



Legislative Bulletin.....March 6, 2014

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**H.R. 4152 - To provide for the costs of loan guarantees for Ukraine
(Rogers, R-KY)**

Order of Business: The bill is scheduled to be considered on March 6, 2014, under a motion to suspend the rule and pass the bill, which requires a two-thirds vote for passage.

Summary: The legislation adds Ukraine to the list of countries eligible to receive assistance through the Economic Support Fund (ESF). In this case, ESF funding would be used to provide loan guarantees for Ukraine. This legislation does not indicate the amount of loan guarantees that are provided.

Additional Information: According to the State Department, the Economic Support Fund (ESF) “promotes the economic and political foreign policy interests of the United States by providing assistance to allies and countries in transition to democracy, supporting the Middle East peace negotiations, and financing economic stabilization programs, frequently in a multi-donor context.” The United States Agency for International Development (USAID) implements most ESF-funded programs.

The ESF *primarily* provides countries with grants in order to fund a broad range of activities including education, rural development, transportation, or good governance programs. ESF allocations are to reflect strategic priorities, while Development Assistance (DA) funds are prioritized to the poorest people and poorest countries. ESF grants cannot be used for military assistance.

Funds from the ESF can also be used to back direct loans. In this case, the ESF does not make the loan but an amount of ESF funding would be deposited into the Treasury. In the event that the borrower (Ukraine) defaults, the ESF funding would be used to guarantee the loan.

Ukraine has had two failed International Monetary Fund programs since 2008. An ex-post evaluation contends program was appropriately designed, but failed because of “insufficient ownership” on the part of Ukrainian authorities.

Highlights of the Administration’s FY 2015 ESF Request: The Administration requested \$5.077 billion for FY 2015. This breaks down to a request of \$3.398 billion in enduring funds, and \$1.678 billion for Overseas Contingency Operations.

The request includes \$200 million for Egypt, \$370 million for the West Bank and Gaza, \$100 million for Pakistan, \$20 million for Cuba, and several other countries. The Administration’s request for FY 2015 can be found starting on [page 86 of this document](#). Total funding for FY 2014 was \$4.589 billion, and funding for FY 2013 was \$5.867 billion.

Committee Action: H.R. 4152 was introduced on March 5, 2014 and was referred to the House Appropriations and Foreign Affairs Committees. Neither committee took action.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: A CBO report is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation expands the list of countries eligible for assistance under the Economic Support Fund.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Rogers states “Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law’ In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States’ Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.” The statement can be [found here](#).

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H.R. 2641 — Responsibly and Professionally Invigorating Development Act of 2013 (Marino, R-PA)

Order of Business: [H.R. 2641](#), The RAPID Act, is scheduled to be considered on Thursday, March 6, 2014, subject to a rule.

Summary: This legislation amends the Administrative Procedures Act (APA) to allow for expedited review of construction projects paid for fully or partially with federal funds or that require federal regulatory agencies to grant permits or approval of the projects. The bill specifically expedites the review process established by the National Environmental Policy Act (NEPA). The bill:

- Sets maximum deadlines for an Environmental Impact Statement (36-months) and an Environmental Assessment (18-months).
- Allows lead agencies to manage the environmental review of projects.
- Allows the lead federal agency to use the environmental review of a different project that is close in proximity to the current project if the environmental effects are expected to be similar.
- Allows sponsors of privately funded projects to prepare documents for environmental review as long as they are approved and adopted by the lead agency prior to taking any action.
- Requires that only one environmental assessment and one environmental impact statement be prepared under NEPA, except for special circumstances such as the preparation of documents prepared under a court order.
- Sets a 180-day deadline to file a lawsuit challenging a NEPA decision that an approval, license, or permit is final.
- Establishes specific criteria that a lead agency can use when evaluating alternatives to be considered for a project.

Additional Background: The Administrative Procedures Act governs the how agencies propose and enact regulations. In 2011, the President’s Council on Jobs and Competitiveness [recommended](#) action to “simplify regulatory review and streamline project approvals to accelerate jobs and growth.” NEPA requires agencies to assess the environmental impacts of actions and potential alternatives before proceeding. According to the [Congressional Budget Office](#) “most construction projects that are partially or fully financed by the federal government require a NEPA review.”

Committee Action: H.R. 2641 was introduced on July 10, 2013, and referred to the House Committee on the Judiciary. On July 31, 2013, the bill was favorably reported by the Committee by a [vote](#) of 18-9.

Administration Position: The Executive Office of the President issued a [Statement of Administration Policy](#) in opposition to the bill that stated: “If the President were presented with H.R. 2641, his senior advisors would recommend that he veto the bill.”

Cost to Taxpayers: According to the Congressional Budget Office [cost estimate](#) “implementing this legislation would cost \$5 million over the next five years, assuming the availability of appropriated funds, as federal agencies would incur additional administrative costs to meet the new requirements imposed by H.R. 2641.”

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 Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 1 of the United States Constitution, in that the legislation concerns the exercise of legislative powers generally granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8 of the United States Constitution, in that the legislation concerns the exercise of specific legislative powers granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof;” and Article III, in that the legislation defines or affects powers of the Judiciary that are subject to legislation by Congress.” Congressman Marino’s statement in the Congressional Record can be viewed [here](#).

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NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

Amendments to H.R. 2641:

Webster (R-FL): The amendment clarifies the effective date for projects whose environmental review is currently ongoing. For those projects, the deadline for the review shall be deadlines that are established by the legislation. The text of the amendment can be [viewed here](#).

Johnson (D-GA): The amendment states that the legislation shall not “have the effect of changing or limiting any law or regulation that requires or provides for public comment or public participation in an agency decision making process.” The text of the amendment can be [viewed here](#).

Nadler (D-NY): The amendment causes the legislation not to pertain to the environmental review of nuclear facilities that are in an area designated as an earthquake fault zone. The text of the amendment can be [viewed here](#).

Jackson Lee (D-TX): The amendment strikes language in the underlying legislation that deems certain permits, licenses, or applications approved in cases where the federal agency fails to approve or act on the permit, license, or application. The text of the amendment can be [viewed here](#).

McKinley (R-WV): The amendment prohibits a lead agency from using the social cost of carbon, as definite by “[Technical Support Document: - Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis - Under Executive Order 12866](#)”, in any environmental review or environmental decisions making process. The text of the amendment can be viewed [here](#).

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