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113TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 113–542, Part 1

# TRAVEL PROMOTION, ENHANCEMENT, AND MODERNIZATION ACT OF 2014

JULY 22, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce, submitted the following

## REPORT

[To accompany H.R. 4450]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4450) to extend the Travel Promotion Act of 2009, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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39–006

## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Travel Promotion, Enhancement, and Modernization Act of 2014".

**SEC. 2. BOARD OF DIRECTORS.**

Subsection (b)(2)(A) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(b)(2)(A)) is amended—

(1) in the matter preceding clause (i)—

(A) in the first sentence, by striking "promotion and marketing" and inserting "promotion or marketing"; and

(B) by inserting after the first sentence the following: "At least 5 members of the board shall have experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 407 of Public Law 107–204 (15 U.S.C. 7265)). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position."; and

(2) in clause (x), by striking "intercity passenger railroad business" and inserting "land or sea passenger transportation sector".

**SEC. 3. ANNUAL REPORT TO CONGRESS.**

Subsection (c)(3) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(c)(3)) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

"(G) a description of, and rationales for, the Corporation's efforts to focus on specific countries and populations;

"(H)(i) a description of, and rationales for, the Corporation's combination of media channels employed in meeting the promotional objectives of its marketing campaign;

"(ii) the ratio in which such channels are used; and

"(iii) a justification for the use and ratio of such channels; and".

**SEC. 4. BIANNUAL REVIEW OF PROCEDURES TO DETERMINE FAIR MARKET VALUE OF GOODS AND SERVICES.**

Subsection (d)(3) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)(3)) is amended—

(1) in subparagraph (B)(ii), by striking "80 percent" and inserting "70 percent"; and

(2) by adding at the end the following:

"(E) MAINTENANCE OF AN IN-KIND CONTRIBUTIONS POLICY.—The Corporation shall maintain an in-kind contributions policy.

"(F) FORMALIZED PROCEDURES FOR IN-KIND CONTRIBUTIONS POLICY.—Not later than 90 days after the date of enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Secretary of Commerce, in coordination with the Corporation, shall establish formal, publicly available procedures specifying time frames and conditions for—

"(i) making and agreeing to revisions of the Corporation's in-kind contributions policy; and

"(ii) addressing and resolving disagreements between the Corporation and its partners, including the Secretary of Commerce, regarding the in-kind contributions policy.

"(G) BIANNUAL REVIEW OF PROCEDURES TO DETERMINE FAIR MARKET VALUE OF GOODS AND SERVICES.—The Corporation and the Secretary of Commerce (or their designees) shall meet on a biannual basis to review the procedures to determine the fair market value of goods and services received from non-Federal sources by the Corporation under subparagraph (B).".

**SEC. 5. EXTENSION OF TRAVEL PROMOTION ACT OF 2009.**

(a) IN GENERAL.—The Travel Promotion Act of 2009 (22 U.S.C. 2131) is amended—

(1) in subsection (b)(5)(A)(iv), by striking "all States and the District of Columbia" and inserting "all States and territories of the United States and the District of Columbia,"; and

(2) in subsection (d)—

(A) in paragraph (2)(B), by striking "2015" and inserting "2020"; and

(B) in paragraph (4)(B), by striking "fiscal year 2011, 2012, 2013, 2014, or 2015" and inserting "each of the fiscal years 2011 through 2020".

(b) SUNSET OF TRAVEL PROMOTION FUND FEE.—Section 217(h)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(iii)) is amended by striking "September 30, 2015" and inserting "September 30, 2020".

**SEC. 6. ACCOUNTABILITY; PROCUREMENT REQUIREMENTS.**

The Travel Promotion Act of 2009 (22 U.S.C. 2131), as amended by this Act, is further amended—

(1) by redesignating subsections (e), (f), (g), and (h) as subsections (h), (e), (i), and (j), respectively; and

(2) in paragraph (2) of subsection (c), by striking "$5,000,000" and inserting "$500,000";

(3) by inserting after subsection (e), as redesignated, the following:

"(f) ACCOUNTABILITY.—

"(1) PERFORMANCE PLANS AND MEASURES.—Not later than 90 days after the date of the enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Corporation shall—

"(A) establish performance metrics including, time frames, evaluation methodologies, and data sources for measuring—

"(i) the effectiveness of marketing efforts by the Corporation, including its progress in achieving the long-term goals of increased traveler visits to and spending in the United States;

"(ii) whether increases in visitation and spending have occurred in response to external influences, such as economic conditions or exchange rates, rather than in response to the efforts of the Corporation; and

"(iii) any cost or benefit to the economy of the United States; and

"(B) conduct periodic program evaluations in response to the data resulting from measurements under subparagraph (A).

"(2) GAO ACCOUNTABILITY.—Not later than 60 days after the date on which the Corporation receives a report from the Government Accountability Office with recommendations for the Corporation, the Corporation shall submit a report to Congress that describes the actions taken by the Corporation in response to the recommendations in such report.

"(g) PROCUREMENT REQUIREMENTS.—The Corporation shall—

"(1) establish a competitive procurement process; and

"(2) certify in its annual report to Congress under subsection (c)(3) that any contracts entered into were in compliance with the established competitive procurement process.".

**SEC. 7. REPEAL OF ASSESSMENT AUTHORITY.**

The Travel Promotion Act of 2009 (22 U.S.C. 2131), as amended by this Act, is further amended by striking subsection (e) (as redesignated by section 6(1) of this Act).

## PURPOSE AND SUMMARY

The purpose of H.R. 4450 is to reauthorize Brand USA, a public-private partnership originally created by the Travel Promotion Act of 2009 ("TPA"), through 2020. Specifically, H.R. 4450 will increase transparency and accountability metrics for Brand USA in executing its mission of encouraging increased international visitation to the United States and to grow America's share of the global travel market at no cost to taxpayers. The current program is funded through fiscal year (FY) 2015, and public contributions are capped at $100 million per year.

## BACKGROUND AND NEED FOR LEGISLATION

Brand USA is responsible for executing the first global marketing effort to promote the U.S. as a premier travel destination and communicate U.S. entry and exit policies and procedures, and

identify and correct misconceptions about those policies.[1] As a public-private partnership, Brand USA is funded by a combination of fees paid by international travelers to the Department of Homeland Security's Electronic System for Travel Authorization (ESTA) program and, at a minimum, 100 percent matching non-public funds contributed by travel-industry partners.[2] Brand USA's original five-year authorization expires in FY 2015. In addition to programmatic and governance changes to strengthen Brand USA, H.R. 4450 reauthorizes the program through FY 2020.

The travel industry is a major economic driver, and tourism is an integral part of the U.S. economy. Reauthorizing Brand USA will help market the United States as a world-class destination, and continue to attract visitors and economic growth to local communities.

In 2013, one billion people traveled internationally.[3] The international travel market is expected to reach 1.7 billion by 2020.[4] Brand USA allows the diverse destinations and attractions of the U.S. to coordinate marketing efforts in an efficient and effective program under one brand to reach this significant and growing market of international travelers.

In 2013, Brand USA's efforts attracted 1.1 million additional visitors to the United States.[5] These additional visitors represent a 2.3 percent increase over expected tourism growth to the U.S., and they spent $3.4 billion.[6] This increase in international visitor spending directly supported nearly 28,000 jobs, generated $7.9 billion in business sales, and contributed over $972 million in Federal, State, and local taxes. A recent analysis performed by the independent firm Oxford Economics reports Brand USA has achieved a marketing return on investment of 47:1.[7]

Reauthorizing Brand USA will ensure that the U.S.: (1) remains competitive in the international tourism market; (2) continues to attract international travelers; and (3) tourism economy continues to grow and expand delivering its benefits and jobs across the country.

## HEARINGS

The Subcommittee on Commerce, Manufacturing, and Trade held a hearing on "Vacation Nation: How Tourism Benefits our Economy" on May 7, 2013. The Subcommittee received testimony from:

- Roger Dow, President and CEO, U.S. Travel Association;

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[1] Brand USA, Frequently Asked Questions, available at http://www.thebrandusa.com/Help-FAQs#sthash.NBc82V6K.dpuf.

[2] In 2013, 339 travel-industry partners contributed $139 million in services and cash to Brand USA. Michael Scaturro, "Rebranding America: Can the U.S. Sell Itself to International Tourists?" *The Atlantic,* published January 14, 2014, 5:02 pm ET, available at http://www.theatlantic.com/international/archive/2014/01/rebranding-america-can-the-us-sell-itself-to-international-tourists/283061/.

[3] UN World Tourism Organization. "International Tourism Exceeds Expectations with Arrivals Up by 52 million in 2013," January 20, 2014. Available at http://media.unwto.org/press-release/2014-01-20/international-tourism-exceeds-expectations-arrivals-52-million-2013.

[4] U.S Travel Association. "Brand USA: Working for all of US," 2014. Available at http://www.ustravel.org/sites/default/files/page/2009/09/BUSA_Report_FINAL.pdf.

[5] *Id.*

[6] Oxford Economics. "The Return on Investment of Brand USA Marketing: 2013 Fiscal Year Analysis," February 2014. Available at http://thebrandusa.com/~/media/Files/Key%20Dox/2014/ROI%20Results/Brand%20USA%20ROI%20FY2013%20Final.pdf.

[7] *Id.*

- Kathleen Matthews, Executive Vice President and Chief Global Communications and Public Affairs Officer, Marriott International, Inc.;
- Brian Rothery, Assistant Vice President, Government Affairs, Enterprise Holdings;
- Lori Gaytan, Senior Vice President Americas HR and Global Reward, InterContinental Hotels Group;
- Hudson Riehle, Senior Vice President Research and Knowledge Group, National Restaurant Association;
- J. William Seccombe, President and CEO, Visit Florida;
- Sharon Zadra, Board Member, Reno-Sparks Convention and Visitors Authority, and Councilwoman, City of Reno, NV;
- Gina Speckman, Executive Director, Chicago's North Shore Convention and Visitors Bureau;
- Ralph Witsell, Executive Director, Discover Torrance Visitors Bureau; and
- Beverly Nicholson-Doty, Commissioner, U.S. Virgin Islands Department of Tourism.

## COMMITTEE CONSIDERATION

On July 10, 2013, the Subcommittee on Commerce, Manufacturing, and Trade met in open markup session and forwarded H.R. 4450, as amended, to the full Committee, by a recorded vote of 22 yeas and 0 nays. The Subcommittee adopted two amendments by voice vote. The first amendment, offered by Rep. Bilirakis and Rep. Welch, repealed the assessment authority codified at 22 U.S.C. 2131(f) of current law. The second amendment, offered by Rep. Schakowsky, added governance procedures to the Travel Promotion Act, including performance metrics and changes to the reporting threshold regarding Brand USA expenditures.

On July 14, 2014 and June 15, 2014, the Committee on Energy and Commerce met in open markup session. During the markup, an amendment offered by Rep. Bilirakis and Rep. Schakowsky to decrease the percentage of in-kind contributions private industry can make to meet the matching funding requirement to 70 percent was adopted by a voice vote. A motion by Mr. Upton to order H.R. 4450, reported to the House, as amended, was agreed to by a voice.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 4450 reported. A motion by Mr. Upton to order H.R. 4450 reported to the House, as amended, was agreed to by a voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of the legislation is to reauthorize the Brand USA travel promotion program to promote the United States as a tourism destination and attract international visitors.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4450 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

## EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 4450 contains no earmarks, limited tax benefits, or limited tariff benefits.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 18, 2014.*

Hon. FRED UPTON,
*Chairman, Committee on Energy and Commerce,*
*House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4450, the Travel Promotion, Enhancement, and Modernization Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 4450—Travel Promotion, Enhancement, and Modernization Act of 2014*

Summary: H.R. 4450 would extend the provisions of the Travel Promotion Act of 2009 (Public Law 111–145), which established the Corporation for Travel Promotion (also known as Brand USA), through September 30, 2020, and impose new performance and procurement requirements on the corporation. The bill also would extend the authority of U.S. Customs and Border Protection (CBP) to

collect travel promotion fees from certain foreign individuals traveling to the United States. Those fees are used to partially fund Brand USA.

CBO estimates that enacting H.R. 4450 would increase direct spending by $500 million and revenues by $731 million over the 2015–2024 period, resulting in a net decrease in the deficit of $231 million over the 10-year period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. CBO estimates that implementing H.R. 4450 would not significantly affect discretionary spending.

H.R. 4450 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4450 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

| | By fiscal year, in millions of dollars—— | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2015–2019 | 2015–2024 |
| CHANGES IN DIRECT SPENDING | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 100 | 100 | 100 | 100 | 100 | 0 | 0 | 0 | 0 | 400 | 500 |
| Estimated Outlays | 0 | 80 | 100 | 100 | 100 | 100 | 20 | 0 | 0 | 0 | 380 | 500 |
| CHANGES IN REVENUES | | | | | | | | | | | | |
| Estimated Revenues | 0 | 138 | 142 | 146 | 150 | 155 | 0 | 0 | 0 | 0 | 576 | 731 |
| NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES | | | | | | | | | | | | |
| Effect on the Deficit | 0 | −58 | −42 | −46 | −50 | −55 | 20 | 0 | 0 | 0 | −196 | −231 |

Basis of estimate: Under current law, Brand USA may receive federal funding, up to $100 million each year through the end of fiscal year 2015, from fees collected from certain foreign individuals traveling to the United States. For those funds to be available, Brand USA must generate an equal amount of matching contributions from private sources; at least 20 percent of those contributions must be in cash, the remainder in goods or services. Based on information from Brand USA, CBO expects that the entity will meet the matching requirements to receive the full amount of funding available under current law. CBO expects that the cash contributions received by Brand USA would be recorded in the budget as offsetting receipts (a credit against direct spending) and fully spent.

*Direct spending*

H.R. 4450 would extend the availability of federal funds to support Brand USA's efforts to promote tourism in the United States through September 30, 2020. The bill also would increase the percentage of private contributions that must be in cash rather than goods or services from 20 percent to 30 percent of total contributions each year. Finally, H.R. 4450 would direct Brand USA to develop performance measurements and establish a competitive process for procuring goods and services.

Based on information from Brand USA, CBO estimates that enacting H.R. 4450 would increase direct spending by $500 million over the 2015–2019 period.

*Revenues*

Citizens of certain countries can travel to the United States for short stays without a visa under the Visa Waiver Program. Upon receiving approval, such travelers must pay a $10 travel promotion fee, which in part funds spending by Brand USA. The fee is scheduled to expire under current law at the end of fiscal year 2015. H.R. 4450 would extend the fee through 2020, which CBO estimates would raise revenues by $731 million over the 2015–2024 period.

*Spending subject to appropriation*

H.R. 4450 would direct the Secretary of Commerce to establish a procedure for revising the corporation's policy for private contributions, and meet with Brand USA every two years to review procedures used to determine the value of goods and services received from private sources. CBO estimates that implementing this provision would not have a significant effect on discretionary spending over the 2015–2019 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4450, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE ON JULY 15, 2014

| | By fiscal year, in millions of dollars—— | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2014–2019 | 2014–2024 |
| NET INCREASE OR DECREASE (−) IN THE DEFICIT | | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Impact | 0 | 0 | 58 | −42 | −46 | −50 | −55 | 20 | 0 | 0 | 0 | −196 | −231 |
| Memorandum: | | | | | | | | | | | | | |
| Changes in Outlays | 0 | 0 | 80 | 100 | 100 | 100 | 100 | 20 | 0 | 0 | 0 | 380 | 500 |
| Changes in Revenues | 0 | 0 | 138 | 142 | 146 | 150 | 155 | 0 | 0 | 0 | 0 | 576 | 731 |

Intergovernmental and private-sector impact: H.R. 4450 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Spending: Susan Willie; Federal Revenues: Mark Booth; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4450 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Fed-

eral program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 4450 does not direct the completion of a rule making within the meaning of 5 U.S.C. 551.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 provides that the Act may be cited as the "Travel Promotion, Enhancement, and Modernization Act of 2014."

*Section 2. Board of Directors*

Section 2 amends the requirements for the Board of Directors of Brand USA to expand the list of potential candidates to individuals with promotion or marketing experience, and requires that the Board must be comprised of individuals with a particular expertise and experience.

*Section 3. Annual report to Congress*

Section 3 requires the annual marketing campaign report to include a description and rational for focusing on specific countries, populations, media channels, and usage ratios in the campaign.

*Section 4. Biannual review of procedures to determine fair market value of goods and services*

Section 4 creates a new biannual review of the procedures used to determine the fair market value of goods and services received from non-Federal sources tracked for matching purposes. Additionally, this section requires that the fair market value of goods and services provided by non-public funding may only account for 70 percent of the matching requirement in any fiscal year. Brand USA must develop and maintain a formal and publically available in-kind contributions policy.

*Section 5. Extension of Travel Promotion Act of 2009*

Section 5 extends the scope of Brand USA to include all 50 States and territories of the United States, including the District of Columbia, and reauthorizes 100 percent matched public funding of the Travel Promotion Fund through FY 2020. The Travel Pro-

motion Fund Fee is extended through FY 2020 by an amendment to the Immigration and Nationality Act (8 U.S.C. § 1187(h) et seq.).

*Section 6. Accountability; procurement requirements*

Section 6, as amended, requires Brand USA to explain any expenditure in excess of $500,000 in the Corporation's annual budget to the Secretary of Commerce. This section also requires Brand USA, within 90 days of final passage, to establish performance metrics to measure the impact of its marketing efforts and to demonstrate the effectiveness of Brand USA's marketing efforts, whether external forces have impacted increases in visitation and spending rather than Brand USA's efforts, and any cost or benefit to the economy of the United States. Additionally, this section requires that, not later than 60 days after receiving a report from the General Accountability Office (GAO) with recommendations for Brand USA, the Corporation shall issue a report to Congress detailing the actions taken in response to such GAO report. Finally, section 6 requires the establishment of a competitive procurement process and certification in its annual report to Congress that any contracts entered into are in compliance with that procurement process.

*Section 7. Repeal of assessment authority*

Section 7 repeals Brand USA's assessment authority.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## TRAVEL PROMOTION ACT OF 2009

**SEC. 9. TRAVEL PROMOTION ACT OF 2009.**

(a) SHORT TITLE.—This section may be cited as the "Travel Promotion Act of 2009".

(b) THE CORPORATION FOR TRAVEL PROMOTION.—

(1) * * *

(2) BOARD OF DIRECTORS.—

(A) IN GENERAL.—The Corporation shall have a board of directors of 11 members with knowledge of international travel [promotion and marketing] *promotion or marketing*, broadly representing various regions of the United States, who are United States citizens. *At least 5 members of the board shall have experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 407 of Public Law 107–204 (15 U.S.C. 7265)). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position.* Members of the board shall be appointed by the Secretary of Commerce (after consultation with the

Secretary of Homeland Security and the Secretary of State), as follows:

(i) * * *

* * * * * * *

(x) 1 shall have appropriate expertise in the [intercity passenger railroad business] *land or sea passenger transportation sector*.

* * * * * * *

(5) DUTIES AND POWERS.—

(A) IN GENERAL.—The Corporation shall develop and execute a plan—

(i) * * *

* * * * * * *

(iv) to ensure that international travel benefits [all States and the District of Columbia] *all States and territories of the United States and the District of Columbia,* and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and

* * * * * * *

(c) ACCOUNTABILITY MEASURES.—

(1) * * *

(2) BUDGET.—The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of [$5,000,000] *$500,000* for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) ANNUAL REPORT TO CONGRESS.—The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) * * *

* * * * * * *

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas; [and]

*(G) a description of, and rationales for, the Corporation's efforts to focus on specific countries and populations;*

*(H)(i) a description of, and rationales for, the Corporation's combination of media channels employed in meeting the promotional objectives of its marketing campaign;*

*(ii) the ratio in which such channels are used; and*

*(iii) a justification for the use and ratio of such channels; and*

[(G)] *(I)* such recommendations as the Corporation deems appropriate.

* * * * * * *

(d) MATCHING PUBLIC AND PRIVATE FUNDING.—

(1) * * *

(2) FUNDING.—

(A) * * *

(B) SUBSEQUENT YEARS.—For each of fiscal years 2012 through [2015] *2020*, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(B)(i)(I)), the Secretary of the Treasury shall transfer not more than $100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) MATCHING REQUIREMENT.—

(A) * * *

(B) GOODS AND SERVICES.—For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) * * *

(ii) the fair market value of such goods and services may not account for more than [80 percent] *70 percent* of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

* * * * * * *

*(E) MAINTENANCE OF AN IN-KIND CONTRIBUTIONS POLICY.—The Corporation shall maintain an in-kind contributions policy.*

*(F) FORMALIZED PROCEDURES FOR IN-KIND CONTRIBUTIONS POLICY.—Not later than 90 days after the date of enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Secretary of Commerce, in coordination with the Corporation, shall establish formal, publicly available procedures specifying time frames and conditions for—*

*(i) making and agreeing to revisions of the Corporation's in-kind contributions policy; and*

*(ii) addressing and resolving disagreements between the Corporation and its partners, including the Secretary of Commerce, regarding the in-kind contributions policy.*

*(G) BIANNUAL REVIEW OF PROCEDURES TO DETERMINE FAIR MARKET VALUE OF GOODS AND SERVICES.—The Corporation and the Secretary of Commerce (or their designees) shall meet on a biannual basis to review the procedures to determine the fair market value of goods and services re-*

*ceived from non-Federal sources by the Corporation under subparagraph (B).*

(4) CARRYFORWARD.—

(A) * * *

(B) MATCHING FUNDS.—Any amount received by the Corporation from non-Federal sources in [fiscal year 2011, 2012, 2013, 2014, or 2015] *each of the fiscal years 2011 through 2020* that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.

[(e)] *(h)* TRAVEL PROMOTION FUND FEES.—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended to read as follows:

"(B) * * *".

[(f) ASSESSMENT AUTHORITY.—

[(1) IN GENERAL.—Except as otherwise provided in this subsection, the Corporation may impose an annual assessment on United States members of the international travel and tourism industry (other than those described in subsection (b)(2)(A)(iii) or (H)) represented on the Board in proportion to their share of the aggregate international travel and tourism revenue of the industry. The Corporation shall be responsible for verifying, implementing, and collecting the assessment authorized by this subsection.

[(2) INITIAL ASSESSMENT LIMITED.—The Corporation may establish the initial assessment after the date of enactment of this section at no greater, in the aggregate, than $20,000,000.

[(3) REFERENDA.—

[(A) IN GENERAL.—The Corporation may not impose an annual assessment unless—

[(i) the Corporation submits the proposed annual assessment to members of the industry in a referendum; and

[(ii) the assessment is approved by a majority of those voting in the referendum.

[(B) PROCEDURAL REQUIREMENTS.—In conducting a referendum under this paragraph, the Corporation shall—

[(i) provide written or electronic notice not less than 60 days before the date of the referendum;

[(ii) describe the proposed assessment or increase and explain the reasons for the referendum in the notice; and

[(iii) determine the results of the referendum on the basis of weighted voting apportioned according to each business entity's relative share of the aggregate annual United States international travel and tourism revenue for the industry per business entity, treating all related entities as a single entity.

[(4) COLLECTION.—

[(A) IN GENERAL.—The Corporation shall establish a means of collecting the assessment that it finds to be efficient and effective. The Corporation may establish a late

payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Corporation any amount assessed by the Corporation under this section.

[(B) ENFORCEMENT.—The Corporation may bring suit in Federal court to compel compliance with an assessment levied by the Corporation under this section.

[(5) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.]

*(f) ACCOUNTABILITY.—*

*(1) PERFORMANCE PLANS AND MEASURES.—Not later than 90 days after the date of the enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Corporation shall—*

*(A) establish performance metrics including, time frames, evaluation methodologies, and data sources for measuring—*

*(i) the effectiveness of marketing efforts by the Corporation, including its progress in achieving the long-term goals of increased traveler visits to and spending in the United States;*

*(ii) whether increases in visitation and spending have occurred in response to external influences, such as economic conditions or exchange rates, rather than in response to the efforts of the Corporation; and*

*(iii) any cost or benefit to the economy of the United States; and*

*(B) conduct periodic program evaluations in response to the data resulting from measurements under subparagraph (A).*

*(2) GAO ACCOUNTABILITY.—Not later than 60 days after the date on which the Corporation receives a report from the Government Accountability Office with recommendations for the Corporation, the Corporation shall submit a report to Congress that describes the actions taken by the Corporation in response to the recommendations in such report.*

[(g)] *(i)* OFFICE OF TRAVEL PROMOTION.—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by inserting after section 201 the following:".

[(h)] *(j)* RESEARCH PROGRAM.—Title II of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.), as amended by subsection (g), is further amended by inserting after section 202 the following:

**"SEC. 203. RESEARCH PROGRAM**

"(a) * * *".

* * * * * * *

*(g) PROCUREMENT REQUIREMENTS.—The Corporation shall—*

*(1) establish a competitive procurement process; and*

*(2) certify in its annual report to Congress under subsection (c)(3) that any contracts entered into were in compliance with the established competitive procurement process.*

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## IMMIGRATION AND NATIONALITY ACT

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### TITLE II—IMMIGRATION

* * * * * * *

### CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * * * * *

#### VISA WAIVER PROGRAM FOR CERTAIN VISITORS

SEC. 217. (a) * * *

* * * * * * *

(h) USE OF INFORMATION TECHNOLOGY SYSTEMS.—

(1) * * *

* * * * * * *

(3) ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—

(A) * * *

(B) FEES.—

(i) * * *

* * * * * * *

(iii) SUNSET OF TRAVEL PROMOTION FUND FEE.—The Secretary may not collect the fee authorized by clause (i)(I) for fiscal years beginning after [September 30, 2015] *September 30, 2020*.

* * * * * * *

EXCHANGE OF LETTERS WITH ADDITIONAL COMMITTEES OF REFERRAL

MICHAEL T. McCAUL, TEXAS
*CHAIRMAN*

BENNIE G. THOMPSON, MISSISSIPPI
*RANKING MEMBER*

**One Hundred Thirteenth Congress**
**U.S. House of Representatives**
**Committee on Homeland Security**
**Washington, DC 20515**

July 16, 2014

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

I write to you regarding H.R. 4450 the *Travel Promotion, Enhancement, and Modernization Act of 2014,* which was ordered reported by the Committee on Energy and Commerce on July 15, 2014. I wanted to notify you that the Committee on Homeland Security will forgo action on the bill so that is may proceed expeditiously to the House floor for consideration.

This is being done with the understanding that the Committee on Homeland Security is not waiving any of its jurisdiction, and the Committee will not be prejudiced with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding, and ask that a copy of our exchange of letters on this matter be included in the report accompanying H.R. 4450 and in the *Congressional Record* during consideration of H.R. 4450 on the House floor.

Sincerely,

Michael T. McCaul

MICHAEL T. McCAUL
Chairman

cc: The Honorable Bennie G. Thompson, Ranking Member, Homeland Security Committee
The Honorable Henry Waxman, Ranking Member, Energy and Commerce Committee

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

**Congress of the United States**

**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

July 17, 2014

The Honorable Michael T. McCaul
Chairman
Committee on Homeland Security
176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman McCaul,

Thank you for your letter regarding H.R. 4450, the "Travel Promotion, Enhancement, and Modernization Act of 2014."

I appreciate your willingness to forgo action on the bill so that it may proceed expeditiously to the House floor for consideration. I agree that your decision is not a waiver of any of the Committee on Homeland Security's jurisdiction, and the Committee will not be prejudiced with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I will include a copy of our exchange of letters on this matter in the report accompanying H.R. 4450 and in the *Congressional Record* during consideration of H.R. 4450 on the House floor.

Sincerely,

Fred Upton
Chairman

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