



Legislative Bulletin.....March 8, 2006

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$4 million over five years

Effect on Revenue: \$50 million decrease over five years

Total Change in Mandatory Spending: \$2 million increase over five years

Total New State & Local Government Mandates: 5

Total New Private Sector Mandates: 3

Number of Bills Without Committee Reports: 1

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 1053—To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine (Gerlach, R-PA)

Order of Business: The bill is scheduled to be considered on Wednesday, March 8th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1053 would authorize the President to grant normal trade relations (“non discriminatory” trade) treatment to the products of Ukraine. The bill would allow the President

to determine that this provision in current law no longer applies to Ukraine (which it does currently):

Except as otherwise provided in this subchapter, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

Additional Background: Normal Trade Relations (NTR) status amounts to reductions in tariffs on the products of said country coming into the United States. Only a small handful of countries do not currently enjoy NTR status in the U.S.

To read more about Ukraine, visit this State Department webpage:
<http://www.state.gov/r/pa/ei/bgn/3211.htm>

Committee Action: In March 2005, the bill was referred to the Ways and Means Committee and its Subcommittee on Trade, neither of which took official action on it.

Cost to Taxpayers: The bill would not yield any savings to taxpayers since it does not *require* that the President provide normal trade relations status for Ukraine.

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.

Constitutional Authority: Though a committee report citing constitutional authority is unavailable, Article I, Section 8, Clause 3 grants Congress the power to regulate commerce with foreign nations.

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H.Res. 673 — Expressing support for the efforts of the people of the Republic of Belarus to establish a full democracy, the rule of law, and respect for human rights and urging the Government of Belarus to conduct a free and fair presidential election on March 19, 2006— *as introduced* (Shimkus, R-IL)

Order of Business: The resolution is scheduled for consideration on Wednesday, March 08, 2006, under a motion to suspend the rules and pass the bill.

Summary: H. Res. 673 would express support for the people of the Republic of Belarus in the efforts to establish a democracy. The resolution states the following findings, among other things:

- States that a precondition for the integration of Belarus into the Western community of nations is its establishment of a genuinely democratic political system.
- Urges the government of Belarus to: 1) guarantee freedom of association and assembly, and, 2) meet its Organization for Security and Cooperation in Europe (OSCE) standards and commitments on democratic elections.
- Urges the Belarusian authorities to ensure: 1) transparency procedures for the 2006 presidential election; 2) election monitor access; 3) multiparty representation on all election commissions; 4) media access by all parties and candidates; 5) freedom of candidates, members of opposition parties, and independent media organizations from government harassment; and 6) prosecution of election law violators.
- Encourages the international community to continue efforts to support democracy in Belarus and urges countries such as Lithuania and other Baltic countries and Nordic countries to continue to provide assistance to nongovernmental organizations and other Belarusian organizations involved in promoting democracy and fair elections.
- Pledges support to the Belarusian people, their commitment to a democratic system and creation of a free market economy, and their country's assumption of its place as a full and equal member of the Western community of democracies.

Committee Action: H.Res. 6733 was introduced on February 14, 2006, and referred to the Committee on International Relations' Subcommittee on Europe and Emerging Threats. The resolution was marked-up on February 14, 2006, and forwarded to the full Committee by a voice vote, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

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.

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H.R. 3505—Financial Services Regulatory Relief Act (Hensarling, R-TX)

Order of Business: The bill is scheduled to be considered on Wednesday, March 8th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3505 would make a variety of regulation-reducing changes affecting the operations of financial institutions and the federal agencies involved in regulating them. Highlights of the bill are as follows:

National Banks:

- Allows a director of a national bank to be issued subordinated debt to satisfy the requirement that the director own shares in the bank (this provision has the effect of making it easier for a bank to convert from C-corporation status to S-corporation status).

- Eliminates the requirement that bank directors must be elected by cumulative voting.
- Simplifies the method by which a bank calculates dividends.
- Gives the Office of the Comptroller of the Currency (OCC) authority to remove a person who engages in improper conduct from the banking business. Currently this authority is given to other federal banking agencies, but not the OCC.
- Repeals the capital requirements a national bank must currently meet to establish an intrastate branch.
- Allows a foreign bank to operate both a federal branch and a federal agency in the same state.
- Allows national banks to choose various forms of business organizations that are not corporate, such as a limited liability company.

Savings Associations:

- Gives federal thrift institutions the authority (currently given only to national and state banks) to invest up to five percent of its total capital and surplus in an entity that primarily makes public welfare investments, (10 percent with Office of Thrift Supervision approval).
- Allows federal thrift institutions to merge with non-thrift affiliates.
- Eliminates the automobile loan asset limitation. Currently federal savings associations are limited in making auto loans in excess of 35 percent of its total assets.
- Exempts insurance agents representing a federal savings association in selling FDIC-insured certificates of deposit from registering as securities law agents under state law.
- Eliminates the lending limit on small business loans and increases the lending limit on other business loans from 10 percent to 20 percent of assets.
- Increases the limit on commercial real estate loans from 400 to 500 percent of the thrift's capital.
- Permits a Savings & Loan holding company (SLHC) to charter a credit card savings association without being subject to new restrictions.

Credit Unions:

- Allows privately insured credit unions to apply to become members of a Federal Home Loan Bank.
- Allows certain federal credit unions to lease federal land at no cost.
- Permits credit unions to purchase investment securities.
- Increases loan term limitations from 12 years to 15 years.
- Increases the investment limit in credit union service organizations from 1 percent to 3 percent.
- Excludes loans to non-profit religious organizations from the member business loan limit.
- Exempts federally insured credit unions from merger notification requirements.
- Redefines a credit union's net worth as the retained earnings balance of the credit union plus any amounts that were previously retained earnings of any other credit union with which the credit union has merged. (Same as in H.R. 1042, which passed the House by voice vote last year)

Depository Institutions:

- Removes the restriction on banks expanding through *de novo* interstate branching (where a bank expands into another state by establishing a new branch, not by acquiring another bank).
- Sets a 30-day statute of limitations for banks and credit unions to challenge decisions by the OCC, Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) to appoint a receiver.
- Eliminates the authority of a state to prohibit an out-of-state bank from acquiring an in-state bank that has existed for less than five years.
- Eliminates some reporting requirements relating to insider lending.
- Permits thrifts to invest in bank service companies and bank to invest in thrift service companies.

Depository Institution Affiliates:

- Applies the current-law prohibition on cross marketing only to entities controlled by a financial holding company.
- Permits finance companies in states with a constitutional usury ceiling to charge the same interest rates as national and state banks.
- Provides savings associations the same authority that banks have to act as agents for their affiliated depository institutions.
- Permits savings associations that are members of a depository institution holding company framework to act as agents for depository institutions that are affiliated with the savings association.

Banking Agencies:

- Expands interagency data sharing to all federal banking agencies.
- Allows the post-approval antitrust review period to be shortened from 15 to 5 days if the Attorney General has agreed that the acquisition or merger would not have anti-competitive effects.
- Prohibits a person convicted of a crime involving dishonesty or a breach of trust to participate in the affairs of an uninsured national or state bank and uninsured offices of foreign banks without FDIC approval.
- Removes the requirement that federal banking agencies demonstrate that an independent contractor “knowingly and recklessly” violated law/regulation or engaged in unsound practices before holding the contractor liable.
- Authorizes the FDIC to impose civil monetary penalties of up to \$1 million per day on any individual, corporation, or other entity for misrepresentation of FDIC insurance coverage.
- Eliminates compensation limits for members of Federal Home Loan Bank boards.
- Increases the term of Federal Home Loan Bank directors from three years to four years.
- Requires a biennial report from each federal banking agency on the status of employment of minority individuals and women.
- Allows banks with less than \$1 billion in assets (as opposed to the current-law \$250 million) to be examined by their regulators every 18 months, instead of once every 12 months.

- Directs the Federal Reserve Board to revise the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors to increase the asset threshold for small banks to \$1 billion (up from \$150 million).

Other:

- Directs the Treasury Secretary to exempt any depository institution from filing a CTR for a “seasoned customer.” A seasoned customer is defined as a person that is incorporated or organized under in the U.S., including as a sole proprietorship, or is registered to do business in the U.S. The seasoned customer must have maintained a deposit account with that institution for at least 12 months and he or she must have engaged in “multiple” currency transactions.
- Instructs the Treasury Secretary to work with the Financial Institutions Examination Council to reduce certain regulatory inconsistencies by establishing uniform standards and principles for examining financial institutions, including adopting a clear policy on resolving examiner-institution disagreements.
- Directs the Treasury Secretary to conduct a study on the feasibility of developing improved electronic communications between financial institutions to help them better comply with the Bank Secrecy Act.

Additional Background: A similar bill in the 108th Congress, H.R. 1375, passed the House by a vote of 392-25: <http://clerk.house.gov/evs/2004/roll069.xml>

Committee Action: On July 28, 2005, the bill was referred to the Financial Services Committee, which, on November 16, 2005, marked up, amended, and ordered the bill reported to the full House by a vote of 67-0. On December 17, 2005, the bill was referred to the Judiciary Committee, which, on February 15, 2006, marked up, amended, and ordered the bill reported to the full House by voice vote.

Administration Position: No Statement of Administration Policy was released for this bill or its affiliated bill from the 108th Congress.

Cost to Taxpayers: CBO reports that H.R. 3505 would authorize \$4 million in FY2007. The bill would also increase mandatory spending by an insignificant amount in FY2006 and by between \$1 and \$2 million over the FY2006-FY2010 period. Lastly, the bill would reduce revenues by an insignificant amount in FY2006 and by about \$50 million over the FY2006-FY2010 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Generally, the bill would reduce federal regulations, but in certain instances, it would preempt state law (see below).

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes, the bill contains intergovernmental and private-sector mandates, as follows:

Intergovernmental: 1) prohibits states from requiring agents who represent a federal savings association to register as brokers or dealers if they sell deposit products (CDs) issued by the

savings association; 2) places requirements on state regulators of credit unions to review documents related to federal deposit insurance and to provide certain information to the NCUA; 3) extend certain preemptions of state laws related to mergers between insured depository institutions chartered in different states; 4) preempts state laws that regulate certain fiduciary activities performed by insured banks and other depository institutions; and 5) provides that only certain bank supervisors may impose supervisory fees on the bank.

Private-sector: 1) prohibits interstate branching by certain depository institutions controlled by commercial firms; 2) expands the authority of federal banking agencies over insured depository institutions and institution-affiliated parties with respect to safety and soundness enforcement; and 3) restricts the participation in the affairs of financial institutions of people convicted of certain crimes or the subject of certain criminal proceedings.

Constitutional Authority: The Financial Services Committee, in House Report 109-356 Part 1, cites Article I, Section 8, Clause 1 (general welfare) and Clause 3 (commerce clause). The Judiciary Committee, in House Report 109-356 Part 2, also cites Article I, Section 8, but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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