Dorothy I. Height Post Office Building" (Rep. Norton - Oversight and Government Reform)
12. **H.Res. 1617** - Supporting the goals and purpose of Gold Star Mothers Day, which is observed on the last Sunday in September of each year in remembrance of the supreme sacrifice made by mothers who lose a son or daughter serving in the Armed Forces (Rep. Roskam - Oversight and Government Reform)
13. **H.Res. 1603** - Expressing support for designation of September 2010 as National Craniofacial Acceptance Month (Rep. Ross - Oversight and Government Reform)
14. **H.R. 3243** - To amend section 5542 of title 5, United States Code, to provide that any hours worked by Federal firefighters under a qualified trade-of-time arrangement shall be excluded for purposes of determinations relating to overtime pay (Rep. Sarbanes - Oversight and Government Reform)
15. **S. 3196** - Pre-Election Presidential Transition Act of 2010 (Sen. Kaufman - Oversight and Government Reform)

16. **H.Res. 1326** - Calling on the Government of Japan to immediately address the growing problem of abduction to and retention of United States citizen minor children in Japan, to work closely with the Government of the United States to return these children to their custodial parent or to the original jurisdiction for a custody determination in the United States, to provide left-behind parents immediate access to their children, and to adopt without delay the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Rep. Moran (VA) - Foreign Affairs)
17. **H.R. 6160** - Rare Earths and Critical Materials Revitalization Act of 2010 (Rep. Dahlkemper - Science and Technology)
18. **H.R. 3421** - Medical Debt Relief Act (Rep. Kilroy - Financial Services)
19. **H.R. 4072** - AMERICA Works Act (Rep. Minnick - Education and Labor)
20. **H.R. 512** - Federal Election Integrity Act (Rep. Davis (CA) - House Administration)
21. **H.R. 758** - Pediatric Research Consortia Establishment Act (Rep. DeGette - Energy and Commerce)
22. **H.R. 2999** - Veterinary Public Health Workforce and Education Act (Rep. Baldwin - Energy and Commerce)
23. **H.R. 5354** - GEDI Act (Rep. Engel - Energy and Commerce)
24. **H.R. 2818** - Methamphetamine Education, Treatment, and Hope Act (Rep. McNerney - Energy and Commerce)
25. **S. 3751** - Stem Cell Therapeutic and Research Reauthorization Act of 2010 (Sen. Hatch - Energy and Commerce)
26. **H.R. 1032** - Heart Disease Education, Analysis Research, and Treatment for Women Act (Rep. Capps - Energy and Commerce)
27. **H.R. 2408** - Scleroderma Research and Awareness Act (Rep. Capps - Energy and Commerce)
28. **H.R. 1230** - Bone Marrow Failure Disease Research and Treatment Act (Rep. Matsui - Energy and Commerce)
29. **H.R. 1347** - Concussion Treatment and Care Tools Act (Rep. Pascrell - Energy and Commerce)
30. **H.R. 2941** - To reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers (Rep. DeLauro - Energy and Commerce)
31. **H.R. 5462** - Birth Defects Prevention, Risk Reduction, and Awareness Act of 2010 (Rep. DeLauro - Energy and Commerce)
32. **H.R. 1210** - Arthritis Prevention, Control, and Cure Act (Rep. Eshoo - Energy and Commerce)

## **Bill Summary & Key Issues**

### **Summary of H.R. 847 – James Zadroga 9/11 Health and Compensation Act**

On September 11, 2001, terrorists attacked the World Trade Center and the Pentagon. In addition, an airplane commandeered by terrorists crashed in Shanksville, Pennsylvania. The firefighters and emergency personnel who responded to the attacks on the World Trade Center were exposed to a massive, highly toxic plume of dust from the collapse of the Twin Towers. In many cases, this exposure resulted in serious respiratory illnesses and related conditions.

H.R. 847 provides funding for a Health Program to monitor and treat responders and community residents for health conditions related to the terrorist attacks. It also reopens the September 11, 2001 Victim Compensation Fund to provide monetary compensation for those physically injured by the attacks or by response activities and debris removal. The bill, which would cost \$7.4 billion over the next ten years, is fully paid for by a provision preventing foreign multinational firms that are incorporated in tax haven countries from avoiding tax on income earned in the U.S.

#### **Title I. World Trade Center (WTC) Health Program**

H.R. 847 builds upon an existing, unauthorized federal program administered by the Centers for Disease Control and Prevention (CDC) that provides monitoring and treatment services through medical Centers of Excellence to responders and community residents affected by the terrorist attacks on the World Trade Center. The bill would authorize this program, expand it to include responders to the Pentagon and Shanksville sites, and provide nine years of capped mandatory funding (into FY 2019). The federal government would pay ninety percent of the costs of the Health Program, subject to an annual cap; CBO estimates that federal spending will total \$3.2 billion. The remaining 10 percent of the costs of the program (\$359 million) would be paid by New York City.

The Health Program would provide monitoring and specialized treatment services through Centers of Excellence for two populations: responders (emergency personnel, rescue, and clean-up workers who responded to the 9/11 attacks on the World Trade Center, the Pentagon, and Shanksville) and survivors (residents, workers, and students who returned to the World Trade Center area shortly after the attacks). The bill includes a national program to monitor and treat responders who live outside of the New York City/New Jersey metropolitan area. About 65,000 responders and less than 25,000 survivors are expected to enroll in the Health Program.

#### **Title II. September 11 Victim Compensation Fund of 2001**

H.R. 847 would reopen the September 11 Victim Compensation Fund of 2001 (VCF) to provide compensation for economic damages and losses to first responders, recovery workers and others injured in the aftermath of the attacks, including persons who were exposed to World Trade Center toxins during debris removal. The bill would reopen the VCF until December 22, 2031 in order to cover persons who became ill, or will become ill, after the original fund closed. The 20-year period would protect persons with latent injuries that may not manifest for years. The total amount of compensation to be awarded would be capped at \$4.2 billion over the first 10 years and an additional \$4.2 billion over the second 10 years.

Awards under the VCF must be reduced by the amount of other compensation to the victim, including life insurance, health insurance, workers compensation, and any amount obtained in the settlement of a civil suit that occurred while the VCF was closed. Persons with civil suits pending on or after the date of enactment must relinquish those suits in order to file a claim with the VCF. The bill would cap at 10% the amount of VCF compensation that could be used for attorneys' fees, with an exception for old and extraordinary cases where large amounts of legal work have already been expended. The bill would also provide protection from liability to certain entities that participated in recovery efforts and debris removal, including the City of New York, the New York City Port Authority, and certain contractors.

### **Title III. Revenue Offset – Limitation on Treaty Benefits for Certain Deductible Payments**

Under current law, certain payments (principally dividends, interest, and royalties) made by US-based entities to a parent company based overseas are subject to a 30 percent withholding tax. That requirement customarily is reduced or eliminated when the payment is made to a country with which the US has a tax treaty. Companies with parents based in tax haven countries are able to effectively bypass the withholding tax by routing payments through an affiliate in a tax treaty country, which then transfers the funds to the parent company. The provision would limit this practice by retaining the withholding tax on certain deductible payments (principally interest and royalties) to a foreign-based affiliate unless the tax would be reduced under a treaty if the payment were made directly to the company's parent corporation.

This provision is identical to a provision that passed the House of Representatives on March 24, as part of H.R. 4849 by a vote of 246-178. The House also approved the provision in November of last year as part of H.R. 3962 by a vote of 220 to 215. The provision is modified from a previous version approved by the House of Representatives as part of H.R. 2419 (110th Congress) by a vote of 231 to 191 (with 19 House Republicans joining 212 House Democrats in support) to ensure that foreign multinational corporations incorporated in treaty partner countries will not be affected by this provision. This provision is estimated to raise \$7.433 billion over 10 years.

#### **Summary of the Amendment in the Nature of a Substitute to H.R. 847 Proposed to be Considered as Adopted**

The amendment in the nature of a substitute provides \$7.4 billion in funding for health claims resulting from the September 11 terrorist attacks. It amends the Public Health Service Act to establish the World Trade Center Health Program (WTC Program) within the National Institute for Occupational Safety and Health to provide (1) medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers (including those who are federal employees) who responded to the September 11, 2001, terrorist attacks; and (2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks. It amends the Air Transportation Safety and System Stabilization Act to: (1) make individuals eligible for compensation under the September 11 Victim Compensation Fund of 2001 for harm as a result of debris removal; (2) extend the deadline for making a claim for compensation for physical harm not discovered before the deadline; (3) cap liability for claims related to debris removal based on the level of insurance available; (4) limit the total payment for compensation for claims filed on or after the regulations are updated pursuant to this Act; and (5) cap the amount that an individual may charge in connection with a claim under such Act, with exceptions. Finally, it amends tax provisions that in some cases allow a U.S. subsidiary of a foreign corporation to avoid U.S. withholding tax on payments to a related subsidiary in a country that has a tax treaty with the United States and changes the timing of estimated corporate tax payments.

#### **Summary of H.R. 2378 – Currency Reform for Fair Trade Act**

##### **Need for the Legislation**

China suppresses the value of its currency (the RMB), making China's exports cheaper than they would be if China allowed its currency to be set by the market. China's currency policy places a drag on U.S. economic growth and job creation. Nobel Prize winning economist Paul Krugman estimates that China's currency policy reduces U.S. GDP by 1.4 percentage points annually. According to Fred Bergsten of the Peterson Institute, allowing the RMB to appreciate to its real value would make U.S. manufacturers more competitive and create an estimated 500, 000 U.S. manufacturing jobs here in the United States.

As a general matter, under the U.S. countervailing duty law, remedial tariffs can be imposed on imports benefitting from foreign government subsidies for export, if it is shown that imports benefitting from such subsidies cause or threaten injury to a U.S. industry producing the same or similar products. To date, however, the Department of Commerce has declined to investigate foreign government currency practices as a countervailable subsidy.

## **Key Elements of H.R. 2378, as Amended**

The most important element of the bill, as amended, reverses a long-standing Commerce practice that is far more restrictive than required under U.S. law and WTO disciplines. Specifically, in the past, Commerce has resisted finding an export subsidy if the subsidy is not limited exclusively to circumstances of export (i.e., when non-exporters may benefit). The Currency Reform for Fair Trade Act, as amended, precludes Commerce from imposing this bright-line rule and, instead, requires Commerce to consider all the facts in making its determination of export contingency.

The Currency Reform for Fair Trade Act, as amended, also provides important guidance to Commerce in assessing whether a “benefit” exists in circumstances involving material currency undervaluation resulting from government intervention. Specifically, Commerce is directed to assess “benefit” in terms of the additional currency the exporter receives as a result of the undervaluation and to use widely-accepted IMF methods for determining the level of undervaluation.

In all cases, however, the Act, as amended, preserves Commerce’s authority – and responsibility – to consider each case on its facts and make a determination as to whether all the necessary legal elements of an export subsidy are met.

## **H.R. 2378, as Amended, is WTO-Consistent**

As amended, H.R. 2378 is WTO-consistent because countervailing duties may only be imposed when Commerce finds, based on an assessment of all the facts, that the WTO criteria for an export subsidy have been satisfied, i.e., only if: (1) the foreign government’s interventions in the currency markets result in a “financial contribution”; (2) a “benefit” is thereby conferred; and (3) the resulting subsidy is “contingent on export”.

The key element of the amended bill – indicating to Commerce that it may no longer dismiss a claim based on the single fact that a subsidy is available in circumstances in addition to export – is consistent with WTO precedent. One relevant case is the U.S.-FSC case, which expressly stated that a subsidy may still be export contingent, even if it is available in some circumstances that do not involve export.

Importantly, the amended bill does not legislatively “deem” that a finding of fundamental currency undervaluation satisfies the requirement of export contingency, as the original bill did. With the elimination of this requirement, as well as other changes, the amended bill avoids the WTO vulnerabilities that may have been attributed to earlier versions of the legislation.

## **Summary of Senate Amendment to H.R. 2701 - Intelligence Authorization Act for Fiscal Year 2010**

### **1. Oversight and Accountability Provisions:**

- **Gang of 8 Reforms:** The bill includes a version of the notification reforms that is similar to the House-passed version. Among other things, the provision requires that the President:
  - Provide all Gang of 8 notifications in writing;
  - Inform the entire membership of the intelligence committees that a Gang of 8 briefing has occurred and provide a “general description” regarding that briefing;
  - Ensure that the Gang of 8 briefing is made available to all members of the committees six months after the initial briefing, unless the President certifies that “extraordinary circumstances affecting vital interests of the United States” require that the information remain limited;
  - Maintain a record of the dates and members attending a Gang of 8 notifications; and
  - Consider a list of specified factors in determining whether an activity constitutes a “significant undertaking” that must be briefed to Congress.

- GAO Access to the Intelligence Community: The bill requires that the DNI, in consultation with the Comptroller General, issues a written directive governing GAO access to information in possession of the Intelligence Community.
  - The new DNI, General Clapper, has suggested in testimony that he would be open to working with GAO. This provision would give him the opportunity to put this sentiment into action.
- IC/IG: The bill would, after several years of negotiation, create a statutory Inspector General for the Intelligence Community.
- Accountability Reviews: This bill includes a provision that would allow the ODNI to conduct “accountability reviews” of IC elements or certain personnel within an IC element.
- Certification of Compliance: The bill includes a provision that requires the head of each IC element to certify annually that the element is in full compliance with notification requirements.
- NSA Office of Compliance: The bill includes a provision that would make statutory NSA’s Office of Compliance.

## 2. Personnel Provisions:

- Conflict of Interest Regulations (Moonlighting): The bill includes the portions of the original House floor amendment that require the ODNI to craft regulations prohibiting an employee from engaging in certain outside employment and requiring a report to Congress.
  - Security Clearance Reform: The bill includes a House-originated provision that would require extensive reporting and oversight on security clearance processes.
3. Acquisition Provisions: The bill includes a number of provisions that bring IC acquisition procedures closer in line with recently enacted DOD acquisition reforms. These represent significant reforms in the way the IC conducts acquisitions. Among other things, the provisions would create a notification system similar to DOD’s “Nunn-McCurdy” system, which requires reports to Congress and program restructuring when costs for major systems grow past certain thresholds.
  4. Language Provisions: The bill includes provisions expanding various education grant programs, which were included in both the House and Senate versions. It also includes the House-originated pilot program for African languages.
  5. Declassification of NIP Request: The bill includes a provision that would declassify the top-line of the NIP budget request. Current law requires disclosure of total appropriation after the fiscal year has ended; the new provision would also require disclosure of the request. It would allow the President to waive the disclosure in the interest of national security.
  6. Intelligence and Information Commission: The bill would create a commission tasked with analyzing the processes for integrating information from outside of the IC (e.g., State Department reporting) with reporting by the IC.

7. Reports: The bill includes a number of reports. The following have been items of interest for Members of the House:
- Report on diversity in the IC;
  - Comprehensive report on IC contractors;
  - Consolidated report on cybersecurity;
  - Report on E-Waste destruction practices;
  - Plan to implement recommendations of data center efficiency reports;
  - Review of records relating to Desert Storm health risks;
  - Report on steps the IC has taken to address the attempted bombing of Flight 253;
  - Report on foreign language capabilities in the IC;
  - Report on threats posed by dirty bombs;
  - Public release of information regarding the airbridge denial program in Peru;
  - Plan for auditability in IC elements;
  - Public release of information regarding recidivism of detainees at Guantanamo Bay;
  - Review of FBI jurisdiction overseas; and
8. Classified Annex: The bill does not include a classified annex or schedule of authorizations. The bill would not become law until the very end of FY10, if not later, and thus a classified annex that differs in any way from existing appropriations level could significantly complicate funding for the IC. The bill therefore explicitly authorizes funding for the IC at the levels included in the already enacted FY10 appropriations bills, including subsequent transfers and reprogramming.

**Quote of the Day**

“I have been impressed with the urgency of doing. Knowing is not enough; we must apply. Being willing is not enough; we must do”

— Leonardo da Vinci