



Legislative Bulletin.....May 3, 2006

Contents:

- H. Res. 781** — Congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes
- H.Con.Res. 359** — Authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run
- H.R. 4700** — To provide for the conditional conveyance of any interest retained by the United States in St. Joseph Memorial Hall in St. Joseph, Michigan
- H.R. 5253** — To prohibit price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil, and for other purposes
- H.R. 5254** — Refinery Permit Process Schedule Act
- H.Con.Res. 99** — Expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month
- H.Res. 245** — Supporting the goals and ideals of National Nurses Week

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: unknown

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: Several

Total New Private Sector Mandates: At least one

Number of Bills Without Committee Reports: 3

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

H.Res. 781 — Congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes. – as introduced (Porter, R-NV)

Order of Business: The resolution is scheduled for consideration on Wednesday, May 3, 2006, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 781 resolves that:

- “the House of Representatives acknowledges and commends charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education and improving and strengthening our public school system;
- “the House of Representatives supports the seventh annual National Charter Schools Week;
- “it is the sense of the House of Representatives that the President should issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools during this weeklong celebration in communities throughout the United States.”

Additional Information: The resolution lists a number of findings, including the following:

- “40 States and the District of Columbia have passed laws authorizing charter schools;
- “over 3,600 charter schools are now operating in 40 States and the District of Columbia serving more than 1 million students;
- “over the last 12 years, Congress has provided nearly \$1,775,000,000 in support to the charter school movement through facilities financing assistance and grants for planning, startup, implementation, and dissemination;
- “charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 in the same manner as traditional public schools, and often set higher and additional individual goals to ensure that they are of high quality and truly accountable to the public;
- “charter schools give parents new freedom to choose their public school, routinely measure parental satisfaction levels, and must prove their ongoing success to parents, policymakers, and their communities;
- “nearly 56 percent of charter schools report having a waiting list, and the total number of students on all such waiting lists is enough to fill over 1,100 average-sized charter schools;
- “charter schools nationwide serve a higher percentage of low-income and minority students than the traditional public system; and
- “the seventh annual National Charter Schools Week, to be held May 1 through 6, 2006, is an event sponsored by charter schools and grassroots charter school organizations across the United States to recognize the significant impacts, achievements, and innovations of charter schools.”

Committee Action: H.Res. 781 was introduced on April 26, 2006 and referred to the House Committee on Education and the Workforce, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditures.

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.Con.Res. 359 — Authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run — as introduced (Ros-Lehtinen, R-FL)

Order of Business: The resolution is scheduled to be considered on Wednesday, May 3, 2006, under a motion to suspend the rules and pass the resolution.

Summary: The resolution authorizes the Capitol Police to design the Special Olympics Law Enforcement Torch Run course through the Capitol Grounds on June 9, 2006, or on a different date as determined by the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate.

The Capitol Police Board is to carry out the event and enforce restrictions on sales, advertisements, displays, and solicitations on the grounds in connection to the run.

Additional Information: The Law Enforcement Torch Run is a fundraiser intended to raise awareness about the Special Olympics. It is an actual running event in which law enforcement officers and athletes carry the Flame of Hope to the Opening Ceremonies. In addition to the running event, there are other fundraising activities, such as t-shirt sales, accepting donations, and charity golf events.

Committee Action: On March 16, the resolution was referred to the House Committee on Transportation and Infrastructure. On March 30, The Subcommittee on Economic Development, Public Buildings and Emergency Management considered the resolution, held a mark-up, and forwarded it to the Full Committee by voice vote. On April 5, the full committee considered the resolution, held a mark-up, and reported it to the House by voice vote.

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. 4700 — To provide for the conditional conveyance of any interest retained by the United States in St. Joseph Memorial hall in St. Joseph, Michigan — as reported (Garrett, R-NJ)

Order of Business: The bill is scheduled for consideration on Wednesday, May 3, 2006, under a motion to suspend the rules and pass the bill.

Summary: The bill directs the Administrator of General Services to convey by, quitclaim deed, St. Joseph Memorial Hall to the city of St. Joseph, Michigan, for \$10,000. The Administrator of General Services may require such additional terms and

conditions to the conveyance as he considers appropriate to protect the interest of the United States.

Additional Information: The city of St. Joseph received the building and property from the federal government through Public Act 81 on May 28, 1935. This conveyance required that the property be used for public park purposes “or such other wholly public use as may be approved by the United States.”

According to the sponsor, the city of St. Joseph wants to redevelop the Bluffside area and is concerned that, although incorporated into a larger effort to provide public recreation and education to the community, possible alternative uses of the Memorial Hall property may technically be prohibited by the 1935 deed restriction, and could impede the entire Bluffside development. This bill will eliminate the deed restrictions imposed by the federal interest in the hall.

Committee Action: H.R. 4700 was introduced on February 1, 2006, and referred to the Committee on Transportation. The bill was referred to the Subcommittee on Economic Development, Public Buildings and Emergency Management the following day. The subcommittee took no official action.

Cost to Taxpayers: A CBO cost estimate is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill decreases federal land holdings, and thus slightly contracts the size of government.

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

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H.R. 5253 — To prohibit price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil (Rep. Wilson, R-NM)

Order of Business: The bill is scheduled to be considered on Wednesday, May 3rd, under a motion to suspend the rules and pass the bill.

Summary: Highlights of this legislation are as follows:

- Makes it a violation of federal law (an unfair or deceptive act or practice) to “price-gouge” for crude oil, gasoline, diesel fuel, home heating oil, or any biofuel.
- **Does NOT define “price-gouging,”** yet directs the Federal Trade Commission (FTC) to promulgate a definition of “price gouging,” “retail sale,” “wholesale sale,” and other necessary regulations within six months of this legislation’s enactment.

- Provides that this Act could only be enforced by the Federal Trade Commission (civil penalties), the U.S. Department of Justice (criminal penalties), or state attorneys general (civil penalties).
- Specifically, a state attorney general could bring a civil action under this Act (in a U.S. district court) on behalf of the residents of his state, if he feels that “an interest of the residents of that State has been or is threatened or adversely affected” by any person who price-gouges. The civil action could seek to either enjoin further price-gouging, compel compliance with price-gouging rules, or impose a civil penalty on a price-gouger.
- Requires a state attorney general to alert the FTC of any such action (in advance, if possible), who would be allowed to intervene in the action. No state action could be brought while an already-initiated FTC action is pending.
- Explicitly states that this Act should not be construed to prevent a state attorney general from taking state-only actions in state courts.
- Sets civil penalties for price-gouging, as follows:
 - For “wholesale sale” violations:
 - (three times the difference between the total amount charged in the wholesale sale and the total amount that would be charged in the same sale at the wholesale fair market price) plus (up to \$3 million per day of a continuing violation).
 - For “retail sale” violations:
 - three times the difference between the total amount charged in the retail sale and the total amount that would be charged in the same sale at the retail fair market price.
- The collections from civil penalties from wholesale sale violations (excluding the \$3 million-per-day fine) and the retail sale violations would be deposited into any state account or fund (in a state where a person was price-gouged) used for paying compensation to consumers for violation of state consumer protection laws. If no such state account or fund exists, the collections would be deposited into the general fund of the state treasury.
- Sets criminal penalties for price-gouging, as follows:
 - For “wholesale sale” violations:
 - up to a \$150 million fine, up to two years in prison, or both.
 - For “retail sale” violations:
 - up to a \$2 million fine, up to two years in prison, or both.

Additional Background: This bill goes significantly farther than the price-gouging language contained in the GAS Act (H.R. 3893) that the House passed on October 7, 2005, by a vote of 212-210: <http://clerk.house.gov/evs/2005/roll519.xml>. To read the RSC Legislative Bulletin on the GAS Act, visit this webpage and scroll down to page 5: <http://www.house.gov/pence/rsc/doc/LB%2010-07-05--GAS%20Act.pdf>.

To access a variety of statistics about gas prices, including the change in gas prices over time, visit this webpage: <http://www.factsonfuel.org/gasoline/index.html>

Committee Action: The bill was referred to the Energy & Commerce Committee on May 2, 2006, which did not take official action on it.

Possible Conservative Concerns: Some conservatives might be concerned that certain entities, such as *The Wall Street Journal* and the Cato Institute, have described anti-price-gouging efforts as federal interference in free-market pricing. Some free-marketeers have asserted that there is no such thing as price-gouging, as long as the consumer has reasonably accessible choices of products, services, and prices in the open market.

Some conservatives may also be concerned that, for more than half of the states, this legislation would lay a federal layer of anti-price-gouging law on top of the existing state anti-price-gouging laws.

Administration Position: An Administration position is not immediately available, though explicit opposition appears unlikely.

Cost to Taxpayers: Although no CBO cost estimate is available, the bill does not seem to yield any new cost to taxpayers.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill would expand the federal government's role in "price-gouging" (i.e. in free-market pricing).

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The bill would effectively mandate that certain private companies sell their products within a price-range that is acceptable to the government.

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

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H.R. 5254 —Refinery Permit Process Schedule Act (Rep. Bass, R-NH)

Order of Business: The bill is scheduled to be considered on Wednesday, May 3rd, under a motion to suspend the rules and pass the bill.

Summary: Highlights of this legislation are as follows:

- Creates a new federally-directed implementation and assistance process for the consideration of refinery authorizations required by federal law, available to states whose governors request federal assistance (technical, legal, or other). Refinery authorizations not involving federal law are not covered by the legislation.

- Defines “federal refinery authorizations” to include any permits, licenses, special-use authorizations, certifications, opinions, or other approvals required under federal law regarding the siting, construction, expansion, or operation of an oil, gas, or biofuel refinery.
- Directs the President to appoint a federal coordinator to manage the multi-agency refinery permitting process (across state and federal jurisdictions).
- Instructs the federal coordinator, within 30 days of receiving an application for a refinery authorization, to convene a meeting of representatives from all federal and state agencies responsible for a federal refinery authorization with respect to the specific refinery. At the meeting, the participants would have to create a memorandum of agreement (which would have to be published in the Federal Register), setting forth “the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery.”
- Gives the Environmental Protection Agency (EPA) priority in scheduling, in the event of conflict among federal refinery authorization scheduling needs.
- Directs the federal coordinator to ensure that all parties to the memorandum of agreement (MoA) are working “in good faith” (not defined) to stay on schedule, and to maintain a complete consolidated record of all decisions made or actions taken by the coordinator or by an individual agency regarding any federal refinery authorization.
- Provides for civil actions alleging failure of adherence to the MoA to be brought exclusively in the U.S. district court for the district in which the proposed refinery is located. Only refinery applicants and parties to the MoA would have standing to bring such an action in court, and the court would have to consider such action under expedited consideration. Allows the court to establish a new schedule, if necessary, for the timely completion of the refinery authorizations.
- Directs the President (within 90 days of this bill’s enactment) to designate no less than three closed military installations (or portions thereof), as potentially suitable for the construction of a refinery, based on the “feasibility and practicability” of such siting. At least one of these sites would have to be potentially suitable for refining biomass to produce biofuel. Directs the Secretary of Defense to give “substantial deference” to these siting recommendations when disposing of real property at a close military installation; the Secretary would not have to accept the recommendations.
- Explicitly states that this Act should not be construed to affect the application of any environmental or other law, or to prevent legal actions thereunder.
- Repeals the section of the Energy Policy Act (Public Law 109-58) that allows the Environmental Protection Agency (EPA) to enter into refinery permitting cooperative agreements with states for streamlining the consideration of federal and state environmental permits for a new refinery.

Additional Background: This bill does not include nearly as many provisions aimed at streamlining refinery permitting as does the GAS Act (H.R. 3893) that the House passed on October 7, 2005, by a vote of 212-210: <http://clerk.house.gov/evs/2005/roll519.xml>. To read the RSC Legislative Bulletin on the GAS Act, visit this webpage: <http://www.house.gov/pence/rsc/doc/LB%2010-07-05--GAS%20Act.pdf>.

The Energy & Commerce Committee has reported that no new crude oil refinery has been constructed in the United States since 1976, and there are now 148 operating refineries in the U.S. (concentrated mainly in the Gulf Region), down from 324 in 1981. As a result, refined product imports are rising. The Committee asserts that, “a key barrier to new plant development is the complexity of permitting and the regulatory uncertainty that comes with that.”

Committee Action: The bill was referred to the Energy & Commerce Committee on May 2, 2006, which did not take official action on it.

Administration Position: An Administration position is not available.

Cost to Taxpayers: A CBO cost estimate is not yet available.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would create a new federal coordinator for federal refinery authorization processing (though the coordinator could be an existing government official or entity).

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The bill does contain some mandates on state governments for compliance with the federal coordinator and the refinery authorization process.

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

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H.Con.Res. 99 — Expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month — *as introduced (Pascrell, D-NJ)*

Order of Business: The resolution is scheduled for consideration on Wednesday, May 3, 2006, under a motion to suspend the rules and pass the resolution.

Summary: H.Con.Res. 99 resolves that Congress:

- “recognizes the life-altering impact traumatic brain injury may have both on Americans living with the resultant disabilities and on their families;
- “recognizes the need for enhanced public awareness of traumatic brain injury;
- “supports the designation of an appropriate month as National Brain Injury Awareness Month; and
- “encourages the President to issue a proclamation designating such a month.”

The resolution also states a number of findings, including the following:

- “traumatic brain injury is a leading cause of death and disability among children and young adults in the United States;
- “at least 5.3 million Americans currently live with permanent disabilities resulting from a traumatic brain injury;
- “traumatic brain injuries cost the nation \$56.3 billion annually;
- “the Brain Injury Association of America has recognized March as Brain Injury Awareness Month.”

Committee Action: H.Con.Res. 99 was introduced on March 15, 2005, and referred to the Committee on the Energy and Commerce’s Subcommittee on Health, 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.Res. 245 —Supporting the goals and ideals of National Nurses Week — *as amended (Johnson, D-TX)*

Order of Business: The resolution is scheduled for consideration on Wednesday, May 3, 2006, under a motion to suspend the rules and pass the resolution.

Note: The House passed a related resolution, H.Con.Res. 500, in the 108th Congress regarding nurse practitioners. The resolution recognized the week of November 7-13, 2004 as National Nurse Practitioners Week.

Summary: H.Res. 245 would support the goals and ideals of National Nurses Week. It resolves that the House of Representatives:

- “recognizes the important contributions of nurses to the health care system of the United States;
- “supports the goals and ideals of National Nurses Week, as founded by the American Nurses Association; and
- “encourages the people of the United States to observe National Nurses Week with appropriate recognition, ceremonies, activities, and programs to demonstrate the importance of nurses to the everyday lives of patients.”

The resolution also states a number of findings, including the following:

- “since 2003, National Nurses Week is celebrated annually from May 6, also known as National Nurses Day, through May 12, the birthday of Florence Nightingale, the founder of modern nursing;
- “registered nurses (‘RNs’) represent the largest single component of the health care profession, with an estimated 2.7 million RNs in the United States;

- “according to a report from the Department of Health and Human Services, the United States currently has a nurse shortage of nearly 150,000 RNs and will have a shortage of more than 800,000 RNs by the year 2020; and
- “cutting-edge technologies are useless without a staff of trained professionals to implement them.”

Committee Action: H.Res. 245 was introduced on April 27, 2005, and referred to the Committee on Energy and Commerce’ Subcommittee on Health, 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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