THE REPUBLICAN STUDY COMMITTEE
Rep. Rob Woodall, Chairman
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Legislative Bulletin……September 9, 2014

Contents:

H.R. 4067 – To provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014 — (Jenkins, R-KS)

Order of Business: H.R. 4067 is scheduled for consideration on Wednesday, September 10, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill directs the Secretary of Health and Human Services to continue to apply, through calendar year (CY) 2014, the non-enforcement of the direct supervision requirement related to outpatient therapeutic services for Critical Access Hospitals (CAHs) and small rural hospitals with 100 or fewer beds.

Additional Background: In 2009, the Centers for Medicare and Medicaid Services (CMS) laid out a new policy for the "direct supervision" of outpatient therapeutic services. An outpatient therapeutic service is one in which, "hospitals provide on an outpatient basis are those services and supplies (including the use of hospital facilities and drugs and biologicals that cannot be self-administered) which are not diagnostic services, are furnished to outpatients incident to the services of physicians and practitioners and which aid them in the treatment of patients." Direct supervision occurs when a physician or non-physician provider (NPP) is immediately available to give assistance and direction throughout an entire procedure.

Some organizations, such as the American Hospital Association, pushed back against these changes because they believed it could create difficulties for patients accessing these services, especially in rural areas. In 2011, CMS adopted a non-enforcement policy for the direct supervision policy which extended to CAHs and small rural prospective payment system (PPS) hospitals with fewer than 100 beds. CMS announced the period of non-enforcement would only last through calendar year 2013. Finally, in a 2014 rule, CMS formally stated it was "appropriate to allow the enforcement instruction to expire at the end of CY 2013." This bill would extend the non-enforcement period through CY 2014.

Committee Action: This bill was introduced by Representative Jenkins on February 18, 2014, and was referred to the Committee on Energy and Commerce, and the Committee on Ways and Means. The Energy and Commerce's Subcommittee on Health held a mark-up on July 28, 2014, followed by a full committee mark-up on July 29, 2014. The bill was ordered to be reported out by a vote of 31-11.

Outside Groups Support:
National Rural Health Association
American Hospital Association

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: CBO estimates that enacting H.R. 4067 would have no significant effect on the federal budget. Because enacting H.R. 4067 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The bill would not impose intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States." Read the statement here.

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H.R. 4701 – Vector-Borne Disease Research Accountability and Transparency Act of 2014, as amended — (Gibson, R-NY)

Order of Business: H.R. 4701 is scheduled for consideration on Monday, September 8, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill amends the Public Health Service Act to add a new section to addresses Lyme disease and other tick-borne diseases. It directs the Secretary to conduct research regarding Lyme disease and other tick-borne disease and ensure that actions taken by the National Institutes of Health are included in the Secretary's biennial report. A permanent working group, known as Interagency Lyme and Tick-Borne Disease Working Group is established with the purpose of reviewing the efforts at the Department of Health and Human Services (HHS) to ensure interagency coordination, minimize overlap and examine research priorities. Every two years the working group will develop a summary of ongoing research, advances made in the research, and comments received at public meetings. The working group will be comprised of 14 members, seven which are federal members and seven non-federal public members, and will be appointed by the Secretary, Speaker of the House and the Majority Leader in the Senate. No later than three years after the date of enactment, the Secretary is to submit a strategic plan to Congress.

No additional funds are authorized to be appropriated to carry out this bill.

Additional Background: Currently, the National Institutes of Health (NIH) administers research programs for Lyme disease and other related diseases; however, the authority for discretionary research programs at the NIH expired at the end of fiscal year 2009. Since 2010, Congress has continued to appropriate funds to the NIH to continue operating its discretionary programs across all areas of research.

Committee Action: This bill was introduced by Representative Gibson on May 21, 2014, and referred to the House Committee on Energy and Commerce. The Energy and Commerce's Subcommittee on Health held a mark-up on June 19, 2014, followed by a full committee mark-up on July 29, 2014. The bill was ordered to be reported out as amended by voice vote.

Outside Groups Support:
Lyme Disease Association

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: CBO estimates that implementing H.R. 4701 would cost $338 million over the 2015-2019 period, assuming the appropriation of the necessary amounts. The NIH currently administers research programs related to Lyme and other tick-borne diseases. Authority for discretionary research programs at NIH expired at the end of fiscal year 2009. However, since 2009 the Congress has appropriated funds for NIH to continue operating its research programs. The Congress appropriated about $30 billion to NIH for fiscal year 2014. CBO estimates that, of that total, NIH allocated $82 million for activities related to Lyme and other tick-borne diseases. The agency plans to allocate a similar amount to such activities in 2015.

H.R. 4701 would direct NIH to conduct or support research activities related to Lyme and other tick-borne diseases. Because authority for discretionary research programs funded by NIH has expired under section 402A of the Public Service Act, estimated changes in discretionary costs associated with implementing H.R 4701 reflect the total costs of all NIH-funded research activities related to Lyme and tick-borne diseases for fiscal years 2015 through 2019, assuming the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: This bill creates a new permanent working group at HHS.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4701 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Clause I, of section 8, of article I." Read the statement here.

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H.R. 4290 – Wakefield Act of 2014 — (Matheson, D-UT)

Order of Business: H.R. 4290 is scheduled for consideration on Monday, September 8, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill reauthorizes the Emergency Medical Services for Children Program through 2019, and authorizes for appropriation $30,387,656 for each fiscal year 2014-2019.

Major Changes Since the Last Time This Legislation was Before the House: H.R. 479, the Wakefield Act, passed the House 390-6 on March 30, 2009.

Additional Background: In 1984, Congress passed the Emergency Medical Services for Children (EMSC) as part of the Preventive Health Amendments of 1984. The mission of the EMSC is to reduce child and youth mortality and morbidity caused by severe illness or trauma. Funds in this program are used to support pediatric emergency care improvement initiatives.

Committee Action: This bill was introduced by Representative Matheson on March 25, 2014, and referred to the House Committee on Energy and Commerce. The Energy and Commerce's Subcommittee on Health held a mark-up on June 19, 2014, followed by a full committee mark-up on July 15, 2014. The bill was ordered to be reported out as amended by voice vote.

Outside Groups Support:
American College of Emergency Physicians

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: CBO estimates that implementing H.R. 4290 would cost $135 million over the 2015-2019 period, assuming appropriation of the authorized amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: This bill reauthorizes a program that would expire at the end of fiscal year 2014.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4290 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4290 contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3." Read the statement here.

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H.R. 669 – Sudden Unexpected Death Data Enhancement and Awareness Act— (Pallone, D-NJ)

Order of Business: H.R. 669 is scheduled for consideration on Monday, September 8, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill amends the Public Health Service Act to direct the Secretary of Health and Human Services (HHS), acting through the Director of the Centers for Disease Control and Prevention (CDC), to continue carrying out activities related to stillbirth, sudden unexpected infant death (SUID), and sudden unexpected death in childhood (SUDC).
These activities include: data collection to gather information on the deaths, including the development of standard protocols for data collection; provide for the continued development and dissemination of standard protocol for data collections; and, review guidelines for increasing and improving the quality of postmortem stillbirth evaluation, guidelines for standard autopsy protocol for SUID and SUDC, and data collection.

No later than two years after enactment, the Secretary will submit a report to Congress which will include an evaluation of certain SUDC programs and the ability for them to be carried out with respect to SUID, and a description of all activities being carried out by the CDC relating to stillbirth, SUID, and SUDC.

No additional funds are authorized to be appropriated for the purpose of carrying out this bill.

Additional Background: It is estimated that stillbirths, which occur at 20 weeks gestation or more, occur in about 1 in 610 pregnancies in the United States. SUID deaths are defined as deaths in infants less than 1 year of age that occur suddenly and unexpectedly, and whose cause of death is not immediately obvious. There are about 4,000 infants that die of SUID annually. SUDC occurs in children over the age of 12 months, with an incidence rate of 1.2 deaths per 100,000 children.

In 1998, the CDC began the Sudden Unexpected Infant Death Initiative with the goal of improving the investigation and reporting practices of Sudden Infant Death Syndrome (SIDS) and other SUID.

Read the committee report here.

Committee Action: This bill was introduced on February 13, 2013, by Representative Pallone, and referred to the House Committee on Energy and Commerce. On June 19, 2014, the Subcommittee on Health held a mark-up and forwarded H.R. 669 to the full Committee, as amended, by a voice vote. On July 15, 2014, the Committee on Energy and Commerce met in mark-up and ordered H.R. 669 to be reported to the House, as amended, by a voice vote.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: CBO estimates that implementing H.R. 669 would not have a significant effect on federal spending. The bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 669 contains no intergovernmental or private-sector mandates as defined in

the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 669 contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18. The Congress shall have power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof." Read the statement here.

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H. R. 5057 – EPS Service Parts Act of 2014.
(Rep. Gardner, R-CO)

Order of Business: The bill is scheduled to be considered on September 9, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H. R. 5057 amends the Energy Policy and Conservation Act to permit exemptions for external power supplies (EPS) from certain efficiency standards. According to the Congressional Budget Office definition, an external power supply is a hardware component that converts household electric current into lower-voltage current used to operate devices such as laptops and smartphones. Section 2 of the bill mandates that an external power supply shall not be subject to the final rule entitled 'Energy Conservation Program: Energy Conservation Standards for External Power Supplies', (February 10, 2014), if the external power supply:

- Is manufactured during the period beginning on February 10, 2016, and ending on February 10, 2020;
- Is marked in accordance with the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016;
- Meets, where applicable, the standards under paragraph (3)(A), and has been certified to the Secretary of Energy as meeting International Efficiency Level IV or higher of the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016; and

- Is made available by the manufacturer as a service part or a spare part for an end-use product that constitutes the primary load; and was manufactured before February 10, 2016.

The Secretary of Energy may:

- Require manufacturers of products exempted to report annual total units shipped as service and spare parts that are not International Efficiency Level VI or higher,

- Issue a rule, after providing public notice and opportunity for public comment, to limit the applicability of the exemption if the Secretary determines that the exemption is resulting in a significant reduction of the energy savings.

The Secretary may exempt an external power supply from any amended standard if the external power supply: is manufactured within four years of the compliance date of the amended standard; complies with applicable marking requirements adopted by the Secretary of Energy prior to the amendment; meets the standards that were in effect prior to the amendment; and is made available by the manufacturer as a service part or a spare part for an end-use product. The Secretary of Energy may require manufacturers of a product exempted to report annual total units shipped as service and spare parts that do not meet the amended standard.

Additional Information: More information from the Department of Energy on External Power Supplies can be found here and here.

Committee Action: The legislation was introduced on July 10, 2014 and was referred to the House Committee on Energy and Commerce. On July 14 and July 15, 2014, the Committee held a markup of the bill and ordered it reported by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that enacting H. R. 5057 would not significantly affect the federal budget. Based on information from the Department of Energy, the CBO estimates that any costs incurred by the agency to carry out the bill's provisions would total less than $500,000 annually and would be subject to the availability of appropriated funds. H. R. 5057 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. The CBO estimate can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H. R. 5057 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.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: according to Article I, Section 8, Clause 3 of the Constitution: The Congress shall have power to enact this legislation to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

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S. 276 – A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir. (Sen. Risch, R-ID)

Order of Business: The bill is scheduled to be considered on September 9, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: S. 276 would reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir, Idaho. The bill would mandate that the Federal Energy Regulatory Commission shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission, reinstate the license issued for FERC project number 12423 and extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of the Act.

Additional Information: The report (S. Rept. 113-24) accompanying S. 276 can be found here. More information from the Department of the Interior, Bureau of Reclamation on the American Falls Reservoir can be found here.

Committee Action: The bill was introduced in the Senate on February 11, 2013 and was referred to the Senate Committee on Energy and Natural Resources. The bill was reported by Senator Wyden (D-OR) without amendment and was passed by the Senate on June 19, 2013 without amendment by unanimous consent. On June 21, 2013, the bill was referred to the House Committee on Energy and Commerce's Subcommittee on Energy and Power.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing S. 276 would have no net effect on the federal budget. The bill would authorize the Federal Energy Regulatory Commission (FERC) to reinstate the license and extend the deadline for beginning construction of a hydroelectric project (number 12423) at the American Falls Reservoir in Idaho. The proposed extension could have a minor impact on FERC's workload. Because FERC recovers 100 percent of its costs through user fees, any change in its administrative costs would be offset by an equal change in fees that the commission charges. Therefore, the legislation's provisions would have no net budgetary impact. Because FERC's administrative costs are controlled through annual appropriation acts, enacting S. 276 would not affect direct spending or

revenues; therefore, pay-as-you-go procedures do not apply. The CBO estimate can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: S. 276 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Constitutional Authority: No Constitutional Authority statement is available because Senate rules do not require them.

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H. R. 5161 – E-LABEL Act
(Rep. Latta, R-OH)

Order of Business: The bill is scheduled to be considered on September 9, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H. R. 5161 directs the Federal Communications Commission (FCC) to allow manufacturers of electronic devices with a screen to display information required by the agency digitally on the screen rather than on a label affixed to the device. Section 1 stipulates that the bill may be cited as the ''Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014'' or the ''E-LABEL Act''. Section 3 of the bill amends Title VII of the Communications Act of 1934 by allowing the FCC to promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling for the equipment in place of affixing physical labels to the equipment, not later than 9 months after the enactment of the Act. Section 4 stipulates that the amendment made by section 3 shall not be construed to affect the authority of the Federal Communications Commission under section 302 of the Communications Act of 1934 to provide for electronic labeling of devices.

Additional Information: According to the bill's findings (Section 2), as devices become smaller, compliance with physical label requirements can become more difficult and costly, prompting many manufacturers and consumers of licensed devices in the United States prefer the option to provide or receive important Commission labeling information digitally on the screen of the device, at the discretion of the user.

The identical Senate version of the bill (S. 2583) was introduced by Senator Fischer (R-NE) on July 10, 2014.

Committee Action: The bill was introduced on July 22, 2014 and was referred to the House Committee on Energy and Commerce. H. R. 5161 was then considered and marked-up on July 29 and July 30, 2014 and was ordered to be reported by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing H. R. 5161 would have a negligible effect on net discretionary costs over the 2015-2019 period. Enacting H. R. 5161 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. Based on information from the Federal Communications Commission, CBO expects that any additional actions that agency would take to comply with the bill's requirements would not have a significant effect on the agency's workload, and thus, its spending. In addition, the FCC is authorized to collect fees sufficient to cover its annual appropriation; therefore, CBO estimates that implementing H. R. 5161 would have a negligible effect on net discretionary costs, assuming appropriation action consistent with that authority. The CBO estimate can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 5161 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.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3: Congress shall have the Power . . . ``to regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes."

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H. R. 3670– Anti-Spoofing Act of 2013.
(*Rep. Meng*, D-NY)

Order of Business: The bill is scheduled to be considered on September 9, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H. R. 3670 amends the Communications Act of 1934 by expanding the prohibition on the provision of inaccurate caller identification information. Section 2 of the bill broadens the prohibition of misleading and inaccurate caller identification, or "spoofing" to text messaging services, which are defined as services that permit the transmission or receipt of a text message, including a service provided as part of or in connection with a telecommunications service or an IP-enabled voice service. The section also expands the categories of IP-enabled voice services that are subject to prohibitions to include "the provision of real-time voice communications offered to the public, or such class of users as to be effectively available to the public,

transmitted using Internet protocol, or a successor protocol, (whether part of a bundle of services or separately) with interconnection capability such that the service can originate traffic to, or terminate traffic from, the public switched telephone network, or a successor network."

Section 2 directs the Federal Communications Commission (FCC) to prescribe regulations to implement the amendments made by this section not later than 18 months after the date of the enactment of the Act. Additionally, the legislation stipulates that the amendments made by the section shall take effect on the date that is 6 months after the date on which the Federal Communications Commission prescribes regulations to implement the amendments.

Additional Information: "Spoofing" is defined by the FCC as the falsification of the telephone number and/or name relayed as the Caller ID information to disguise the identity of the calling party. A list of cosponsors to H. R. 3670 can be found here. A legislative framework to establish regulations regarding caller ID was signed into law on December 22, 2010 as S. 30 Truth in Caller ID Act of 2009.

Committee Action: The H. R. 3670 was introduced in on December 5, 2013 and was referred to the House Committee on Energy and Commerce. The bill was then considered and marked-up on July 29 and July 30, 2014 and was ordered to be reported (amended) by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing H. R. 3670 would have a negligible effect on net discretionary spending over the 2015-2019 period. Enacting H.R. 3670 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. Based on information from the Federal Communications Commission, CBO estimates that implementing H. R. 3670 would cost less than $500,000 for rulemaking activities required under the bill. The commission is authorized to collect fees sufficient to cover its annual appropriation; therefore, CBO estimates that implementing H. R. 3670 would have a negligible net effect on discretionary spending, assuming appropriation action consistent with that authority. The CBO estimate can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 3670 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.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 3.

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