LIBERTY. OPPORTUNITY. SECURITY.
MARK WALKER, CHAIRMAN

THE REPUBLICAN STUDY COMMITTEE

CONTENTS:

H.R. 3178 – Medicare Part B Improvement Act of 2017 (Brady, R-TX)

CONTACT: Amanda Lincoln, 202-226-2076

FLOOR SCHEDULE:

Expected to be considered on July 25, 2017, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

H.R. 3178 would establish a new payment system to increase payments for certain home infusion therapy services, extend the intravenous immunoglobulin (IVIG) demonstration project, authorize Medicare reimbursement for telehealth services for Medicare beneficiaries with end stage renal disease (ESRD), allow for independent accreditation of dialysis facilities, and codify recent Stark law regulatory changes.

COST:

The Congressional Budget Office (CBO) estimates that enacting H.R. 3178 would reduce direct spending by $4 million over the 2018-2027 period.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would create new Medicare payment systems and extend a pilot program for an additional three years.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS

The 21st Century Cures Act included two provisions affecting Medicare coverage of home infusion therapy. First, it applied the formula used for most Part B drugs, Average Sales Price (ASP) plus 6 percent, to Part B infusion drugs furnished through durable medical equipment. Medicare had reimbursed for these drugs at 95 percent of the Average Wholesale Price since 2003, but the HHS Office of the Inspector General found that that formula was "unrelated to actual prices in the marketplace… and has cost Medicare millions of dollars." Second, 21st Century Cures created a new benefit to provide a single payment for items and skilled care furnished by home infusion suppliers – including professional and nursing services, training and education, remote monitoring, and monitoring services -- whereas Medicare had previously only paid for the medication. The first 21st Century Cures provision became effective in January 2017, whereas the second will become effective in 2021. Some stakeholders have labeled this discrepancy a "coverage gap," and the disruption to provider payments may affect access to care for medically fragile beneficiaries. H.R. 3178, therefore, would create a new Medicare payment system to provide a temporary transitional payment for items and services furnished in coordination with home infusion drugs, beginning in 2019 and operating until the permanent payment system is finalized. CBO expects that this provision would increase direct spending by $15 million over the 2018-2027 period.

Additionally, the bill would extend for the IVIG Demonstration Project for three years, through 2020. This demonstration is intended to evaluate the benefits of providing a Medicare payment for items and services needed for in-home IVIG administration for the treatment of primary immune deficiency diseases. In March 2016, CMS provided an Interim Report to Congress which was not able to assess the impact of the demonstration on beneficiary access, given low enrollment and insufficient demonstration claims experience. According to CBO, about $5 million of the demonstration project's original $45 million appropriation has been spent as of January 2017, but CBO estimates that a three-year extension would increase direct spending by about $16 million over the 2018-2027 period, given that authority to spend these funds would otherwise lapse on September 30. Additionally, the bill would autoenroll demonstration project participants in the extension, so long as they are enrolled in the demonstration project on September 30, 2017, and ensure that 44 USC 35 would not apply to application forms for new enrollees on or after the date of enactment.

Finally, Title I of the bill would also ensure that clinical notes created by an orthotist or prosthetist be considered part of the Medicare beneficiary's patient record in order to support claims of medical necessity.

Title II of the bill includes numerous provisions designed to improve access to care for end-stage renal disease (ESRD) patients. First, it would allow renal dialysis facilities to use an outside agency to survey and accredit their facility for Medicare participation. Second, it would allow ESRD patients receiving home dialysis to receive monthly ESRD-related visits via telehealth, beginning in January 2019. The bill would also require GAO to study the feasibility, benefits, and drawbacks of expanding Medicare's use of telehealth and "store-and-forward" technologies for items and services included in renal dialysis services, and report to Congress on the study results within two years of enactment.

Title III of the bill would codify recent CMS modifications of the physician self-referral regulations that are related to the use of signatures to document the terms of legal arrangements and when leases violate the Stark laws. The Stark laws prohibit physician self-referral, specifically physician referral of Medicare or Medicaid patients to other health care entities in which the physician or an immediate family member has a financial relationship. The regulatory updates generally sought to reduce burden by providing clarifying terminology and guidance.

Finally, the bill would withdraw $25 million from the Medicare Improvement Fund (MIF) in order to offset the new policies. The Ways and Means and Energy and Commerce Committees use this fund as a "parking spot" to bank savings to offset future spending. The MIF may only be used to make improvements to the Medicare fee-for-service program and if not spent by Congress, is available to the HHS Secretary after FY 2021. CBO estimates that the rescission will reduce direct spending for Medicare by $35 million over the 2017-2027 period, given that changes in fee-for-service spending also affect Part B premiums and payment to Medicare Advantage plans.

COMMITTEE ACTION:

This bill was introduced by Representative Brady (R-TX) on July 11, 2017, and referred to the House Committees on Energy and Commerce and Ways and Means. The Ways and Means Committee reported the bill on voice vote on July 13, 2017.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause I.”

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

H.R. 2182 — Plum Island Preservation Act (Rep. Zeldin, R-NY)

CONTACT: Brittan Specht, 202-226-9143

FLOOR SCHEDULE:

Scheduled for consideration on July 25, 2017, under suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

H.R. 2182 would prohibit the sale of real property and transportation assets supporting Plum Island Animal Disease Center in Orient Point, New York.

COST:

A Congressional Budget Office (CBO) estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

As part of the Consolidated Appropriations Act, 2012, Congress directed that if the National Bio- and Agrodefense Facility should be located at a site other than Plum Island, New York, then the General Services Administration would be directed to sell all real property and transportation assets which support Plum Island, with proceeds of such sale being available for use as part of the Research, Development, Testing, and Evaluation account of the Department of Homeland Security. Ultimately, the facility was selected to be hosted in Manhattan, Kansas at Kansas State University, triggering the requirement for sale of the Plum Island assets.

H.R. 2182 would require the Comptroller General of the United States (through the Government Accountability Office) to report on alternatives to disposition of Plum Island, the implications of the disposition and the effect it would have on the island's resources, and the cost of the disposition. The bill would prohibit any action, including pre-market activity, to carry out the sale directed by current law until 180 days after the report is submitted to Congress.

COMMITTEE ACTION:

H.R. 2182 was introduced on April 26, 2017, and was referred to the Committee on Homeland Security, which has not acted on the bill.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article 1, Sections 8 & 9 of the United States Constitution." No specific enumerating clause was cited.

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

H. R. 3364 – Russia, Iran, and North Korea Sanctions Act (Royce, R-CA)

CONTACT: Brittan Specht, 202-226-9143

FLOOR SCHEDULE:

Expected to be July 25, 2017, under suspension of the rules, which requires a 2/3 majority for passage.

TOPLINE SUMMARY:

H.R. 3364 would: (1) expand sanctions against Iran for ballistic missile activity and human rights abuses; (2) expand sanctions against the Russian Federation for actions in Ukraine, hostile cyber activities, and other aggression and influence activities, as well as provide foreign aid to nations to counter Russian aggression; (3) reduce executive branch discretion related to the imposition, waiver, and termination of sanctions, especially with regard to Russia; (4) take steps to combat terrorist financing; and, (5) would expand sanctions against North Korea related to weapons activities and human rights abuses.

COST:

A Congressional Budget Office (CBO) estimate is not available.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** The bill would eliminate significant amounts of executive discretion related to the application, waiver, and termination of sanctions, especially those related to Russia.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Title I – Iran

Title I would require a strategy to counter Iranian activities and impose additional sanctions against individuals involved in Iranian ballistic missile and weapons of mass destruction (WMD) programs, as well as those involved in arms trafficking, the Islamic Revolutionary Guard Corps (IRGC), or involved in human rights abuses in Iran.

Strategy to Counter Iran
The bill would require the Secretaries of State, Defense, and Treasury, along with the Director of National Intelligence, to jointly develop a strategy for deterring conventional and asymmetric Iranian activities and threats. The strategy would be required within 180 days of enactment, and must be updated every 2 years thereafter. It would be required to include assessments of Iran's conventional and non-conventional capabilities and arsenals, as well as of Iran's asymmetric activities domestically and abroad. It would also include a summary of U.S. and potential partner countries' shared efforts to counter Iran.

Additional Sanctions
Ballistic Missile and WMD Sanctions – The bill would impose sanctions an individuals involved in Iran's ballistic missile program or any other program to develop systems to deliver weapons of mass destruction, or individuals supporting or acting on the behalf of such individuals. Sanctions would include the freezing of U.S.-based or controlled assets, prohibiting transactions with sanctioned individuals, and denying entry to the U.S. for such individuals. The president would be required to submit to Congress a report within 10 days describing individuals that have been involved in activities subject to sanctions or who have provided material support to such individuals since January 2016. The bill would also require the president to submit a report on the involvement of any individual included on the Department of Treasury's blocked person list in support for Iranian ballistic missile and weapons of mass destruction programs within five year of enactment. The president would be directed to impose sanctions on such individuals unless he determines it is not in the national security interest of the United States.

IRGC Sanctions – The bill would further impose sanctions on Iran's Islamic Revolutionary Guard Corps and its agents or affiliates, including through blocking assets and prohibiting transactions with such individuals. The IRGC and its Quds Force carry out terrorist support and promotion activities for the Iranian regime, as well as provide support to Assad-loyalist forces in Syria and the Houthi rebels in Yemen.

Arms Embargo – The president would be directed to impose sanctions against individuals involved in the selling or trafficking of arms to Iran, unless the president determines that such action is in the national security interest of the United State, that Iran is no longer a threat to the United States, and that Iran has ceased support terrorism.

Human Rights Sanctions – The bill would require the president to submit a list to Congress of individuals involved in human rights abuses against individuals who advocate for individual freedoms or expose government abuses in Iran. The president would be authorized to impose sanctions against individuals included in the list.

Coordination Report – Six months after enactment, and every six months thereafter, the president would be required to submit a report to Congress on sanctions imposed by the U.S. or European Union on Iran on a unilateral basis. The report would be required to identify why the U.S. or E.U., as appropriate, did not join the in corresponding sanctions.

Exemptions and Waiver Authority – Intelligence-based activities of the U.S., as well as humanitarian assistance to the people of Iran and necessary corresponding transactions, would be exempt from sanctions imposed by this act. The president would be authorized to waive application of required sanctions on a case-by-case renewable basis for 180-day periods.

Title II – Russia
(Title II components related to terrorism are detailed separately, below)

Title II would support a number of actions to counter Russian aggression on the world stage. This includes eliminating some executive branch discretion as to the implementation of sanction, expanding sanctions regimes, and commissioning a number of reports to Congress in order to prepare for any future action and conduct better oversight of ongoing activities.

The bill would express the sense of Congress that the Russian Federation bears responsibility for the continuing violence in Eastern Ukraine, and that Russia's ongoing covert and overt actions in Ukraine and Georgia present a threat to Europe and NATO interests. It would state that it is the policy of the United States not to recognize territorial changes effected by force, including those Russian actions in Georgia and Ukraine.

Foreign Aid

The bill would authorize $250 million for FY 2018 and 2019 for the Countering Russian Aggression Influence Fund. Funds would be available for protecting infrastructure and electoral systems of NATO and other European nations; to support rule of law initiatives in such countries; to provide humanitarian aid in Georgia and Ukraine; civil society and governance capacity-building activities. Such goals could be accomplished through direct federal programs, grants, and through international organizations.

Energy

The Secretaries of State, Energy, and the USAID Administrator would be directed to work with the government of Ukraine to develop a strategy to increase Ukraine's energy security and independence from Russia. The strategy would include components relating to market reforms in Ukraine, as well as infrastructure repair and improvements. The bill would authorize $30 million to be appropriated for FY 2018 and 2019 for the Department of State to carry out such strategy.

The bill would express the sense of Congress that the Export-Import Bank and Overseas Private Investment Corporation should play key roles in assisting in efforts to enhance European and Eurasian energy independence from Russia. Some conservatives may be concerned that the bill would authorize additional funding for the Export-Import Bank and Overseas Private Investment Corporation, whose private financing activities many conservatives believe are outside the proper scope of the federal government and which many conservatives believe inappropriately use taxpayer funds to support politically-connected firms and individuals.

Congressional Review of Sanctions Relief Actions

The bill would establish a congressional review process to oversee presidential actions to provide any sanctions relief.

The bill would require the president to report to congressional committees and leadership on any action to terminate or waive existing sanctions related to Russia's actions in Ukraine or cyber hacking, new sanctions imposed under this act, or any licensing action that significantly alters U.S. foreign policy with respect to Russia. This would also include any action to allow access to properties of the Russian Federation in Maryland and New York that President Obama ordered vacated in December 2016. For any relief action, the report would be required to identify whether the action was intended to significantly alter U.S. foreign policy, and if so, the policy rationale for and anticipated effects of such action.

In general, the president would be prohibited from taking any action covered by a report submitted under this section for 30 days after submitting the report, unless a joint resolution of approval is enacted. If a joint resolution of disapproval is enacted by both houses, than the president would be prohibited from taking the action for 12 days, and for 10 days further after any veto of such resolution. If a disapproval resolution is ultimately enacted, the president would be prevented from taking the action covered therein.

Joint resolutions of approval or disapproval under this section would be introducible by the only the majority and minority leaders in the House, or by the majority or minority leaders or their designees in the Senate. In both houses, the resolution would be discharged from committee automatically after 10 days. In the Senate, the motion to proceed would not be debatable (not subject to a filibuster), and would not be able to be reconsidered. In general, joint resolutions received from one house shall receive expedited consideration in the other house, with the exception of any revenue measures.

Sanctions

Codification of Existing Sanctions – The bill would codify existing sanctions against individuals related to actions in Ukraine and cyber attacks or hacking previously imposed by executive orders. The president would be allowed to waive the new applications of sanctions against a covered person only if he certifies that such waiver is in the vital national security interest of the United States or will further the enforcement of sanctions generally, and that the Russian government has made significant efforts to: (1) in the case of Ukraine-related sanctions, implement the Minsk Agreement and reduce violence in Eastern Ukraine; or, (2) in the case of cyber-related sanctions, reduce the number and intensity of cyber intrusions conducted by the Russian government.

Modification of Existing Sanctions – The bill would modify the application of sanctions to prohibit U.S. persons from engaging with covered Russian financial sector persons in any new equity financing activities and any debt activities that extend beyond 14 days maturity. For the energy sector, the bill would prohibit U.S. persons from engaging in new financing activities that extend beyond 60 days, while prohibiting outright dealings in goods and non-financial services in support of deepwater, Arctic offshore, of shale oil exploration.

The bill would also modify several existing sanctions regimes to eliminate presidential discretion, shifting from a “may impose” basis to “shall impose”. This would include sanctions on crude oil projects and financial institutions related to Russian activity in Ukraine. This elimination of discretion would also apply to sanctions related to corruption in the Russian government.

Expanded Sanctions –

The president would be directed to impose mandatory sanctions, including denial of export assistance and authorization and prohibition on providing financial services or investment against:

- Individuals in the Russian government, or acting under its control or on its behalf, that engage in significant efforts to: deny or degrade access to network; steal, destroy, or release data, for financial gain or influence operations; carry out malware attacks; or denial of service attacks.
- Individuals acting to evade, or assisting other to evade, sanctions against Russian persons. The president would be able to waive or terminate sanctions if he certifies that they are no longer warranted and that the Russian government is implementing the Minsk Agreements.
- Individuals involved in human rights abuse in Russia. The president would be able to waive or terminate the sanctions only if he certifies that doing so is in the vital national security interest of the U.S. and that the Russian government is taking steps to reduce human rights abuses.
- Individuals involved in transactions with Russian military intelligence (GRU) or the Russian security services (FSB). The president would be able to delay the imposition of such sanctions for a renewable 180-day period if he certifies that the covered individual is substantially reducing the number of such transactions.
- Individuals who make any investment of greater than $10 million in a 12-month period that contributes directly and significantly to the ability of the Russian government to privatize state-owned assets in a manner that unjustly enriches government officials or their families.

- Individuals who export, transfer, or provide support to the government of Syria to purchase or develop weapons systems or defense articles. Sanctions under this section would include the revocation of visas for individuals already in the U.S.

The president would be authorized to impose sanctions against:

- Individuals involved in transactions to support energy export pipelines through investment or the provision of significant amounts of goods or services.

These sanctions would not be applicable to activities related to the supply of launch services or components for NASA activities. The RD-180 engine, used on the Atlas-V launch vehicle, is Russian-made.

Reports

The bill would require a series of reports be submitted to Congress including reports covering:

- *Oligarchs* – This report would cover high net-worth individuals with ties to the Russian government and Russian parastatal enterprises, including the potential effects of imposing debt and equity restrictions and secondary sanctions on entities and individuals.
- *Sovereign Debt* – This report would concern the effects of adding sovereign debt and derivative products (such as credit default swaps) to the prohibited transactions under sanctions regimes.
- *Illicit Finance* – This report concerns tracking and preventing illicit financial flows through the U.S. and allied financial systems related to the Russian Federation.
- *Media Activities* - This report would detail media organizations controlled by the Russian Federation.
- *Election Interference* – This report would cover Russian election interference activities in Europe or Eurasia.

Title II – Combating Terrorism

(Title II components related to Russia are detailed separately, above)

The bill would require the president to develop a national strategy to combat terrorist financing and to submit such strategy to Congress within one year. The strategy would be required to include a summary of existing efforts to identify and interdict terrorist financing, descriptions of goals and efforts to improve such action, and a multi-year budget plan for implementing such efforts.

The bill would add the Secretary of the Treasury as a permanent member of the National Security Council. Further, it would require reports on Department of Treasury employees stationed at embassies and consular posts to combat illicit financing activities. It would also clarify that geographic targeting orders can cover financial transfers of any kind, not just those of coin and currency of the U.S.

Title III – North Korea

Expanded Sanctions

H.R. 3364 would require the president to designate certain persons as subject to U.S. sanctions, including prohibiting access to travel to the United States, freezing of U.S. assets, prohibiting business dealings with U.S. agencies, and other measures. Covered individuals would include individuals knowingly and willfully involved in trade with North Korea in certain minerals (including gold, titanium, copper, silver, zinc, nickel, or rare earth minerals), those involved in trade of rocket or jet fuel (other than for fueling passenger planes en route to North Korea), or individuals supporting, insuring, or reinsuring North Korean flagged vessels.

The bill would also allow the president to further designate additional individuals for sanctions who are involved in the trade of iron ore, coal, or petroleum fuels in excess of amounts authorized by the United

Nations Security Council. Sanctions could also apply to individuals involved in trade of telecommunications technology, textiles, fishing rights, or are involved in various North Korean industries, as well as other individuals at the president's discretion. The bill would further allow the president to choose to apply asset blocking sanctions to individuals designated at his discretion.

The bill would require the president to report to Congress within 180 days whether to designate, and if not, what the reasoning for not so designating, the following entities for sanctions: the Korea Shipowner's Protections and Indemnity Association; Chinpo Shipping Company; the Central Bank of the Democratic People's Republic of Korea (DRPK); Kumgang Economic Development Corporation; the Chamber of Commerce of the DRPK.

The bill would also expand sanctions to cover any individual who facilitates the transfer of hard currency to North Korea.

Financial Institutions

The bill would require U.S. financial institutions to prevent any correspondent account the institution knows that the account is being used to facilitate circumventing sanctions from being used for such purposes. The bill would further require the president to provide a briefing to Congress on each person or foreign government that the president determines has provided financial messaging services to North Korea.

Foreign Assistance

The bill would allow the president to withhold foreign assistance from any nation that provides defense articles to or receives such articles from North Korea.

Enhanced Inspections

The bill would require the president to report to Congress annually for five years on countries that do not sufficiently inspect or seize contraband cargo of North Korean ships or aircraft at seaports and airports. Such inspections and seizures are required pursuant to U.N. sanctions. The report would be required to identify foreign port operators that fail to inspect or seize cargo, describe the extent to which foreign port operators take appropriate action to de-register North Korean-owned vessels, describe compliance with requirements by Iran, Identify vessels owned or operated by North Korean intelligence, and describe the diplomatic and enforcement efforts by the president to secure compliance with U.N. Security Council resolutions.

Report on Iran

The bill would require the president to submit an annual report to Congress for five years describing cooperation between North Korea and Iran regarding nuclear, chemical, and biological, as well as ballistic missile and conventional weapons systems. The report would include a determination as to whether such activities violate U.N. Security Council resolutions.

Human Rights Sanctions

The bill would impose sanctions on individuals involved in forced labor in North Korea, including by prohibiting goods produced with forced labor from entering the United States and sanctioning individuals who employ North Koreans who face inhumane conditions or are denied wages. The bill would provide for the rebuttable presumption that all goods manufactured with North Korean labor are prohibited. Individuals subject to sanction would be blocked from conducting financial transactions in the U.S., as well as from traveling to or through the U.S. The president would be allowed to waive designation of an individual if he certifies to Congress that the employment of North Korean labor does not result in the transfer of currency or other items of value to the North Korean government, and that the wages of labors are held in local accounts in local currency.

Miscellaneous Provisions

The bill would also provide for the president to be able to waive sanctions and designations of individuals for humanitarian purposes.

The bill would provide for rewards for individuals who serve as whistleblower informants who report non-compliance with sanctions.

The bill would require the Secretary of State to submit to Congress a determination as to whether North Korea meets the criteria for designation as a state sponsor of terrorism,

COMMITTEE ACTION:

H.R. 3364 was introduced on July 24, 2017.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Clauses 3 and 18 of Article 1, Section 8 of the Constitution of the United States."

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