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**Senate Amendment to H.R. 81—Shark Conservation Act of 2009
 (Bordallo, D-Guam)**

Order of Business: The bill is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill

Summary: H.R. 81 would amend the High Seas Driftnet Fishing Moratorium Protection Act to direct the National Oceanic and Atmospheric Administration (NOAA) to identify nations whose fishing vessels are or have been engaged in activities that target or incidentally catch sharks if the nation has not adopted a shark conservation program similar to that of the U.S. This would include any nation whose measures do not prohibit the removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea. In addition, H.R. 81 would prohibit certain activities that may involve shark finning in the U.S. (the practice of removing a shark’s fins and discarding its carcass).

The Senate Amendment to H.R. 81 reduces the authorization for the Interjurisdictional Fisheries Act by \$2.5 million for two years as an offset. The original CBO score for H.R. 81 was \$5 million. The Senate Amendment to H.R. 81 also allows the Secretary of Commerce and the New England Fishery Management Council to participate in fish stock recovery decisions covered by the United States-Canada Transboundary Resource Sharing Understanding. Additionally, the bill allows the Secretary of Commerce and Council to establish catch levels for those portions of fish stocks within their respective

geographic areas. Finally, the Senate amendment makes technical changes to the Pacific Whiting Act and rules on the replacement of vessels at the Department of Commerce.

Addition Information: According to the NOAA, the following regulations are in place for the East Coast of the U.S.:

The Magnuson-Stevens Fishery Conservation and Management Act requires overfished shark stocks to be rebuilt and requires healthy shark populations to be maintained. Many shark stocks, particularly in the Atlantic, are overfished and must be rebuilt.

Nationally, the United States recently enacted a ban on shark finning that prohibits any person under U.S. jurisdiction from engaging in shark finning and possessing shark fins harvested on board a U.S. fishing vessel without the corresponding carcasses. Finning is defined as the practice of removing the fin(s) from a shark and discarding the remainder of the shark at sea.

The United States is a conservation leader internationally and was a key player in developing the Food and Agriculture Organization's International Plan of Action for the Conservation and Management of Sharks. The United States is one of two nations (out of 87 shark fishing nations) to develop a National Plan of Action for the Conservation and Management of Sharks.

The United States has participated or plans on participating in bilateral meetings regarding shark management with Japan, Spain, Taiwan, the European Union, Canada, China, and Mexico.

However, a recent court case revealed that a vessel was taking fins from another vessel—exploiting a loophole where fisherman could cut off the sharks fins, transfer them to another boat, and leave the carcasses on the other vessel. This bill intends to address this loophole.

Committee Action: On February 4, 2009, the bill was referred to the Natural Resources subcommittee on Insular Affairs, Oceans and Wildlife, which took no subsequent public action. On March, 2, 2009, the House passed the bill by a voice vote. On December 20, 2010, the Senate passed the bill, as amendment, by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: While a CBO score for H.R. 81 is not available, CBO estimated the cost of enacting identical legislation considered in the 110th Congress would cost \$5 million over the 2009-2013 period.

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? Yes, H.R. 81 imposes a private-sector mandate by requiring that

shark fins aboard fishing vessels, shark fins transferred or received at sea, and shark fins landed at a U.S. port be naturally attached to the carcass.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. Such a report is technically not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable for the Senate Amendment to H.R. 81.

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Senate Amendment to H.R. 5809—Diesel Emissions Reduction Act (DERA) of 2012 (Senator Voinovich, R-OH)

Order of Business: The bill is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: Originally created by Congress in 2005, the Diesel Emissions Reduction Act (DERA) is a program that established a federal and state grant and loan program to reduce diesel emissions with the goal of reducing health risks and assisting states meet air quality standards of the Clean Air Act. The program has two components. Under the federal program, 70 percent of the total funds are designated to provide competitive grants and revolving loans to help install verified and certified technologies to reduce diesel emissions. Under the state Clean Diesel Grant Program, 30% of the funds are designated to implement grant and loan programs for clean diesel projects within the state.

Specifically, the Senate Amendment to H.R. 5809 reauthorizes the DERA program through 2016 at an authorization level of \$500 million over five years. H.R. 5809 now allows the Administrator of the Environmental Protection Agency (E.P.A.) to provide rebates to eligible entities, in addition to grants and low-cost revolving loans. The bill requires the Administrator to develop a simplified application process for all applicants under to expedite the provision of funds. Additionally, the bill permits the Administrator to enter into contracts with a for-profit or nonprofit entity if it has the capacity to:

- “Sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or
- “Upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.”

Finally, the bill requires the EPA to publish awards of grants, rebates, or loans on their website and authorizes \$100 million each year from FY 2012 through FY 2016.

Additional Background: Diesel engines are more fuel efficient and have a longer life span in relation to traditional gasoline engines. However, some organizations have expressed concern over the fact they produce greater air emissions than those of gasoline counterparts. The E.P.A. [believes](#) diesel emissions cause serious health problems and estimate there are 11 million diesel engines do not have pollution control technology. In 2005, the Senate amended the 2005 Energy Policy Act to create the DERA program at a cost of \$1 billion over five years. The Senate Amendment reauthorizes the DERA program for an additional five years through fiscal year 2016 at a cost of \$500 million.

Possible Conservative Concerns: Some conservatives may be concerned the bill authorizes an additional half a billion dollars of spending for a program (now including for-profit entities to participate) that might not have a large impact on improving total air quality. While the authorization level is cut in half (from 1 billion to \$500 million over five years), the “stimulus” already gave the DERA program an additional \$300 million. Additionally, the E.P.A. recently mandated new federal standards for diesel engines in 2007 to make diesel engines 90% cleaner than standards that existed 10 years prior. Finally, some conservatives have expressed concern of the possibility DERA may be duplicative to other programs at the D.O.T. or E.P.A. While the bill contains an amendment added by Senator Coburn (R-OK) directing the GAO to review all federal mobile source programs designed to address diesel emissions, some conservatives may believe it would be better to review the audit before reauthorizing DERA.

However, some conservatives may believe the program does have some legitimacy as it helps states comply with clean air laws, mandated by the federal government. Additionally, some conservatives may feel it is a concession that the program will be reauthorized at half of its original level.

Committee Action: None. On December 15, 2010, the Senate amended H.R. 5809 and passed the Senate Amendment to H.R. 5809 by Unanimous Consent.

Administration Position: A Statement of Administration Policy (SAP) is unavailable.

Cost to Taxpayers: A CBO score for the Senate Amendment to H.R.5809 is unavailable at press time. However, the bill authorizes a total of \$500 million over the course of five years.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A Committee Report citing compliance with rules

regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, such a report is technically not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable for the Senate Amendment to H.R. 5809.

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H.R. 6540 - To require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess (*Inslee, D-WA*)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6540 would require the Secretary of Defense to consider any unfair competitive advantage that could exist in offers for contracts for the KC-X aerial refueling aircraft program.

The Secretary would be required to submit a report to Congress within 60 days of receiving offers and would report on any unfair competitive advantage that any offer possessed.

This legislation defines “unfair competitive advantage” as “a situation in which the cost of development, production, or manufacturing is not fully borne by the offeror for such contract.”

Additional Information: In the ongoing contract bid for the KC-X tanker, a World Trade Organization (WTO) panel recently found multiple European governments guilty of providing illegal subsidies for the development of the Airbus A 330 airframe. This A330 serves as the basis for EADS’s bid in the KC-X tanker competition.

Similar language was included in Section 824 of the National Defense Authorization Act of 2011 (H.R. 5136) that passed the House on May 28, 2010, by a roll call vote of [229-186](#).

Similar language was also included in an amendment to H.R. 5136, that passed the House on May 27, 2010, by a roll call vote of [410-8](#).

Committee Action: H.R. 6540 was introduced on December 17, 2010, and referred to the House Armed Services Committee, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

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

Constitutional Authority: A committee report stating constitutional authority is unavailable.

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H.R. 6547 —To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees (*Miller, D-CA*)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: H.R. 6547 would amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees. Highlights of the bill include the following:

- A requirement that criminal background checks be conducted for school employees that include:
 - A search of the state criminal registry where the employee resides and states where he or she previously resided;
 - A search of state-based child abuse and neglect registries and databases in the same states;
 - A search of the National Crime Information Center of the Department of Justice;
 - An FBI fingerprint check; and
 - A search of the National Sex Offender Registry.
- A prohibition on employment of school employees for a position if he/she:
 - Refuses to consent to the background check;
 - Makes a false statement in connection with the check;
 - Has been convicted of a felony (homicide, child abuse or neglect, crime against children including child pornography, spousal abuse, a crime

- involving rape or sexual assault, kidnapping, arson, or physical assault, battery, or a drug-related offense within the last five years); or
- Has been convicted of any other violent or sexual crime against a minor.
- A requirement that a local educational agency or state educational agency report to local law enforcement if a sexual predator has applied for a job;
- A requirement that the criminal background check be periodically repeated; and
- A requirement that a timely process be put in place so that school employees may appeal the results of a criminal background check.

Committee Action: H.R. 6547 was introduced on December 17, 2010 and referred to the House Education and Labor Committee which took no further public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No CBO score is available.

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?: Yes. The bill requires that all states that receive funds under title IX of the Elementary and Secondary Education Act conduct background checks on all school employees.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, the bill does not contain any earmarks.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

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S. 118 - Section 202 Supportive Housing for the Elderly Act (Sen. Kohl, D-WI)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: The legislation expands the HUD Section 202 housing program by making more properties eligible to prepay loans issued under the program. This legislation would also expand the uses by which unexpended amounts, or savings, could be used.

Additional Information: Section 202 of the Housing Act of 1959 allows grants and rental assistance to be made available to certain entities to develop housing that is affordable to the low-income elderly. This section was established with the original

legislation in 1959. According to CBO, prior to 1990, the Department of Housing and Urban Development (HUD) made direct loans to nonprofit developers, as opposed to capital grants. These loans had an average term of 40 years, and HUD still holds about 3,000 Section 202 loans. The total unpaid balance of these is over \$3 billion, and the average maturity date is 2025. With this program, property owners may prepay their loans if such refinancing results in a lower interest rate and a reduction in debt service.

Conservative Concerns: Some conservative may be concerned that this legislation expands the HUD section 202 loan program. This legislation also contains mandates on the private sector in the form of additional reporting requirements. Finally, some conservatives may be concerned that the legislation does not provide adequate checks against illegal aliens receiving benefits under the program.

Committee Action: The legislation passed the Senate on December 18, 2010, by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: The CBO estimate for the version reported out of the Senate Committee on Banking, Housing, and Urban Affairs projects that the bill would lead to \$5 million of new entitlement spending over ten years and would authorize \$10 million over the 2011-2020 period, subject to appropriation.

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?: Yes. S. 118 would impose a private-sector mandate as defined in UMRA because it would require current owners of supportive housing for the elderly to comply with additional reporting requirements. Those owners would be required to periodically respond to requests from the Secretary to provide information about those properties, projects, or facilities.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No committee report citing constitutional authority is available.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

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S. 1481 - Frank Melville Supportive Housing Investment Act
(Sen. Menendez, D-NJ)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 1481 would amend the Cranston-Gonzalez National Affordable Housing Act and would make changes to the Section 811 housing program. This program provides housing for low-income persons with disabilities.

Modernized Capital Advance Program: S. 1481 would authorize funds to the Capital Advance/Project Rental Assistance Contract program through FY 2014. The program provides capital advance grants to non-profit sponsors that develop rental housing for individuals with disabilities.

Project Rental Assistance: The bill creates a new program, under Section 811. Under this program, HUD would provide housing subsidies for non-elderly adults with disabilities. These funds are available to states to provide project rental assistance.

Additional Background: The Supportive Housing for Persons with Disabilities program was established by Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990 and provides capital advances and project rental assistance to nonprofit sponsors to develop housing for very low income individuals with disabilities. The program also provides rental vouchers directly to low-income tenants with disabilities.

This legislation also requires a study by the Comptroller General of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities.

Potential Conservative Concerns: Some conservatives may be concerned that S. 1481 creates a new program, the Rental Assistance Competitive Program. Additionally, some conservatives may be concerned that this legislation would result in \$1.4 billion of spending, subject to appropriation, without an offset.

Additional Information: A similar bill, [H.R. 1675](#), passed the House on July 22, 2009, by a roll call vote of [376-51](#).

Committee Action: S. 1481 was introduced July 21, 2009, and referred to the Senate Committee on Banking, Housing, and Urban Affairs, where it was amended without report. The legislation passed the Senate with amendments by unanimous consent on December 17, 2010, and was held at the desk.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: Section 6 of this legislation authorizes for appropriation \$300,000,000 for each of fiscal years 2011 through 2015.

CBO estimates that implementing S. 1481 would cost \$1.4 billion over the 2011-2015 period, assuming appropriation of the necessary amounts. CBO also estimates this legislation would authorize \$2 billion, subject to appropriation, over the 2011-2015 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation creates a new program, Project Rental Assistance.

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

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

Constitutional Authority: A committee report stating constitutional authority is unavailable.

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S. 3243 - Anti-Border Corruption Act of 2010 (*Sen. Pryor, D-AR*)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 3243 would require the Secretary of Homeland Security to administer polygraph examinations to applicants of law enforcement positions with U.S. Customs and Border Protection. This would take effect within 2 years after enactment.

Within 180 days of enactment, the U.S. Customs and Border Protection agency would be required to initiate all periodic background reinvestigations for all law enforcement personnel that should receive periodic background reinvestigations.

S. 3243 would require a report be sent to Congress within 180 days of enactment, and every 180 days thereafter through until the 2 year period is reached.

Additional Information: According to the U.S. Customs and Border Protection (CBP), Mexican drug trafficking organizations (DTOs) are constantly attempted to bribe and intimidate U.S. law enforcement personnel, particularly those that secure the border. CBP testified on March 11, 2010, to a House subcommittee that it believes that polygraph exams are the most effective way to screen new applicants.

Committee Action: S. 3243 was introduced on April 21, 2010, and referred to the Senate Homeland Security and Governmental Affairs Committee, which held a markup and reported the bill. The legislation passed the Senate on September 28, 2010, by unanimous consent. The legislation was then referred to the House Subcommittee on Border, Maritime, and Global Counterterrorism.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: CBO estimates that implementing the bill would cost \$19 million over the 2011-2015 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Senate Report [111-338](#) makes no mention of earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Senate Report [111-338](#) makes no mention of constitutional authority.

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Senate Amendment to H.R. 4748 - Northern Border Counternarcotics Strategy Act of 2010 (*Owens, D-NY*)

Order of Business: The legislation is scheduled to be considered on Tuesday, December 21, 2010, under a motion to suspend the rules and pass the bill.

Major Changes Since the Last Time This Legislation Was Before the House: The House passed H.R. 4748 under suspension of the rules on July 27, 2010, by a vote of 413-0. The bill before the House today is an amendment in the nature of a substitute that would make minor changes to the bill including providing more time to develop the Northern Border Counternarcotics Strategy, the inclusion of consultation with state, local and tribal governments in the development of the Strategy, requiring the Strategy to be designed to promote, not hinder, legitimate trade and travel and whose purpose shall “reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.”

Summary: Senate Amendment to H.R. 4748 would instruct the Director of National Drug Control Policy, in coordination with the head of each relevant National Control Program agency and heads of relevant state, local, tribal and county governments, to submit to Congress a Northern Border Counternarcotics Strategy. This report will be due within 180 days of enactment, and every two years thereafter. The report will be sent to “appropriate congressional committees” including the House Committees on Armed Services, Homeland Security, Judiciary, and Natural Resources. It will also be sent to the Senate Committees on Homeland Security and Governmental Affairs, Judiciary, Indian Affairs, and Armed Services.

This report will detail the government’s strategy for preventing illegal drug traffic across the border between the U.S. and Canada. It will also state the specific roles of each relevant National Drug Control Program agency and resources required to implement this strategy. The strategy will also take into account tribal lands that are located along the border, including an evaluation of “Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.” Finally, the bill would require the Strategy to be submitted in an unclassified form and available to the public. However, the Strategy can include an annex containing classified information that was determined to be detrimental to law enforcement or national security activities.

Committee Action: H.R. 4748 was introduced on March 3, 2010, and referred to the House Judiciary Committee, and the House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism, which took no public action. On July 27, 2010, the House passed H.R. 4748 under suspension of the rules, by a vote of 413-0. On December 20, 2010, the Senate passed the bill with an amendment in the nature of a substitute by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A CBO score is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

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

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

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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