



Federal Affairs Subcommittee

MEETING PACKET

Wednesday, March 16, 2011
Webster Hall
8:00 AM – 9:00 AM

Dean Cannon
Speaker

Scott Plakon
Chair



The Florida House of Representatives

State Affairs Committee

Federal Affairs Subcommittee

Dean Cannon
Speaker

Scott Plakon
Chair

AGENDA

March 16, 2011

8:00AM – 9:00AM

Webster Hall (212 Knott Building)

Call to Order

Opening Remarks by Chair Plakon

Consideration of the following bills:

HM 9 - Supporting the Marketing of Florida Seafood

Representative Rouson

HM 189 - Free Trade Agreements Between the United States and Colombia, Panama, and the Republic of Korea

Representative Ray

HM 685 Congressional Term Limits

Representative Caldwell

HM 1221 Unemployment Assistance/Oil Spill

Representative Drake

Closing Comments by Chair Plakon

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 9 Supporting the Marketing of Florida Seafood
SPONSOR(S): Rouson and others
TIED BILLS: IDEN./SIM. **BILLS:** SM 852

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers <i>MC</i>	Cyphers <i>MC</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

SM 852 urges Congress of the United States to support the marketing of Florida seafood. Specifically, the memorial urges Congress to:

- Allocate moneys generated from fishery product import tariffs for marketing Florida seafood;
- Pass legislation to create a national seafood marketing fund using fishery product import tariffs to finance the activities; and

The Memorial also urges the Florida Congressional Delegation to work with representatives of other seafood-producing states to promote domestic seafood.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

The United States imported edible and inedible fisheries products from over 42 countries, with a total value of over \$21.8 billion in 2009. Edible product imports alone were greater than \$13 billion.¹ U.S. exports, however, total only \$19.6 billion in the same year, representing a decline of nearly \$4 billion from the previous year's high of over \$24.3 billion.² In a study completed by the Florida Fish and Wildlife Conservation Commission (FWCC) in October 2010, the overall economic impact of saltwater fishing in Florida was estimated at approximately \$5.5 billion and 54,508 jobs. The same report places the total economic impact of the Florida Seafood Industry at \$5.66 billion and 108,695 jobs (2008).³

Deepwater Horizon Oil Spill

On April 20, 2010, in the Gulf of Mexico, the Deepwater Horizon drilling rig experienced an explosion⁴ that would take the lives of eleven people and mark the beginning of the largest environmental disaster in the history of the United States. By the end of April 22nd, eleven members of the crew of the Deepwater Horizon were missing and presumed deceased⁵; several other crew members were injured; the \$350 million oil rig owned by Transocean⁶ had sunk to the bottom of the Gulf of Mexico; and oil and natural gas were leaking from pipes attached to the failed blowout preventer at the well head.

Response and Aftermath

The location of the leaking well site, known as the Macondo well, is approximately 45 miles southeast of Louisiana. As it became clear that the built-in measures to stop the leak had failed and that oil was beginning to spread away from the site of the leak, Governor Charlie Crist declared a state of emergency on April 30th for Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Gulf counties⁷. On May 3rd, the governor's executive order was amended to add Franklin, Wakulla, Jefferson, Taylor, Dixie, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties⁸.

After several failed attempts to stop the leak from the well, including a failed "top kill" effort between May 26 through 29, 2010⁹; leaking from the well was finally stopped on July 15, 2010¹⁰. A new "static kill" was successfully completed on August 4, 2010¹¹, and on September 19, 2010, after the relief well

¹ U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service Office of Science and Technology: Fisheries of the United States, 2009.

² Id.

³ Florida Fish and Wildlife Conservation Commission: Economics of Fish and Wildlife Recreation, Estimates Through October 2010.

⁴ http://www.nytimes.com/2010/04/22/us/22rig.html?_r=1&scp=1&sq=oil+rigger+explosion&st=nyt

⁵ <http://www.tampabay.com/incoming/as-oil-rig-sinks-hope-fades/1089672>

⁶ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

⁷ Office of the Governor, Executive Order Number 10-99 (Emergency Management – Deepwater Horizon) April 30, 2010

⁸ Office of the Governor, Executive Order Number 10-100 (Emergency Management – Deepwater Horizon) May 3, 2010

⁹ <http://www.nytimes.com/2010/05/30/us/30spill.html>

¹⁰ <http://abcnews.go.com/WN/gulf-oil-spill-bps-cap-success-oil-stops/story?id=11173330>

¹¹ <http://www.nytimes.com/2010/08/05/us/05spill.html>

was finished and the well was cemented from beneath, Admiral Thad Allen announced that the well was "effectively dead."¹²

The federal government estimates the amount of oil released from the Macondo well to be approximately 4.9 million barrels or 205.8 million gallons of oil¹³. While 17 percent of the oil was captured at the wellhead (833,000 barrels), according to official oil budget reports, the remaining oil (4.2 million barrels) escaped immediate retrieval¹⁴.

Oil Budget (Released Aug. 4)		Oil Budget Technical Report		
Category	% of Total	Category	% of Total	Change
Direct Recovery	17%	Direct Recovery	17%	None
Burned	5%	Burned	5%	None
Skimmed	3%	Skimmed	3%	None
Chemically Dispersed	8%	Chemically Dispersed	16%	+8%
Naturally Dispersed	16%	Naturally Dispersed	13%	-3%
Evaporated or Dissolved	25%	Evaporated or Dissolved	23%	-2%
Other	26%	Other	23%	-3%

According to a report by Secretary of the Navy Ray Mabus, at its peak, the response to the oil spill included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and many federal, state, and local agencies¹⁵. The final Situation Report by Florida's response team also noted the use of over 791,061 feet of boom; the removal of over 500,000 gallons of oil from Florida's shoreline; the deployment of 128 National Guardsmen; and the registration of 19,899 volunteers from all 50 states and 10 different countries¹⁶.

Impact of Spill on Fisheries

By June 2, 2010, the total area of federal waters closed to fishing as a result of the Deepwater Horizon Oil Spill reached its apex of 88,522 square miles (37% of all federal waters in the Gulf of Mexico). As of February 2011, over 1041 square miles of federal waters remained closed.¹⁷ In addition to closure of federal waters, the FWCC, in conjunction with other state agencies, declared parts of Escambia County closed to harvesting of saltwater fish, crabs and shrimp.¹⁸ The closure was in effect from June 14, 2010, to July 31, 2010, for saltwater fish and to August 17, 2010, for shrimp.¹⁹ State waters were reopened to all commercially harvested species on September 15, 2010, by FWC Executive Order 10-46.²⁰

While there are many uncertainties regarding potential long-term environmental impacts from the spill, there is no evidence that Florida seafood is unsafe to eat. However, the reputation of Gulf

¹² <http://www.cbsnews.com/stories/2010/09/19/national/main6881308.shtml>

¹³ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

¹⁴ http://www.noaanews.noaa.gov/stories2010/20101123_oilbudget.html

¹⁵ America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, September 2010

¹⁶ Deepwater Horizon Response: Situation Report #114 (Final) August 26, 2010

¹⁷ Congressional Research Service: The Deepwater Horizon Oil Spill and the Gulf of Mexico Fishing Industry, February 17, 2011.

¹⁸ http://www.myfwc.com/NEWSROOM/10/statewide/News_10_X_OilSpill19.htm

¹⁹ http://www.myfwc.com/NEWSROOM/10/statewide/News_10_X_OilSpill39.htm

²⁰ http://myfwc.com/media/310640/EO_10_46_ReopenStateWatersGulfDeepwaterHorizon.pdf

seafood for safety has been harmed by heavy exposure to information about the quantity of oil released into the Gulf of Mexico and the number of fisheries closed.²¹

In fact, in an AP poll from August 2010, respondents gave the following responses to the question:²²

"How confident are you that it is safe to eat seafood from the areas in the Gulf that were affected by the oil spill . . . ?"

Extremely confident	Very confident	Somewhat confident	Not too confident	Not confident at all
%	%	%	%	%
5	7	33	24	31

Commissioner Charles Bronson of the Florida Department of Agriculture and Consumer Services sought to counteract the damaged reputation of seafood from the Gulf of Mexico by requesting \$59 million from BP for seafood testing, monitoring, and marketing over a ten year period. The final amount offered by BP in October 2010, however, was \$20 million over a three year period. \$10 million was allocated to the Division of Marketing for the marketing of Florida Seafood, and the remaining \$10 million was allocated to the Division of Food Safety for the continued testing and monitoring of seafood.²³

Effects of Proposed Changes

This memorial asks Congress to allocate funds from two separate sources that collect money based on the importation of foreign seafood and fisheries products,²⁴ and place a portion of the funds in a national seafood marketing fund to promote the marketing of domestic seafood.

Copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, Florida seafood products face constantly increasing domestic competition from imported seafood products, with more than 80 percent of the total seafood consumed in the United States currently originating in foreign countries, and

WHEREAS, effective domestic marketing of Florida seafood in the face of aggressive competition from foreign products requires innovative, forceful, and consistent promotion, and

WHEREAS, current annual funding for the domestic promotion of Florida seafood is insufficient to effectively develop the thriving markets that sustainable Florida seafood products merit, especially when competing with nationally supported promotional programs aimed at United States consumers by rival seafood-producing countries, and

WHEREAS, duties and tariffs on imported seafood products generate approximately \$280,000,000 annually for the United States Treasury, and

²¹ <http://www.newsherald.com/articles/city-91445-increased-marketing.html>

²² <http://www.pollingreport.com/energy.htm>

²³ <http://www.fl-seafood.com/news/10-25-10.htm>

²⁴ Duties are placed on imported seafood and other fish products, totaling up to \$282 million. Anti-dumping/countervailing duties are also placed on foreign products as well, reaching as much as \$400 million – based on information provided by the National Seafood Marketing Coalition.

WHEREAS, revenue from anti-dumping and countervailing duties on imported seafood products collected by the Federal Government total hundreds of millions of dollars annually, and

WHEREAS, federal revenue derived from the importation of competing seafood products is not presently made available for the marketing of seafood harvested and produced domestically, and

WHEREAS, using a portion of the revenue collected on the importation of foreign seafood products to promote United States seafood to domestic consumers will secure United States fisheries and seafood processing jobs, create robust and enduring domestic markets, and greatly enhance the nutritional value of national diets, and

WHEREAS, throughout recent history each spill or leak associated with the transportation or production of oil negatively affects the seafood industry through the closure of commercial and recreational fishing operations, the destruction of wildlife and natural habitat, or loss of market share, and

WHEREAS, in a recent survey conducted by the University of Minnesota, percent of respondents said the Deepwater Horizon oil spill has affected their seafood consumption habits somewhat, percent said they will not eat seafood from the Gulf of Mexico, and percent said they will eat less seafood regardless of its origin, and

WHEREAS, a new National Seafood Marketing Fund designed to promote and develop United States produced seafood would help the United States seafood industry now and in the future recoup damages related to oil spills that result in decreased market demand for seafood, and

WHEREAS, a small portion of oil revenues are a logical source of funding for a National Seafood Marketing Fund as mitigation for real damages incurred by the seafood industry and coastal communities...

B. SECTION DIRECTORY:

Not Applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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House Memorial

A memorial to the Congress of the United States, urging Congress to support the marketing of Florida seafood.

WHEREAS, Florida seafood products face constantly increasing domestic competition from imported seafood products, with more than 80 percent of the total seafood consumed in the United States currently originating in foreign countries, and

WHEREAS, effective domestic marketing of Florida seafood in the face of aggressive competition from foreign products requires innovative, forceful, and consistent promotion, and

WHEREAS, current annual funding for the domestic promotion of Florida seafood is insufficient to effectively develop the thriving markets that sustainable Florida seafood products merit, especially when competing with nationally supported promotional programs aimed at United States consumers by rival seafood-producing countries, and

WHEREAS, duties and tariffs on imported seafood products generate approximately \$280,000,000 annually for the United States Treasury, and

WHEREAS, revenue from anti-dumping and countervailing duties on imported seafood products collected by the Federal Government total hundreds of millions of dollars annually, and

WHEREAS, federal revenue derived from the importation of competing seafood products is not presently made available for the marketing of seafood harvested and produced domestically, and

HM9

2011

28 WHEREAS, using a portion of the revenue collected on the
 29 importation of foreign seafood products to promote United States
 30 seafood to domestic consumers will secure United States
 31 fisheries and seafood processing jobs, create robust and
 32 enduring domestic markets, and greatly enhance the nutritional
 33 value of national diets, and

34 WHEREAS, throughout recent history each spill or leak
 35 associated with the transportation or production of oil
 36 negatively affects the seafood industry through the closure of
 37 commercial and recreational fishing operations, the destruction
 38 of wildlife and natural habitat, or loss of market share, and

39 WHEREAS, in a recent survey conducted by the University of
 40 Minnesota, 54 percent of respondents said the Deepwater Horizon
 41 oil spill has affected their seafood consumption habits
 42 somewhat, 44 percent said they will not eat seafood from the
 43 Gulf of Mexico, and 31 percent said they will eat less seafood
 44 regardless of its origin, and

45 WHEREAS, a new National Seafood Marketing Fund designed to
 46 promote and develop United States produced seafood would help
 47 the United States seafood industry now and in the future recoup
 48 damages related to oil spills that result in decreased market
 49 demand for seafood, and

50 WHEREAS, a small portion of oil revenues are a logical
 51 source of funding for a National Seafood Marketing Fund as
 52 mitigation for real damages incurred by the seafood industry and
 53 coastal communities, NOW, THEREFORE,

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55 Be It Resolved by the Legislature of the State of Florida:

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That the Congress of the United States is requested to allocate moneys generated from federal marine and fishery product import tariffs for the domestic marketing of Florida seafood.

BE IT FURTHER RESOLVED that the Congress of the United States is urged to pass legislation dedicating a significant portion of marine and fishery product import tariffs to a national seafood marketing fund to promote domestic seafood products that face competition from foreign imports.

BE IT FURTHER RESOLVED that the Florida Congressional Delegation is urged to work with representatives of other seafood-producing states to secure adequate funding for effective and sustained domestic marketing of United States seafood.

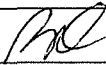
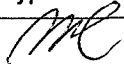
BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 189 Free Trade Agreements Between the United States and Colombia, Panama, and the Republic of Korea

SPONSOR(S): Ray and others

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers	Cyphers
2) Economic Affairs Committee			

SUMMARY ANALYSIS

This memorial asks Congress to support the approval of pending free trade agreements between the United States and Colombia, Panama, and the Republic of Korea.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

Background

Treaty Powers in the United States

The United States Constitution is clear regarding some of the powers which are not to be held by the states. One of those powers is the ability to enter into treaties. In Article I of the U.S. Constitution, states are specifically forbidden to enter into any "Treaty, Alliance, or Confederation".¹ The power to enter into a treaty with a foreign government is given only to the President of the United States, but the President must gain the support of a two-thirds majority in the United States Senate.²

Panama –Trade Promotion Agreement (TPA) with the United States

Panama is an isthmus country of approximately 3.5 million people. It is located at the southern tip of Central America, just south of Costa Rica and just north of Colombia. After attaining its independence from Colombia at the turn of the 20th Century, Panama entered at treaty with the United States which resulted in the construction of the Panama Canal by the United States in 1914. The canal and two strips of land on both sides of the canal were the property of the United States until an agreement was signed by President Jimmy Carter to begin the process of turning ownership of the canal over to Panama. The transfer of all properties still held by the United States in Panama ended in 1999.³

In 2007, Panama began a \$5.3 billion expansion of the canal and other infrastructure which are scheduled to be completed by 2015. This expansion is expected to ease the movement of goods between the Eastern United States and Asia, and it is also expected to expand the direct trade between Panama and the United States.⁴ Since nearly a third of \$6.5 billion in total bilateral merchandise trade between the U.S. and Panama ran through Florida in 2010, there appears to be an inherent benefit to the maximization of trade between the two countries.⁵

Historically, the country of Panama has enjoyed a "one-way street" of duty free exports to the U.S. In fact, the average agricultural tariff placed on goods from the United States is 15 percent, with some tariffs for things like grains reaching as high as 90 percent. Conversely, over 99 percent of Panamanian goods are duty free when exported to U.S. markets.⁶ However, in 2007, the United States and Panama signed the U.S. – Panama Trade Promotion Agreement which would mark a significant step in increasing trade between the two nations.⁷ Under the terms of the agreement, Florida products that once carried 15 percent tariffs when they were exported to Panama would now be completely duty free. Among the duty free products are oranges, grapefruit, and all citrus juices.⁸ On a larger scale, the U.S. – Panama TPA would mean the immediate elimination of duties paid on over 60 percent of the all current U.S. trade to Panama.⁹

¹ Article I, Section 10, Clause 1 – United States Constitution

² Article II, Section 2, Clause 2 – United State Constitution

³ <https://www.cia.gov/library/publications/the-world-factbook/geos/pm.html>

⁴ *Id.*

⁵ eFlorida Strategic Intelligence: Implications of the US-Panama TPA, February 2011.

⁶ United States Department of Agriculture, Foreign Agricultural Service: U.S. – Panama Trade Promotion Agreement, Florida Farmers Will Benefit, September 2008.

⁷ www.usitc.gov/publications/docs/pubs/2104F/pub3948.pdf

⁸ United States Department of Agriculture, Foreign Agricultural Service: U.S. – Panama Trade Promotion Agreement, Florida Farmers Will Benefit, September 2008.

⁹ United States Department of Agriculture, Foreign Agricultural Service: Fact Sheet U.S. – Panama Trade Promotion Agreement, September 2010.

Upon implementation, the American Farm Bureau predicts the gains for agriculture in the United States to be over \$190 million per year. According to analyses performed by the United States International Trade Commission, U.S. exports to Panama could rise between 9 percent and 145 percent, as a result of implementation of the TPA. Also, the total number of additional jobs that could be supported annually by implementing the TPA is estimated to be around 1,845.¹⁰

Colombia – Trade Promotion Agreement (TPA) with the United States

Colombia, as it is today, was created as a result of the collapse of Gran Colombia in 1830. It is the northernmost country in South America, and it boasts a population of over 44.7 million people. It borders several countries including Venezuela, Peru, Brazil, and Ecuador in South America and Panama in Central America. It also has access to both the Pacific Ocean on the West and the Caribbean Sea to the North.¹¹

Colombia has made significant moves toward pro-market economic policies over the country's last two executive administrations. Foreign investment in the country even reached a record high of \$10 billion in 2008, and after a significant but temporary drop to \$7.2 billion in 2009, it began to recover in 2010 when its economy grew by 4.5%. The country still struggles with anti-government forces supported by narcotics trafficking and even neighboring countries like Venezuela, but Colombia continues to liberalize their economy and government.¹² There has also been a precipitous drop in the amount of violence against union members (and violence overall) in Colombia over the last ten years.¹³

Like Panama, Colombia has enjoyed a "one-way street" of duty free exports to the U.S. Conversely, American goods face tariffs similar to those in the Panamanian market, with averages ranging between 15 and 20 percent on exports from the United States. However, in 2006, the United States and Colombia signed the U.S. – Colombia Trade Promotion Agreement, which seeks to make permanent the political and economic partnership between the two nations.¹⁴

Under the terms of the agreement, Florida products that were once subject to tariffs would now be completely duty free, or in a few cases, nearly so. In the case of 80 percent of U.S. goods exported to Colombia, the elimination of the tariffs would be immediate. After five years, that percentage rises to 87%, and the tariffs would be removed completely after the tenth year of the agreement's implementation.¹⁵ The United States International Trade Commission estimates that the increase in overall exports and Florida-based exports to Colombia would be 13.7 percent. The benefit to Florida, however, lies in the rate of that increase. While the 13.7 percent for overall U.S. imports is based on growth over 2005 levels, the same amount of growth for Florida is based on increases over 2010 levels. In dollars, Florida goods would increase by \$345 under implementation of the TPA.¹⁶

Republic of Korea – U.S. – Korea Trade Agreement (KORUS)

The Republic of Korea, or South Korea, is situated in the southern half of the Korean Peninsula while a Communist-style government (North Korea, or the DPRK) occupies the northern portion of the peninsula bordering China. South Korea is bordered by only one country (North Korea) and by two bodies of water: The Yellow Sea to the West, and the Sea of Japan to the East.

¹⁰ eFlorida Strategic Intelligence: Implications of the US-Panama TPA, February 2011.

¹¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/co.html>

¹² *Id.*

¹³ http://www.cato.org/pub_display.php?pub_id=12783

¹⁴ <http://www.ustr.gov/trade-agreements/free-trade-agreements/colombia-fta>

¹⁵ *Id.*

¹⁶ U.S. International Trade Commission; U.S. – Colombia Trade Promotion Agreement: Potential Economy-wide and Select Sectoral Effects, December 2006.

During the Korean War (1950-53), the U.S. and United Nations were allied with South Korea in its defense from attacks by North Korea which were known to be supported by China and the Soviet Union. An armistice, signed in 1953, ended combat between the nations, but the result was the splitting of the Korean peninsula along the 38th parallel. After 32 years of military rule, South Korea became a modern democracy in 1993. Tensions remain between North Korea and South Korea, and the United States still has a military presence in the country to assist in its defense, but since the war, South Korea has achieved rapid economic growth with incomes rising to be roughly 17 times that of North Korea. In fact, in the decades since the end of the Korean War, South Korea's Gross Domestic Product has grown from being among the worst in the world to 20th in the world.¹⁷

Historically, trade relations between the United States and South Korea have been strong. However, over the last ten years, the U.S. has fallen from Korea's number one source of imports to number three.¹⁸ Currently, U.S. exporters to Korea pay tariffs in average of 6.2 percent, and Korean imports are subject to tariffs averaging 2.8 percent. The United States and Korea have recently completed negotiations on the U.S. – Korea Trade Agreement (KORUS), but it has yet to be implemented. Meanwhile, South Korea has already begun to implement a trade agreement with the European Union, Chile, India, and others.¹⁹

The KORUS, if implemented, would mean the elimination of tariffs on over 95 percent of U.S. exports of consumer and industrial products over five years and the immediate elimination of tariffs on over two-thirds of U.S. agricultural products.²⁰ For the Florida agriculture industry, this means the immediate elimination of the 54 percent tariff on frozen orange juice; the 30 percent tariff on grapefruit would be and other fruits would be eliminated in two to five years; and the tariff on oranges would be reduced by 30 percent immediately, and be eliminated completely in seven years. Tariffs on other agricultural products from vegetables to beef would be significantly reduced or eliminated as well.²¹ Other key export products from Florida like Chemicals, Computer and electronics, and machinery would also see the elimination of tariffs as high as 50 percent.²²

A. EFFECT OF PROPOSED CHANGES:

This memorial asks Congress to support the approval of pending free trade agreements between the United States and Colombia, Panama, and the Republic of Korea.

Copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, Florida, the United States' fifth-largest exporter in 2008, with goods exports totaling \$50.4 billion, has a global reputation as a gateway to the Americas and a vital stake in global markets, and

WHEREAS, Free Trade Agreements with Colombia, Panama, and the Republic of Korea offer valuable opportunities for the United States to enhance its competitive edge in the global economy by lowering the barriers that its own exporters face in these markets, and

WHEREAS, state and local officials around the United States have signaled their support for Congressional approval of these Free Trade Agreements, and

¹⁷ <https://www.cia.gov/library/publications/the-world-factbook/geos/ks.html>

¹⁸ International Trade Administration: Benefits from the U.S. – Korea Trade Agreement, February 2011

¹⁹ United States Department of Agriculture, Foreign Agricultural Service: Fact Sheet, U.S. – Korea Trade Agreement, March 2011.

²⁰ International Trade Administration: Benefits from the U.S. – Korea Trade Agreement, February 2011.

²¹ United States Department of Agriculture, Foreign Agricultural Service: U.S. – Korea Trade Agreement, Florida Farmers Will Benefit, December 2010.

²² International Trade Administration: Benefits from the U.S. – Korea Trade Agreement, February 2011.

WHEREAS, manufactured exports translate into the creation of jobs for Florida workers, including 128,400 of them as of 2005, and

WHEREAS, agriculture exports, services exports, foreign investment, and imports all contribute significantly to Florida's economy and employment base, and

WHEREAS, according to the United States Department of Agriculture, Florida's agricultural exports reached \$1.96 billion in 2007, maintaining 17,420 Florida jobs, both on and off farmlands, and

WHEREAS, in 2007, Florida's exports to Colombia surpassed \$2 billion, increasing by percent over the previous year, and

WHEREAS, Florida is the second-leading United States exporter to each of its pending Latin American Free Trade Agreement partners, Panama and Colombia, and approval of Free Trade Agreements with those countries will ensure that those nations continue to make progress in reducing violence while improving economic stability, and

WHEREAS, a Free Trade Agreement with the Republic of Korea would substantially increase access to the South Korean market and both the United States and the Republic of Korea would benefit from increased exports, economic growth, and job creation...

B. SECTION DIRECTORY:

None

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

29 WHEREAS, in 2007, Florida's exports to Colombia surpassed
 30 \$2 billion, increasing by 31 percent over the previous year, and

31 WHEREAS, Florida is the second-leading United States
 32 exporter to each of its pending Latin American Free Trade
 33 Agreement partners, Panama and Colombia, and approval of Free
 34 Trade Agreements with those countries will ensure that those
 35 nations continue to make progress in reducing violence while
 36 improving economic stability, and

37 WHEREAS, a Free Trade Agreement with the Republic of Korea
 38 would substantially increase access to the South Korean market
 39 and both the United States and the Republic of Korea would
 40 benefit from increased exports, economic growth, and job
 41 creation, NOW, THEREFORE,

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43 Be It Resolved by the Legislature of the State of Florida:

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45 That the Congress of the United States is urged to support
 46 the establishment of Free Trade Agreements between the United
 47 States and Colombia, Panama, and the Republic of Korea.

48 BE IT FURTHER RESOLVED that copies of this memorial be
 49 dispatched to the President of the United States, to the
 50 President of the United States Senate, to the Speaker of the
 51 United States House of Representatives, and to each member of
 52 the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 685 Congressional Term Limits
SPONSOR(S): Caldwell and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers <i>[Signature]</i>	Cyphers <i>[Signature]</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

The memorial asks the Congress of the United States to propose an amendment to the United States Constitution limiting the time a member of the House or Senate can serve to no more than twelve consecutive years.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Articles of Confederation

The Articles of Confederation were adopted by Congress on July 9, 1778, and were ratified by the states in 1781. The Articles acted as the foundation for a loose conglomeration of states until it was eventually replaced by the United States Constitution in 1787. The thirteen Articles of the Articles on Confederation addressed issues of governance ranging from national defense to the coining of money, to the settling of disputes between states. The Articles also addressed the length of term, as well as term limits, for members of the unicameral legislature.¹

Specifically, Article V of the Articles of Confederation addressed the length of term as well as limits to the consecutive number of years which an elected representative could serve. It stated that the term of office for each delegate (Congress was a unicameral body at the time) would be one year, and that no delegate could serve more than three out of every six years.² Since the Articles of Confederation did not articulate the office of President of the United States, United States Senator, or the United States Supreme Court, there is no mention of their terms of service or any limits to those terms.

The Virginia Plan

The Virginia Plan, considered to be the most significant foundational document for the drafting of the U.S. Constitution, was drafted by James Madison and submitted to the Constitutional Convention in 1787. The Plan created a sharp difference with the Articles of Confederation in that it provided for a bicameral legislature.³

In the two bodies envisioned by the Virginia delegation, the Plan contemplates but does not enumerate, the actual terms of office. However, it does note that there should be a limit to the time one can serve in the legislature. The Plan provided more direction for the creation of a "National Executive" with limits placed on the number of terms the Executive could serve (one). It also provided the basis for a National Judiciary without limitation on their tenure in office other than service during "good behavior."⁴

The New Jersey Plan

A coalition of small states, led by New Jersey, created the New Jersey Plan in response to the Virginia Plan. This Plan, like the Virginia Plan, provides for only one term for the "Executive." It also provided for lifetime terms, assuming "good behavior", for a supreme "Tribunal of Judges." The Plan; however, fails to account for the make-up, term length, or term limits of Congress.⁵

The Hamilton Plan

Also called the "British Plan", the Hamilton Plan was offered to the Constitutional Convention as well in June of 1787. Hamilton's Plan called for a bicameral legislature comprised of an Assembly and the

¹ Text for Articles of Confederation found at: <http://www.usconstitution.net/articles.html>

² *Id.*

³ Text for the Virginia Plan found at: http://www.usconstitution.net/plan_va.html

⁴ *Id.*

⁵ Text for New Jersey Plan found at: http://www.usconstitution.net/plan_nj.html

Senate. The Assembly was to consist of representatives elected by the people who would serve three year terms. No limitation was placed on the number of terms that could be served by members of the Assembly.⁶

Hamilton's vision for the Senate included Senators being elected to life terms by electoral districts in their home state. The Hamilton Plan also included life terms for members of a supreme judicial authority under the condition of "good behavior." Supreme executive authority under the Hamilton Plan would be vested in a "Governor" who would be selected under an electoral system, but would subsequently serve a life term notwithstanding death, removal or resignation.⁷

The United States Constitution

The United States Constitution, as ratified by the states in 1788, creates the foundation for the three branches of government (Executive, Legislative, and Judicial) with a bicameral legislature.⁸

President

The U.S. Constitution limits the length of each term for the President of the United States at four years⁹, but it did not address the issue of term limits until after the death of President Franklin Roosevelt in 1945. President Roosevelt died while serving his fourth term in office. The 22nd Amendment to the U.S. Constitution, ratified in 1951 states:

"No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term."¹⁰

Congress

The United States Constitution also addresses the term of service for members of Congress. It calls for two year terms for members of the House of Representatives and six year terms for members of the Senate.¹¹ Though no changes have occurred to the length of service or number of terms that members of Congress can serve, one significant change did take place with the passage of the 17th Amendment to the U.S. Constitution. The 17th Amendment, ratified in 1914 states:

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

⁶ Text for the Hamilton Plan found at: http://www.usconstitution.net/plan_brit.html

⁷ *Id.*

⁸ Text for the United States Constitution found at: <http://www.usconstitution.net/const.html>

⁹ *Id.*

¹⁰ Text for 22nd Amendment to the U.S. Constitution found at: <http://www.usconstitution.net/const.html#Am22>

¹¹ Text for the United States Constitution found at: <http://www.usconstitution.net/const.html>

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."¹²

The result of the 17th Amendment is that United States Senators are no longer chosen by their state's legislature. They are chosen, as with members of the House of Representatives, by the electors of the state.

Supreme Court

As contemplated by James Madison in the Virginia Plan and in the New Jersey Plan, the Supreme Court was created without being encumbered by a length of term or any limit to the amount of time that can served on the bench. Once again, the only limit to the Justices' time on the bench is resignation, retirement, death, or removal for actions not considered within the definition of "good behavior."¹³

Term Limits since the 22nd Amendment

A movement within states to enact term limits gained traction in the early 1990's, starting with the state of California in 1990. Since then, a total of fifteen individual states have laws in place limiting the amount of time a state legislator can serve in office. Every state with term limits, with the exception of Louisiana, has enacted them as a result of a constitutional amendment initiative. Louisiana is the only state that voted to limit their time in office without the benefit of a constitutional initiative process. The Utah Legislature also voted term limits for themselves as well, but they later voted to repeal the limits.¹⁴

Six states have had their term limit laws repealed since 1997, but Utah and Idaho share the distinction of being the only two states in which the Legislature was the source of the repeal. In the other four states (Massachusetts, Oregon, Washington, and Wyoming), they were repealed based on decisions by their respective State Supreme Courts. The states with current term limits in place are¹⁵:

State	House		Senate			% Voted Yes
	Year Enacted	Limit	Year of Impact	Limit	Year of Impact	
MAINE	1993	8	1996	8	1996	67.6
CALIFORNIA	1990	6	1996	8	1998	52.2
COLORADO	1990	8	1998	8	1998	71
ARKANSAS	1992	6	1998	8	2000	59.9
MICHIGAN	1992	6	1998	8	2002	58.8
FLORIDA	1992	8	2000	8	2000	76.8
OHIO	1992	8	2000	8	2000	68.4
SOUTH DAKOTA	1992	8	2000	8	2000	63.5
MONTANA	1992	8	2000	8	2000	67
ARIZONA	1992	8	2000	8	2000	74.2
MISSOURI	1992	8	2002	8	2002	75
OKLAHOMA	1990	12	2004	12	2004	67.3
NEBRASKA	2000	n/a	n/a	8	2006	56
LOUISIANA	1995	12	2007	12	2007	76
NEVADA	1996	12	2010	12	2010	70.4

¹² Text for the 17th Amendment to the U.S. Constitution found at: <http://www.usconstitution.net/const.html#Am17>

¹³ Text for the United States Constitution found at: <http://www.usconstitution.net/const.htm>

¹⁴ <http://www.ncsl.org/default.aspx?tabid=14839>

¹⁵ <http://www.ncsl.org/LegislaturesElections/LegislatorsLegislativeStaffData/ChartofTermLimitsStates/tabid/14844/Default.aspx?TabId=14844>

By 1995, 23 states had passed laws imposing term limits on their states' Congressional delegations. During the same year; however, the U.S. Supreme Court ruled in *U.S. Term Limits, Inc. v. Thornton*, that state-imposed term limits on Congress were unconstitutional and that federal term limits could only be imposed through an amendment to the U.S. Constitution.¹⁶

Since the 1994, several attempts have been made to enact Congressional term limits, but thus far, none has received the necessary two-thirds vote from members to send the issue to the states for ratification.¹⁷ In the 111th Congress, Senator Jim DeMint filed an amendment to the U.S. Constitution limiting U.S. Senators to two six-year terms and members of the House of Representatives to three two-year terms.¹⁸

More recently, Senator David Vitter has introduced a potential constitutional amendment for consideration during the 112th Congress to limit members of the U.S. Senate and the U.S. House of Representatives to twelve years each.¹⁹ So far, no action has yet been taken on the measure.²⁰

In order to be sent to the states, an individual amendment proposal must first be approved by a two-thirds vote in both chambers of Congress (290 votes in the House and 67 votes in the Senate). If approved by the U.S. Congress, the proposed amendment would be sent to the individual states for ratification. If the legislatures of at least three-fourths (39 states) approve the measure, then it will be officially ratified and become the 28th Amendment to the U.S. Constitution.²¹

Effects of Proposed Changes

If enacted, this memorial would request that the United States Congress propose an amendment to the United States Constitution which will limit members of the House and Senate to no more than twelve consecutive years of service.

The legislation also contains whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, Article V of the Constitution of the United States authorizes Congress to propose amendments to the Constitution which shall become valid when ratified by the states, and

WHEREAS, a continuous and growing concern has been expressed that the best interests of this nation will be served by limiting the terms of members of Congress, a concern expressed by the founding fathers, incorporated into the Articles of Confederation, attempted through legislation adopted by state legislatures, and documented in recent media polls...

B. SECTION DIRECTORY:

None

¹⁶ <http://www.law.cornell.edu/supct/html/93-1456.ZO.html>

¹⁷ The four constitutional amendments on term limits which the House rejected 29 March 1995 were sponsored by: Democrat John Dingell [12/12 retroactive], rejected 135-297; Republican Bob Inglis [6/12, un-retroactive], rejected 114-316; Republican Van Hilleary [12/12, unretroactive, but defers to more stringent state imposed limits], rejected 164-265; Republican Bill McCollum [12/12 unretroactive and would override more stringent state limits]; approved by less than the requisite 2/3, 227-204; on February 12, 1997 Congress did likewise by a margin of 217-211 [50.7%].

¹⁸ http://demint.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=df3453ee-c1f0-e8d5-3fb3-77379823cf1c&ContentType_id=a2165b4b-3970-4d37-97e5-4832fcc68398&Group_id=9ee606ce-9200-47af-90a5-024143e9974c&YearDisplay=2009

¹⁹ <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:37:./temp/~bdbhtz::>

²⁰ *Id.*

²¹ http://www.usconstitution.net/xconst_A5.html

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HM 685

2011

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House Memorial

A memorial to the Congress of the United States, urging Congress to propose to the states an amendment to the Constitution of the United States that would limit the terms of office of members of the Congress to 12 years.

WHEREAS, Article V of the Constitution of the United States authorizes Congress to propose amendments to the Constitution which shall become valid when ratified by the states, and

WHEREAS, a continuous and growing concern has been expressed that the best interests of this nation will be served by limiting the terms of members of Congress, a concern expressed by the founding fathers, incorporated into the Articles of Confederation, attempted through legislation adopted by state legislatures, and documented in recent media polls, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the Florida Legislature respectfully petitions the Congress of the United States to propose to the states an amendment to the Constitution of the United States to read as follows:

ARTICLE _____

A person may not appear on the ballot for re-election to the office of Senator or Representative in Congress if, by the end of the current term of office, the person will have served,

HM 685

2011

28 | or but for resignation, would have served, in that office for
 29 | twelve consecutive years.

30 | BE IT FURTHER RESOLVED that copies of this memorial be
 31 | dispatched to the President of the United States, to the
 32 | President of the United States Senate, to the Speaker of the
 33 | United States House of Representatives, and to each member of
 34 | the Florida delegation to the United States Congress.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HM 685 (2011)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Federal Affairs
2 Subcommittee
3 Representative(s) Caldwell offered the following:
4

Amendment (with title amendment)

5
6 Remove lines 22-29 and insert:
7 amendment to the Constitution of the United States to limit the
8 number of consecutive terms which a person may serve in the
9 United State Senate or United States House of Representatives.

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11
12 -----
13 **T I T L E A M E N D M E N T**



14 Remove line 5 and insert:
15 consecutive terms of office which a member of the United States
16 Senate or House of Representatives may serve.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1221 Unemployment Assistance/Oil Spill

SPONSOR(S): Drake and others

TIED BILLS: IDEN./SIM. **BILLS:** SM 220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers 	Cyphers 
2) Economic Development & Tourism Subcommittee			

SUMMARY ANALYSIS

This memorial asks Congress to extend the benefits of the Disaster Unemployment Assistance program to include workers who are unemployed as a result of the Deepwater Horizon oil spill if they are not eligible for other unemployment benefits, and even though the disaster was man-caused. It also asks Congress to use funds collected under the Oil Pollution Act to pay for the benefits, rather than the cost be carried by employers and taxpayers.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

On April 20, 2010 in the Gulf of Mexico, the Deepwater Horizon drilling rig experienced an explosion¹ that would take the lives of eleven people and mark the beginning of the largest environmental disaster in the history of the United States. By the end of April 22nd, eleven members of the crew of the Deepwater Horizon were missing and presumed deceased²; several other crew members were injured; the \$350 million oil rig owned by Transocean³ had sunk to the bottom of the Gulf of Mexico; and oil and natural gas were leaking from pipes attached to the failed blowout preventer at the well head.

Response and Aftermath

The location of the leaking well site, known as the Macondo well, is approximately 45 miles southeast of Louisiana. As it became clear that the built-in measures to stop the leak had failed and that oil was beginning to spread away from the site of the leak, Governor Charlie Crist declared a state of emergency on April 30th for Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Gulf counties⁴. On May 3rd, the governor's executive order was amended to add Franklin, Wakulla, Jefferson, Taylor, Dixie, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties⁵.

After several failed attempts to stop the leak from the well, including a failed "top kill" effort between May 26 through 29, 2010⁶; leaking from the well was finally stopped on July 15, 2010⁷. A new "static kill" was successfully completed on August 4, 2010⁸, and on September 19, 2010, after the relief well was finished and the well was cemented from beneath, Admiral Thad Allen announced that the well was "effectively dead."⁹

The federal government estimates the amount of oil released from the Macondo well to be approximately 4.9 million barrels or 205.8 million gallons of oil¹⁰. While 17 percent of the oil was captured at the wellhead (833,000 barrels), according to official oil budget reports, the remaining oil (4.2 million barrels) escaped immediate retrieval¹¹.

¹ http://www.nytimes.com/2010/04/22/us/22rig.html?_r=1&scp=1&sq=oil+rig+explosion&st=nyt

² <http://www.tampabay.com/incoming/as-oil-rig-sinks-hope-fades/1089672>

³ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

⁴ Office of the Governor, Executive Order Number 10-99 (Emergency Management – Deepwater Horizon) April 30, 2010

⁵ Office of the Governor, Executive Order Number 10-100 (Emergency Management – Deepwater Horizon) May 3, 2010

⁶ <http://www.nytimes.com/2010/05/30/us/30spill.html>

⁷ <http://abcnews.go.com/WN/gulf-oil-spill-bps-cap-success-oil-stops/story?id=11173330>

⁸ <http://www.nytimes.com/2010/08/05/us/05spill.html>

⁹ <http://www.cbsnews.com/stories/2010/09/19/national/main6881308.shtml>

¹⁰ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

¹¹ http://www.noaanews.noaa.gov/stories2010/20101123_oilbudget.html

Oil Budget (Released Aug. 4)		Oil Budget Technical Report		
Category	% of Total	Category	% of Total	Change
Direct Recovery	17%	Direct Recovery	17%	None
Burned	5%	Burned	5%	None
Skimmed	3%	Skimmed	3%	None
Chemically Dispersed	8%	Chemically Dispersed	16%	+8%
Naturally Dispersed	16%	Naturally Dispersed	13%	-3%
Evaporated or Dissolved	25%	Evaporated or Dissolved	23%	-2%
Other	26%	Other	23%	-3%

According to a report by Secretary of the Navy Ray Mabus, at its peak, the response to the oil spill included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and many federal, state, and local agencies¹². The final Situation Report by Florida's response team also noted the use of over 791,061 feet of boom; the removal of over 500,000 gallons of oil from Florida's shoreline; the deployment of 128 National Guardsmen; and the registration of 19,899 volunteers from all 50 states and 10 different countries¹³.

Claims Process

Under the provisions of Oil Pollution Act of 1990 (OPA), all "responsible parties" are liable for recovery costs and other damages resulting from an unpermitted release of oil into the navigable waters of the United States. The OPA, however, limits the damages to be paid by responsible parties at \$75 million per incident. However, according to a U.S. Coast Guard document on Oil Spill Liability Trust Fund Funding for Oil Spills, this limitation of liability disappears if the incident is found to have been caused by gross negligence; willful misconduct; or a violation of federal operating, construction, or safety regulations.¹⁴ BP has said that it would not claim protection under the \$75 million limit under OPA¹⁵.

On June 1, 2010, the United States Attorney General Eric Holder announced the federal government would pursue all legal remedies to the disaster, including civil and criminal penalties in order to ensure accountability on the part any responsible party.¹⁶ Later in June, at the request of President Obama, BP announced that it would create a trust that would total \$20 billion to pay all "legitimate claims"¹⁷.

All claims under OPA, including recovery and damages related to individuals, governments and natural resources, were to be paid out of this fund, though the \$20 billion amount was not intended to be a cap, according to BP.¹⁸

Until August 23, 2010, BP administered the payment of claims out of the trust fund, but the process of paying claims to individuals and businesses was subsequently turned over to an independent claims facility managed by Kenneth Feinberg with the opening of the Gulf Coast Claims Facility (GCCF)¹⁹.

¹² America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, September 2010

¹³ Deepwater Horizon Response: Situation Report #114 (Final) August 26, 2010

¹⁴ <http://www.epa.gov/regulations/laws/opa.html>

¹⁵ <http://www.bloomberg.com/news/2010-05-21/bp-waiver-of-75-million-spill-damage-cap-may-recognize-liability-reality.html>

¹⁶ http://www.upi.com/Top_News/US/2010/06/01/Obama-pledges-investigation-of-spill/UPI-57771275397263/

¹⁷ <http://www.bp.com/genericarticle.do?categoryId=2012968&contentId=7062966>

¹⁸ *Id.*

As of March 2, 2011, the total number of claimants to the GCCF reached 802,411. Of these claimants, 263,054 have been paid a total of \$3.46 billion thus far. Florida makes up 32% of all claims (254,557 claims) and 35.6% of all claims paid to date (97,271 claims paid totaling \$1.23 billion).²⁰

Clean Water Act

The Clean Water Act contains provisions not covered by the OPA or other federal laws which allow for penalties to be levied when pollutants are discharged from a vessel or facility without authorization²¹. The civil penalties awarded as a product of the Clean Water Act can be assessed on two separate scales which can be chosen by federal authorities; per day or volumetrically. Section 311(b)(7) of the Act allows for a penalty of \$37,500 for each day in which a violation occurs or \$1,100 per-barrel of oil discharged without a permit. These penalties can be increased significantly if the unlawful discharge is the result of gross negligence or willful misconduct by the owner, operator, or any person in charge of a vessel, or in the case of the Deepwater Horizon, an offshore facility. In fact, the per-barrel penalty for discharges as a result of gross negligence or willful misconduct can be as much as \$4,300. The provisions, as potentially applied in this case, provide for a civil penalty range between \$5.4 billion and \$21.1 billion²².

Currently all funds derived from oil spill related civil penalties under the Clean Water Act must be placed into the Oil Spill Liability Trust Fund (OSLTF).²³ These funds can only be used for the purpose of unmet claims by responsible parties in future spill events. Further, the total of all claims against the trust fund are limited by a cap of \$1 billion per pollution event.²⁴ In the case of the Deepwater Horizon disaster, no funds collected as a result of CWA penalties (other than the capped \$1 billion from the current balance in the OSLTF) could be used for economic or environmental recovery in the five Gulf states including Florida.

In his September 2010 report to the president regarding the Gulf oil spill, Secretary of the Navy, Ray Mabus recommended that federal law be changed to allow the use of penalties collected under CWA as a result of the Deepwater Horizon oil leak for long-term economic and environmental recovery in the Gulf states. He believed that these funds should be used to mitigate economic and natural resource damage not covered by the OPA. He also called for a portion of penalties to go directly to the states for their individual long-term recovery and economic development efforts. Finally, he recommended that the remaining balance should go to the OSLTF for future spills.²⁵

Disaster Unemployment Assistance

The Robert T. Stafford Disaster Relief and Emergency Assistance Act was signed into law in 1988 as an amendment to the Disaster Relief Act of 1974.²⁶ This Act provides the statutory authority for most Federal disaster response activities, especially as they pertain to FEMA and FEMA programs. One of the provisions of the Act is the Disaster Unemployment Assistance (DUA) program. The program, funded by the federal government and administered by the states, provides unemployment benefits for individuals who are unemployed as the result of a major disaster. Benefits begin with the date the individual was unemployed due to the disaster incident and can extend up to 26 weeks.²⁷

¹⁹ <http://www.gulfcoastclaimsfacility.com/>

²⁰ Gulf Coast Claims Facility website; Overall Program Statistics; February 28, 2011

²¹ Section 311(j)(1) of the Clean Water Act of 1972

²² Range for penalty amounts is based on assumed unauthorized oil discharge of 4.9 million barrels

²³ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling; Staff Working Paper Number 14

²⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling; Staff Working Paper Number 14

²⁵ America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, September 2010

²⁶ <http://www.fema.gov/about/stafact.shtm>

²⁷ Id.

The benefits from DUA are made available to individuals not covered by other unemployment compensation programs, such as the self-employed, farmers, migrant and seasonal workers, and those who have insufficient quarters to qualify for other unemployment compensation.²⁸ Eligibility for the assistance, however, is limited to those individuals in counties which have been declared by the President of the United States to be disaster areas as a result of a natural disaster. Since the Deepwater Horizon Oil Spill was a human-caused disaster, individuals in the affected counties in Florida and the rest of the Gulf states are not eligible.²⁹

Effects of Proposed Changes

This memorial asks Congress to extend the benefits of the DUA to include workers who are unemployed as a result of the Deepwater Horizon oil spill if they are not eligible for other unemployment benefits, and even though the disaster was man-caused. It also asks Congress to use funds collected under OPA to pay for the benefits, rather than the cost be carried by employers and taxpayers.

Copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, there was an explosion at the Deepwater Horizon oil rig the night of April 20, 2010, and

WHEREAS, the explosion caused hundreds of millions of gallons of oil to spill into the Gulf of Mexico and wash up on the coastlines of the five Gulf states, and

WHEREAS, this man-made disaster has spoiled Florida's coastline and waterways and devastated its fishing and tourism industries, and

WHEREAS, this man-made disaster has directly resulted in the loss of jobs for Floridians, and

WHEREAS, many of these individuals were self-employed or independent contractors, and as such do not qualify for unemployment compensation benefits, and

WHEREAS, the federal Disaster Unemployment Assistance Program benefits individuals who become unemployed only as a direct result of a disaster declared by the President of the United States pursuant to the Robert T. Stafford Disaster Relief and Emergency Act of 1974, and assistance paid under the act may be invoked only for natural disasters...

B. SECTION DIRECTORY:

Not Applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

²⁸ http://www.floridajobs.org/unemployment/uc_emp_claims.html

²⁹ *Id.*

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HM 1221

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House Memorial

A memorial to the Congress of the United States, urging Congress to enact a law providing unemployment assistance for individuals who become unemployed as a result of an oil spill.

WHEREAS, there was an explosion at the Deepwater Horizon oil rig the night of April 20, 2010, and

WHEREAS, the explosion caused hundreds of millions of gallons of oil to spill into the Gulf of Mexico and wash up on the coastlines of the five Gulf states, and

WHEREAS, this man-made disaster has spoiled Florida's coastline and waterways and devastated its fishing and tourism industries, and

WHEREAS, this man-made disaster has directly resulted in the loss of jobs for Floridians, and

WHEREAS, many of these individuals were self-employed or independent contractors, and as such do not qualify for unemployment compensation benefits, and

WHEREAS, the federal Disaster Unemployment Assistance Program benefits individuals who become unemployed only as a direct result of a disaster declared by the President of the United States pursuant to the Robert T. Stafford Disaster Relief and Emergency Act of 1974, and assistance paid under the act may be invoked only for natural disasters, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

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29 That the Legislature requests the United States Congress to
 30 enact legislation that creates an Oil Spill Unemployment
 31 Assistance Program to provide income assistance to individuals
 32 who are unemployed as a result of a spill of national
 33 significance and who are not entitled to any other unemployment
 34 compensation, the cost of which shall be borne by responsible
 35 parties under the Oil Pollution Act.

36 BE IT FURTHER RESOLVED that copies of this memorial be
 37 dispatched to the President of the United States, to the
 38 President of the United States Senate, to the Speaker of the
 39 United States House of Representatives, and to each member of
 40 the Florida delegation to the United States Congress.