U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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October 30, 2007

SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Committee on Transportation and Infrastructure Majority Staff

SUBJECT: Committee on Transportation and Infrastructure markup of H.R. ____, the "National Highway Bridge Reconstruction and Inspection Act of 2007"; H.R. 3495, the "Kids in Disasters Well-being, Safety, and Health Act of 2007"; H.R. 3986, the "John F. Kennedy Center Reauthorization Act of 2007"; H.R. 2537, the "Beach Protection Act of 2007", H.R. 3985, the "Over-the-Road Bus Transportation Accessibility Act of 2007"; H.R. 3315, to provide that the great hall of the Capitol Visitor Center shall be known as Emancipation Hall; H.R. 3712, to designate the Federal building and United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. & Thomas W.L. Ashley Customs Building and United States Courthouse"; H. Res. 661, honoring the accomplishments of Barrington Antonio Irving, the youngest pilot and first person of African descent ever to fly solo around the world; H. Res. 772, recognizing the American Highway Users Alliance on the occasion of its 75th anniversary, and for other purposes; and U.S. Army Corps of Engineers Survey Resolutions.

PURPOSE OF MARKUP

On Wednesday, October 31, 2007, at 11:00 a.m., in room 2167 Rayburn House Office Building, the Committee on Transportation and Infrastructure is scheduled to mark up H.R. ____, the "National Highway Bridge Reconstruction and Inspection Act of 2007"; H.R. 3495, the "Kids in Disasters Well-being, Safety, and Health Act of 2007"; H.R. 3986, the "John F. Kennedy Center Reauthorization Act of 2007"; H.R. 2537, the "Beach Protection Act of 2007", H.R. 3985, the "Over-the-Road Bus Transportation Accessibility Act of 2007"; H.R. 3315, to provide that the great hall of the Capitol Visitor Center shall be known as Emancipation Hall; H.R. 3712, to designate the Federal building and United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. & Thomas W.L. Ashley Customs Building and United States Courthouse"; H. Res. 661, honoring the accomplishments of Barrington Antonio Irving, the youngest pilot and first person of African descent ever to fly solo around the world; H. Res. 772, recognizing the American

Highway Users Alliance on the occasion of its 75th anniversary, and for other purposes; and U.S. Army Corps of Engineers Survey Resolutions.

H.R. , THE "NATIONAL HIGHWAY BRIDGE RECONSTRUCTION AND INSPECTION ACT OF 2007"

Background

I-35W Bridge Collapse

At 6:05 p.m. on August 1, 2007, the I-35W Bridge in Minneapolis, Minnesota, collapsed into the Mississippi River, killing 13 people. The eight-lane, steel truss bridge span, which was constructed in 1967, carried approximately 140,000 vehicles daily. The National Transportation Safety Board is conducting an investigation into the cause of the collapse. The investigation may take up to 18 months to complete. It has been widely reported that inspections of the I-35W Bridge raised significant structural concerns with the facility. The bridge had been rated as structurally deficient since 1990, and had undergone annual inspections by the Minnesota Department of Transportation ("MnDOT") since 1993.

Highway Bridge Conditions in the United States

According to the U.S. Department of Transportation ("DOT"), one of every eight bridges in the nation is structurally deficient. Of the 597, 340 bridges in the United States, 154,101 bridges are deficient, including 73,784 structurally deficient bridges and 80,317 functionally obsolete bridges.[1]

According to DOT, more than $65 billion could be invested immediately in a cost-beneficial way to replace or otherwise address existing bridge deficiencies.[2]

The high percentage of deficient bridges and the large existing backlog are, in part, due to the age of the network. One-half of all bridges in the United States were built before 1964. Interstate System bridges, which were primarily constructed in the 1960s, pose a special challenge because a large percentage of these bridges are in the same period of their service lives (e.g., 44 percent of these bridges were constructed in the 1960s). Concrete and steel superstructure on the Interstate Highway System is, on average, 35 to 40 years old.

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[1] A Structurally deficient bridge is a bridge that has major deterioration, cracks, or other flaws that reduce its ability to support vehicles. A functionally obsolete bridge is a bridge that does not have the lane widths, shoulder widths, or vertical clearances adequate to service traffic demand.

[2] U.S. Department of Transportation, *2006 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance*, January 22, 2007, p. 7-17. The economic backlog of bridge deficiencies consists of all improvements to bridge elements that would be justified on both engineering and economic grounds. It includes improvements on bridges that warrant repair but whose overall condition is not sufficiently deteriorated for the bridges to be classified as structurally deficient. *Id.*, p. 7-16.

National Highway System Bridges

The National Highway System ("NHS") is a 162,000-mile highway network that consists of the 46,747-mile Interstate System, the Strategic Highway Network for military mobilizations, and other major highways. While the NHS makes up only 4.1 percent of total U.S. mileage, it carries 45 percent of vehicle miles traveled.

NHS bridges carry an even greater percentage of total travel. NHS bridges carry more than 70 percent of all traffic on bridges. Of the 116,172 bridges on the NHS (including more than 55,000 Interstate System bridges), 6,175 NHS bridges are structurally deficient. Almost one-half of these structurally deficient NHS bridges are bridges on the Interstate Highway System (2,830 structurally deficient Interstate System bridges).

According to DOT, the current NHS bridge investment backlog is estimated at $32.1 billion (including $19.1 billion for the Interstate Highway System bridge backlog).[3]

Federal Bridge Inspection Standards

Following the collapse of the Silver Bridge, which ran between Point Pleasant, West Virginia, and Gallipolis, Ohio, in December of 1967, Congress passed the Federal-Aid Highway Act of 1968, which established the National Bridge Inspection Program ("NBIP"), and directed DOT to work with the states to establish national bridge inspection standards designed to locate and evaluate existing bridge deficiencies to ensure the safety of highway bridges. The Act required DOT to establish inspection criteria and procedures, and inspector training and qualification requirements. The Act also required states to prepare and maintain an inventory of Federal-aid highway system bridges.

In 1971, the DOT published the National Bridge Inspection Standards ("NBIS") in the Federal Register. Under the NBIS, States are required to conduct routine inspections on each bridge at least once every 24 months. Information is collected documenting the conditions and composition of the structures. The periodic inspections determine the adequacy of the structure to service current demands for structural and functional purposes. Each State's Department of Transportation is responsible for performing bridge inspections. This information is maintained in the National Bridge Inventory maintained by the Federal Highway Administration ("FHWA").

The Secretary uses funds made available for the U.S. DOT's administrative expenses and the Surface Transportation Research Program to implement the NBIS highway bridge inspection program. States use Highway Bridge Program funds to carry out bridge inspection activities.

Load Ratings and Postings on Structurally Deficient Bridges

Deteriorating conditions on deficient bridges result in facilities being "load rated". The load rating is an estimate of the weight-carrying capacity of a bridge and is performed separately from the bridge inspection. Properly calculating the load rating of structurally deficient bridges, and, if

[3] U.S. Department of Transportation, *2006 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance*, January 22, 2007, p. 12-12, 11-17.

necessary, posting signs to keep heavier vehicles from crossing them serves to protect structurally deficient bridges from stresses caused by loads that exceed a bridge's capacity.

In a 2006 audit, the Department of Transportation Inspector General ("DOT IG") found that States erred in calculating the load rating for structurally deficient bridges on the National Highway System ("NHS").[4] According to the DOT IG, inaccurate or outdated maximum weight limit calculations and posting entries were recorded in bridge databases of the State departments of transportation and the National Bridge Inventory. The IG projects that among structurally deficient bridges on the NHS:

- one of 10 structurally deficient NHS bridges had load rating calculations that did not accurately reflect the condition of the structure;
- signs were not posted on 7.8 percent of bridges that were required to have maximum safe weight signs posted; and
- procedures were not properly followed in the calculation of load ratings for 10 percent of the bridges.

The IG also found that FHWA Division Offices did not ensure that States' bridge load ratings were properly calculated and corresponding postings were performed. In addition, FHWA does not require its Division Offices to analyze bridge inspection data to better identify and target specific structurally deficient bridges most in need of load limit recalculation and posting.

H.R ____, National Highway Bridge Reconstruction and Inspection Act of 2007

H.R. _____, the "National Highway Bridge Reconstruction and Inspection Act of 2007", amends the Highway Bridge Program and the National Bridge Inspection Program to improve the safety of Federal-aid highway bridges, strengthen bridge inspection standards and processes, and increase investment in the reconstruction of structurally deficient bridges on the National Highway System.

Strengthens Bridge Inspection Standards and Processes:

- **Requires Immediate Update of Bridge Inspection Standards.** Requires FHWA to immediately update National Bridge Inspection Standards and requires uniformity among States in conducting inspections and evaluations;
- **Strengthens Training, Certification, and Qualification Requirements.** Strengthens inspector training by requiring that all highway bridge inspectors be trained and certified. Increases qualification requirements to ensure that licensed professional engineers approve inspections of highway bridges;
- **Requires Immediate Inspection of all Structurally Deficient Bridges.** Requires States to inspect structurally deficient bridges each year using the best practicable technologies and

[4] U.S. Department of Transportation Inspector General, *Audit of Oversight of Load Ratings and Postings on Structurally Deficient Bridges on the National Highway System*, MH-2006-043, March 21, 2006,

methods. Requires States to inspect all other bridges every two years. Authorizes FHWA to approve an extension of the biennial inspection requirement if granting the extension will increase the overall safety of the State's bridge inventory; and

- **Requires States to Calculate the Load Rating for Structurally Deficient Bridges to Ensure that Maximum Weight Limits are Properly Posted.** Requires States to calculate the load rating for highway bridges that have a structural deficiency in a load carrying member and ensure that the safe load-carrying capacity for such bridges is properly posted.

Improves the Safety of Federal-aid Highway Bridges:

- **Risk-Based Prioritization of Reconstruction of Deficient Bridges.** Beginning one year after the date of enactment, assigns a risk-based priority for the reconstruction of each structurally deficient or functionally obsolete Federal-aid highway bridge;

- **Independent Review.** Requires the National Academy of Sciences to conduct an independent review of the Department of Transportation's process to assign risk-based priorities under the Highway Bridge Program;

- **Requires Performance Plan.** Requires States to develop a five-year performance plan for the inspection of highway bridges and the reconstruction of structurally deficient and functionally obsolete Federal-aid highway bridges. Requires the Federal Highway Administration ("FHWA") to approve each State's performance plan and the State to update the plan annually;

- **Institutes Bridge Management Systems.** Requires FHWA and States to establish bridge management systems to improve the bridge inspection process and the quality of data collected and reported to the National Bridge Inventory; and

- **Requires Annual FHWA Compliance Reviews.** Requires FHWA to strengthen its procedures for conducting annual compliance reviews of state inspections, state quality control and quality assurance procedures, load ratings, and weight limit postings of structurally deficient highway bridges.

Increases Investment for the Reconstruction of Structurally Deficient Bridges on the National Highway System:

- **Authorizes an <u>additional</u> $2 billion for reconstruction of structurally deficient bridges on the National Highway System.** Authorizes $1 billion in each of FY 2008 and FY2009 to reconstruct structurally deficient bridges on the NHS. These funds are in addition to funds authorized for the Highway Bridge Program under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users;

- **Funds are Distributed by Formula.** Funds are distributed by formula pursuant to Federal-aid Highway apportionments under the Highway Bridge Program targeted to Federal-aid highway bridges;

- **No Congressional or Administration earmarks are allowed under the program**; and

- **Limits Transferability of Highway Bridge Funds.** The funds authorized by H.R. ____, the National Highway Bridge Reconstruction and Inspection Act of 2007, are not transferable to other Federal-aid highway programs. In addition, the bill provides that a State may transfer Highway Bridge Program funds to other Federal-aid Highway programs only if the State demonstrates to the satisfaction of the Secretary that the State has no structurally deficient Federal-aid highway bridges.

Prior Legislative and Oversight Activities

On September 5, 2007, the Committee on Transportation and Infrastructure held a hearing on structurally deficient bridges on the National Highway System.

On October 23, 2007, the Subcommittee on Highways and Transit held a hearing on highway bridge inspections.

On October 30, 2007, Chairman James L. Oberstar introduced H.R. ____, the "National Highway Bridge Reconstruction and Inspection Act of 2007".

Amendments

Specific information on amendments is not available at this time.

H.R. 3495, THE "KIDS IN DISASTERS WELL-BEING, SAFETY, AND HEALTH ACT OF 2007"

Background

Hurricane Katrina exposed many problems with our nation's ability to meet the needs of children during disasters. Approximately, one-fourth of the people who lived in areas damaged or flooded by Hurricane Katrina were under age 18. More than 400,000 children under the age of five lived in or were evacuated from counties and parishes that were declared disaster areas by the Federal Emergency Management Agency ("FEMA") in response to Hurricane Katrina. The vulnerability of this population presented many unique obstacles. For example, 5,192 children were reported missing or displaced to the National Center for Missing and Exploited Children as a result of the hurricanes, and it took 6½ months to reunite the last child separated from her family. In addition, 1,100 schools were closed immediately following Hurricane Katrina. Two years later, only 45 percent of New Orleans schools have reopened. These statistics reveal the importance of examining the special needs of children in preparing for, response to, and recovery from emergencies and disasters.

H.R. 3495, the "Kids in Disasters Well-being, Safety, and Health Act of 2007"

H.R. 3495 establishes the National Commission on Children and Disasters ("Commission") to address the needs of children as they relate to preparing for, response to, and recovery from all hazards, including disasters and emergencies.

The purposes of the Commission are to: (1) conduct a comprehensive study to examine and assess the needs of children as they relate to preparing for, response to, and recovery from all hazards, including major disasters and emergencies; (2) build upon and review the recommendations of other government and nongovernmental entities that work on issues relating to the needs of children in disasters; and (3) report to the President and Congress on its specific findings, conclusions, and recommendations to address the needs of children as they relate to preparing for, response to, and recovery from all hazards, including disasters and emergencies.

More specifically, the Commission is tasked with investigating the needs of children facing disasters in the areas of children's health, child welfare, elementary and secondary education, affordable housing, transportation, and relevant activities in emergency mitigation, preparedness, response, and recovery.

The Commission consists of 10 members: two members appointed by the President, two members appointed by the Speaker of the House, two members appointed by the House Minority Leader, two members appointed by the Senate Majority Leader, and two members appointed by the Senate Minority Leader. The bill provides that a majority of the members must be from private nonprofit entities and that members of the Commission must have a demonstrated expertise in one of eight issue areas relating to the needs of children in preparation for, during, and after disasters.

The Commission is required to submit a final report to the President and Congress on its specific findings, conclusions, and recommendations.

Title II of H.R. 3495 directs the Secretary of Health and Human Services to establish a National Resource Center on Children and Disasters. The Center would serve as an information resource for Federal, State, local and tribal governments, and nongovernmental agencies on issues relating to the needs of children in disaster, including child health, child care, child welfare, elementary and secondary education, and information on emergency preparedness, response and recovery.

H.R. 3495 authorizes appropriations for the National Commission on Children and Disasters and the National Resource Center on Children and Disasters.

Prior Legislative and Oversight Activities

In the 109th Congress, Congress enacted the "Post-Katrina Emergency Management Reform Act of 2006" (Title VI of P.L. 109-295). Section 689b of the Post-Katrina Act establishes the National Emergency Child Locator Center within the National Center for Missing and Exploited Children. Section 689c of the Post-Katrina Act establishes a National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.

In the 110th Congress, the Subcommittee on Economic Development, Public Buildings, and Emergency Management has held several hearings in which witnesses discussed the effects of disasters on children. On March 20, 2007, the Subcommittee held a hearing on "Post-Katrina Temporary Housing: Dilemmas and Solutions". On April 26, 2007, the Subcommittee held a hearing on "FEMA's Preparedness and Response to All Hazards".

On September 7, 2007, Representative Corrine Brown introduced H.R. 3495, the "Kids in Disasters Well-being, Safety, and Health Act of 2007". This bill has not been introduced in a previous Congress.

On October 30, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met to consider H.R. 3495 and favorably recommended the bill to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

An amendment in the nature of a substitute will be offered to the bill. The amendment makes three primary changes to the bill. First, the amendment will provide that the members of the Commission elect the chairperson and vice chairperson. Second, the amendment makes other changes to the Commission structure, such as eliminating subpoena authority and pay for members of the Commission. Third, the amendment strikes Title II of the bill, which authorizes the Health and Human Services National Resource Center on Children and Disasters. The amendment provides that the Commission will consider whether a National Resource Center should be established.

Specific information on other amendments is not available at this time.

H.R. 3986, THE "JOHN F. KENNEDY CENTER REAUTHORIZATION ACT OF 2007"

Background

In 1958, Congress authorized the construction of a National Cultural Center and provided a 17-acre site for the Center. In January 1964, Congress established the Center as a living memorial to President John F. Kennedy and renamed the Center as the John F. Kennedy Center for the Performing Arts ("Kennedy Center"). The Kennedy Center opened on September 8, 1971.

Located in the District of Columbia, the Kennedy Center is the nation's busiest arts facility, presenting more than 3,000 performances last year and hosting millions of visitors. The Kennedy Center also provides educational programs for teachers and students from pre-Kindergarten through college across the United States. The Kennedy Center, which includes approximately 1.5 million square feet of usable floor space, contains seven theaters, two public restaurants, nine function or special event rooms, five public assembly areas, including galleries, halls, and foyers, and approximately 55,000 square feet of office space. The sub-grade floors of the building include administrative offices, support spaces, and parking for 1,971 cars.

Initial funding for the construction of the building came through gifts, donations, and contributions in the amount of approximately $34.5 million, and Federal funds were first appropriated in 1971. The maintenance needs of the Kennedy Center have continued to grow, requiring additional appropriations from Congress for costs related to maintenance and repair, as well as capital improvements. The Kennedy Center receives Federal funding for operations, maintenance, and capital improvements through the Department of the Interior, Environment, and Related Agencies Appropriations Act.

The FY 2007 enacted funding levels for the Kennedy Center were $17.6 million for operations and maintenance and $12.8 million for construction, for a total of $30.4 million. As a result of the FY 2007 Continuing Resolution, the Kennedy Center had to shift several projects within its Comprehensive Building Plan to future years to keep the Eisenhower Theater renovation on schedule. For FY 2008, the Administration's budget requests $20 million for operations and $19.4 million for construction, for a total of $39.4 million.

In 2007, the Kennedy Center updated its Comprehensive Building Plan. The 2006/2007 Comprehensive Building Plan ("CBP") reviews the facility and systems, assesses progress against previous capital plans, and identifies efforts that are needed to maintain or renew the building. In addition, the CBP reviews the facility's compliance with current codes and standards to ensure that project planning keeps pace with any revisions to applicable codes and standards.

For each building component, the CBP contains a description of existing conditions and recommendations for corrective actions. The goals of these corrective actions are to address Americans with Disabilities Act accessibility, life safety, and other code deficiencies; repair, update, and replace worn-out, obsolete, or inefficient building systems and other components; and provide improved visitor services and memorial interpretation.

Over the past ten years, the priorities for Kennedy Center capital improvements were life safety and accessibility projects. With the pending completion of these projects, the current CBP emphasizes facility infrastructure. In some past projects, such as theater renovations, the mechanical

and electrical infrastructure scope has been limited to replacement of renovated space. The primary building mechanical and electrical systems consist of original equipment and those elements not previously replaced are reaching the end of normative service life, are showing signs of failure or impending breakdown, or are deteriorating. The CBP includes systematic rehabilitation of these primary mechanical and electrical systems.

H.R. 3986, the "John F. Kennedy Center Reauthorization Act of 2007"

H.R. 3986 authorizes appropriations for maintenance and capital projects of the Kennedy Center for fiscal years 2008 through 2010. For maintenance, repair, and security, the bill authorizes $20.2 million for fiscal year 2008, $21.8 million for fiscal year 2009, and $22.5 million for fiscal year 2010. For capital projects, the bill authorizes $23.15 million for fiscal year 2008, $16 million for fiscal year 2009, and $17 million for fiscal year 2010. These authorization levels are derived from the Kennedy Center's 2006/2007 Comprehensive Building Plan. As noted above, the capital projects focus on mechanical and electrical systems.

In addition, the bill authorizes the Board to study, plan, design, engineer, and construct a photovoltaic system for the main roof of the Kennedy Center. The bill authorizes such sums as may be necessary to carry out the project.

Prior Legislative and Oversight Activities

In the 108th Congress, Congress authorized appropriations for repairs, maintenance, security, and capital improvements for the Kennedy Center for fiscal years 2004 through 2007 (P.L. 108-410). In the 109th Congress, Congress authorized additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007 (P.L. 109-306). This law increased the Kennedy Center's FY 2007 authorization levels to make them consistent with the Administration's budget request.

On October 29, 2007, Chairman James L. Oberstar introduced H.R. 3986, the "John F. Kennedy Center Reauthorization Act of 2007".

On October 30, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met to consider H.R. 3986 and favorably recommended the bill to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

No amendments are expected at this time.

H.R. 2537, THE "BEACH PROTECTION ACT OF 2007"

Background

According to a recent Environmental Protection Agency ("EPA") report, over the past 50 years, epidemiological studies and investigations following widespread waterborne illnesses have linked swimming in polluted water with adverse health effects. Swimming-related diseases can range from minor gastrointestinal diseases (e.g., sore throats and diarrhea) and non-gastrointestinal diseases (e.g., respiratory, ear, eye, and skin infections) to more serious illnesses, such as meningitis or hepatitis.

On October 10, 2000, the Beaches Environmental Assessment and Coastal Health Act ("BEACH Act") was signed into law. This legislation, which amends the Federal Water Pollution Control Act ("Clean Water Act"), was introduced to limit and prevent human exposure to polluted coastal recreation waters (including those along the Great Lakes) by assisting States and local governments to implement beach monitoring, assessment, and public notification programs. For these purposes, the BEACH Act authorized $30 million annually for fiscal years 2001 through 2005.

In addition, the BEACH Act required States and tribes with coastal recreation waters to adopt minimum water quality standards for pathogens and pathogen indicators by April 10, 2004, and directed EPA to promulgate standards for States that failed to establish standards as protective of human health as EPA's criteria – the 1986 Ambient Water Quality Criteria for Bacteria.

Finally, the BEACH Act required EPA to conduct additional studies associated with pathogens and human health and to publish new or revised water quality criteria for pathogens and pathogen indicators within five years of enactment of the BEACH Act (October 10, 2005), based on the results of these studies. EPA is also directed to review these revised water quality criteria every five years, and to revise the criteria, as necessary, to protect human health. In addition, States are directed to adopt any revised water quality criteria within three years of publican by EPA.

H.R. 2537, the "Beach Protection Act of 2007"

H.R. 2537, the "Beach Protection Act of 2007", reauthorizes the Beaches Environmental Assessment and Coastal Health ("BEACH") Act through fiscal year 2012, and increases the authorization of appropriations for grants for State water quality monitoring and notification from $30 million annually to $60 million annually.

H.R. 2537 also encourages the development and implementation of "rapid testing" methods for determining where and when coastal recreational waters exceed coastal water quality criteria. These rapid testing methods are designed to ensure that the public is notified of potentially harmful water quality exceedances within a few hours of discovery, rather than days (as under the current system).

In addition, the bill enhances existing public notification requirements and improves coordination in response activities by making beach warnings and closures available on the Internet, and directing States and local communities to make decisions about closures or advisories within 24 hours of the receipt of a water quality sample.

Finally, the bill requires EPA to conduct annual compliance reviews of State and local BEACH programs.

Prior Legislative and Oversight Activities

On May 24, 2007, Representative Frank Pallone, Jr. introduced H.R. 2537, the "Beach Protection Act of 2007". This bill has not been introduced in a previous Congress.

Amendments

An amendment in the nature of a substitute will be offered to the bill.

H.R. 3985, THE "OVER-THE-ROAD BUS TRANSPORTATION ACCESSIBILITY ACT OF 2007"

Background

In 1998, the Department of Transportation ("DOT") promulgated a final rule requiring vehicle modifications to intercity, charter, and tour buses to accommodate individuals with disabilities, as required by the Americans with Disabilities Act ("ADA"). These regulations apply to all private entities that provide transportation with an over-the-road bus ("OTRB"). The regulations required each large, fixed-route OTRB company to ensure that 50 percent of the vehicles in its fleet consisted of accessible buses by October 2006, and the entire fleet consists of accessible buses by October 2012. Until the fleet of an OTRB company becomes fully accessible, the company must provide accessible service to passengers with disabilities on a 48-hour advanced notice basis. The final rule also requires that each large, "demand responsive" company, such as a charter or tour bus operator, must provide service in an accessible motorcoach to passengers with disabilities on a 48-hour advanced notice basis. Small, fixed-route and demand responsive operators are subject to less stringent requirements, and must provide service on a 48-hour advanced notice basis or provide "equivalent service", such as in a passenger van.

The Federal Motor Carrier Safety Administration ("FMCSA") is the modal agency responsible for ensuring that the over-the-road bus industry complies with DOT regulations. However, the agency has interpreted the motor carrier registration statute in such a way that it limits the agency's authority to enforce the OTRB accessibility regulations promulgated by DOT.

On December 19, 2006, the United States Court of Appeals for the D.C. Circuit, in *Peter Pan Bus Lines, Inc. v. Federal Motor Carrier Safety Administration,* rejected FMCSA's assertion that the agency does not have discretion to interpret the law to allow FMCSA to consider compliance with ADA regulations in determining whether a bus company is fit to operate in interstate commerce. The case was remanded to FMCSA in February 2007, and the Court directed the agency to reexamine the statute. On October 26, 2007, FMCSA issued a decision defending its original position that the underlying statute does not provide the authority for FMCSA to consider compliance with ADA. FMCSA further argues in the decision that because the Department of justice ("DOJ") has enforcement authority under the ADA to investigate all alleged violations and commence a civil action in court, including authority over transportation providers, the agency has no role in taking action with respect to ADA violations by over-the-road bus companies.

A recent report by the Government Accountability Office ("GAO") confirms that FMCSA officials maintain that "although they can penalize commercial bus companies for safety violations, they cannot withhold operating authority or issue civil penalties for ADA violations."[5] FMCSA maintains that if the agency identifies a violation, they submit the claim for investigation to DOJ. However, the report found that FMCSA lacks a formal mechanism for coordinating with DOJ. GAO also identified FMCSA's lack of authority to issue penalties for violations of ADA as a barrier to enforcement.

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[5]GAO-07-1126, *Transportation Accessibility: Lack of Data and Limited Enforcement Options Limit Federal Oversight*, September 2007.

In March 2006, the Subcommittee on Highways, Transit, and Pipelines held a hearing on "curbside" bus companies. "Curbside bus" operators are motor coach companies that operate fixed-route, intercity bus service, mainly between cities along the Northeast Corridor, picking up and dropping off passengers on the street rather than in bus terminals. Witness testimony included anecdotal evidence that many curbside operators do not provide accessible transportation to individuals with disabilities. Several newspaper articles have highlighted problems that individuals with disabilities have encountered in trying to ride curbside buses, including a March 2, 2006 *Washington Post* investigation, which revealed that 11 companies that operate in the Northeast corridor had violated ADA regulations.

H.R. 3985, the "Over-the-Road Bus Transportation Accessibility Act of 2007"

H.R. 3985 strengthens FMCSA's ability to monitor and enforce compliance with the Department of Transportation's regulations governing the accessibility of over-the-road bus transportation. This bill amends section 13902 of title 49, United States Code, to prohibit the agency from granting registration authority to a motor carrier providing over-the-road bus transportation who is not willing and able to comply with the accessibility regulations under 49 CFR part 37, subpart H. The bill also clarifies that the Secretary may suspend, amend, or revoke a motor carrier's registration in the event of a willful failure to comply with regulations pursuant to the Americans with Disability Act.

H.R. 3985 further requires the Department of Transportation and the Department of Justice to enter into a memorandum of understanding to ensure coordination and to clearly define each Department's roles and responsibilities in enforcing the provisions of the ADA.

Prior Legislative and Oversight Activities

In March 2006, the Subcommittee on Highways, Transit, and Pipelines held a hearing on the lack of compliance with DOT's motor carrier regulations, including the ADA regulations, by "curbside" bus companies.

On October 11, 2007, Chairman Oberstar and Subcommittee Chairman DeFazio sent a letter to FMSCA Administrator John Hill expressing their intent to legislate a solution to the problem if the agency did not respond with its plans to make changes administratively to ensure that ADA requirements were being met by the over-the-road bus operators that FMCSA registers. FMCSA has not responded to the Chairmen's letter. On October 26, 2007, FMCSA issued a decision in response to the Court order defending its original position that the underlying statute does not provide the authority for FMCSA to consider compliance with ADA.

On October 29, 2007, Subcommittee Chairman Peter A. DeFazio introduced H.R. 3985, the "Over-the-Road Bus Transportation Accessibility Act of 2007".

Amendments

No amendments are expected at this time.

H.R. 3315, TO PROVIDE THAT THE GREAT HALL OF THE CAPITOL VISITOR CENTER SHALL BE KNOWN AS EMANCIPATION HALL

Background

H.R. 3315 designates the great hall of the Capitol Visitors Center ("CVC") as "Emancipation Hall". The great hall will be located in the new Capitol Visitors Center (CVC). The Capitol Visitors Center is the most recent addition and the largest addition to the U.S. Capitol in its 212-year history.

In 1991, Congress provided funds for the conceptual design and planning of the CVC. In 1993, the Capitol Preservation Commission allocated funds to carry the conceptual study into an actual design document. Following the tragic death of two Capitol Police officers in July 1998, Congress appropriated funds for a visitor's center to increase security within the Capitol, and to provide a safer environment for visitors awaiting tours. The September 11, 2001 terrorist attacks and the subsequent discovery of anthrax in congressional office buildings in October 2001 highlighted the potential vulnerabilities of the Capitol and the need for improved security.

The new CVC, expected to be completed in the fall of 2008, will host the more than three million people visit the United States Capitol on an annual basis. This Center encompasses 580,000 square feet of space on three levels above and below ground. The great hall will include information and ticketing desks, as well as provide a generous waiting area. In addition, there will be also an exhibition gallery, two orientation theaters, a new dining cafeteria with capacity for 550 people, two gift shops, 26 restrooms, and a 1,000 foot linear tunnel for truck loading and delivery.

In 2004, Congress directed the Architect of the Capitol to produce a report on the history of slave labor in the construction of the United States Capitol. The report examined the efforts of slaves that helped to build the Capitol, other Federal buildings, and the White House, which at the time was known as the President's House. Although the record is incomplete because of limited documentation of slave labor, the evidence available and historical context provide several indications that slaves and free African Americans played a significant role in building these historical monuments.

H.R. 3315 is a tribute to the historic contributions of the slaves who helped erect the United States Capitol.

Prior Legislative and Oversight Activities

On August 2, 2007, Representative Zach Wamp introduced H.R. 3315. The bill designates the great hall of the Capitol Visitors Center as "Emancipation Hall".

On September 25, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on H.R. 3315. Prior to the introduction of H.R. 3315, the Subcommittee held a hearing on June 8, 2007, entitled "What Visitors Can Expect at the Capitol Visitors Center: Transportation, Access, Security and Visuals".

On October 30, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met to consider H.R. 3315 and favorably recommended the bill to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

No amendments are expected at this time.

H.R. 3712, TO DESIGNATE THE FEDERAL BUILDING AND UNITED STATES COURTHOUSE LOCATED AT 1716 SPIELBUSCH AVENUE IN TOLEDO, OHIO, AS THE "JAMES M. & THOMAS W.L. ASHLEY CUSTOMS BUILDING AND UNITED STATES COURTHOUSE"

Background

H.R. 3712 designates the Federal building located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. & Thomas W.L. Ashley United States Courthouse".

James Monroe Ashley (1824-1896) served five terms as a Representative from Ohio. Representative Ashley was recognized as a champion for abolitionist causes. During the American Civil War, Ashley was the first Representative to call for an amendment to the United States Constitution that would outlaw slavery. His amendment served as the antecedent of the Thirteenth amendment which abolished slavery within the United States and its territories.

Thomas William Ludlow Ashley is the great grandson of former Governor and Congressman James M. Ashley. In 1954, Thomas William Ludlow Ashley was elected to Congress and served a total of 13 terms in Congress. While in Congress, Representative Ashley served as Chairman of the Select Committee on Energy and the Committee on Merchant Marine and Fisheries. In 1977, Speaker Thomas P. "Tip" O'Neill established a Select Committee on Energy and appointed Representative Ashley to chair the Committee. The Select Committee on Energy compiled energy legislation, based on bills reported by several House committees in response to President Jimmy Carter's legislative proposal.

Prior Legislative and Oversight Activities

On October 1, 2007, Representative Marcy Kaptur introduced H.R. 3712. This bill was not introduced in a previous Congress.

On October 30, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met to consider H.R. 3712. The Subcommittee adopted an amendment in the nature of a substitute to the bill. The amendment made technical corrections to the bill. The Subcommittee favorably recommended the bill, as amended, to the Committee on Transportation and Infrastructure by voice vote with a quorum present.

Amendments

No amendments are expected at this time.

H. RES. 661, HONORING THE ACCOMPLISHMENTS OF BARRINGTON ANTONIO IRVING, THE YOUNGEST PILOT AND FIRST PERSON OF AFRICAN DESCENT EVER TO FLY SOLO AROUND THE WORLD

Background

H. Res. 661 highlights the House of Representatives' support for the accomplishments of Barrington Antonio Irving, the youngest pilot and the first person of African descent ever to embark on a 24,600-mile solo flight around the world.

Irving was born in 1983 in Kingston, Jamaica, and was raised in Miami, Florida. He discovered a passion for aviation at the age of 15 when Captain Gary Robinson, a Jamaican airline pilot who has since served as his mentor, took him to tour the cockpit of a Boeing 777.

In 2003, Irving's passion for aviation drove him to attend the Florida Memorial University where he majored in aerospace. That same year, Irving began pursuing a new dream of becoming the youngest pilot to fly solo around the world.

Irving began contacting companies including an aircraft manufacturer in Columbia, which agreed to provide him with a plane to fly around the world if he could secure donations and components. Over several years, Irving visited aviation trade shows throughout the country and secured more than $300,000 in cash and donated components including the engine, tires, cockpit systems, and seats for a Columbia 400, one of the world's fastest single-engine piston airplanes.

While fundraising for his flight around the world, Irving overcame other financial hardships to earn his pilots license by doing miscellaneous jobs for private aircraft owners in exchange for flying lessons, and by earning a scholarship for his volunteering efforts and commitment to community service.

In 2005, Irving blended his commitment to community service and his passion for aviation when he founded a nonprofit organization that addresses the significant shortage of young men and women pursuing careers in aviation and aerospace.

In March 2007, at the age of 23, Irving finally realized his dream. He took off from Miami, Florida, on a 24,600-mile flight around the world in an airplane named "Inspiration", becoming the youngest pilot and the first person of African descent to fly around the world. During his flight, Irving stopped in 27 cities before finally landing back in Miami, Florida.

This resolution honors Irving's passion for aviation and his commitment to pursue his dream of becoming a pilot. This resolution also recognizes Irving for his volunteer efforts and commitment to community service. It encourages museums throughout the Nation related to aviation to commemorate the historic achievements of Captain Barrington Irving.

Prior Legislative and Oversight Activities

On September 18, 2007, Representative Alcee L. Hastings introduced H. Res. 661. This resolution has not been introduced in a previous Congress.

Amendments

An amendment in the nature of a substitute will be offered to the resolution. The amendment makes technical corrections to the resolution.

H. RES. 772, RECOGNIZING THE AMERICAN HIGHWAY USERS ALLIANCE ON THE OCCASION OF ITS 75TH ANNIVERSARY, AND FOR OTHER PURPOSES

Background

H. Res. 772 recognizes the American Highway Users Alliance on the occasion of its 75th anniversary, and acknowledges the organization's role as an advocate for our nation's highway system.

Founded in 1932 as the National Highway Users Conference, the organization, now know as the American Highway Users Alliance, has voiced the interests of motorists and businesses on all major national highway and traffic safety legislation over the past 75 years. Included in these efforts is the Highway Users' strong support of the Federal-Aid Highway Act of 1956, which authorized the Interstate Highway System and established the Highway Trust Fund. The Highway Users Alliance has worked over the past 75 years to protect the integrity of the Highway Trust Fund and State highway trust funds.

H. Res. 772 recognizes the Highway Users for conducting crucial research documenting the promise and potential of modern United States highways in improving safety, facilitating emergency evacuations, and growing the national economy.

It also recognizes the Highway Users for being a consistent advocate in favor of strengthening the national highway network by promoting a strong Federal role in mobility and safety and by advocating policies that benefit all highway users.

Prior Legislative and Oversight Activities

On October 24, 2007, Chairman James L. Oberstar introduced H. Res. 772. This resolution has not been introduced in a previous Congress.

Amendments

No amendments are expected at this time.

U.S. Army Corps of Engineers Survey Resolutions

Background

A U.S. Army Corps of Engineers survey (or study) of water resources needs and possible solutions can be authorized by resolution approved by the Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. Each survey resolution authorizes a two-phase study process. Under Corps' policies, the maximum allowable cost of the initial, reconnaissance phase of the study is $100,000. The cost of the second, feasibility phase will be determined during the reconnaissance study. Follow-on costs for the feasibility study will be subject to applicable cost-sharing requirements.

The Committee will consider the following Resolutions:

Docket Number	Date Filed	Subject	Requested by
2784	September 18, 2007	Delaware County and Chester County Streams, Pennsylvania Flood Damage Reduction, Environmental Restoration, and Watershed Management	Rep. Sestak
2785	September 18, 2007	Illinois Waterway, Illinois and Indiana Dredge Spoil Disposal	Rep. Lipinski
2786	July 18, 2007	White River Navigation, Arkansas Flood Damage Reduction, Environmental Restoration, and Navigation	Rep. Berry
2787	July 10, 2007	Vermillion Harbor, Ohio Navigation and Flood Damage Reduction	Rep. LaTourette
2788	May 23, 2007	Dutchess County Watershed, New York Flood Damage Reduction, Environmental Restoration, and Watershed Management	Rep. Hall

Although clause 9 of rule XXI of the Rules of the House of Representatives regarding congressional earmarks does not specifically apply to Committee on Transportation and Infrastructure survey resolutions, Chairman Oberstar has requested that, in the interests of full disclosure and transparency, Members requesting survey resolutions comply with the requirements of clause 9 of rule XXI and clause 17 of rule XXIII of the Rules of the House. For each of the pending survey resolutions, Members have certified that neither the Member nor his or her spouse has a financial interest in the project.

Prior Legislative and Oversight Activities

Each Congress, the Committee on Transportation and Infrastructure routinely considers U.S. Army Corps of Engineers Survey Resolutions.

Amendments

No amendments are expected at this time.