



Legislative Bulletin.....May 14, 2002

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H.R. 1370 — National Wildlife Refuge System Maintenance and Repair Act (Souder)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1370 authorizes the Secretary of the Interior to enable those who lease land or water in the National Wildlife Refuge System for the purpose of “providing accommodations, facilities, or services to visitors” to maintain or make improvements to the leased property. The costs of the repairs would be treated as “consideration otherwise required to be paid to the United States” for use of the property.

The bill also allows the Secretary to use funds from concessionaire leases and permits to maintain, repair or preserve refuge property and facilities.

Additional Background: The Interior Department estimates an \$830 million backlog in wildlife refuge maintenance, consisting of more than 8,000 projects. By allowing concessionaires to perform repairs themselves, Interior anticipates a reduction in maintenance backlog.

Cost to Taxpayers: The bill does not authorize any appropriations.

Does the Bill Create New Federal Programs or Rules?: The bill makes changes to the National Wildlife Refuge System Administration Act as described above.

Constitutional Authority: No committee report citing constitutional authority is available.

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H.R. 4044 — Nutria Eradication and Marchland Restoration Act (Gilchrest)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4044 authorizes the Secretary of the Interior to make grants to the State of Maryland and the State of Louisiana for programs “to implement measures to eradicate or control nutria and restore marshland damaged by nutria.” The bill limits federal costs to 75 percent of total program costs.

Additional Background: Nutria are large, semi-aquatic, surface feeding herbivores that are extremely destructive to marsh vegetation. Under Public Law 105–322, \$2.9 million was authorized over three years to help alleviate this invasive problem in Maryland (about \$1.5 million has been appropriated). This authorization expires September 30, 2002.

Cost to Taxpayers: The bill authorizes, subject to appropriations, \$4 million a year for the State of Maryland and \$2 million a year for the State of Louisiana for fiscal years 2003-2007.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates two new programs for nutria eradication as described above.

Constitutional Authority: The Resources Committee Report (107-442) cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 1925 — Waco Mammoth Site Area Interior Study Act (*Edwards*)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1925 directs the Secretary of the Interior to conduct a study on the “suitability and feasibility” of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System.

Additional Background: Located near the Brazos and the Bosque rivers, in Waco, Texas, the Waco Mammoth Site Area, is an area discovered by a University of Baylor staff member investigating a report by local residents of bones eroding from a creek bank nearby. By 1997,

the bones of twenty-two Columbian mammoths, warm weather cousins to the woolly mammoth, were unearthed. Excavation and research continues, but many of the remains are now in storage. The amount of mammoth remains makes the Waco Mammoth Site Area the largest known concentration of a single herd of mammoths dying from the same event.

Bush Administration Position: At an October 4, 2001, hearing before the Parks, Recreation and Wildlife Subcommittee of the Resources Committee, the National Park Service stated its support for H.R. 1925 “in concept”, but added that the study would not begin until 39 pending authorized studies are completed.

Cost to Taxpayers: CBO estimates the study will cost \$300,000 over three years.

Does the Bill Create New Federal Programs or Rules?: The bill requires a study by the Department of Interior as described above.

Constitutional Authority: The Resources Committee Report (107-317) cites Article I, Section 8 and Article IV, Section 3 but fails to cite specific clauses.

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H.R. 2051 — Regional Plant Genome and Gene Expression Research Act (Smith, Nick)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2051 authorizes the National Science Foundation to establish regional centers for plant genome and gene expression research and development. The activities of the centers may include research on ecological and other consequences of genetically engineered plants, alternative uses for plants and plant materials, and the cultivation of crops in extreme environments and cultivation of crops with reduced reliance on fertilizer.

The bill also authorizes NSF to provide grants to institutions of higher education, nonprofit organizations, or consortia of entities to establish international research partnerships for the advancement of plant biotechnology in the developing world. Grantees “shall enter into a partnership with one or more research institutions in one or more developing nations and may also include for-profit companies involved in plant bio-technology.”

Additional Background: Funding for a plant genome research program at NSF was first appropriated in FY 1998. The Plant Genome Program currently supports 23 virtual centers at institutions of higher education across the country, which perform a variety of research activities. The Program also contributes basic biological knowledge, new research tools, and opportunities for training to developing countries.

The Administration requested \$75 million for the Plant Genome Program in its FY 2003 budget, equal to the amount appropriated for FY 2002.

The Department of Agriculture, Department of Energy and the National Institutes of Health are also working on plant genome issues.

Possible RSC Concerns: Some Members may be concerned that the programs authorized in H.R. 2051 replicate activities already being carried out by the NSF and other federal agencies.

Bush Administration Position: At a September 25, 2001, hearing before the Subcommittee on Research of the House Committee on Science, the NSF provided testimony on several bills, including H.R. 2051, that stated that while the legislation is “consistent with activities currently funded through NSF, they do not appear to provide NSF with authority it does not already have. In addition, legislation was not requested by the Administration in these areas.”

Cost to Taxpayers: The bill authorizes \$9 million for fiscal year 2002 and \$13.5 million for fiscal years 2003 and 2004.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill establishes new programs at the NSF as described above.

Constitutional Authority: The Science Committee Report (107-422) cites Article I, Section 8, but fails to cite a specific clause.

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H.Con.Res. 387—Recognizing the American Society of Civil Engineers for reaching its 150th Anniversary and for the many vital contributions of civil engineers to the quality of life of our Nation's people including the research and development projects that have led to the physical infrastructure of modern America (Barton)

Order of Business: The resolution is scheduled to be considered on Tuesday, May 14th, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 387 resolves that Congress:

- “acknowledges the American Society of Civil Engineers for its 150th Anniversary;
- “commends the many achievements of the Nation's civil engineers; and
- “encourages the American Society of Civil Engineers to continue its tradition of excellence in service to the profession of civil engineering and to the public.”

Additional Background: Founded in 1852, the American Society of Civil Engineers is the Nation's oldest national engineering society, according to the resolution. The American Society of Civil Engineers represents the profession primarily responsible for the design,

construction, and maintenance of the nation's roads, bridges, airports, railroads, public buildings, mass transit systems, resource recovery systems, water systems, waste disposal and treatment facilities, dams, ports and waterways and other public facilities.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 4069 — Social Security Benefit Enhancements for Women Act of 2002 (Shaw)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill. **NOTE: Additional changes related to the cost of the bill may be made to the bill prior to consideration.**

Summary: H.R. 4069 makes several changes to Social Security, as outlined in the chart below.

Current Law	H.R. 4069
Widows or widowers of early retirees receive reduced Social Security benefits when their spouse dies before reaching full retirement age.	Credits the month(s) the retiree was deceased before reaching full retirement age when calculating the widow(ers) benefit.
A widow must be at least 60 years old to collect widows' benefits, unless she is at least 50 years old <u>and</u> became disabled within 7 years of her spouse's death.	Eliminates the 7-year eligibility window.
A divorced spouse cannot collect benefits on an ex-spouse's earnings record if the ex-spouse is not already collecting benefits, unless the ex-spouse is fully insured, has reached age 62, and the divorce has been in effect for at least two years. If the ex-spouse is subject to the earnings test, it affects the divorced spouse's benefits, unless the divorce has been in effect at least two years.	Eliminates the two-year requirement, allowing a divorced spouse to receive benefits as soon as the ex-spouse remarries.

Cost to Taxpayers: CBO estimates the bill will cost \$4 billion over 10 years, with \$2.5 billion coming from the Social Security Trust Fund and the remainder from general revenues.

Does the Bill Create New Federal Programs or Rules?: The bill makes changes to the Social Security program as described above.

Constitutional Authority: No committee report citing constitutional authority is available.

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H.R. ____—To prohibit members of the Armed Forces in Saudi Arabia from being required or formally or informally compelled to wear the abaya garment. (Hostettler)

Order of Business: The bill is scheduled to be considered on Tuesday, May 14th, under a motion to suspend the rules and pass the bill.

Summary: H.R. ____ would prohibit members of the U.S. Armed Forces who are stationed in Saudi Arabia (either permanently or temporarily) from being required or informally compelled to wear the abaya garment (or any part of such garment). The Secretary of Defense would be required to provide each member of the Armed Forces stationed in Saudi Arabia with oral and written instructions about this prohibition.

No funds appropriated to the Department of Defense could be used to procure abayas for regular issuance to military personnel or contractors accompanying such personnel. The commander of the United States Central Command may require the wearing of the abaya garment in specific circumstances essential for a military mission, as determined by the commander.

Additional Background: Saudi law requires that all women wear an abaya (“robe” in Arabic) when in public, irrespective of religion, nationality, or profession. Wearing an abaya makes a women fully veiled, showing only her eyes, hands, and feet.

In January 2002, Gen. Tommy Franks, head of the U.S. Central Command, issued an order saying the abaya is no longer required for U.S. servicewomen in Saudi Arabia “but is strongly encouraged.” Since then some commanders of U.S. troops based in Saudi Arabia have ordered women under their command to wear the abaya, while others have left the decision to the servicewomen. The requirement dates from the 1990-91 Gulf crisis when U.S. forces were first stationed in Saudi Arabia.

Saudi officials warned soon afterwards that they would not allow U.S. servicewomen to go around in public without an abaya and criticized the U.S. for lifting the requirement that its female troops wear the garment.

Lt. Col. Martha McSally, the highest-ranking female pilot in the U.S. Air Force, has challenged the abaya rule in a Washington court, arguing that the abaya policy was unconstitutional and improperly forced American women to conform to others' customs. McSally's suit also challenges the requirement that servicewomen be accompanied by a man whenever they leave their base and that servicewomen ride in the back seat of a car.

For more information, go to these websites:

<http://www.foxnews.com/story/0,2933,43919,00.html>

<http://www.foxnews.com/story/0,2933,43714,00.html>

Cost to Taxpayers: Though no CBO cost estimate is available, nothing in the bill suggests any significant cost to the taxpayer.

Does the Bill Create New Federal Programs or Rules?: The bill would make it illegal to compel a member of the Armed Forces in Saudi Arabia to wear an abaya or to use appropriated funds to procure the head-to-toe garments for regular issuance.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.R. 3694 — Highway Funding Restoration Act (Young (AK))

Order of Business: The bill is scheduled to be considered on Tuesday, May 14, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3694 cancels the downward adjustment in highways spending required under the Revenue Aligned Budget Authority (RABA) provisions of TEA-21, thereby increasing by \$4.4 billion the amount of money that may be obligated for highway projects in FY 2003. The bill requires that the additional funds be dispersed in accordance with the provisions of TEA-21.

The bill is consistent with the House-passed Budget Resolution which provided a reserve fund to accommodate this legislation.

Additional Background:

The Law: 1998 Highway Bill (TEA-21)

The 1998 highway bill guarantees that new federal highway spending authority will match federal highway tax collections (which includes taxes on gas, diesel, and trucks). Under this law, when the budget is submitted each year, the Treasury revises its projections of highway revenue. Based on these revised projections and a comparison of actual revenue to prior

projections, highway spending for the upcoming fiscal year is adjusted - either up or down - to match revenues. This is known as Revenue Aligned Budget Authority or RABA.

The following information submitted for the Congressional Record by then Transportation Chairman Bud Shuster explains this provision:

“In section 1105, the Conference adopts a provision that adds a new section 110 to title 23, United States Code, (thereby repealing current section 110, relating to project agreements) to annually adjust highway funding up **or down** to correspond with the latest data on Highway Trust Fund receipts. Subsection 110(a) provides that, in fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate an amount of funds equal to any additional amount of discretionary highway spending made available under section 8101 of this Act related to the budget firewall for HTF spending. If the annual discretionary **highway spending limit decreases** under section 8101 for fiscal year 2000 or any fiscal year thereafter, the Secretary, in the succeeding fiscal year, **shall proportionately reduce the amounts authorized to carry out the Federal-aid highway and highway safety construction programs** (other than the emergency relief program) **by an amount equal to the amount of such spending decrease.**” (House of Representatives - October 10, 1998) [emphasis added]

Implementation in 1998-2002: Rising Estimates Produce Additional Spending

As required by the law, the Federal government has increased highway spending each of the last 3 years to match rising projected highway tax collections. Over the three years, the total increase equaled \$9 billion. A year ago, the Treasury increased its projections of these revenues for 2002 by \$4.5 billion, triggering an automatic increase in highway spending in 2002 equal to that amount. While it became clear last summer that Treasury had over-estimated highway tax revenue, the law required that 2002 spending be increased in any event. In December, \$31.8 billion in highway funding for 2002 was made available to the States, which included this \$4.5 billion increase.

Implementation in 2003: Correcting for Previous Spending in Excess of Revenues

When actual and estimated highway tax receipts fall short of projections, the law requires future spending to be adjusted downward to correct for prior spending that exceeded revenues. As a result, highway spending was adjusted downward by \$4.4 billion in 2003, and the President's budget follows the law by fully funding this adjusted guarantee level. **Over the years 2002-03, States will receive exactly what they were promised in the 1998 highway bill, and \$4.5 billion of that amount was advanced to them a year early.**

(Obligation Limitations in Billions of Dollars)

	1998	1999	2000	2001	2002	2003
TEA-21 Authority	21.5	25.5	26.1	26.5	27.2	27.6
RABA	--	--	+1.5	+3.1	+4.5	-4.4
Total	21.5	25.5	27.5	29.6	31.8	23.2

Trust Fund Balance:

Proponents of increasing highway funding have asserted that there is an \$18 billion balance in the Highway Trust Fund that could be used to “pay for” a legislative fix.

The “surplus” in the Highway Trust Fund that some point to has actually already been spent. Under the laws governing the Highway Trust Fund, the federal government has authority to obligate an amount equal to the current cash balance in the fund plus the amount of receipts estimated to be collected during the following two years. Once you take into account the obligations the government has already made, you end up with an encumbered balance. The encumbered balance for the Highway Trust Fund for FY 2002 is -\$29.8 billion (NOTE: this is a negative balance) and is anticipated to rise to -\$34.4 billion in FY 2003.

Cost to Taxpayers: The bill would cost taxpayers \$1.18 billion in FY 2003, \$4.2 billion over the period FY 2003 to FY2007 and an additional \$0.2 billion after FY 2007. In total, the bill will cost taxpayers \$4.4 billion.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The Transportation & Infrastructure Committee cites Article I, Section 8 but fails to cite a specific clause.

Potential Concerns:

Some Members may be concerned that passing a bill to increase highway funding in contravention of existing law would:

- Break faith with the 1998 highway bill's guarantee to match spending and receipts thereby negatively impacting reauthorization of TEA-21. In 1998, the bill's main sponsors pledged publicly that they would accept the ups and the downs of the revenue aligned funding system. While we have enjoyed the “ups” provided by the system that was implemented, this is the first time the commitment to also weather the downs has been tested. If we cannot abide by the current program of linking highway spending to trust fund revenues, then there may be efforts to delink the system during the next reauthorization bill.
- Further increase in the deficit. Despite the fact that bill is accommodated in the Budget Resolution, the bill will cause a higher deficit in FY 2003 and FY 2004 than what would otherwise occur absent enactment of the proposed legislation.
- Further expand a program that punishes donor states. Many Members have expressed concerns that despite the improvements made by TEA-21, highway funding is still allocated in a manner that fails to reflect the amount of funds each state pays into the Highway Trust Fund. Taxpayers in “donor” states see their tax dollars used to improve roads in other states that receive more funding from the federal government than they paid into the highway trust fund. Simply increasing funding for highways (as proposed by H.R. 3694) does nothing to address the fundamental fairness of the current system. Some Members have indicated that any bill proposing to increase highway funds should first address the inequity in the current system. The following

chart indicates the ratio of funds provided to a state versus funds paid in by the state (in other words the rate of return on each dollar contributed by the state):

State	Ratio of Apportionments and Allocations to Payments FY 2000	State	Ratio of Apportionments and Allocations to Payments FY 2000
Alabama	0.92	Montana	2.15
Alaska	5.74	Nebraska	0.93
Arizona	0.85	Nevada	1.06
Arkansas	0.96	New Hampshire	1.08
California	0.92	New Jersey	0.90
Colorado	0.87	New Mexico	1.14
Connecticut	1.41	New York	1.19
Delaware	1.62	North Carolina	0.90
Dist. of Col.	3.48	North Dakota	1.92
Florida	0.89	Ohio	0.87
Georgia	0.86	Oklahoma	0.89
Hawaii	2.23	Oregon	1.01
Idaho	1.42	Pennsylvania	1.17
Illinois	0.94	Rhode Island	2.20
Indiana	0.90	South Carolina	0.87
Iowa	0.98	South Dakota	2.09
Kansas	0.98	Tennessee	0.90
Kentucky	0.91	Texas	0.85
Louisiana	0.88	Utah	1.14
Maine	0.94	Vermont	1.90
Maryland	0.88	Virginia	0.89
Massachusetts	0.98	Washington	0.93
Michigan	0.90	West Virginia	1.49
Minnesota	1.09	Wisconsin	0.95
Mississippi	0.85	Wyoming	1.51
Missouri	0.95	Total	0.99

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