



**Legislative Bulletin.....October 29, 2003**

**Motions to Instruct:**

**Obey Motion to Instruct on H.R. 2660** - Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for Fiscal Year 2004

**Eddie Bernice Johnson Motion to Instruct on H.R. 6** - Energy Policy Act of 2003

**Davis (FL) Motion to Instruct on H.R. 1** - Medicare Prescription Drug and Modernization Act of 2003

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**Obey Motion to Instruct Conferees on H.R. 2660—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004**

**Order of Business:** On Tuesday, October 28<sup>th</sup>, 2003, Rep. David Obey (D-WI) announced his intention to offer a motion to instruct conferees on H.R. 2660, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004.

**Summary of Motion:** The motion directs the managers on the part of the House at the conference to insist on the highest funding levels possible for programs authorized by the No Child Left Behind Act (elementary and secondary education).

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

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**Eddie Bernice Johnson Motion to Instruct Conferees on H.R. 6—the Energy Policy Act**

**Order of Business:** On Tuesday, October 28, 2003, Rep. Eddie Bernice Johnson (D-TX) notified the House of her intention to offer a motion to instruct conferees on H.R. 6—the Energy Policy Act.

**Summary of Motion:** The Johnson motion would instruct House conferees to confine themselves to matters committed to conference (in accordance with House Rule XXII, Clause 9) regarding matters relating to ozone nonattainment and ozone transport. Further, the motion would instruct House conferees to include in the conference report the provisions of the Senate amendment regarding reformulated gasoline in ozone nonattainment areas and ozone transport regions.

The text of the Senate amendment referenced by the motion is as follows:

**SEC. 837. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.**

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended--

(1) by striking ``(6) OPT-IN AREAS.--(A) Upon" and inserting the following:

``(6) OPT-IN AREAS.--

``(A) CLASSIFIED AREAS.--

``(i) IN GENERAL.--Upon";

(2) in subparagraph (B), by striking ``(B) If" and inserting the following:

``(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.--If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))--

(A) in the first sentence, by striking ``subparagraph (A)" and inserting ``clause (i)"; and

(B) in the second sentence, by striking ``this paragraph" and inserting ``this subparagraph"; and

(4) by adding at the end the following:

``(B) OZONE TRANSPORT REGION.--

``(i) APPLICATION OF PROHIBITION.--

``(I) IN GENERAL.--In addition to the provisions of subparagraph (A), upon the application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

``(II) PUBLICATION OF APPLICATION.--As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

``(ii) PERIOD OF APPLICABILITY.--Under clause (i), the prohibition specified in paragraph (5) shall apply in a State--

“(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

“(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

“(iii) **EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.--**

“(I) **IN GENERAL.--**If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation--

“(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

“(bb) may renew the extension under item (aa) for two additional periods, each of which shall not exceed 1 year.

“(II) **DEADLINE FOR ACTION ON PETITIONS.--**The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”.

**Additional Background:** To read the RSC Legislative Bulletin on H.R. 6, as it came to the House floor, visit this webpage: <http://www.house.gov/burton/RSC/LB41003.pdf>

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost or revenue effects of the underlying legislation.

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## **Davis of Florida Motion to Instruct Conferees on H.R. 1—Medicare Prescription Drug Modernization Act of 2003**

**Order of Business:** On Tuesday, October 28<sup>th</sup>, 2003, Rep. Jim Davis (D-FL) announced his intention to offer a motion to instruct conferees on H.R. 1, the Medicare Prescription Drug Modernization Act of 2003.

**Summary of Motion:** The motion directs the House conferees to reject subtitle C of title II of the House bill. This section provides for competition in 2010 between privately run Medicare plans and traditional Medicare fee-for service.

More information on the 2010 competition provisions can be found here:  
<http://www.house.gov/burton/RSC/MedicareHR1Summary03.pdf>

A similar motion offered by Rep. Brown of Ohio was defeated on October 28 by a vote of 194 to 209.

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

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