



## The Committee on Energy and Commerce

### Internal Memorandum

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June 15, 2012

To: Members of the Committee on Energy and Commerce

From: Majority Committee Staff

Re: Full Committee Markup

#### **I. Summary**

On Tuesday, June 19, 2012, at 4:00 p.m., the Full Committee will meet in open markup session for opening statements only in room 2123 Rayburn House Office Building to consider the following:

- H.R. 5865, the “American Manufacturing Competitiveness Act of 2012”;
- H.R. 5859, a bill to repeal an obsolete provision of Title 49;
- H.R. 4273, the “Resolving Environmental and Grid Reliability Conflicts Act of 2012”;
- H.R. 5892, the “Hydropower Regulatory Efficiency Act of 2012”;
- H. Con. Res. 127; and,
- the Semi-Annual Committee Activity Report

The committee will reconvene at 10:00 a.m. on Wednesday, June 20, 2012.

#### **II. Background and Section-by-Section**

*H.R. 5865, the “American Manufacturing Competitiveness Act of 2012”*

Mr. Lipinski and Mr. Kinzinger introduced H.R. 5865 on May 30, 2012. The Subcommittee held a legislative hearing on H.R. 5865 on June 1, 2012, and received testimony from the Administration, the private sector, and one of the bill’s proponents, Rep. Dan Lipinski (IL-03). The Subcommittee proceeded to markup on June 6, 2012. Mr. Kinzinger offered an Amendment in the Nature of a Substitute, which was adopted by voice vote. The Subcommittee then favorably reported H.R. 5865 by voice vote.

**Section 2.** Requires two Presidential reports to Congress outlining a strategy for promoting growth, sustainability, and competitiveness in the manufacturing sector. The reports are due June 1, 2014, and June 1, 2018.

**Section 3.** Establishes, within the Department of Commerce, the American Manufacturing Competitiveness Board on the first day of the Presidential term following the date of enactment (2013), and then again in the next Presidential term (2017). The Board will consist of 15 Members, five from the public sector (including two Governors) and ten from the private sector. The private sector board members must have manufacturing-related or other relevant experience. The five public appointments are made by the President and must include the Secretary of Commerce, while the ten private-sector members are appointed by the House and Senate in a 3-2 ratio, majority to minority, for each chamber. The Board would be co-chaired by the Secretary of Commerce and a member elected by the private-sector Board members. Each Board terminates 60 days after submitting its final report to the President as required by Section 4. The Board may convene subgroups to address particular industries, topics, or other matters and to take advantage of the expertise of other individuals and entities in matters to be addressed by the Board. Section 3 establishes the quorum and minimum meeting requirements and provides flexibility for the Board to hold hearings with less than a quorum pursuant to agreement of the co-chairmen.

**Section 4.** Establishes the duties of the Board as follows: (1) advise the President on manufacturing issues; (2) conduct a rigorous analysis of the manufacturing sector; and (3) develop a national competitiveness strategy, which will be made available for public comment and submitted to the President.

The Board will conduct a comprehensive analysis on the manufacturing sector, taking into consideration previously compiled data, analyses, reports, plans or recommendations. The Board's analysis will address a number of enumerated factors, to the extent feasible. The Board then will develop and publish for public comment a draft manufacturing strategy based on its analysis and any other information the Board determines is appropriate. The Board must also publish its analysis and underlying data used to support its conclusions. The competitiveness strategy will include short-term and long-term goals for improving the competitiveness of the U.S. manufacturing environment, and recommendations for action to accomplish the goals. Not later than April 1, 2014, and April 1, 2018, each Board must submit to the President for review and revision a final report containing a national manufacturing strategy and publish it on a public website. The President will then send a manufacturing strategy to Congress as required by section 2 of the Act.

To avoid duplication of efforts, the Board must consult with a number of other specified entities and may consult with any other relevant governmental body or the private sector.

**Section 5.** Requires the President to include in each fiscal year's budget request information regarding the consistency of the budget with the goals and recommendations included in the national manufacturing strategy. This requirement sunsets after fiscal year 2020.

**Section 6.** Defines certain terms, including "Board", "private sector", and "State".

*H.R. 5859, a bill to repeal an obsolete provision of Title 49*

Mr. Harper and Mr. Owens introduced H.R. 5859 on May 30, 2012. The Subcommittee on Commerce, Manufacturing, and Trade held a hearing on June 1, 2012, and received testimony from private-sector and consumer advocate witnesses. The Subcommittee also received testimony from Rep. Mike Kelly (PA-03), regarding his relevant experience in the private sector. The Subcommittee proceeded to markup on June 6, 2012. Ranking Member Butterfield offered and withdrew one amendment, which would have required the Secretary of Transportation to determine the best data, format, and method of delivering damage susceptibility information to consumers at the point of sale. The Subcommittee then favorably reported H.R. 5859 by voice vote.

The bill includes the following provision:

**Section 1.** Repeals subsection (c) of section 32302 of Title 49 and its implementing regulations.

*H.R. 4273, the “Resolving Environmental and Grid Reliability Conflicts Act of 2012”*

The “Resolving Environmental and Grid Reliability Conflicts Act of 2012” was introduced on March 28, 2012, by Representatives Olson (R-TX), Doyle (D-PA), Terry (R-NE), Green (D-TX), Kinzinger (R-IL), and Gonzalez (D-TX). On May 9, 2012, the Subcommittee on Energy and Power held a hearing on the legislation. On June 7, 2012, the Subcommittee favorably reported H.R. 4273 by voice vote to the Full Committee.

The bill includes the following provisions:

**Section 1:** Provides the short title of “Resolving Environmental and Grid Reliability Conflicts Act of 2012.”

**Section 2:**

- Amends Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) to clarify that when an electric generator is operating pursuant to a section 202(c) emergency directive to generate or transmit electricity, it will not be considered in violation of environmental laws or regulations, or subject to civil or criminal liability or citizen suits, as a result of its actions to comply with the Federal emergency order.
- Directs the Department of Energy (DOE) to work to minimize adverse environmental impacts in emergency orders issued pursuant to Section 202(c) of the Federal Power Act.
- Clarifies that the term “environmental law” does not include laws and regulations under the Occupational Safety and Health Act of 1970.
- Provides that Section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is applicable to municipalities.

*H.R. 5892, the “Hydropower Regulatory Efficiency Act of 2012”*

A discussion draft of the “Hydropower Regulatory Efficiency Act of 2012” was released on May 2, 2012, by Rep. McMorris Rodgers (R-WA) and Rep. DeGette (D-CO). On May 9, 2012, the Subcommittee on Energy and Power held a legislative hearing on the legislation. On June 5, 2012, Representatives McMorris Rodgers and DeGette introduced H.R. 5892, the “Hydropower Regulatory Efficiency Act of 2012,” along with Representatives Terry (R-NE), Latta (R-OH), Smith (R-TX), Dingell (D-MI), Markey (D-MA), and Matheson (D-UT). On June 7, 2012, the Subcommittee favorably reported H.R. 5892 by voice vote to the Full Committee.

The bill includes the following provisions:

**Section 1:** Sets forth the Act’s short title and provides a table of contents.

**Section 2:** Sets forth findings on the untapped potential of hydropower resources, in terms of both power production and job creation.

**Section 3:** Facilitates the development of small hydropower projects by increasing the licensing exemption from 5 MW to 10 MW.

**Section 4:**

- Promotes hydropower development at conduits (*i.e.*, man-made water conveyances such as tunnels, canals, or pipelines that are operated for water distribution and not primarily for electricity generation) by excluding projects under 5 MW from Federal licensing requirements if the project meets certain criteria.
- Facilitates conduit project development by exempting projects between 5-40 MW from Federal licensing requirements, upon approval of the Federal Energy Regulatory Commission (FERC).

**Section 5:** Allows FERC to extend the term of a preliminary permit for up to 2 years, for a total of 5 years, in order to allow a permittee sufficient time to develop and file a license application.

**Section 6:** Directs FERC to study the feasibility of establishing a streamlined 2-year licensing process for hydropower development at non-powered dams and closed-loop pumped storage projects. The results of the program will be reported to Congress.

**Section 7:** Directs the Secretary of Energy to complete a study of: (1) the technical flexibility and potential of certain hydropower storage facilities and technology to support intermittent renewable generation and provide grid reliability benefits; and (2) the range of opportunities for hydropower from conduits.

*H. Con. Res. 127*

The Internet is the single largest engine of global change since the printing press. The world deserves the access to knowledge, services, commerce, and communication, the accompanying benefits to economic development, education, and health care, and the informed discussion that is the bedrock of democratic self-government.

Despite this record of success, nations from across the globe will meet at a United Nations forum in Dubai, United Arab Emirates, at the end of this year and, if we are not vigilant, might fundamentally change the Internet as we know it today by subjecting it to an international regulatory regime designed for old-fashioned telephone service.

H. Con. Res. 127 is a bipartisan resolution that expresses the sense of Congress that:

- The Internet must remain stable, secure, and free from government control;
- The structure of Internet governance has profound implications for competition and trade, democratization, free expression, and access to information;
- Countries have obligations to protect human rights, which are protected by online activity as well as offline activity;
- Proposals to fundamentally alter the governance and operation of the Internet would diminish freedom of expression on the Internet in favor of government control over content; and,
- The position of the U.S. Government has been and is to advocate for the flow of information free from government control.

*Semi-Annual Committee Activity Report*

Clause 1(d) of House Rule XI requires each standing committee to submit to the House a semiannual report on the activities of that committee. This is the Energy and Commerce Committee's third such report during the 112th Congress.

Part 1 of the report lists the Members of the Committee, each subcommittee, and the majority and minority staff.

Part 2 of the report is organized by subcommittee, and summarizes the legislative and oversight activity and hearings of that subcommittee.

Part 3 of the report provides a delineation of any hearings held pursuant to 2(n) (waste, fraud, and abuse), (o) (disclaimers of agency financial statements from auditors of any Federal agency), and (p) (issues raised in GAO high-risk list) of House Rule XI.

### **III. Staff Contacts**

If you have any questions, please contact Brian McCullough, Gib Mullan, or Shannon Weinberg Taylor regarding H.R. 5865 and H.R. 5859; Patrick Currier regarding H.R. 4273 and H.R. 5892; David Redl or Neil Fried regarding H. Con. Res. 127; and, Peter Kielty regarding the Activity Report. All may be reached at (202) 225-2927.