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TRAVEL PROMOTION ACT OF 2009

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1023

JUNE 5, 2009.—Ordered to be printed

Filed, under authority of the order of the Senate of June 4, 2009

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1023]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1023) to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of the Travel Promotion Act of 2009, as reported, is to increase international travel to all areas of the United States, communicate United States travel policies overseas, and make entry procedures into the United States more efficient and welcoming.

BACKGROUND AND NEEDS

Travel and tourism generates approximately $1.3 trillion in economic activity in the United States every year. The United States travel and tourism industry is one of the nation's largest employers with approximately 8.3 million direct travel-generated jobs. According to the Department of Commerce (DOC), international travel receipts (travel-related tourism spending, including passenger fares) in the United States were $142.1 billion in 2008, which surpassed the previous record of 2007 by 16 percent. The bulk of these dollars came from purchases made by international visitors, which totaled $110.5 billion in 2008. Travel and tourism exports (food, lodging, recreation, gifts, entertainment, transportation, etc.) accounted for eight percent of all U.S. exports and 27 percent of services exports. In percentage terms, U.S. travel and tourism related exports showed the strongest growth for Italy (up 38 percent), France (up 38 percent), Argentina (up 32 percent), Netherlands (up 32 percent), and China (up 31 percent). The top five international markets for U.S. travel and tourism exports include Canada ($18.7 billion), United Kingdom (17.5 billion), Japan ($15.1 billion), Mexico ($9.8 billion), and Germany ($6.5 billion). According to the U.S. Travel Association, an increase of one percent in international travel market share would produce a $3.9 billion increase in payroll receipts. While the tourism industry continues to be vital to the U.S. economy, the United States' share of the world market of international tourism is in decline. The U.S. Travel Association noted that since 9/11, the 17 percent decline in America's share of international travelers has resulted in the loss of more than 200,000 jobs and nearly $100 billion in lost visitor spending. According to the DOC, in 1992, the United States attracted 9.4 percent of all international tourist arrivals from around the world. In 2007, the United States attracted only 6.2 percent of total international arrivals. Federal officials and travel and tourism industry executives have been grappling with how to reinvigorate the tourism industry to recapture lost world market share. Officials and experts note two issues that contribute to the decline and need to be addressed: (1) lack of a coordinated international tourism advertising campaign; and (2) increased difficulty for international visitors to gain entry to the United States.

The Federal government recognizes the importance of travel to the U.S. economy. The DOC has taken an active role to promote international travel to the United States, but Departmental emphasis on specific promotions has waxed and waned over time. In addition, following September 11, 2001, the U.S. government increased border security dramatically, which resulted in a significant decrease in the number of visitors to the United States. Recently, the State Department and the Department of Homeland Security (DHS) have recognized the need to make the visa and entry process more efficient and welcoming for foreign visitors, while maintaining border security. In 2006, former Secretary of State Condoleeza Rice and former Secretary of Homeland Security Michael Chertoff initiated a joint agreement, the Rice-Chertoff Joint Vision to Ensure Secure Borders and Open Doors (Rice-Chertoff Joint Vision), to utilize technology and eliminate inefficiencies to improve border security and the ability for international travelers' to participate in United States tourism and border security. Despite these efforts, the travel industry continues to push for greater reforms.

The Economic Crisis and the Impact on Business Travel. Industry experts believe that the travel and tourism industry could lose nearly 250,000 travel-related jobs in 2009 due to the economic downturn and the growing public perception that business travel is wasteful and unethical. A report commissioned by The Economist and released on February 10, 2009, found that executives will make fewer, shorter, and cheaper business trips in 2009 and prefer basic efficiency over luxury services. Similarly, a recent survey by the Association for Corporate Travel Executives, found that 60 percent of American businesses would avoid taking business trips to an exotic locale to avoid public backlash, even if the proposed location were cheaper.

History of Federally Funded International Travel Promotion. Federal promotion of tourism in the United States dates back to the establishment of the U.S. Travel Bureau in 1937. However, only in the past 40 years has the DOC had an office or administration that promotes U.S. tourism to foreign nationals through coordinated advertising. Enacted in 1961, the International Travel Act required the Secretary of Commerce, through the establishment of the U.S. Travel Service (USTS), to carry out a program that encouraged travel to the United States by foreign nationals. Appropriations directed to the USTS increased until 1977, when Congress and the White House began scaling back the government's role in advertising. Federal funding for advertising was eliminated in 1996, when Congress abolished the U.S. Travel and Tourism Administration (USTTA), the successor of USTS. Between 2001 and 2003, total tourism receipts dropped almost 12 percent, and tourism-related industries lost approximately 390,000 jobs. Congress decided to reinitiate Federal tourism advertising in 2003 in response to the downturn. The FY 2003 Consolidated Appropriations Resolution (P.L. 108–7, Sec. 210), authorized the Secretary of Commerce to "award grants and make direct lump sum payments in support of an international advertising and promotional campaign developed in consultation with the private sector to encourage individuals to travel to the United States consisting of radio, television, and print advertising and marketing programs." This law also established the United States Travel and Tourism Advisory Board (USTTAB) and provided a one-time $50 million appropriation, though $44 million was later rescinded. The USTTAB, re-chartered in August 2005 and again in September 2007, is comprised of up to 15 senior travel and tourism executives from across the United States. These members advise the Secretary of Commerce on how best to increase the number of international visitors to the United States and make sure that the share of the country's international receipts continues to grow. In addition, the board advises the Secretary on the creation of a national tourism policy. On September 5, 2006, the USTTAB issued a report to the DOC entitled, *Restoring America's Travel Brand: A National Strategy to Compete for International Visitors,* in which it recommended actions in the following four areas to help improve America's standing in the international travel market. Its recommendations are summarized below.

Barriers to Travel. The USTTAB report recommended removing unnecessary barriers to travel. The report highlighted concerns about the current waiting periods for legitimate travelers. The USTTAB noted that the Nonimmigrant Visa Program is understaffed. It cited a General Accountability Office report that found almost half of the State Department's 211 visa-issuing posts reported maximum wait times for visa interviews of 30 days or more. The USTTAB was particularly concerned about the long waits in Brazil, China, India, Mexico and Venezuela. Since the report was released, the State Department has greatly improved its interview wait times.

Creating a Welcoming First Impression. The report contained numerous suggestions about how to make the first arrival experiences of international travelers more welcoming. The USTTAB report recommended fully staffing the Customs and Border Patrol (CBP) and the Transportation Security Administration (TSA) to reduce wait times at inspection points. Another problem discussed in the report was the delay caused by re- screening passengers by TSA. The report noted the examples of Canada and the Netherlands as countries that prioritized efficient inspections and succeeded in attracting more travelers because of the changes. Members of the USTTAB and other industry participants have offered their expertise in managing waiting lines and staffing patterns to Federal agencies interfacing with travelers. The U.S. Travel Association began discussions with the Under Secretary of State for Public Diplomacy and Public Affairs in that effort. The travel and tourism industry also has offered to advise Federal agencies on signage and the use of international symbols to direct and prepare travelers for the inspection process. Several leading travel companies stated their willingness to loan customer service/hospitality experts to provide training for CBP officers at the Federal Law Enforcement Training Center in Georgia.

Provide a Stronger Voice for Travel and Tourism in Government. The USTTAB report found that the countries that claim the largest share of the growth in the international travel market are those that have either ministries of tourism or other governmental entities that help coordinate tourism policy decisions. The United States, by contrast, has neither a dedicated office of tourism nor an official to advocate at the highest policy levels. The USTTAB report recommended the creation of an office with the power to coordinate government policy to enhance the nation's competitive standing in the global travel market. That Federal office would:

Serve as an institutional home and voice for the industry;

Energize the interagency process for travel and tourism through an elevated Tourism Policy Council, with ex officio status for private sector representatives, and ensure all government decisions potentially affecting this industry receive early attention in the interagency process;

Identify existing private sector advisory committees that included representatives from the tourism industry, while widely sharing their recommendations across agencies and with other private sector groups and the public; and Coordinate the roles of other government agencies to more effectively expand travel and tourism promotion while addressing infrastructure needs and development.

Avoid Inappropriate Taxes, Fees, and Regulations. The USTTAB report argued that Federal, state, local, special entity and foreign-government imposed taxes and fees on rental cars, commercial aviation, hotels and restaurant meals, among other services, increase the cost of travel and can dampen demand for inbound travel. In the report, the USTTAB asked the DOC to advocate against discriminatory taxing structures and to work within the interagency process to discourage travel taxes imposed by international authorities when the revenue raised has no clear benefit or connection to the travel and tourism industry.

In addition, the report reiterated and supported the airline industry's request for a review of the CBP rates and charges based on costs, due to concerns about further increasing costs on international travelers.

Travel Promotion Activity by States. Many States invest significant time and resources to promote tourism. According to the U.S. Travel Association, the projected State tourism office budget for 2007–2008, for all 50 States, is $869 million. The average State budget is $17 million. For most States, however, only a small portion of their budgets is designated for international advertising and sales promotions. State international promotions generally focus on a limited number of attractions in the state and target countries with likely visitors. States rarely work in conjunction with their neighbors to cross-promote destinations and encourage longer, more expansive visits to the United States. Moreover, many States cannot afford large international initiatives and therefore foreign visitors are less likely to know about and travel to such States.

A national travel promotion program would be well positioned to spotlight a range of travel destinations and tourist options throughout America. States that do not have the resources to target international travelers would benefit from increased exposure through a national campaign.

In addition, State-operated promotion programs have neither the resources nor the incentive to address international travelers' concerns and questions regarding the U.S. visa application process and entry procedures. As the USTTAB pointed out, the United States' visa and entry procedures have created the perception that international travelers are not welcome to the United States. Some analysts contend that a national promotion program operated with input from the DOC, the State Department, and the DHS would be in a position to ameliorate the concerns of international travelers over Federal government processes.

SUMMARY OF PROVISIONS

S. 1023 would establish a nonprofit corporation (Corporation) to create and execute a nationally coordinated travel promotion program. The program's purpose would be to accurately communicate the Nation's travel policies, to encourage travel to the United States, and to provide international exposure for areas of the United States that do not have the resources to promote themselves overseas. The Corporation would be governed by an 11-member board of directors appointed by the Secretary of Commerce, which consists of representatives from States, the Federal government, and the sectors of the travel industry. In the first year, the Corporation would be provided $10 million from moneys collected from travelers under the Electronic System for Travel Authorization (ESTA) system currently being established by the DHS. After FY 2010, in order to be entitled to receive Federal funding, the Corporation would be required to raise non-Federal money and in-kind matching contributions at the rate of 50 percent in fiscal year 2011 and 100 percent in the subsequent years.

In addition, the Travel Promotion Act would establish an office in the DOC known as the Office of Travel Promotion. The Office would serve as a liaison to the Corporation, work with the Secretaries of State and Homeland Security to ensure that international visitors are processed efficiently, and to promote travel to the United States.

LEGISLATIVE HISTORY

The Subcommittee on Competitiveness, Innovation and Export Promotion on May 13, 2009, held a hearing on the Travel Promotion Act of 2009, as well as the economic and security issues relevant to promoting travel to America. The Subcommittee heard testimony from representatives of the travel industry and State tourism agencies regarding their perspectives as to the state of the travel industry, difficulties that travelers face coming to the United States, and recommendations for encouraging international travel to America.

On May 12, 2009, Senator Byron Dorgan introduced S. 1023, the Travel Promotion Act of 2009, which was referred to the Committee on Commerce, Science, and Transportation. Chairman Rockefeller was an original cosponsor of the measure. When S. 1023 was considered in executive session, Senators Ensign, Inouye, Martinez, Klobuchar, Begich, Udall of New Mexico and Vitter also were cosponsors of the legislation.

On May 20, 2009, the Committee met in an open executive session to consider S. 1023. Senator Dorgan offered an amendment that made technical corrections to the legislation.

The Travel Promotion Act of 2009, as amended, was accepted by voice vote and the Committee ordered the bill be reported.

ESTIMATED COSTS

In compliance with subsection (a)(3) of paragraph 11 of rule XXVI of the Standing Rules of the Senate, the Committee states that, in its opinion, it is necessary to dispense with the requirements of paragraphs (1) and (2) of that subsection in order to expedite the business of the Senate.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

Number of persons covered

The formation of the Corporation would require representatives of various sectors of the travel industry to participate on its board of directors. The general travel and tourism industry will not be impacted by S. 1023 directly, unless the Corporation chose to initiate a referendum under Section 6. At that point, impacted members of the travel and tourism industry would participate in a referendum and, if an assessment is approved, pay the assessment.

Economic impact

S. 1023 is not expected to have an adverse impact on the Nation's economy. Rather, promoting international travel to the United States through the creation of the Corporation and establishing an Office of Travel Promotion within the DOC should substantially increase the number of international travelers to America, which will result in economic growth in the travel industry.

Privacy

S. 1023 would have no anticipated impact on the privacy rights of individuals.

Paperwork

In general, there will not be an increase in paper work for members of the travel and tourism industry. If the Corporation initiates a referendum and assessment under Section 6, then affected companies would need to submit associated paperwork.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section cites the short title of the bill as the "Travel Promotion Act of 2009."

Section 2. The Corporation for Travel Promotion

The section establishes the Corporation for Travel Promotion as a nonprofit corporation governed by an 11-member board of directors appointed by the Secretary of Commerce. The members shall represent State and local interests, the Federal government, the small business community, hotels, restaurants and retail businesses, air transportation, attraction businesses, the intercity passenger railroad business, and travel distribution services. The members of the board are required to have professional expertise in travel and international travel promotion and marketing, and to broadly represent all regions of the United States. No member of the board may be considered a Federal employee by virtue of his or her service on the board.

The board shall appoint an executive director and other officers who shall be responsible for hiring staff necessary to carry out the mission of the Corporation. No political test or qualification shall be used in personnel actions with respect to officers or employees of the Corporation. The Corporation may not contribute to or otherwise support any political party or candidate for elective public office. The Committee further intends that the Corporation not engage in activities to directly or indirectly influence legislation.

The Corporation must develop and implement a plan to: (1) provide information to travelers, tour operators, and other international travel stakeholders, including materials provided by the Federal government concerning entry requirements and other information that would allow travelers to better navigate the process of entering the United States; (2) counter and correct international misperceptions regarding United States travel policy; (3) maximize the economic and diplomatic benefits of travel to America through promotional activities; (4) ensure that the Corporation's promotional efforts benefit all 50 states and the District of Columbia, including areas not traditionally visited by international travelers; and (5) prioritize the use of Corporation resources towards countries and potential travelers that are most likely to travel to America. In order to carry out its mission, the Corporation is empowered to contract with public and private entities hire or accept voluntary services of consultants and experts, and such other actions as may be necessary. Promotional expenditures of over $25,000,000 must be authorized by a vote of at least 2/3 of the board at a meeting at which six of more members are present.

Meetings of the board must be open to the public with the limited exception that portions of a meeting may be closed for the period of time necessary to preserve the confidentiality of commercial or financial information or to discuss legal matters. An independent accounting firm must conduct an annual audit of its operations, and the Corporation must provide the Comptroller General and the Congress full and complete access to its books and records.

Section 3. Accountability measures

The section requires the Corporation's board to establish annual objectives for the Corporation subject to approval by the Secretary of Commerce and establish a marketing plan for each fiscal year. It also must submit an annual budget to the Secretary with an explanation of any expenditure in excess of $5 million, which shall be made available to the public. The Corporation must submit an annual report to the Secretary of Commerce for transmittal to Congress detailing its operations, activities, financial conditions, and accomplishments, as well as an objective and quantifiable measurement of the Corporation's progress on an objective-by-objective basis, and an explanation of the reason for any failure to achieve an objective established by the board.

Section 4. Matching public and private funding

The section establishes a fund in the Treasury known as the Travel Promotion Fund (Fund). For fiscal year 2010, the Corporation shall be provided up to $10 million from the ESTA to cover its initial expenses and activities under the Act. Subsequently, the Secretary of Treasury shall transfer not more than $100,000,000 in fees collected pursuant to section 5 of the Act to the Fund. Based on the amount of private industry contributions raised by the Corporation, the Secretary of the Treasury may distribute to the Corporation matching moneys from the Fund. At least 20 percent of the private-sector contributions must be in cash and remaining contributions may be in-kind contributions such as television advertising time, advertisement space or services calculated at the fair market value of such goods or services. The Corporation shall have the right to refuse any contribution that is not useful or inappropriate. For fiscal year 2011, the Corporation must provide matching funds from non-Federal sources equal to 50 percent of the amount received from the government. After fiscal year 2011, the Corporation must provide matching funds from non-Federal sources equal to 100 percent of the amount received from the government. Matching Federal funds will not exceed $100 million per year. To the extent that industry contributions entitle the Corporation to more matching money than is available in the Fund in a given year, the value of contributions may be carried forward for matching purposes in subsequent years.

Section 5. Travel Promotion Fund fees

The Secretary of the Department of Homeland Security shall establish and collect a fee from the ESTA, which will include a $10 fee for the matching funds for the Corporation. The authorization to collect the fee for the Travel Promotion Fund will expire on September 30, 2014.

Section 6. Assessment authority

The Corporation may impose an annual assessment on the United States travel industry, other than airlines and small businesses, of up to $20 million. Prior to initiating such an assessment, the members of the industry that would be assessed must agree to such an assessment by referendum. The Corporation shall establish a means of collecting the assessment and may bring suit in Federal court to compel compliance with an assessment. Pending disbursement of the funds assessed, the Corporation may invest the funds in any interest-bearing account.

Section 7. Office of Travel Promotion

The section establishes the Office of Travel Promotion in the DOC. The office would serve as liaison to Corporation, support and develop programs to increase the number of international visitors to the United States, support state, regional, and private sector initiatives to promote travel to and within the United States, and work with the Departments of State and Homeland Security to ensure that international visitors are processed efficiently. Within a year after the date of enactment, the Secretary shall transmit a report to Congress describing the office's work with the State Department and DHS to ensure that international visitors are processed efficiently.

Section 8. Research program

The section amends the International Travel Act of 1961 and requires that the Office of Travel and Tourism Industries to expand its research and development activities in support of promoting international travel to the United States, including expanding access to official Mexican travel surveys data, improving the DOC's Survey of International Travelers, developing estimates of international travel exports on a State-by-State basis, and evaluating the success of the Corporation in achieving the objective set forth in the Act.

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