



**Legislative Bulletin.....December 12, 2011**

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**S. 384 - A bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research (*Sen. Feinstein, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the legislation.

**Summary:** S. 384 would extend the U.S. Postal Service's authority to issue a semipostal to raise funds for breast cancer research. This authority is set to expire on December 31, 2011. S. 384 extends this authority through December 31, 2015.

**Committee Action:** S. 384 was introduced on February 17, 2011, and referred to the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security. The full committee held a markup and the legislation was approved, as amended, on November 29, 2011. The legislation passed the Senate on December 5, 2011, by unanimous consent and was held at the desk.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** CBO estimates that enacting S. 384 would increase or decrease direct spending in most of the years 2012 through 2018 but would have no net effect on direct spending over the period as a whole. CBO states “we estimate that enacting the bill would result in a net reduction in direct spending of \$2 million over the 2012-2016 period, but that savings would be offset by increased direct spending in 2017 and 2018, leading to no net impact over the 2012-2021 period.” CBO’s report is [linked 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?:** Senate Report 112-097 states “S. 384 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on the budgets of State, local, or tribal governments.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation contains no earmarks.

**Constitutional Authority:** Senate rules do not require a statement of constitutional authority accompany legislation upon introduction.

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**H.R. 3220 - To designate the facility of the United States Postal Service located at 170 Evergreen Square SW in Pine City, Minnesota, as the “Master Sergeant Daniel L. Fedder Post Office” (Cravaack, R-MN)**

**Order of Business:** The bill is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 3220 would designate the U.S. post office located at 170 Evergreen Square SW in Pine City, Minnesota, as the “Master Sergeant Daniel L. Fedder Post Office.”

**Additional Information:** Master Sergeant Daniel L. Fedder was assigned to the 7th Engineer Support Battalion, 1st Marine Logistics Group, I Marine Expeditionary Force, Camp Pendleton, California. He was killed on August 27, 2010 while serving his country in the Helmand province in Afghanistan. More information on Master Sergeant Fedder can be [found here](#).

**Committee Action:** H.R. 3220 was introduced on October 14, 2011, and referred to the House Oversight and Government Reform Committee. A markup was held on November 3, 2011, and the legislation was reported by unanimous consent.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO score was available at press time, but the only costs associated with naming U.S. federal buildings and post offices are those for sign and map changes, none of which significantly affect the federal budget.

**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?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation contains no earmarks.

**Constitutional Authority:** Rep. Cravaack’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the power of Congress to establish Post Offices and post roads, as enumerated in Article I, Section 8, Clause 7 of the United States Constitution.” The statement can be [viewed here](#).

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**H.R. 3246 - To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building” (Akin, R-MO)**

**Order of Business:** The bill is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 3246 would designate the U.S. Post Office at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building.”

**Additional Information:** Specialist Peter J. Navarro was assigned to the 2nd Battalion, 70th Armor, 3rd Brigade Combat Team, Fort Riley, Kansas. He was killed December 13, 2005, when an improvised explosive device detonated near his Humvee while conducting combat operations in Taji, Iraq. More information on Specialist Navarro can be [found here](#).

**Committee Action:** H.R. 3246 was introduced on October 24, 2011, and referred to the House Oversight and Government Reform Committee. A full committee markup was held on November 3, 2011, and the legislation was reported by unanimous consent.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO score was available at press time, but the only costs associated with naming U.S. federal buildings and post offices are those for sign and map changes, none of which significantly affect the federal budget.

**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?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation contains no earmarks.

**Constitutional Authority:** Rep. Akin’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the power of Congress to establish Post Offices and post roads, as enumerated in Article I, Section 8, Clause 7 of the United States Constitution.” The statement can be [viewed here](#).

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**H.R. 2158 - To designate the facility of the United States Postal Service located at 14901 Adelfa Drive in La Mirada, California, as the “Wayne Grisham Post Office” (*Sanchez, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 2158 would designate the United States Postal Service located at 14901 Adelfa Drive in La Mirada, California, as the “Wayne Grisham Post Office.”

**Additional Information:** Wayne Grisham was a former Republican Member of Congress who represented the 33<sup>rd</sup> district of California from 1978 to 1982. He later served in the state Assembly. Rep. Grisham served his country in World War II in the U.S. Army Air Corps. He received a purple heart after being shot down in Germany and becoming a prisoner of war. He passed away on January 19, 2011. More information on Wayne Grisham, from the Sponsor’s office, can be [found here](#).

**Committee Action:** H.R. 2158 was introduced June 13, 2011, and was referred to the House Oversight and Government Reform Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy. The subcommittee discharged the legislation. A full committee markup was held on November 3, 2011, and the legislation was reported by unanimous consent.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO score was available at press time, but the only costs associated with naming U.S. federal buildings and post offices are those for sign and map changes, none of which significantly affect the federal budget.

**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?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation contains no earmarks.

**Constitutional Authority:** “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 7: To establish Post Offices and post Roads. The statement can be [viewed here](#).

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**H.R. 2767 - To designate the facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the “William T. Trant Post Office Building” (*Olver, D-MA*)**

**Order of Business:** The bill is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the legislation.

**Summary:** H.R. 2767 would designate the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the “William T. Trant Post Office Building.”

**Additional Information:** This following information is from the sponsor’s office:

“Born and raised in Westfield, he enlisted in the U.S. Army in 1943 and participated in five of the great campaigns of World War II, including the invasion of Normandy. He was decorated with several military honors, including the European-African-Middle Eastern Campaign Medal with five bronze stars, the Good Conduct Medal, and the Purple Heart with an oak leaf cluster for wounds sustained at Normandy and Rhineland. After being honorably discharged at the end of the war, Mr. Trant returned home and worked for the U.S. Post Office in Westfield, leaving briefly to pitch for the minor league baseball team the New York Giants.”

“In 1967, Mr. Trant was appointed Postmaster to the Westfield Post Office, a title he proudly held while serving as Procurement Officer in the Springfield Post Office and Director of Procurement Services for the Northeast Postal District in Hartford, CT.”

“Mr. Trant was actively involved in sports programs for the young people of Westfield, including the Westfield Little League, Westfield Babe Ruth, and Westfield American Legion baseball. He and his wife Mary were devoted parents

to nine children. He passed away in 2002, having lived a life that is an example and an inspiration to all who knew him.”

**Committee Action:** H.R. 2767 was introduced on August 1, 2011, and referred to the House Oversight and Government Reform. A full committee markup was held on November 3, 2011, and the legislation was reported by unanimous consent.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO score was available at press time, but the only costs associated with naming U.S. federal buildings and post offices are those for sign and map changes, none of which significantly affect the federal budget.

**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?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** The legislation contains no earmarks.

**Constitutional Authority:** Rep. Olver’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 7 of the Constitution, which empowers Congress ‘To establish Post Offices and post Roads.’” The statement can be [viewed here](#).

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## **H.R. 2845 - Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Shuster, R-PA)**

**Order of Business:** H.R. 2845 is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 2845 would amend title 49, United States Code to provide for enhanced safety and environmental regulation in pipeline transportation. H.R. 2845 is intended to also provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes. H.R. 2845 reauthorizes pipeline programs through FY 2015. Highlights of the legislation are listed below.

### **Authorizations and Appropriations**

H.R. 2845 authorizes (subject to appropriations) gross appropriations of \$505 million over the 2012-2016 period. The legislation authorizes the following cost for pipeline line safety programs:

- \$106 million for FY 2012,
- \$107 million for FY 2013,
- \$107 million for FY 2014,
- \$109 million for FY 2015.

According to CBO, about \$434 million of this authorized spending would be offset by fees paid by pipeline operators over the four-year period. The legislation also extends through 2015 the authorization for emergency response grants and one-call notification programs. HR. 2845 would authorize \$1.5 million each year for state damage prevention programs and \$1.5 million each year for community pipeline safety information grants.

The legislation reauthorizes a program of research, development, demonstration and standardization. The legislation authorizes \$10 million each year to the Transportation Department, \$10 million each year to the Energy Department, and \$5 million each year to the National Institute of Standards and Technology (NIST) for the program. The legislation requires that the Transportation Department and NIST to prepare an ongoing research and development program plan every five years and to a report to Congress every two years on the implementation of the program after the initial program has concluded. The Transportation Department is required to ensure that at least 30% of the costs of the program wide research and development activities are carried out using non-federal sources.

### **Civil Penalties**

The legislation strikes "ability to pay" from the Transportation Department's considerations when determining the amount of a civil penalty. The legislation increases civil penalties for pipeline violations related to safety compliance, the marking of pipelines, and excavation near pipelines from \$100,000 to \$200,000. The legislation increases the maximum civil penalty for a related series of violations \$1 million to \$2 million. The bill requires pipeline operators to make available all records and information that in any way pertain to the accident, including integrity management plans and test results; and directs pipeline operators to provide all reasonable assistance in the investigation of the accident or incident.

The legislation imposes civil penalties on individuals who obstruct or prevent the Secretary from carrying out certain inspections or investigations without good cause. The legislation defines "good cause" and it could include actions such as restricting access to facilities that are not secure or safe for non-pipeline personnel or visitors. The legislation removes the existing cap on maximum civil penalties for administrative enforcement actions. H.R. 2845 makes pipeline operators seeking compliance waivers from the Transportation Department or state authorities ineligible to apply for judicial review of an order.

### **Pipeline Damage Prevention**

The legislation amends the minimum standards for State One Call Notification Program by requiring the following changes:

- In order to qualify for a grant under section 6106, a State one-call notification program, at a minimum, provide for:
  - appropriate participation by all underground facility operators, including all government operators;
  - appropriate participation by all excavators, including all government and contract excavators; and
  - flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.
- In order to qualify for a grant under section 6106, a State one-call notification program may not exempt municipalities, State agencies, or their contractors from its one-call notification system requirements.
- The legislation prohibits exemptions for municipalities, state agencies or their contractors in state damage prevention programs. The changes would take effect two years after the bill's enactment.
- The legislation requires the Transportation Department to conduct a study on the impact of third party excavation damage on pipeline safety, and submit a report to Congress no later than two years after the date of enactment.

### **Automatic and Remote Controlled Shut-Off Valves**

The Secretary may require by regulation, if determined appropriate by the Secretary, the use of automatic or remote-controlled shut-off valves, or equivalent technology, where economically, technically, and operationally feasible on transmission pipeline facilities constructed or entirely replaced after the date on which the Secretary issues the final rule containing such requirement.

### **Integrity Management**

The legislation require that the Secretary of Transportation, not later than 2 years after the date of enactment of this Act, to evaluate whether integrity management system requirements, or elements thereof, should be expanded beyond high consequence areas. It also requires the secretary to evaluate with respect to gas transmission pipeline facilities, whether applying integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements. In conduction of the evaluation, the Secretary shall consider applying repair criteria, such as pressure reductions and special requirements for scheduling remediation, to areas that are not high consequence areas. Lastly, based off the evaluation, the Secretary shall submit to the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation a report containing the Secretary's analysis and findings regarding:

- expansion of integrity management requirements, or elements thereof, beyond high consequence areas; and



- with respect to gas transmission pipeline facilities, whether applying the integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements.

The legislation makes a technical correction by requiring periodic reassessments of the facility, at a minimum of once every 7 calendar years, using methods of evaluation. The deadline shall be extended for an additional 6 months if the operator submits written notice to the Secretary that includes an explanation of the need for the extension.

The legislation establishes rulemaking requirements that define the term “review period” as the period beginning on the date of enactment of this Act and ending on the earlier of:

- the date that is 1 year after the date of completion of the report under; or
- the date that is 3 years after the date of enactment of this Act.

In order to provide Congress the necessary time to review the results of the report required and implement appropriate recommendations, the Secretary shall not, during the review period, proceed with a rulemaking to prescribe regulations. Following the review period, the Secretary may, as appropriate, prescribe regulations that:

- expand integrity management system requirements, or elements thereof, beyond high consequence areas; and
- remove redundant class location requirements for gas transmission pipeline facilities that are regulated under an integrity management program adopted and implemented under section 60109(c)(2) of title 49, United States Code.

The measure allows the Transportation Department to move forward with a rulemaking before Congress acts if it determines that a risk to public safety, property or environment or imminent hazard exists.

### **Public Education and Awareness**

The legislation requires the Secretary of the Department of Transportation to:

- maintain, as part of the National Pipeline Mapping System, a map of all designated high consequence areas (as described in section 60109(a) of title 49, United States Code) in which pipelines are required to meet integrity management safety regulations, excluding any proprietary or sensitive security information; and
- update the map biennially.

The legislation also requires that not later than 1 year after the date of enactment of this Act, the Secretary shall develop and implement a program promoting greater awareness of the existence of the National Pipeline Mapping System to State and local emergency responders and other interested parties. The program shall include guidance on how to use the National Pipeline Mapping System to locate pipelines in communities and local

jurisdictions. The legislation establishes that not later than 1 year after the date of enactment of this Act, the Secretary shall develop and implement a program promoting greater awareness of the existence of the National Pipeline Mapping System to State and local emergency responders and other interested parties. The program shall include guidance on how to use the National Pipeline Mapping System to locate pipelines in communities and local jurisdictions.

The legislation makes following changes to Emergency Response Agencies:

- Not later than 18 months after the date of enactment of this Act, the Secretary shall issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to emergency response agencies of the communities and jurisdictions in which those facilities are located.
- Before issuing guidance, the Secretary shall consult with owners and operators of pipeline facilities to determine the extent to which the owners and operators are already providing system-specific information about their pipeline facilities to emergency response agencies.

### **Cast Iron Gas Pipelines**

The legislation requires that not later than December 31, 2012, and every 2 years thereafter, the Secretary shall conduct a follow-up survey to measure the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines. The legislation also requires that not later than December 31, 2013, the Secretary of Transportation shall transmit to the House of Representatives Committee on Transportation and Infrastructure, and Committee on Energy, and Commerce, and the Senate Committee on Commerce, Science, and Transportation a report that:

- identifies the total mileage of cast iron gas pipelines in the United States; and
- evaluates the progress that owners and operators of pipeline facilities have made in implementing their plans for the safe management and replacement of cast iron gas pipelines.

### **Leak Detection**

The legislation requires that not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce a report on leak detection systems utilized by operators of hazardous liquid pipeline facilities and transportation-related flow lines. The report will include:

- an analysis of the technical limitations of current leak detection systems, including the systems' ability to detect ruptures and small leaks that are ongoing

- or intermittent, and what can be done to foster development of better technologies; and
- an analysis of the feasibility of establishing technically, operationally, and economically feasible standards for the capability of such systems to detect leaks, and the safety benefits and adverse consequences of requiring operators to use leak detection systems.

The legislation defines for this section that the “review period” means the period beginning on the date of enactment of this Act and ending on the earlier of:

- the date that is 1 year after the date of completion of the report; or
- the date that is 2 years after the date of enactment of this Act.

In order to provide Congress the necessary time to review the results of the report required and implement appropriate recommendations, the Secretary shall not, during the review period, proceed with a rulemaking to prescribe regulations described. Following the review period, the Secretary may, as appropriate, prescribe regulations that:

- require operators of hazardous liquid pipeline facilities to use leak detection systems; and
- establish technically, operationally, and economically feasible standards for the capability of such systems to detect leaks.

Lastly, the legislation defines the term “imminent hazard” as the existence of a condition related to pipelines or pipeline operations that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur.

### **Accident and Incident Notification**

The legislation requires that not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall revise regulations issued under sections 191.5 and 195.52 of title 49, Code of Federal Regulations, to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center. In revising the regulations, the Secretary, at a minimum, shall:

- establish time limits for telephonic or electronic notification of an accident or incident to require such notification not less than 1 hour and not more than 2 hours after discovery of the accident or incident;
- review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers, for the jurisdictions in which those pipeline facilities are located in the event of an accident or incident, and revise such procedures as appropriate; and

- require such owners and operators to revise their initial telephonic or electronic notice to the Secretary and the National Response Center with an estimated amount of the product released, an estimated number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 24 to 48 hours of the accident or incident, to the extent practicable.

Lastly, the National Response Center shall update the initial report on an accident or incident instead of generating a new report.

### **Transportation-Related Oil Flow Lines**

The legislation requires the Secretary of the Department of Transportation to collect geospatial or technical data on transportation-related oil flow lines, including unregulated transportation-related oil flow lines. The bill defines “transportation-related oil flow line” as a pipeline transporting oil off of the grounds of the well where it originated across areas not owned by the producer, regardless of the extent to which the oil has been processed, if at all. The legislation establishes a limit that nothing in this subsection authorizes the Secretary to prescribe standards for the movement of oil through production, refining, or manufacturing facilities, or through oil production flow lines located on the grounds of wells.

### **Cost Recovery for Design Reviews**

The bill requires if the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a new gas or hazardous liquid pipeline facility or liquefied natural gas pipeline facility, the Secretary may require the person proposing the project to pay the costs incurred by the Secretary relating to such reviews. If the Secretary exercises the cost recovery authority described in this subsection, the Secretary shall prescribe a fee structure and assessment methodology that is based on the costs of providing these reviews and shall prescribe procedures to collect fees under this subsection. The Secretary shall not collect design safety review fees under this chapter and section 60301 for the same design safety review. These safety reviews applies to any project that:

- has design and construction costs totaling at least \$3,400,000,000, as adjusted for inflation, based on a good faith estimate developed by the person proposing the project; or
- uses new or novel technologies or design.

The bill requires that for any new pipeline facility construction project for which the Secretary will conduct design reviews, the person proposing the project shall notify the Secretary and provide the design specifications, construction plans and procedures, and related materials at least 120 days prior to the commencement of construction. If the Secretary determines that the proposed design of the project is inconsistent with pipeline safety, the Secretary shall provide written comments, feedback, and guidance on the

project on or before the 60th day following the date of receipt of the design specifications, construction plans and procedures, and related materials for the project.

The bill establishes a Pipeline Safety Design Review Fund within the Treasury to deposit those funds paid by companies for design review costs. The bill states that the design review process should not be construed as authorizing the Transportation Department to require a company to obtain a permit before beginning design and construction of a pipeline. Lastly, not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue guidance to clarify the meaning of the term 'new or novel technologies or design' as used in section 60117(n) of title 49, United States Code, as amended by subsection (a) of this section.

### **Carbon Dioxide Pipelines**

Legislation requires the Secretary to prescribe minimum safety standards for the transportation of carbon dioxide by pipeline in a gaseous state. For pipelines that transport carbon dioxide in both a liquid and gaseous state, the Secretary shall apply standards, in effect on the date of enactment of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, for the transportation of carbon dioxide by pipeline in a liquid state to the transportation of carbon dioxide by pipeline in a gaseous state.

### **Study of Transportation of Diluted Bitumen**

The legislation requires not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a comprehensive review of hazardous liquid pipeline facility regulations to determine whether these regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen. In conducting this review, the Secretary shall conduct an analysis of whether any increase in risk of release exists for pipeline facilities transporting diluted bitumen. The Secretary shall report the results of this review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce.

### **Study on non-Petroleum Hazardous Liquids Transported By Pipeline**

The legislation allows the Secretary of Transportation to conduct an analysis of the transportation of non-petroleum hazardous liquids by pipeline facility for the purpose of identifying the extent to which pipeline facilities are currently being used to transport non-petroleum hazardous liquids, such as chlorine, from chemical production facilities across land areas not owned by the producer that are accessible to the public. The analysis should identify the extent to which the safety of the pipeline facilities is unregulated by the States and evaluate whether the transportation of such chemicals by pipeline facility across areas accessible to the public would present significant risks to public safety, property, or the environment in the absence of regulation. The results of the analysis shall be made available to the Senate Committee on Commerce, Science, and

Transportation, and the House of Representatives Committee, on Transportation and Infrastructure, and Committee on Energy, and Commerce.

### **Maintenance of Effort**

The legislation requires for each of fiscal years 2012 and 2013, the Secretary to grant a maintenance of effort waiver to a State if the State can demonstrate an inability to maintain or increase the required funding share of its pipeline safety program at or above the level required by this subsection due to economic hardship in that State. For fiscal year 2014 and each fiscal year thereafter, the Secretary may grant such a waiver to a State if the State can make the demonstration described in the preceding sentence.

### **Administrative Enforcement Process**

The legislation requires that not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe regulations:

- requiring hearings under sections 60112, 60117, 60118, and 60122 to be convened before a presiding official;
- providing the opportunity for any person requesting a hearing under section 60112, 60117, 60118, or 60122 to arrange for a transcript of that hearing, at the expense of the requesting person;
- ensuring expedited review of any order issued pursuant to section 60112(e);
- implementing a separation of functions between personnel involved with investigative and prosecutorial activities and advising the Secretary on findings and determinations; and
- prohibiting ex-parte communication relevant to the question to be decided in the case by parties to an investigation or hearing.

The legislation requires that regulations prescribed under this be shall:

- define the term 'presiding official' to mean the person who conducts any hearing relating to civil penalty assessments, compliance orders, safety orders, or corrective action orders; and
- require that the presiding official must be an attorney on the staff of the Deputy Chief Counsel that is not engaged in investigative or prosecutorial functions, including the preparation of notices of probable violations, notices relating to civil penalty assessments, notices relating to compliance, or notices of proposed corrective actions.

Lastly, the legislation establishes standards for judicial review by requiring a judicial review of agency action under this section to apply the standards of review established in section 706 of title 5.

### **Gas and Hazardous Liquid Gathering Lines**

The legislation requires the Secretary of Transportation to complete a review of existing Federal and State regulations for gas and hazardous liquid gathering lines located onshore

and offshore in the United States, including within the inlets of the Gulf of Mexico. Not later than 2 years after the date of enactment of this Act, the Secretary must submit to the House of Representatives Committee on Transportation and Infrastructure and Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation a report on the results of the review. The report shall include the Secretary's recommendations with respect to:

- the sufficiency of existing Federal and State laws and regulations to ensure the safety of gas and hazardous liquid gathering lines;
- quantifying the economical and technical practicability and challenges of applying existing Federal regulations to gathering lines that are currently not subject to Federal regulation when compared to the public safety benefits; and
- subject to a risk-based assessment, the need to modify or revoke existing exemptions from Federal regulation for gas and hazardous liquid gathering lines.

**Background:** According to the Committee on Transportation [committee report](#):

“The Nation's pipelines are a transportation system that enables the safe movement of extraordinary quantities of energy products to industry and consumers, literally fueling our economy and way of life. Pipelines are the arteries of the Nation's energy infrastructure, as well as the safest and least costly ways to transport energy products.

“Pipeline and Hazardous Materials Safety Administration (PHMSA) is the federal safety authority for the Nation's 2.3 million miles of natural gas, petroleum and other hazardous liquid pipelines. PHMSA's pipeline safety programs ensure the safe design, construction, testing, operation, maintenance, and emergency response of U.S. hazardous liquid and natural gas pipeline facilities.

“The federal pipeline safety programs were last authorized under the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Public Law 109-468), a four-year authorization for fiscal years 2007 through 2010. The federal pipeline safety programs expired on September 30, 2010. This bill authorizes these programs through fiscal year 2015.”

**Potential Conservative Concerns:** Some conservative may be concerned, that the legislation imposes a number of new federal mandates on the private and public sector. CBO has a list of these mandates. See section on CBO Report on Mandates.

**CBO Report on Mandates:** According to the [CBO Report](#), H.R. 2845 imposes the following mandates on the private and public sector.

**“Integrity Management.** The bill would authorize PHMSA to extend existing planning, testing, and safety requirements to additional pipelines. CBO cannot determine the costs of the mandates for private-sector entities because they would depend on future regulations. However, based on information from PHMSA and

industry sources about the cost to comply with existing standards, the cost of imposing such standards on additional pipelines could be significant. Because of the relatively small number of public entities affected, CBO estimates that the cost to state and local governments would be small.

**“Shut-Off Valves.** The bill would authorize PHMSA to require operators of transmission pipelines to install shut-off valves in new transmission pipelines and in ones that are entirely replaced. According to industry sources, such valves currently cost \$100,000 to \$500,000 per valve depending on the size of the pipeline. The number of valves to be installed would depend on the spacing required between valves and areas where operators would have to install them. Because such requirements would be developed as part of future regulations, CBO has no basis for determining the cost of the mandate to private-sector entities. Because of the relatively small number of public entities affected, CBO estimates the cost to state and local governments would be small.

**“Notification and Reporting Requirements.** The bill would require pipeline operators to notify emergency responders of accidents or incidents within specified time limits. The bill also would require operators of cast iron gas pipelines to provide information on the management and replacement of pipelines to PHMSA. CBO estimates that the cost of those mandates to public and private entities would be minimal.

#### **“Mandates that Apply to Private Entities Only**

**“Leak Detection.** The bill would require operators of hazardous liquid pipelines, such as oil pipelines, to use leak detection technologies where feasible. Under the bill, PHMSA would be authorized to designate pipelines from a total of 176,000 miles of pipeline. Because the cost of the mandate would depend on such future PHMSA regulations, CBO has no basis for determining the cost of this mandate.

**“Oil Flow Lines.** The bill could impose a mandate on pipeline operators that transport oil by allowing PHMSA to collect additional data on oil flow lines. Because CBO does not know what information PHMSA would require operators to report, we have no basis for determining the cost of the mandate.

**“Fees.** The bill would authorize PHMSA to collect new fees on construction projects that are large or use new technology. Based on information from PHMSA on the expenses it would incur because of the bill, CBO estimates that PHMSA would charge an average of \$107 million in additional fees per year to pipeline operators over the 2012-2015 period as a result of enactment of the bill.

**“Other Requirements.** The bill would impose two other new requirements on pipeline operators. Specifically, the bill would impose additional safety requirements on pipelines transporting biofuels and impose minimum safety standards for pipelines transporting carbon dioxide in a gaseous state. Based on



information from industry sources and PHMSA, CBO estimates that the cost of each of those mandates would fall well below the annual threshold established in UMRA.”

**Committee Action:** H.R. 2845 was introduced by Rep. Bill Shuster (R-PA) on September 7, 2011 and referred to the House Committee on Transportation and Infrastructure. On December 1, 2011, the legislation was reported as amended and placed on the Union Calendar.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** According to the [CBO Report](#):

“H.R. 2845 would authorize gross appropriations of \$505 million over the 2012-2016 period. CBO expects, however, that about \$434 million of those appropriations would be offset by fees paid by pipeline operators over the four-year period. In addition, subject to provisions in appropriation acts, CBO estimates that the bill would authorize PHMSA to collect and spend about \$10 million over the 2012-2016 periods to recover its costs of conducting safety reviews at a pipeline project in the state of Alaska. CBO estimates that implementing H.R. 2845 would have a net cost of \$45 million over the 2012-2016 period, assuming appropriation of the specified and estimated amounts.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, the legislation imposes several new public and private sector mandates that expand the size and scope of the Federal Government.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes, according to the [CBO Report](#),

“H.R. 2845 would impose mandates on public and private entities that operate natural gas pipelines and additional private-sector mandates on operators of hazardous liquid pipelines. Because of the relatively small number of public entities affected, CBO estimates that the aggregate cost of intergovernmental mandates in the bill would fall below the annual threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation). Because many of the mandates on private entities would depend on future regulations, CBO cannot determine whether the aggregate cost of the private-sector mandates would exceed the annual threshold established in UMRA (\$142 million in 2011, adjusted annually for inflation).”

Please read the section on CBO Report on Mandates for a more detailed analysis of the mandates.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** According to the [Committee Report](#), “In accordance

with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2845 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.”

**Constitutional Authority:** According to the statement on constitutional authority by Rep. Shuster, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1 (relating to providing for the general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress).”

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## **H.R. 2668 – Brian A. Terry Memorial Act (Issa, R-CA)**

**Order of Business:** H.R. 2668 is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 2668 will designate the station of the United States Border Patrol located at 2136 South Naco Highway in Bisbee, Arizona, as the “Brian A. Terry Border Patrol Station.”

**Additional Information:** From the bill text:

A native of Flat Rock, Michigan, Agent Brian A. Terry served his country proudly with the United States Marine Corps and continued his service as a police officer with the cities of Ecorse and Lincoln Park, Michigan, prior to joining the United States Border Patrol.

On December 14, 2010, Border Patrol Agent Brian A. Terry was conducting a Border Patrol Tactical unit (BORTAC) operation in the area of ‘Peck Wells’. At 11:15 p.m., near Rio Rico, Arizona, and about 15 miles north of Nogales, Arizona, Agent Terry and his team spotted a group of individuals approaching their position. Shortly thereafter, an encounter ensued and gunfire was exchanged that left Agent Terry mortally wounded. Agent Terry succumbed to his injuries on December 15, 2010.

**Committee Action:** H.R. 2668 was introduced on July 27 and referred to the House Committee on Transportation and Infrastructure. It was then referred to the Subcommittee on Economic Development, Public Buildings and Emergency Management. A Committee Consideration and Mark-up Session was held on October 13.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** CBO estimates that enacting this legislation would have no significant impact on the federal budget and would not affect direct spending or revenues.

**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?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** The Constitutional Authority Statement accompanying the bill upon introduction states: Congress has the power to enact this legislation pursuant to the following: Article 1, Section I and Section 8.

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**H.R. 1264 – Designating the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the "M.D. Anderson Plaza."  
(Fincher, R-TN)**

**Order of Business:** H.R. 1264 is scheduled to be considered on Monday, December 12, 2011, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 1264 would designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the "M.D. Anderson Plaza" and would authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.D. Anderson.

**Additional Information:** From the bill text:

Monroe Dunaway Anderson, born in Jackson, Tennessee, in 1873, was one of the United States' most successful agri-businessmen and respected philanthropists. Monroe Dunaway Anderson, also known as M.D. Anderson, attended public schools in Jackson, Tennessee. After attending college in Memphis, Tennessee, M.D. Anderson returned to Jackson, Tennessee, to work at the People's National Bank.

In 1904, M.D. Anderson, his older brother Frank Anderson, along with Will Clayton, established a partnership, Anderson, Clayton, and Company, to buy and sell cotton in Jackson, Tennessee. In 1945, Anderson, Clayton, and Company was called the largest buyer, seller, storer, and shipper of raw cotton in the world by Fortune Magazine. In 1936, M.D. Anderson established the M.D. Anderson Foundation. This foundation funded the M.D. Anderson Cancer Center which grew into the largest medical complex

in the world, the Texas Medical Center in Houston, Texas. M.D. Anderson's positive impact in the cotton trade is still being felt by the cotton businesses in and around Jackson, Tennessee, and throughout the world.

**Committee Action:** H.R. 1264 was introduced on March 30, and referred to the House Committee on Transportation and Infrastructure. It was further referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management. On June 22 it underwent a Consideration and Mark-up Session and was discharged.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** CBO estimates that enacting this legislation would have no significant impact on the federal budget and would not affect direct spending or revenues.

**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?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** The Constitutional Authority Statement accompanying the bill upon introduction states: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 17 Article IV, Section 3, Clause 2.

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