



A Congressional Quarterly Publication

House Action Reports

Edition: Legislative Week

October 24, 2011

This Week on the House Floor

MONDAY, OCTOBER 24

(House meets at 2 p.m.)

- **Suspensions** — Seven bills are scheduled for consideration under suspension of the rules (page 3) , including HR 2594 , which would preclude U.S. airlines from participating in an emissions reduction plan developed by the European Union.

TUESDAY, WEDNESDAY & THURSDAY, OCTOBER 25, 26 & 27

(House meets at noon on Tuesday and Wednesday, and at 9 a.m. on Thursday)

- **Morning Hour** — The House convenes at 10 a.m. for Morning Hour debate on Tuesday and Wednesday.
- **Suspensions** — Three bills are scheduled for consideration under suspension of the rules. (page 17)
- **Arizona Land Exchange** — HR 1904 , Southeast Arizona Land Exchange and Conservation Act (page 23) . The bill conveys approximately 2,400 acres of federal land in Pinal County, Ariz., to a private company for mining purposes in exchange for about 5,300 acres of other lands currently owned by the company. The company intends to mine large deposits of copper, which by some estimates could potentially provide as much as 25% of the nation's copper when the mine is fully operational. The measure is expected to be considered under a rule which limits amendments.
- **Include Social Security in Health Care Income Calculations** — HR 2576 , Modify Income Calculation for Health Care Programs (page 27) . The bill modifies the 2010 health care law to require that all Social Security benefits received by an individual be included in that person's income calculation for determining eligibility for Medicaid, the Children's Health Insurance Program, and subsidies for health insurance that is to be provided through the new insurance exchanges being created under the law. The Joint Committee on Taxation (JCT) estimates that the measure would reduce the deficit by nearly \$13 billion through FY 2021. The bill is expected to be considered

under a rule that bars amendments, although the Rules Committee is also expected to recommend that the bill be combined with the government contractor withholding repeal bill (below) before being sent by the Senate in order to effectively "offset" the cost of that measure.

- **Repeal Contractor Payments Tax Withholding** — HR 674 , Government Contractor Withholding Repeal (page 30) . The bill repeals a 2006 law which requires federal, state and local governments to withhold 3% of payments that are due to government contractors in order to improve tax compliance. Members of both parties say the requirement, which to date has been delayed, would divert money from businesses and thereby harm job creation, while also creating more paperwork for government agencies. The JCT estimates that the measure would reduce revenues by \$11.2 billion through FY 2021. The bill is expected to be considered under a rule that bars amendments, although the Rules Committee is also expected to recommend that the bill be combined with the health care income calculation modification bill (above) before being sent by the Senate.

FRIDAY, OCTOBER 28

- The House is not in session.

Monday, October 24, 2011

Suspensions

The following seven measures will be considered under suspension of the rules Monday.

| | |
|--|----|
| HR 295, Authorize Funds for Hydrological Services | 3 |
| HR 441, Kantishna Hills Renewable Energy Act | 5 |
| HR 818, Allow Prepayment of Federal Contracts with the Uintah | 7 |
| HR 1160, McKinney Lake National Fish Hatchery Conveyance | 9 |
| HR 320, Designate Distinguished Flying Cross National Memorial | 11 |
| HR 461, South Utah Valley Electric Conveyance Act | 13 |
| HR 2594, European Union Emissions Trading Scheme Prohibition Act | 15 |

¹ **Authorize Funds for Hydrological Services Related to Arctic Navigation and Coastal Changes (HR 295 ; H Rept 112-157)**

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Hastings, R-Wash., or his designee. The Democratic manager will be Rep. Markey, D-Mass., or his designee.

BACKGROUND: The Natural Resources Committee reported the bill by voice vote (H Rept 112-157).

The National Oceanic and Atmospheric Administration (NOAA) is the federal agency responsible for mapping, managing and monitoring U.S. coastal waters and outercontinental self areas. Under current law, NOAA is required to survey the U.S. coastline, but NOAA estimates that its current level of funding only allows the agency to survey about 3% of the nation's 95,000 miles of coastline each year. NOAA is also charged with monitoring vital, high traffic navigation areas. With current funding levels, the agency is only able to evaluate and remap roughly 12% of these areas each year, well short of the agency's 20% per year goal. According to NOAA, 40% of the U.S. shoreline has not been mapped since 1960.

In addition to these requirements, NOAA is also required to survey U.S.-held Arctic waters and coasts. According to agency officials, most charted Arctic waters were last surveyed in 1960. Many of these areas, such as the northern and western coasts of Alaska, have never actually been surveyed, or were last surveyed in 1800, making confidence in existing navigational charts very low.

SUMMARY: This bill authorizes the appropriation of \$7 million in each of fiscal years 2012 and 2013 for the National Oceanic and Atmospheric Administration (NOAA) to carry out hydrographic activities in the Arctic.

Specifically, the bill amends the Hydrographic Services Improvement Act (PL 110-386) to authorize the appropriation of \$5 million in both FY 2012 and FY 2013 for NOAA to conduct hydrological surveys and provide hydrological services to improve navigational safety within Arctic waters and monitor Arctic coastal changes.

It also authorizes \$2 million each year for NOAA activities to delineate the U.S. continental shelf in the arctic.

In the 2007 Hydrographic Services Improvement Act, Congress authorized \$182 million to facilitate increased surveying and other coastal monitoring and restoration activities. The bill's \$7 million authorization for FY 2012 would come out of that amount, while the \$7 million authorization for FY 2013 would be a new authorization.

CBO Cost Estimate

According to the Congressional Budget Office (CBO), the bill would cost \$14 million over the period of FY 2012 to FY 2016, assuming the appropriation of authorized funds. Because the bill amends an existing authorization, direct (mandatory) spending would not be affected; therefore pay-as-you-go procedures would not apply. According to CBO, the bill does not contain any intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (PL 104-4).

AMENDMENTS: None permitted.

COMMENTARY: The administration position was not available as of press time Friday.

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² **Kantishna Hills Renewable Energy Act (HR 441 ; H Rept 112-158)**

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure is expected to be managed by Chairman Hastings, R-Wash. The Democratic manager is expected to be Rep. Markey, D-Mass.

BACKGROUND: The Natural Resources Committee reported the bill by unanimous consent (H Rept 112-158).

The Doyon Tourism Inc., of Alaska is seeking to build a micro-hydroelectric project to power Kantishna Roadhouse, a backcountry lodge the Fairbanks-based Native Corporation owns 100 miles inside Denali National Park and Preserve in Alaska. The new facility would replace a diesel generator Doyon currently uses to power the roadhouse.

The National Park Service (NPS) believes the project will reduce the use of fossil fuels in the park, and thus lessen the chance of fuel spills along the park road and at the Kantishna lodges. However, neither the Interior Department nor the Federal Energy Regulatory Commission (FERC) has the statutory authority to issue permits for portions of hydroelectric projects within national parks or monuments.

Doyon also owns 18 acres on the patented Galena mining claim in the Kantishna Hills and is seeking to exchange that acreage for parkland in Kantishna of equal value near its other properties. NPS also is pursuing the exchange to consolidate its own land holdings in the area.

SUMMARY: This bill authorizes the Interior secretary to issue permits for a micro-hydroelectric project in the Kantishna Hills area within the Denali National Park and Preserve in Alaska.

The measure also directs the secretary to exchange park and preserve land near or adjacent to land owned by Doyon Tourism, Inc., located at the mouth of Eureka Creek, for approximately 18 acres of land owned by Doyon within the Galena patented mining claim.

CBO Cost Estimate

This measure is an authorization measure and is not covered by spending limitations in the Budget Act or any budget resolution because it does not directly result in expenditures. Based on information from the National Park Service, the Congressional Budget Office (CBO) estimates that implementing the bill would have no effect on discretionary spending.

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Enacting the legislation would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply. The bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (PL 104-4) and would not affect the budgets of state, local or tribal governments.

AMENDMENTS: None permitted.

COMMENTARY: The administration position was unavailable as of press time Friday.

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³ Allow Prepayment of Federal Contracts with the Uintah Water Conservancy District (HR 818 ; H Rept 112-247)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Hastings, R-Wash., or his designee. The Democratic manager will be Rep. Markey, D-Mass., or his designee.

BACKGROUND: The Natural Resources Committee reported the bill by voice vote (H Rept 112-247).

Under current law, water districts which benefit from Bureau of Reclamation projects can enter into a capital repayment contract with the federal government to pay their share of project-related costs. Most local water districts are not allowed to prepay these contractual obligations unless such a plan is specifically authorized by Congress. From the perspective of the local water district, the authority to prepay can substantially reduce long-term interest costs.

The Uintah Water Conservancy District in Utah entered into a repayment contract with the federal government in 1976 to repay all reimbursable costs associated with the Jensen Unit of the Central Utah Project. The project was undertaken to provide water for irrigation, industrial uses and to meet municipal needs in central and eastern Utah. The Uintah Water Conservancy District is currently paying the federal government about \$227,000 a year on a balance of \$3.9 billion in project construction costs.

SUMMARY: This bill authorizes the Uintah Water Conservancy District in Utah to prepay its municipal and industrial water contract costs to the federal government. The bill requires that total repayment be completed by Sept. 30, 2022.

CBO Cost Estimate

The Congressional Budget Office (CBO) estimates the bill would have no impact on the federal budget. The bill would not affect direct (mandatory) spending, meaning pay-as-you-go procedures would not apply. According to CBO, the bill does not contain any intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (PL 104-4).

AMENDMENTS: None permitted.

— MONDAY —

COMMENTARY: The administration position was not available as of press time Friday.

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⁴ McKinney Lake National Fish Hatchery Conveyance Act (HR 1160 ; H Rept 112-168)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Hastings, R-Wash., or his designee. The Democratic manager will be Rep. Markey, D-Mass., or his designee.

BACKGROUND: The Natural Resources Committee reported the bill June 15 by unanimous consent (H Rept 112-168).

The McKinney Lake National Fish Hatchery, situated entirely on lands acquired by the state of North Carolina and donated to the U.S. Fish and Wildlife Service, was established in 1939. In 1996 the service signed a memorandum of understanding with the North Carolina Wildlife Resources Commission allowing the commission to operate the hatchery. Under this agreement, the state agreed to be fully responsible for all costs and expenses related to the hatchery facilities.

The hatchery is comprised of 422 acres of land, 23 production ponds covering 18 acres of water and several buildings. It employs two permanent and two seasonal employees. The hatchery produces approximately 150,000 channel catfish annually and is the primary source of channel catfish for North Carolina's Community Fishing Program. The hatchery obtains its water supply from the 80-acre McKinney Lake, and about 15,000 people visit the hatchery each year.

The McKinney Lake National Fish Hatchery is classified by the Fish and Wildlife Service as a "hatchery managed/operated by state" facility. There are 10 other hatcheries within this category. Since 1970, the service has conveyed to states or local municipalities title and ownership to 24 national fish hatcheries. The service has consistently supported these conveyance bills.

SUMMARY: This bill directs the Interior secretary to convey the McKinney Lake National Fish Hatchery in Richmond County, N.C., to the state of North Carolina for use by the North Carolina Wildlife Resources Commission in its fish and wildlife management program.

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The bill requires the state to allow the U.S. Fish and Wildlife Service to use the hatchery for the propagation of any critically important aquatic resource. The federal government, however, would be required to reimburse the state for any costs resulting from such federal use.

Under the measure, the property would revert to the federal government if it is used for any purpose other than as described above. If the property reverts to the federal government, it must be in the same or better condition than when it was conveyed to the state.

CBO Cost Estimate

The Congressional Budget Office (CBO) estimates that implementing the legislation would have no significant impact on the federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. Under the bill, the service could use fish hatchery facilities for certain purposes if it reimbursed the state for any costs it incurred. CBO estimates that any reimbursements would be less than \$150,000 a year. The bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (PL 104-4) and would impose no costs on state, local or tribal governments. The land conveyance authorized in the bill would benefit North Carolina. Any costs to the state would be incurred voluntarily.

AMENDMENTS: None permitted.

COMMENTARY: The administration position was unavailable as of press time Friday.

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⁵ Designate Distinguished Flying Cross National Memorial
(HR 320 ; H Rept 112-170)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure is expected to be managed by Chairman Hastings, R-Wash. The Democratic manager is expected to be Rep. Markey, D-Mass.

BACKGROUND: The Natural Resources Committee reported the bill June 15 by unanimous consent (H Rept 112-170).

The March Field Air Museum at the former March Air Force Base in Riverside, Calif., has commenced work on a memorial to honor recipients of the U.S. Air Force's Distinguished Flying Cross. The flying cross is a medal awarded to members of the U.S. armed forces who have demonstrated "heroism or extraordinary achievement while participating in an aerial flight."

SUMMARY: This bill designates the Distinguished Flying Cross National Memorial that is under construction at the March Field Air Museum in Riverside, Calif., to members of the armed forces who have excelled in flight.

The measure specifies that the memorial will not become a unit of the National Park System, however, and states that the designation as a national memorial "shall not be construed to require or permit federal funds" to be spent on the memorial.

CBO Cost Estimate

This measure is an authorization measure and is not covered by spending limitations in the Budget Act or any budget resolution because it does not directly result in expenditures. Based on information from the National Park Service, the Congressional Budget Office (CBO) estimates that implementing the bill would have no effect on discretionary spending because the proposed memorial would not be constructed or operated with federal funds. Enacting the legislation would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply. The bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (PL 104-4) and would not affect the budgets of state, local or tribal governments.

AMENDMENTS: None permitted.

— MONDAY —

COMMENTARY: The administration position was unavailable as of press time.

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⁶ South Utah Valley Electric Conveyance Act (HR 461 ; H Rept 112-217)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Hastings, R-Wash., or his designee. The Democratic manager will be Rep. Markey, D-Mass., or his designee.

BACKGROUND: The Natural Resources Committee reported the bill Sept. 23 by voice vote (H Rept 112-217).

In 1906 the Bureau of Reclamation initiated the Strawberry Valley Project in Utah in order to build energy production and distribution infrastructure. Today the project includes the Strawberry Dam and Reservoir, several diversion dams, canals, three power plants and a 296-mile long electric transmission and distribution system. Until 1986, the project was under the joint ownership of the Bureau of Reclamation and the local Strawberry Water Users Association.

In 1986 the Strawberry Water Users Association sold its portion of the project to the South Utah Valley Electric Service District. The bureau approved the sale on the condition that it be limited to those portions that were not part of the original project or were not constructed on federal lands or easements. It has since been determined that much of the project had been built on federal easements, but due to poor record keeping it is unclear which portions of the land involved in the 1986 sale still belong to the government.

The bill was introduced in order to authorize a title transfer and clarify the ownership confusion by placing the entire electric distribution system in local ownership.

SUMMARY: This bill conveys all federal rights, titles and interests of the entire electrical distribution system of the Strawberry Valley Project to the South Utah Valley Electric Service District. The bill would not, however, convey the federally-owned power generation system or the 46 kilovolt transmission system.

The transfer of the title of the electric distribution system would include all federally owned fixtures and the underlying federal land that is not shared by other facilities. The bill provides the South Utah Valley Electric Service District with permanent access and licensing privileges for project lands and interests that are on lands occupied by other facilities. These licenses would be provided for the purpose of conducting required maintenance on project facilities.

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The bill requires the Interior Department to comply with the applicable requirements of the National Environment Policy Act (PL 91-190) and the Endangered Species Act (PL 93-205).

CBO Cost Estimate

The Congressional Budget Office (CBO) estimates the bill would not have a significant impact on the federal budget. The bill would affect direct spending; therefore pay-as-you-go procedures would apply. According to CBO, the bill does not contain any intergovernmental or private sector mandates as defined by the Unfunded Mandates Reform Act (PL 104-4).

AMENDMENTS: None permitted.

COMMENTARY: The administration position was not available as of press time Friday.

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⁷ European Union Emissions Trading Scheme Prohibition Act (HR 2594 ; H Rept 112-232, Part I)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure is expected to be managed by Chairman Mica, R-Fla., or his designee. The Democratic manager is expected to be Rep. Rahall, D-W.Va., or his designee.

BACKGROUND: The Transportation and Infrastructure Committee approved the bill Sept. 8 by voice vote (H Rept 112-232, Part I).

U.S. civil aviation operators landing in or departing from the European Union (EU) will be included in the EU Emissions Trading Scheme beginning January 2012. The plan caps carbon dioxide emissions from thousands of stationary sources within the EU and auctions a specified number of emissions allowances for a multi-year period, while distributing a certain number of allowances for free.

The EU's emissions trading plan requires emitters to submit one allowance for each ton of carbon dioxide to regulatory authorities. It also supports a market for allowance trading in which emitters could buy and sell unneeded allowances. Sanctions include a possible ban from operating in the EU. Under the emissions trading plan, a country would not have to pay the carbon charge for one leg of their European roundtrip if they can show "equivalent measures" on civil aviation carbon dioxide reduction, but there is currently no guidance on what "equivalent measures" means.

The U.S. government opposes the EU's emissions trading plan because of its perceived infringement of U.S. sovereignty and because it could apply to aircraft operations within the United States and over other non-EU countries. In June, representatives from the U.S. government expressed their objections to EU representatives during a meeting of the U.S.-EU Joint Committee created under the 2007 Air Transport Agreement.

In addition, three U.S. airlines have filed a lawsuit challenging the emissions trading plan; that suit is now being considered in the European Court of Justice. Aviation industry representatives testified before a Transportation and Infrastructure subcommittee that the plan is a job-killer and thinly-disguised tax on civil aviation.

The committee report argues that ongoing efforts through the International Civil Aviation Organization represent a better approach to reducing greenhouse gas emissions from aircraft. The Federal Aviation Administration has also reported that implementation of the Next Generation Air Transportation System, which utilizes satellites in air traffic control, could significantly reduce greenhouse gas emissions from aircraft.

SUMMARY: This bill directs the Transportation Department to prohibit operators of civil aircraft of the United States from participating in any emissions trading plan unilaterally established by the European Union.

The measure requires the Transportation secretary, the Federal Aviation Administration administrator, and other appropriate officials of the U.S. government to use their authority to conduct international negotiations and take other necessary actions to ensure that civil aircraft operators are held harmless from any EU emissions trading plan.

CBO Cost Estimate

The Congressional Budget Office (CBO) estimates that implementing the bill would have no significant impact on the federal budget because it would not alter the scope of diplomatic efforts currently underway or federal agencies' costs to participate in those efforts. It would not affect direct spending or revenues, according to CBO, so pay-as-you-go procedures would not apply.

The measure contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA; PL 104-4), CBO stated, but it does contain a private sector mandate on U.S. air carriers. According to CBO, the mandate's cost would depend on how the prohibition is administered by the Transportation Department, but there is no basis for estimating the cost and whether it exceeds the annual UMRA threshold for private sector mandates (\$142 million in 2011, adjusted annually for inflation).

AMENDMENTS: None permitted.

COMMENTARY: The administration position was unavailable as of press time Friday. Representatives from the Transportation Department and State Department, however, testified before a Transportation and Infrastructure subcommittee that they oppose the EU emissions trading plan.

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Tuesday, Wednesday & Thursday, October 25, 26 & 27, 2011

Suspensions

The following three measures will be considered under suspension of the rules Tuesday.

| | |
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| HR 2447, Congressional Gold Medal to the Montford Point Marines | 17 |
| HR 2527, National Baseball Hall of Fame Commemorative Coin Act | 19 |
| HR 2042, Asia-Pacific Economic Cooperation Business Travel Cards Act | 21 |

⁸ **Congressional Gold Medal to the Montford Point Marines** (**HR 2447**)

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Bachus, R-Ala., or his designee. The Democratic manager will be Rep. Frank, D-Mass., or his designee.

BACKGROUND: The Financial Services Committee has not acted on the bill, which was introduced July 7 by Rep. Corrine Brown, D-Fla.

During World War II President Franklin D. Roosevelt issued an executive order that allowed African-Americans to serve in the Marine Corps for the first time. The first black Marine recruits were trained at Camp Montford Point in Jacksonville, N.C., and more than 19,100 black Marines eventually served in World War II.

SUMMARY: This bill authorizes the award of a Congressional Gold Medal to collectively honor the Montford Point Marines in recognition of their personal sacrifice and service to their country.

The bill authorizes an appropriation not to exceed \$30,000 to pay for the cost of the medal.

The bill permits the Treasury secretary to strike duplicate medals in bronze, and to sell them at a price sufficient to cover the costs of the medals. Any proceeds from the sale of the duplicate bronze medals would be deposited in the U.S. Mint Public Enterprise Fund.

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The Congressional Budget Office has not released a cost estimate for the bill as of press time Friday.

AMENDMENTS: None permitted.

COMMENTARY: The administration position was unavailable as of press time Friday.

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⁹ National Baseball Hall of Fame Commemorative Coin Act **(HR 2527)**

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure will be managed by Chairman Bachus, R-Ala., or his designee. The Democratic manager will be Rep. Frank, D-Mass., or his designee.

BACKGROUND: The Financial Services Committee reported the bill by voice vote (no written report had been filed as of press time Friday).

According to some accounts, baseball began in Cooperstown in 1839. Baseball gained in popularity and spread across the nation. In the mid-1930s, in an effort to increase gate revenue during the Great Depression, the baseball establishment began planning for the 100th anniversary of the start of the game. The centennial was tied to the opening of the National Baseball Hall of Fame, which was dedicated on June 12, 1939, in Cooperstown, N.Y.

SUMMARY: This bill authorizes the Treasury Department to mint and issue up to 50,000 \$5 gold coins, 400,000 \$1 silver coins and 750,000 half-dollar "clad" coins — made of multiple layers of metal — to commemorate the 75th anniversary of the National Baseball Hall of Fame. The coins would be minted for one year beginning Jan. 1, 2015.

The measure requires that the design of the coins be emblematic of the game of baseball, and that all three coins have a similar design. Treasury would be required to hold a public competition for designing the front of the coins, and would have to consult with the National Baseball Hall of Fame and the Commission of Fine Arts on selection of the coin design. The \$5 and \$1 coins must be produced so that the reverse side of the coin is convex to more closely resemble a baseball.

The bill sets surcharges for the sale of the coins and requires that revenues generated be paid to the National Baseball Hall of Fame to help finance its operations.

The Congressional Budget Office has not released a cost estimate of the bill as of press time Friday.

AMENDMENTS: None permitted.

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COMMENTARY: The administration position was unavailable as of press time Friday.

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¹⁰ **Asia-Pacific Economic Cooperation Business Travel Cards Act (HR 2042)**

FLOOR SITUATION: The bill will be considered under suspension of the rules; 40 minutes of debate; not subject to amendment; two-thirds majority vote required for passage. The measure is expected to be managed by Chairman King, R-N.Y., or his designee. The Democratic manager is expected to be Rep. Thompson, D-Miss., or his designee.

BACKGROUND: The Homeland Security Committee has not acted on the bill, which was introduced May 26 by Rep. Rick Larsen, D-Wash.

The United States is a member of Asia-Pacific Economic Cooperation (APEC), an international economic forum which includes most countries with a coastline along the Pacific Ocean. APEC has a business travel card program that allows participants to travel more efficiently between member countries. According to APEC, the United States recognizes the business travel card for expedited visa appointments at U.S. embassies and consulates abroad, but it does not substitute for a U.S. visa. Cardholders also receive expedited immigration processing through airline crew lanes at U.S. international airport ports of entry. The United States, however, does not yet have its own program for issuing the APEC business travel card to eligible U.S. citizens.

According to APEC, each member economy is responsible for vetting their applicants, who are required to demonstrate that they hold a current passport valid for at least six months, may need to travel frequently on short term visits within the APEC region to fulfill business commitments, and have not been convicted of a criminal offense.

SUMMARY: This bill requires the Homeland Security Department, in consultation with the State Department, to establish a program to issue Asia-Pacific Economic Cooperation (APEC) business travel cards, which would provide U.S. travelers with pre-cleared, short-term entry to member countries.

Under the measure, the program, to be called the "APEC Business Travel Program," must be established no later than Nov. 11. It would issue the business travel cards to eligible U.S. citizen business leaders and senior U.S. government officials who are actively engaged in Asia-Pacific Economic Cooperation business.

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The measure directs the Homeland Security Department to integrate application procedures for the issuance of the business travel cards with other appropriate international registered travel programs, such as Global Entry, NEXUS and SENTRI. It also directs the department to work in conjunction with appropriate private sector entities to ensure that applicants for the APEC business travel cards satisfy program requirements.

The bill allows the Homeland Security Department to impose a fee for the issuance of the APEC business travel cards and to modify the fee as determined appropriate. The department would ensure that the total amount of fees in any fiscal year would not exceed the costs associated with carrying out the program. Fees collected would be credited to the appropriate Homeland Security Department account and would remain available until expended.

As of press time, the Congressional Budget Office had not released a cost estimate for the bill.

AMENDMENTS: None permitted.

COMMENTARY: The administration position was unavailable as of press time Friday.

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Southeast Arizona Land Exchange and Conservation Act (HR 1904 ; H Rept 112-246)

FLOOR SITUATION: The Rules Committee is expected to recommend a structured rule limiting amendments. Members have been requested to submit their amendments by noon Monday, Oct. 24. The measure will be managed by Chairman Hastings, R-Wash., or his designee. The Democratic manager will be Rep. Markey, D-Mass., or his designee.

BACKGROUND: The Natural Resources Committee reported the bill with dissenting views July 13 by a vote of 26 to 19 (H Rept 112-246).

Resolution Copper is a joint subsidiary of the Australian-owned BHP-Billiton and the British-owned Rio-Tinto Group. It was created to establish and operate a copper mine on deeded lands near the city of Superior, Ariz. During exploratory activities on these lands from 2001 to 2003, the company claims to have found a very large deposit of copper ore and molybdenum 4,500 to 7,000 feet below the surface near the currently inactive Magma Mine. According to the company's estimates, the mine could potentially provide as much as 25% of the nation's copper when fully operational.

Since making the discovery, Resolution Copper has sought numerous parcels of federal lands comprising roughly 2,400 acres to facilitate mining operations. Included in the lands being sought are the Oak Flat Withdrawal Area, which includes the Oak Flat Campground and was withdrawn from mining by President Dwight D. Eisenhower in 1955; and protected portions of the Tonto National Forest, which contain numerous sites of cultural significance such as burial grounds and ancestral homes of area American Indian tribes.

In exchange for these lands, Resolution Copper has offered to provide nearly 5,300 acres of privately held lands to the federal government. Of the lands given up by the company, roughly 1,200 acres would become part of the National Forest System and 4,200 would become a set of conservation areas to be administered by the Bureau of Land Management. Several parcels within the lands offered by Resolution Copper contain areas of cultural significance, such as the Apache Leap, and other significant archeological sites within the Tonto National Forest. Many of the parcels also contain sensitive riparian zones, endangered species and critical bird habitats.

Republicans have argued that this bill will create jobs and facilitate access to an important strategic resource. The potential quantity of copper makes the find one of the largest in the world. According to Resolution Copper's estimates, the mine would provide a

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total economic benefit of \$60 billion dollars and would support roughly 3,700 jobs annually. Advocates argue that the legislation would require Resolution Copper to provide further compensation to the federal government if the land they acquire in the exchange is of greater value than initially determined.

Committee Democrats, American Indian tribes and environmental groups have decried the bill as a massive giveaway to private industry. They argue that the bill violates American Indian sovereignty and circumvents consultation requirements and protections for native burial grounds, and that it would bypass environmental review requirements of the National Environmental Policy Act (NEPA; PL 91-190) since the land exchange would occur legislatively instead of through regular agency action. Opponents also point to an estimate that the mine would require 40,000 acre feet of water annually (one acre foot of water equals approximately 325,850 gallons), the same amount used each year by the city of Tempe, Ariz., which has a population 160,000.

SUMMARY: The bill directs the Agriculture Department to convey approximately 2,400 acres of federal lands to Resolution Copper, if the company agrees to provide roughly 5,300 acres in return. The 2,400 acres of land that would be provided to Resolution Copper are located in Pinal County, Ariz., and are known as the Oak Flat Parcel. The parcel includes the Oak Flat Campground and the 760 acre Oak Flat Withdrawal area.

The roughly 5,300 acres of land that Resolution Copper would be required to provide is primarily comprised of disparate parcels located in Gila, Yavapi, Maricopa, Coconino, Pinal and Santa Cruz counties, Ariz. These parcels would then be integrated into the National Forest System or added to the San Pedro Riparian and Las Cienegas National Conservation Areas.

In addition to the non-federal lands conveyed to the government in the exchange, Resolution Copper would be required to give up any mining rights or claims to extract minerals from the location known as Apache Leap. The location would then be withdrawn from federal lands available for lease or mining, and the Agriculture Department would be required to implement a management plan for Apache Leap within 3 years.

Of the lands conveyed to the federal government, roughly 280 acres would then be conveyed to the city of Superior, Ariz., as well as a reversionary interest and reserved mineral rights in a 265 acre parcel near the city. The city would be required to pay market value for those lands and mineral rights.

The bill expresses the intent of Congress that the exchange be completed within one year of enactment, though it does not explicitly require it.

Mineral Exploration & Recovery

The bill requires the Agriculture Department to issue a special use permit to Resolution Copper allowing for mineral exploration within the Oak Flat Withdrawal Area, provided the action does not disturb the surface area. This would allow the company to engage in activities through existing mining facilities in the Withdrawal Area. However, the permit would not allow exploration or mining activities to take place within the surface area of the Withdrawal Area's Oak Flat Campground.

The department also would be permitted to issue a special use permit for certain "underground activities" beneath Apache Leap that do not disturb the surface area. Commercial mineral extraction, however, would be prohibited beneath the surface of Apache Leap.

Environmental Requirements

The bill requires Resolution Copper to submit a proposed mine operation plan to the Agriculture Department for review. The department would be required to complete a review of the plan within 3 years and in compliance with the National Environmental Policy Act (NEPA; PL 91-190). This review would then become the basis for any further decisions regarding mining operations, power source construction, water use, transportation, processing, tailings, waste dumping and the construction of other ancillary facilities on the federal lands conveyed to Resolution Copper in the exchange.

Appraisals & Payments

As part of the exchange, an appraisal of the federal and non-federal lands involved in the deal would be required. Improvements made to the lands by Resolution Copper prior to the exchange would not be included in the final value. If the value of the land provided to Resolution Copper exceeds the value of the land received by the federal government, the company could convey additional lands, make a cash payment or do a combination of the two to equalize value.

Resolution Copper would be required to pay for any environmental review and for the cost of facilitating the exchange.

In addition, after completion of the exchange, Resolution Copper would have to pay a portion of any future income earned on the federal lands if the company determines that the actual cumulative production of minerals exceeds the value of the estimated production from the original appraisal.

CBO Cost Estimate

According to the Congressional Budget Office, (CBO) the bill would have an implementation cost of less than \$500,000 annually. The bill could affect direct (mandatory) spending; therefore pay-as-you-go procedures would apply. However, CBO estimates the affect on direct spending would be negligible. The bill contains no intergovernmental or private sector mandates as defined by the Unfunded Mandated Reform Act (PL 104-4). According to CBO any revenue generated by the bill would be treated as a donation to the government and would be used by the U.S. Forest Service to acquire additional lands; meaning it would not affect the federal budget.

AMENDMENTS: The Rules Committee is expected to recommend a structured rule limiting amendments. Members have been requested to submit their amendments by noon Monday, Oct. 24.

COMMENTARY: The administration position was not available as of press time Friday.

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Modify Income Calculation for Health Care Programs

(HR 2576 ; H Rept 112-254)

FLOOR SITUATION: The Rules Committee is expected to recommend a rule barring amendments. It is also expected that the committee will act to combine the measure, before it is sent to the Senate, with the Contractor Withholding Repeal bill (HR 674), with this bill effectively acting as an "offset" for the cost of that measure. The measure is expected to be managed by Rep. Camp, R-Mich., or his designee. The Democratic manager is expected to be Rep. Levin, D-Mich., or his designee.

BACKGROUND: The Ways and Means Committee approved the bill with dissenting votes by a vote of 23 to 12 (H Rept 112-254).

The Patient Protection and Affordable Care Act (PL 111-148) as modified by the Health Care and Education Reconciliation Act (PL 111-152) provides that, beginning in 2014, eligibility for health care insurance exchange tax credits (also known as premium assistance credits), health insurance exchange cost-sharing reductions, Medicaid for the non-elderly, and the Children's Health Insurance Program will be determined based on an income measure known as "modified adjusted gross income." That modified income measure effectively adds back in certain income that is otherwise excluded from a person's adjusted gross income, such as tax exempt interest and income associated with living abroad.

The law does not, however, add back in Social Security benefits or "tier 1" railroad retirement benefits that are excluded from gross income. (Although those Social Security benefits currently included in adjusted gross income for higher income beneficiaries are included in the health care law's definition of modified adjusted gross income.)

Under the health care law, the premium assistance credit is to be available, on a sliding scale, to individuals with household incomes between 100% and 400% of the federal poverty level.

The committee report argues that the current definition of modified adjusted gross income used to determine eligibility for these health care programs significantly understates the financial resources available to certain households. It notes that an administration official from the Centers for Medicare and Medicaid Services testified that millions of families with no other qualifying factors will be eligible for subsidized health insurance under the health care law's income definition.

President Obama, as part of his September deficit reduction plan, proposed to add in Social Security benefits to the definition of modified adjusted gross income.

SUMMARY: This bill modifies the calculation for modified adjusted gross income in determining eligibility for certain health care programs by adding into an individual's income all Social Security benefits.

Specifically, the measure requires taxpayers to include Social Security benefits and "tier 1" railroad retirement benefits in calculating their modified adjusted gross income, for purposes of determining eligibility for Medicaid and health exchange insurance subsidies (also known as premium credit assistance) created under the Patient Protection and Affordable Care Act (PL 111-148). The new income definition also would apply to eligibility for the Children's Health Insurance Program and for purposes of eligibility for reduced cost sharing with respect to health insurance purchased through an exchange.

The Social Security and railroad retirement benefits to be included in the new calculation would be those that are currently excluded from gross income. (For a taxpayer's Social Security benefits to be included in gross income, the taxpayer's income must exceed a certain threshold, and then a designated percentage of those benefits is taxed based on a scale.)

The changes would take effect on the date of enactment. The new health insurance exchanges take effect beginning in 2014, however, so the modified income definition would have a practical effect then.

CBO & JCT Estimate

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that implementing the bill would reduce deficits by nearly \$3 billion over the period of FY 2012 through FY 2016 and by nearly \$13 billion over the period of FY 2012 through FY 2021. CBO stated that pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues, but that it would not have any significant impact on spending subject to appropriations. According to CBO, the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA; PL 104-4).

The measure would reduce Medicaid enrollment by 500,000 to 1 million people, increase the number of participants in health insurance exchanges by nearly 500,000, and slightly increase the number of people who are uninsured and that seek employer-based

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coverage by less than 500,000, according to CBO and JCT. CBO's analysis shows that the bill would reduce direct spending for Medicaid by \$32.9 billion over 10 years and would increase direct spending for health care exchange subsidies by \$10.8 billion over 10 years.

AMENDMENTS: The recommended rule is expected to bar amendments.

COMMENTARY: The administration position was unavailable as of press time Friday. The administration, however, included a similar provision in its deficit reduction plan released in September.

Some Ways and Means Committee Democrats, writing in the dissenting views section of the committee report, expressed concern about the bill's effect on retirees and people with severe disabilities, and pointed to CBO's estimate that as many as 500,000 people could lose health care coverage. They also argue that scenarios in which families with yearly income of \$60,000 would qualify for Medicaid under the current law are implausible.

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Government Contractor Withholding Repeal (HR 674 ; H Rept 112-253)

FLOOR SITUATION: The Rules Committee is expected to recommend a rule barring amendments. It is also expected that the Rules Committee will act to combine the measure, before it is sent to the Senate, with other legislation that will effectively "offset" the bill's cost. The measure is expected to be managed by Chairman Camp, R-Mich., or his designee. The Democratic manager is expected to be Rep. Levin, D-Mich., or his designee.

BACKGROUND: The Ways and Means Committee reported the bill by voice vote (H Rept 112-253).

The Tax Increase Prevention and Reconciliation Act (PL 109-222) enacted in 2006 created a new requirement that the federal government, as well as state and local governments, withhold 3% in taxes from any payment to any contractor providing goods or services. It was intended to improve tax compliance and narrow the government's tax gap — the disparity between taxes owed and the amount of taxes actually paid.

The Joint Committee on Taxation (JCT) in 2005 estimated that tax compliance for wage earners whose income is subject to withholding is approximately 99% while compliance for income not subject to withholding is significantly less, and that payments made by federal, state and local governments represent a significant amount of those annual payments not subject to withholding. A 2007 Government Accountability Office (GAO) investigation of 122 federal contractors found that they were all involved in abusive and potentially criminal activity related to the tax system.

The Tax Increase Prevention and Reconciliation law includes exemptions for payments made by a government entity that pays less than \$100 million a year to contractors, and for payments subject to other types of withholding. It also exempted certain other payments, such as those for interest, real property, classified contracts or tax-exempt entities.

Under the law, the 3% withholding rule was scheduled to apply to payments made after Dec. 31, 2010. Since then, lawmakers have responded to concerns from both employers and government entities that the provision diverts money from job creation and creates more paperwork for government agencies. The 2009 stimulus law (PL 111-5) delayed the effective date of the rule to Jan. 1, 2012. Earlier this year, the IRS issued a regulation further

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postponing the effective date of the rule to 2013, in response to continued concerns about the administrative burdens of compliance and the revenue effect on contractors subject to the withholding.

As part of his jobs plan released in September, President Obama proposed to delay the effective date of the withholding rule to Jan. 1, 2014. The Senate on Oct. 20 rejected an effort to take up GOP-proposed legislation (S 1726) to repeal the rule, voting 57-43 but failing to reach the 60 votes needed for cloture to shut off debate. The Senate test vote failed because most Democrats objected to the \$30 billion cut in federal spending included by Republicans as an offset.

SUMMARY: This bill repeals the rule which requires the federal government, as well as state and local governments, to withhold 3% of most payments made to government contractors. The rule is currently scheduled to take effect on Jan. 1, 2013.

CBO & JCT Estimates

The Joint Committee on Taxation (JCT) estimates that enacting the bill would reduce revenues by \$11.2 billion over the period of FY 2012 through FY 2021. The Congressional Budget Office (CBO) stated that pay-as-you-go procedures apply because the measure affects revenues. The bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA; PL 104-4), according to JCT.

AMENDMENTS: The recommended rule is expected to bar amendments.

COMMENTARY: The administration had not released a formal statement as of press time Friday. In a White House fact sheet that accompanied the American Jobs Act, the administration described such withholding requirements as "burdensome."

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