

AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OF THE HOUSE OF REPRESENTATIVES TO CARRY OUT A SERIES OF DEMONSTRATION PROJECTS TO PROMOTE THE USE OF INNOVATIVE TECHNOLOGIES IN REDUCING ENERGY CONSUMPTION AND PROMOTING ENERGY EFFICIENCY AND COST SAVINGS IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Pennsylvania, from the Committee on House Administration, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1196]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 1196) to authorize the Chief Administrative Officer of the House of Representatives to carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings in the House of Representatives, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

To authorize the Chief Administrative Officer of the House of Representatives to carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings in the House of Representatives.

BACKGROUND AND NEED FOR H.R. 1196

H.R. 1196 promotes innovative technologies for energy generation and efficiency to demonstrate the House's leadership role for businesses, governments and homeowners in energy use and green-

ing efforts. In 2007 Speaker of the House Nancy Pelosi launched a 10-year plan to reduce energy consumption in the House. This plan calls for a reduction of 5 percent a year, which is twice the efficiency required of federal buildings by the 2005 Energy Policy Act. H.R. 1196 is also consistent with the goals of H.R. 2454, the American Clean Energy and Security Act of 2009. Demonstration projects develop and commercialize technologies that expand the production of renewable fuels, which in turn reduces our dependence on oil, and confronts the challenge of global climate change. Such projects increase our energy security and make America stronger, safer, and cleaner for future generations.

The legislation is designed to encourage the CAO to pursue cutting edge and innovative new technologies for power generation as pilot projects. The House can provide leadership and encourage new products by piloting technologies in the beta testing phase. This should include new technologies that can generate power off of the grid. The legislation would also support projects that further the goals of the “Greening of the Capitol” initiative that can reduce energy consumption and promote energy efficiency.

The Committee believes that no aspect of a manufacturing process or office building operation should be excluded in the efforts to encourage sustainable operations. Reducing energy consumption, better management and controls on energy use, and similar green practices will result in operating cost reductions and savings to taxpayers. Increased energy efficiency improvements are available to every company or government agency through improvements in lighting, window treatments, computer rooms, and heating and cooling systems; this legislation will move the House of Representatives forward as a leader in all aspects of energy efficiency and renewable energy use.

COMMITTEE CONSIDERATION

On Wednesday, June 10th, 2009, the Committee met to mark up H.R. 1196, and by a voice vote ordered the bill reported favorably to the House without amendment.

ANALYSIS OF THE BILL (AS REPORTED)

Section 1. Demonstration projects to promote innovations to reducing energy consumption of the House of Representatives

(a) Authority to Carry Out Demonstration Projects—

(1) The Chief Administrative Officer of the House of Representatives may carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings.

(2) Contracts—In carrying out such projects, the Chief Administrative Officer may enter into contracts with entities which have developed new methods of using energy more efficiently, generating electric power in a more sustainable manner, or improving the efficiency and lowering the costs of existing renewable power systems, consistent with the regulations promulgated by the Committee on House Administration for contracts entered into by the Chief Administrative Officer.

(b) The Chief Administrative Officer shall submit a report to the Committees on House Administration and Appropriations of the

House of Representatives including analysis of the extent to which the project reduced energy consumption and promoted energy efficiency and cost savings in the House of Representatives.

Section 2. Authorizing appropriations

There are authorized to be appropriated \$25,000,000 for fiscal year 2010 to carry out demonstration projects under this Act. Amounts appropriated pursuant to the authorization under this section shall remain available without fiscal year limitation until expended.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

CONSTITUTIONAL AUTHORITY

Clause 3(d)(1) of House Rule XIII requires each committee report on a public bill or joint resolution to include a statement citing the specific constitutional power(s) granted to the Congress on which the Committee relies for enactment of the measure under consideration. The Committee cites the legislative power granted to Congress in Article I, Section 8, Clause 18.

COMMITTEE RECORD VOTES

Clause 3(b) of House Rule XIII requires the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report.

The Committee then voted on the Harper Amendment which would require the Chief Administrative Officer to seek the Committee's approval for each demonstration project. The amendment was not agreed to, 2 ayes to 4 noes.

	Ayes	Noes	Present
Ms. Lofgren	—	X	—
Mr. Capuano	—	X	—
Mr. Gonzalez	—	—	—
Mrs. Davis (CA)	—	X	—
Mr. Davis (AL)	—	—	—
Mr. Lungren	—	—	—
Mr. McCarthy	X	—	—
Mr. Harper	X	—	—
Chairman Brady	—	X	—
Total	2	4	—

The Committee then considered the McCarthy Amendment which would require the Chief Administrative Officer to obtain the approval of the Architect of the Capitol before implementing any demonstration project that modifies a building or grounds under the jurisdiction of the Architect of the Capitol. The amendment was not agreed to, 2 ayes to 4 noes.

	Ayes	Noes	Present
Ms. Lofgren	—	X	—
Mr. Capuano	—	X	—
Mr. Gonzalez	—	—	—
Mrs. Davis (CA)	—	X	—
Mr. Davis (AL)	—	—	—
Mr. Lungren	—	—	—

	Ayes	Noes	Present
Mr. McCarthy	X	—	—
Mr. Harper	X	—	—
Chairman Brady	—	X	—
Total	2	4	—

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, June 24, 2009.

Hon. ROBERT A. BRADY,
 Chairman, Committee on House Administration,
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1196, a bill to authorize the Chief Administrative Officer of the House of Representatives to carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings in the House of Representatives.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1196—A bill to authorize the Chief Administrative Officer of the House of Representatives to carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings in the House of Representatives

H.R. 1196 would authorize the Chief Administrative Officer (CAO) of the House of Representatives to conduct demonstration projects to reduce energy consumption. The CAO would be required to submit reports to the Committees on House Administration and Appropriations after completing each project, detailing how the project affects energy use in the House of Representatives. Finally, the bill would authorize the appropriation of \$25 million for fiscal year 2010.

Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 1196 would cost the federal government \$25 million over the 2010–2014 period. Enacting the legislation would not affect direct spending or revenues.

H.R. 1196 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES

Section 423 of the CBA requires a committee report on any public bill or joint resolution that includes a federal mandate to include specific information about such mandates. The Committee states that H.R. 1196 includes no federal mandates.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 1196 is not intended to preempt any state or local law.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on the oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The Committee states, with respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, that the goal and objective of H.R. 1196 is to increase energy efficiency in the House of Representatives and thereby result in cost savings to the House.

CONGRESSIONAL "EARMARKS"

Clause 9 of House Rule XXI requires committee reports on public bills and resolutions to contain an identification of congressional "earmarks," limited tax benefits, limited tariff benefits, and the names of requesting Members. The bill contains no such items.

CONGRESSIONAL ACCOUNTABILITY

Section 102(b)(3) of the Congressional Accountability Act of 1995 (P. L. 104-1) requires each report on a public bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations to describe the manner in which the legislation applies to the Legislative Branch. The Committee finds that H.R. 1196 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1196 makes no changes in existing law.

MINORITY VIEWS OF THE HONORABLE DANIEL E. LUNGREN, THE HONORABLE KEVIN MCCARTHY, AND THE HONORABLE GREGG HARPER

I. INTRODUCTION

On Wednesday, June 10, 2009, the Committee ordered H.R. 1196 reported favorably to the House. H.R. 1196 authorizes the Chief Administrative Officer (CAO) of the House of Representatives to carry out a series of demonstration projects to promote the use of innovative technologies in reducing energy consumption and promoting energy efficiency and cost savings in the House of Representatives. Further, H.R. 1196 authorizes a total of \$25 million in order to carry out these projects. While many activities have been initiated under the auspices of the “Green the Capitol Initiative,” this is only the second instance in which the Committee has publicly considered any proposed action, the first being consideration of a preceding version of this bill in 2008. We applaud the Chairman for engaging on these important matters within the Committee’s jurisdiction. We look forward to reconvening for a public and comprehensive review of Capitol complex energy matters, to include how the Congress integrates with other operations of the Federal government in the National Capital Region. We remain deeply troubled by H.R. 1196, which through its structure and purpose illustrates the deeply flawed approach of the Majority to matters of energy efficiency and sustainability.

II. KEY ISSUES

Structure and authority

The Architect of the Capitol (AOC) is responsible for meeting the mandatory energy efficiency requirements for Federal Buildings included in the Energy Policy Act of 2005 and the energy Independence and Security Act of 2007. These mandates include the reduction of energy consumption from an FY 2003 baseline totaling 30 percent by FY 2015. Additionally, as the entity responsible for the Capitol complex energy infrastructure, the AOC is also subject to specific statutory mandates for use of renewable energy, with a requirement that 7.5 percent of electricity be from renewable sources by 2015. The AOC has incorporated energy savings goals into its regular project planning process, and has achieved its annual energy reduction goals through a number of initiatives that have become the foundation of a successful, long term energy reduction program. These combined efforts reduced Capitol complex energy consumption by 6.5 percent in FY 2006 and 6.7 percent in FY 2007, substantially exceeding the minimum reduction goals set by the Energy Policy Act of 2005. During FY 2007, the AOC invested significant effort in developing Energy Saving Performance Contracts (ESPC), as well as a prioritized list of potential energy saving

projects. Through these combined initiatives, the AOC identified projects capable of reducing energy consumption 30 percent by 2015. The AOC estimates that it will cost \$300 million to meet this 30 percent mandate.

The authority granted to the Chief Administrative Officer in H.R. 1196 conflicts with the Architect of the Capitol's clear responsibility for energy infrastructure in the Capitol complex, including matters of energy efficiency and the provision of renewable electricity. The Chief Administrative Officer has neither the statutory responsibility nor the organizational capacity to manage the capitol complex energy infrastructure. Given the nature of business in the House of Representatives, it is essential that energy services are reliable and operate without unscheduled disruptions. To this end, the Representative McCarthy introduced an amendment requiring that the Chief Administrative Officer consult with and obtain the approval of the AOC prior to engaging in any project that would modify Capitol buildings and grounds. This amendment was designed to ensure communication across the two organizations and to prevent any adverse impact on energy services by activities carried out by the CAO organization. The amendment was defeated.

Demonstrated shortfalls

While the Architect of the Capitol has demonstrated a capacity to properly identify, document, and measure energy-saving projects based on clear processes that assign value based on costs relative to results, the Chief Administrative Officer has demonstrated no such capacity. In the CAO's lone foray into executing a project to increase energy efficiency, the House sent nearly \$700K to study the re-lighting of the Capitol dome. An analysis of current energy usage and costs related to the Capitol dome lights reveals that, with a top-end savings of \$12K annually, the CAO's study will not achieve economic payback for over 50 years. Factoring in the cost of construction and installation, the project has a payback period well over a century. It is difficult to identify any processes within the CAO that identified this as a priority project, to take precedence over other energy-saving projects also in need of funding. As such, our confidence in the CAO's ability to deliver value to the taxpayer is justifiably weak.

Further, the CAO's past violations of Committee procurement regulations and inability to provide the transparency and reporting accuracy expected of his position calls into concern the manner in which the CAO will utilize the authority provided in H.R. 1196. The degree to which the CAO reports on contracting activities, and the degree to which sole source contract awards are used to meet the objectives of the legislation remain open questions and present obvious concerns. To address these concerns, Representative Harper introduced an amendment to require Committee approval for all contracts entered into under the authority provided by H.R. 1196, not just those contracts exceeding \$250K in value or one year in length. The amendment additionally strengthened the requirement that the CAO operate in strict adherence to the Committee's procurement regulations in order to ensure open and fair competition and achieve best value for the House of Representatives. The amendment was defeated.

III. CONCLUSION

We believe that H.R. 1196 is deeply flawed in its structure, and that its enactment would result in organizational confusion and implementation risks that would undermine the collective goal of reducing energy consumption in the House. It is essential that the Committee act in a manner that sets a proper example for how organizations and individuals can achieve cost-effective energy savings. This requires processes of the type incorporated into the AOC's project planning that ensure that the best value is achieved for each project investment. The CAO's demonstrated record of engaging in high-profile but poor-value projects undermines the credibility of the Congress, and should not continue to be encouraged. The Committee minority presented two very simple amendments designed to maintain the spirit of the legislation while correcting its flaws, but each was defeated by the Majority.

DANIEL E. LUNGREN.
KEVIN MCCARTHY.
GREGG HARPER.

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