



Legislative Bulletin.....June 6, 2007

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 5

Total Cost of Discretionary Authorizations: \$611 million over five years

Effect on Revenue: \$0

Total Change in Mandatory Spending: 0

Total New State & Local Government Mandates: 1

Total New Private Sector Mandates: 1

Number of Bills Without Committee Reports: 5

Number of Reported Bills that Don’t Cite Specific Clauses of Constitutional Authority: 1

H.R. 1051 — National STEM Scholarship Database Act (*Holt, D-NJ*)

Order of Business: The bill is scheduled for consideration on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1051 would authorize such sums as necessary over the FY 2008- FY 2012 period for the Secretary of Education to establish and maintain, on the Department's public website, a searchable database consisting of information on scholarships, fellowships, and other programs of financial assistance available from public and private sources for the study of science, technology, engineering, or mathematics (STEM), at the post-secondary and post-baccalaureate levels. The database would detail various information on financing available for individuals studying in the STEM fields, including:

- specific information on any programs target to individuals of a particular gender, ethnicity, or other demographic group;
- a link to the website of each program listed in the database; and
- general information on how to contact the sponsor of a financing program.

H.R. 1051 directs the Department to disseminate information on the database and encourage its use by sending notices to secondary schools, colleges, and universities, and by any other necessary means. The bill directs the Secretary to enter into a contract with a private entity in order to furnish and regularly update all of the information required to be included in the database.

Additional Information: An October 2005 Government Accountability Office (GAO) study reported that in FY04, 13 federal agencies reported **spending roughly \$2.8 billion on 207 different education programs** directly related to science, technology, engineering and mathematics (STEM). In addition, during the 110th Congress, the House has approved the creation of at least 12 new federal programs related to the STEM areas of study.

Committee Action: H.R. 1051 was introduced on February 14, 2007, and referred to the Committee on Education and Labor, which took no official action.

Cost to Taxpayers: There is no CBO score available for H.R. 1051. According to the text, the bill would authorize such sums as necessary for the creation of new database.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill creates a new federal database.

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

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

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H.R. 2559 — Higher Education Act Extension Act of 2007
(Miller, D-CA)

Order of Business: The bill is scheduled for consideration on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2559 would extend the authorization (at current, FY04 levels) for the Higher Education Act of 1965 (HEA) through October 31, 2007. In the 109th Congress, the House passed a short-term extension through June 30, 2007. Current law allows for flexibility in the authorization depending upon amendments to HEA enacted during FY05 or FY06.

Committee Action: H.R. 2559 was introduced on introduced June 5, 2007, and referred to the Committee on Education and Labor, which took no official action.

Cost to Taxpayers: A CBO score for H.R. 2559 is not available.

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

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

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

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**H.Res. 421 — Honoring the trailblazing accomplishments of the
“Mercury 13” women, whose efforts in the early 1960s demonstrated
the capabilities of American women to undertake the human
exploration of space (Kagen, D-WI)**

Order of Business: H.Res. 421 is scheduled to be considered on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 421 would express that the House of Representatives:

- “recognizes and honors the contributions of Myrtle Cagle, Geraldyn ‘Jerrie’ Cobb, Jan Dietrich, Marion Dietrich, Mary Wallace ‘Wally’ Funk, Jane Briggs Hart, Jean Hixson, Gene Nora Stumbough Jessen, Irene Leverton, Sarah Lee

Gorelick Ratley, Bernice Trimble Steadman, Geraldine ‘Jerri’ Sloan Truhill, and Rhea Hurrle Allison Woltman; and

- “encourages young women to follow in the footsteps of the Mercury 13 women and pursue careers of excellence in aviation and astronautics, as well as in engineering and science.”

The resolution lists several findings, including:

- “all of the Mercury 13 women were accomplished pilots with commercial ratings or better and at least 2,000 hours of flying time;
- “the Mercury 13 women passed the same rigorous physical and psychological tests that the original Mercury 7 astronauts had to undergo;
- “the Mercury 13 women successfully completed their testing at the Lovelace Clinic, in Albuquerque, New Mexico by the end of 1961;
- “the Mercury 13 women were prepared to continue their contributions to America’s space program at the Naval School of Aviation Medicine in Pensacola, Florida, by undergoing advanced aeromedical examinations using jet aircraft and military equipment, until they were informed that their testing program was canceled;
- “the Soviet Union flew the first woman in space in 1963;
- “the United States flew the first American woman in space, Dr. Sally Ride, in 1983;
- “the United States flew the first woman to pilot the Space Shuttle, Lt. Col. Eileen Collins, in 1995;
- “the Mercury 13 women served as pathfinders for NASA’s female astronauts; and
- “the careers of accomplishment of the Mercury 13 women can serve as an inspiration for other young women who are considering pursuing a career in aviation, astronautics, science, or engineering.”

Committee Action: H.Res. 421 was introduced on May 21, 2007, and referred to the House Committee on Science and Technology, 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. 446 — Honoring the life and accomplishments of Astronaut
Walter Marty Schirra and expressing condolences on his passing
(Bilbray, R-CA)**

Order of Business: H.Res. 446 is scheduled to be considered on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 446 would express that the House of Representatives:

- “honors the life and accomplishments of Astronaut Walter Marty Schirra and expresses condolences on his passing; and
- “recognizes the profound importance of Astronaut Schirra’s record as a pioneer in space exploration and long-time contributor to NASA’s mission as a catalyst to space exploration and scientific advancement in the United States.”

The resolution lists several findings, including:

- “Walter Schirra was born on March 12, 1923, in Hackensack, New Jersey
- “as an exchange pilot with the 154th Fighter Bomber Squadron during the Korean War, he flew 90 combat missions in F-84E jets and was credited with downing at least one MIG fighter;
- “on October 3, 1962, Walter Schirra became the fifth person to fly in space when he piloted Mercury 8 (Sigma 7) on a six-orbit mission lasting 9 hours, 13 minutes and 11 seconds;
- “on December 15, 1965, Walter Schirra piloted Gemini 6A in what was the first attempted rendezvous by two manned spacecraft in earth orbit;
- “on October 11, 1968, he concluded his third and final mission when he was launched as commander of Apollo 7, the first manned Apollo mission, making Commander Schirra the only astronaut to fly aboard Mercury, Gemini and Apollo spacecrafts;
- “Commander Schirra was the recipient of many distinguished awards, including three distinguished flying crosses, two air medals, two NASA Distinguished Services Medals and induction into the National Aviation Hall of Fame;
- “after he retired to San Diego in 1984, Wally dedicated much of his later years to working with children on connecting them to the amazing possibilities that a career on space exploration could provide, and as a tireless advocate for discovery, Wally was an inspirational figure for countless San Diegans; and
- “Commander Schirra was an exemplary resident of the State of California where he resided in La Jolla until the time of his death on May 2, 2007.”

Committee Action: H.Res. 446 was introduced on May 24, 2007, and referred to the House Committee on Science and Technology, 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. 1467 — 10,000 Trained by 2010 Act (*Wu, D-OR*)

Order of Business: The bill is scheduled for consideration on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1467 would create several new federal programs related to promoting the study of information systems—the study of modern information technology, typically closely associated with the study of computer systems. The specific provisions of the bill are as follows:

- Authorizes \$14.6 million over the FY 2008-FY 2011 period for the **creation of a new grant program** at the National Science Foundation (NSF). Through the new program, NSF would award grants for basic research on innovative approaches to improve information systems.
- Authorizes \$18.6 million over the FY 2008-FY 2011 period for the **creation of a new grant program** at NSF to provide grants to colleges and universities for the establishment of multidisciplinary Centers for Informatics Research. The Centers would be designed to generate innovative approaches in information by conducting “cutting-edge, multidisciplinary research.”
- Authorizes \$37.2 million over the FY 208-FY 2011 period for the **creation of a new grant program** at NSF to award grants to colleges and universities to establish or improve undergraduate and master’s degree information programs, and to increase the number of students pursuing degrees in this field.
- Authorizes \$29.2 million over the FY 2008-FY2011 period for two programs previously authorized under the Scientific and Advanced Technology Act of 1992. These programs provides grants to colleges and universities that offer associate’s degrees in advanced technology fields

Possible Conservative Concerns: Some conservatives may be concerned that H.R. 1467 would authorize \$102 million over four years, and would establish three new programs at the National Science Foundation.

Committee Action: H.R. 1467 was introduced on March 9, 2007, and referred to the Committee on Science and Technology, which held a mark-up, and reported the bill by voice vote on May 23, 2007.

Cost to Taxpayers: According to CBO, the bill would authorize \$25 million in FY 2008, and \$102 million over four years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill creates several new programs.

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

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

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H.R. 1716 — Green Energy Education Act of 2007 (McCaul, R-TX)

Order of Business: H.R. 1716 is scheduled to be considered on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1716 would authorize the Secretary of Energy to transfer funds to the National Science Foundation (NSF) for the purpose of funding various research, education, development, and building projects.

Specifically, the bill would allow the Secretary to transfer funds to the Integrative Graduate Education and Research Traineeship (IGERT) program, which provides funding to universities to offer stipends for activities related to energy research, as well as architectural and engineering education.

H.R. 1716 would also authorize the Secretary to transfer funds to the NSF that would directly improve energy and engineering curricula, lab activities, training practices, and design projects with the expressed goal of increasing the ability of engineers, architects, and planners to design and construct “high performance buildings” (defined by CBO as buildings that “optimize energy efficiency, durability, life-cycle performance, and occupants’ productivity”).

Committee Action: H.R. 1716 was introduced on March 23, 2007, and referred to the Committee on Science and Technology. On May 23, 2007, a mark up was held and the bill was reported, as amended.

Cost to Taxpayers: According to CBO, NSF plans to allocate about \$67 million to IGERT in 2007, which, under the bill, would be used for energy research and development. However, H.R. 1716 would only authorize a transfer of funds, thus the bill would not authorize any new spending.

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: A committee report citing constitutional authority is not available. However, 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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H.R. 632 — H-Prize Act of 2007 (*Lipinski, D-IL*)

Order of Business: The bill is scheduled for consideration on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 632 would authorize the Secretary of Energy to **establish a new program** to competitively award cash prizes “to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.” Six prizes, in three categories, are authorized under H.R. 632. The Secretary is required to enter into an agreement with a private, non-profit entity to administer the prize competitions, and the entity’s duties will include advertising prize competitions and their results, raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes, and developing criteria for selecting winners, and determining the prize amounts.

The three categories of prizes are as follows:

- Biennial (every second year) awards of not more than \$1 million each to each of these four categories for advancements in components or systems related to—
 - ❖ hydrogen production;
 - ❖ hydrogen storage;
 - ❖ hydrogen distribution; and
 - ❖ hydrogen utilization;
- Biennial awards of not more than **\$4 million** for prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and
- One, not less than **\$10 million lump-sum prize**, for transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which

may include cost criteria designed to facilitate the eventual market success of a winning technology. The federal funding for this award is capped at \$10 million, though the entity is authorized to seek an additional \$40 million (from non-federal sources) to match each dollar of private funding raised by the award recipient for up to three years after the prize is announced.

The bill notes that the federal government shall not be entitled “to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant” in these competitions.

The Secretary may require registered participants to waive claims against the federal government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants’ participation in these competitions.

Registered participants are required to obtain liability insurance or demonstrate financial responsibility, at levels determined by the Secretary, for claims by—

- (1) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in these competitions; and
- (2) the federal government for damage or loss to government property resulting from such an activity.

In addition, the bill states that the federal government shall be named as an additional insured under a registered participant’s insurance policy required under (1) above, and registered participants shall be required to agree to indemnify the federal government against third party claims for damages arising from or related to competition activities.

Possible Conservative Concerns: Some conservatives may be concerned that this bill would create a new program and authorize \$50 million for the new program.

Committee Action: H.R. 632 was introduced on introduced January 23, 2007, and referred to the Committee on Science and Technology, which considered it, held a markup, and reported the bill, as amended, by voice vote on May 23, 2007.

Cost to Taxpayers: CBO estimates that the bill would authorize \$16 million in FY2008 and \$34 million over the FY2008-FY2012 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill creates a new program at the Department of Energy.

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

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

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H.R. 964 — Securely Protect Yourself Against Cyber Trespass Act (*Towns, D-NY*)

Order of Business: H.R. 964 is scheduled to be considered on Wednesday, June 6, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 964 would make it illegal for an unauthorized person (not defined in the bill) to use computer software (spyware) to engage in “unfair or deceptive” acts by monitoring and collecting other computer users’ personal information without their consent. Specifically, the bill would make it a federal crime to use Internet software to take unsolicited control of a computer or to modify a computer’s online settings, such as homepage displays, bookmarks, or default browsers. In addition, it would be unlawful to induce the owner of a computer to install, remove, or disable software and anti-spyware technology.

The bill would also make it illegal to collect and/or transmit any information regarding an owner’s personal information or Internet activity history without the consent of the owner. H.R. 964 would require sites that utilize information collecting software to provide a notice and give users the option to accept or decline the terms and conditions of the site. The bill would require that, once owner consent has been given, any information gathering program must have a function that allows a user to easily disable the program at any time.

The legislation would establish a fine of no more than \$3 million for taking unsolicited control and modifying a computer, and a penalty of no more than \$1 million for unlawfully obtaining or transferring information. H.R. 964 would give the Federal Trade Commission the power to issue and oversee regulations under the bill. The bill would not apply to law enforcement conducting investigations and would supersede any current state anti-spyware laws.

Additional Information: According to Committee Report 110-169, current file sharing and information gathering programs on the Internet are “capable of visiting great harm on consumers and commerce when misapplied by scam artists, criminals, and others with unsavory motives.” The report goes on to state that computer software designed to gather information from another computer, known as spyware, represents a “broad continuum from the most pernicious criminal activities on one end to the less threatening but still intrusive on the opposite end.” Among the tactics used by some spyware programs are Internet monitoring and keystroke logging, both of which can result in identity theft. In order to protect Internet users, the committee has sought to pass laws prohibiting the use of software intended to capture a user’s information without their knowledge or consent.

Possible Conservative Concerns: Although the House passed similar legislation in the last two Congresses, some groups, such as the U.S. Chamber of Commerce, contend that the language in H.R. 964 is too vague and will have the unintended consequence of hurting legitimate businesses. The bill requires that any website that retrieves personal information (an e-mail address, a mailing address, a phone number) or records Internet activity (an Internet search) be subject to repetitive and foreboding popup messages requiring user's consent. Some are concerned that this will discourage online commerce.

According to the Chamber of Commerce, "the bill does not target deceptive behaviors known as spyware; rather it is a broad notice and choice provision for all collection of information by all commercial websites, whether lawful or deceptive, and whether owned by 'Mom and Pop' or a multinational corporation." They argue that online consumers will either stop purchasing products on the Internet or simply consent to the constant stream of popup notices, rendering the spyware warnings useless.

Many also argue that this particular version of the bill is purposefully vague so as to increase regulation on legitimate online businesses. For instance, bills similar to H.R. 964 (such as H.R. 2929, passed in the 108th Congress), would have prohibited use of spyware to "engage in deceptive acts or practices," while H.R. 964 makes it a crime to "engage in *unfair* or deceptive acts or practices" (emphasis added). Some groups, such as the National Business Coalition on E-Commerce & Privacy, have pointed out that this broader language only lowers the required level of intent and brings every legitimate commercial websites under FTC regulation.

The increased regulations in H.R. 964 have also brought challenges from Americans for Tax Reform (ATR), which has come out against the bill. According to ATR, "the legislation would only apply to U.S. companies, placing them at a disadvantage to foreign competitors when they are forced to implement these onerous requirements, while overseas companies are not." The overall consensus of these groups is that this bill will fail to effectively target spyware used for deceptive purposes, while imposing harmful regulations on legitimate online businesses.

The bill, in its current form, is opposed by:

- The U.S. Chamber of Commerce
- Americans for Tax Reform
- The Financial Services Roundtable
- The Consumer Data Industry Association
- NetCoalition
- The National Retail Federation
- The American Bankers Association

- The Consumer Banker Association

Committee Action: H.R. 964 was introduced on February 8, 2007 and referred to the Committee on Energy and Commerce, which held a mark up and reported the bill, as amended, on May 24, 2007.

Cost to Taxpayers: CBO estimates that enacting H.R. 964 would authorize \$1 million in FY 2008, and \$7 million over a five year period, to fund FTC enforcement of the bill's provisions. The bill could increase civil penalties, but CBO estimates that the amount would be insignificant.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. The bill would make it a federal crime to use spyware programs collect personal information or monitor computer users without their consent. The legislation would also authorize the FTC to enforce the new laws.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? Yes. H.R. 964 would preempt laws that regulate spyware in states, some of which may incur costs from lost civil fines. However, CBO estimates that these costs would be well below the UMRA threshold.

Also, according to CBO, "H.R. 964 would impose private-sector mandates, as defined in UMRA, on persons who use computer programs to collect certain information from another person's computer. The bill would require a person who transmits or executes an information collection program on someone's computer to receive prior consent from the owner or authorized user of that computer."

Constitutional Authority: Committee Report 110-169 does not cite constitutional authority for H.R. 1469. However, 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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