

the bill (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.

The Clerk read as follows:

H.R. 4700

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF RETAINED INTEREST IN ST. JOSEPH MEMORIAL HALL.**

(a) IN GENERAL.—Subject to the terms and conditions of subsection (c), the Administrator of General Services shall convey to the city of St. Joseph, Michigan, by quitclaim deed, any interest retained by the United States in St. Joseph Memorial Hall.

(b) ST. JOSEPH MEMORIAL HALL.—In this section, the term “St. Joseph Memorial Hall” means the property subject to a conveyance from the Secretary of Commerce to the city of St. Joseph, Michigan, by Quitclaim Deed dated May 9, 1936, recorded in Liber 310, at page 404, in the Register of Deeds for Berrien County, Michigan.

(c) TERMS AND CONDITIONS.—The conveyance under subsection (a) is subject to the following terms and conditions:

(1) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City of St. Joseph, Michigan, shall pay \$10,000.00 to the United States.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Administrator of General Services may require such additional terms and conditions to the conveyance under subsection (a) as the Administrator considers appropriate to protect the interest of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KUHLMAN) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

□ 1115

GENERAL LEAVE

Mr. KUHLMAN of New York. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4700.

The SPEAKER pro tempore (Mr. BOOZMAN). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KUHLMAN of New York. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4700 was introduced by Representative UPTON from Michigan on February 1, 2006. This bill conveys an interest retained by the United States of America in the St. Joseph Memorial Hall in St. Joseph, Michigan.

St. Joseph, Michigan, is in the process of redeveloping an area of the downtown to create a recreational and educational and cultural district. This development will link downtown St. Joseph with the beautiful lakefront district, creating a more inviting environment for residents, for businesses and for tourists. The project is intended to make St. Joseph a more attractive place to live and work and to play, while also improving the local economy.

H.R. 4700 is necessary to allow for the incorporation of St. Joseph Memorial Hall into those redevelopment plans. Memorial Hall's use is limited by deed restriction, placed on the property by the Federal Government more than 60 years ago. While similar deed restrictions in the city have been lifted, the restriction on Memorial Hall remains, making it impossible for the redevelopment of the neighborhood to continue.

Limitations on this tiny parcel of land located in the center of the redevelopment will significantly jeopardize the city's plans if not lifted. H.R. 4700 is a sensible, simple solution that will allow the City of St. Joseph to proceed with redevelopment. I support this measure, and I urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4700 authorizes the conveyance of any interest retained by the United States in St. Joseph Memorial Hall in St. Joseph, Michigan, in the City of St. Joseph, Michigan.

This bill merely completes a land transfer between the Federal Government and the City of St. Joseph, Michigan, which began back in May, 1935. At that time, the city received a non-historic building and property with restricted use for a public park. In 1954, the public use restriction was lifted on the parcel just north of the building through Public Act 348.

The city officials have requested this transfer as the city is contemplating a redevelopment plan for the downtown which would utilize the parcel of land and the building. The city is prepared to pay \$10,000 to the General Services Administration for the transfer.

Mr. Speaker, I support H.R. 4700 and urge my colleagues to join me in supporting this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. KUHLMAN of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say at this point that the sponsor of the bill, Mr. UPTON of Michigan, had intended to be here to speak on the bill but was at the last minute taken away to a leadership meeting that is very, very important to the long term of this country and certainly to the world. I would like to say that, as a result thereof, obviously he is not here to speak on this bill.

As we look at items like this, what we see from a general overall standpoint is that oftentimes there are deed restrictions and limitations put on communities years ago that are no longer of any real interest or any real need in this particular area. So what we see from time to time as part of the evolution of our process of managing is, in fact, that what we have to do is to modify those provisions; and this is the perfect case.

Now, there are many cities and communities, counties, villages across the

country who are trying to revitalize themselves in ways which will be beneficial for the creation of jobs for the community and the people who reside there. This is one of those components. This is one of those actions. A small little city in a small little State called Michigan, a small part of the large country and the larger part of the world is obviously trying to revitalize their activities and was prevented from doing such immediately by a restriction placed by this big, bad at times, government on them.

So we are attempting to remove that, and hopefully this bill will do that.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KUHLMAN) that the House suspend the rules and pass the bill, H.R. 4700.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

**FEDERAL ENERGY PRICE PROTECTION ACT OF 2006**

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5253) to prohibit price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil, and for other purposes.

The Clerk read as follows:

H.R. 5253

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Federal Energy Price Protection Act of 2006”.

**SEC. 2. GASOLINE PRICE GOUGING PROHIBITED.**

(a) UNLAWFUL CONDUCT.—

(1) UNFAIR AND DECEPTIVE ACT OR PRACTICE.—It shall be an unfair or deceptive act or practice in violation of section 5 of the Federal Trade Commission Act for any person to sell crude oil, gasoline, diesel fuel, home heating oil, or any biofuel at a price that constitutes price gouging as defined by rule pursuant to subsection (b).

(2) DEFINITION.—For purposes of this subsection, the term “biofuel” means any fuel containing any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(b) PRICE GOUGING.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Federal Trade Commission shall promulgate, in accordance with section 553 of title 5, United States Code, any rules necessary for the enforcement of this section.

(2) CONTENTS.—Such rules—

(A) shall define “price gouging”, “retail sale”, and “wholesale sale” for purposes of this Act; and

(B) shall be consistent with the requirements for declaring unfair acts or practices in section 5(n) of the Federal Trade Commission Act (15 U.S.C. 45(n)).

## (c) ENFORCEMENT.—

(1) IN GENERAL.—Except as provided in subsection (d), a violation of subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(2) EXCLUSIVE ENFORCEMENT.—Notwithstanding any other provision of law, no person, State, or political subdivision of a State, other than the Federal Trade Commission or the Attorney General of the United States to the extent provided for in section 5 of the Federal Trade Commission Act or the attorney general of a State as provided by subsection (d), shall have any authority to enforce this Act or any rule prescribed pursuant to this Act.

## (d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

(1) CIVIL ACTION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates subsection (a), the attorney general, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin further violation of such section by the defendant;

(B) to compel compliance with such section; or

(C) to impose a civil penalty under subsection (e).

## (2) INTERVENTION BY THE FTC.—

(A) NOTICE AND INTERVENTION.—The State shall provide prior written notice of any action under paragraph (1) to the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

(i) to intervene in the action;

(ii) upon so intervening, to be heard on all matters arising therein; and

(iii) to file petitions for appeal.

(B) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action for violation of this Act, no attorney general of a State may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this Act alleged in the complaint.

(3) CONSTRUCTION WITH RESPECT TO POWERS CONFERRED BY STATE LAW.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

## (e) CIVIL PENALTY.—

(1) IN GENERAL.—Notwithstanding any civil penalty that otherwise applies to a violation of a rule referred to in subsection (c)(1), any person who violates subsection (a) shall be liable for a civil penalty under this subsection.

(2) AMOUNT.—The amount of a civil penalty under this subsection shall be an amount equal to—

(A) in the case of a wholesale sale in violation of subsection (a), the sum of—

(i) 3 times the difference between—

(I) the total amount charged in the wholesale sale; and

(II) the total amount that would be charged in such a wholesale sale made at the wholesale fair market price; plus

(ii) an amount not to exceed \$3,000,000 per day of a continuing violation; or

(B) in the case of a retail sale in violation of subsection (a), 3 times the difference between—

(i) the total amount charged in the sale; and

(ii) the total amount that would be charged in such a sale at the fair market price for such a sale.

(3) DEPOSIT.—Of the amount of any civil penalty imposed under this section with respect to any sale in violation of subsection (a) to a person that resides in a State, the portion of such amount that is determined under subparagraph (A)(i) or (B) (or both) of paragraph (2) shall be deposited into—

(A) any account or fund established under the laws of the State and used for paying compensation to consumers for violations of State consumer protection laws; or

(B) in the case of a State for which no such account or fund is established by State law, into the general fund of the State treasury.

## (f) CRIMINAL PENALTY.—

(1) IN GENERAL.—In addition to any other penalty that applies, a violation of subsection (a) is punishable—

(A) in the case of a wholesale sale in violation of subsection (a), by a fine of not more than \$150,000,000, imprisonment for not more than 2 years, or both; or

(B) in the case of a retail sale in violation of subsection (a), by a fine of not more than \$2,000,000, imprisonment for not more than 2 years, or both.

(2) ENFORCEMENT.—The criminal penalty provided by paragraph (1) may be imposed only pursuant to a criminal action brought by the Attorney General or other officer of the Department of Justice, or any attorney specially appointed by the Attorney General, in accordance with section 515 of title 28, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. STUPAK) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

## GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Americans are again seeing spikes at the gas pumps, with prices reaching over \$3 a gallon all over the country. This morning, I went by the 7-Eleven at Second and Glebe Road in Arlington, Virginia, and there were no prices posted on the sign outside the station. I thought, oh, maybe they are giving gasoline away. No, they did not have any gasoline to sell at any price.

We need to do something, not only to bring these prices down, but we need to do something to make sure that there is adequate gasoline supply available at every service station in the country

that serves the American driving public.

\$3 a gallon gasoline may mean nothing to some people, but it sure means a lot to most of us and everything to the poorest of our society that really have to have gasoline to get back and forth to work and it is a big part of their budget.

Soaring gasoline prices drain the budgets of the working families who rely on cars to get their kids to school and themselves to work. If the spike in gasoline prices are due to anything other than market conditions, consumers have a right to count on us, the government, for protection from these rip-offs.

H.R. 5253, sponsored by Congressman WILSON of New Mexico, the bill that we are considering right now, prohibits price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil.

While price fixing, collusion and other anti-competitive practices are currently illegal, there is no Federal statutory prohibition on the books against price gouging. Nobody has really defined at the Federal level exactly what it is yet.

It is true that we all think we know what price gouging is when we see it, but that is not the sort of definition that a prosecutor can take to a judge or a jury. We are not here today saying something is just awful and somebody ought to stop it. We are here to put the gougers out of business, if there are gougers, and behind bars.

Last October, the House passed anti-price gouging provisions in the Gas Act. Like the provision in that act, the Gas Act, the legislation before us today provides an explicit Federal prohibition on gasoline price gouging, treating it as an unfair trade practice under the Federal Trade Commission Act.

It would also provide for additional enforcement in that it gives the United States Attorney General, the Federal Trade Commission, the States attorney generals, the authority to enforce against price gouging at any time, not just in times of a major disaster. It provides for greater civil penalties and even criminal penalties in some cases for the most serious offenses.

The legislation would ensure that the definition of price gouging promulgated by the FTC rule-making does not cover spikes in gas prices that are caused by market conditions.

Committee hearings have demonstrated that when artificial regulations supplant normal supply and demand as the primary means of pricing a commodity, the result is market distortion and shortages. Ask those of us who were lining up for gas in the mid- and late 1970s.

We are also not here today in pursuit of consequences, unintended or otherwise, that makes it tough for people to get to work and to school. Price spikes

are a scourge, but dry pumps are a catastrophe. As I mentioned this morning, at Second and Glebe Road in Arlington, Virginia, there was no gas at any price at the 7-Eleven.

I know the difference, and I will strenuously oppose any policies that choke off the flow of gasoline to drivers. We want to have effective enforcement against scams without interfering with the efficient functioning of the market.

In my opinion, H.R. 5253 does that. I would urge my colleagues to support this important piece of consumer protection legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUPAK. Mr. Speaker, today we are considering legislation that would give the Federal Trade Commission the authority to investigate and prosecute price gouging in gasoline. This bill, H.R. 5253, was introduced just yesterday.

For 8 months, Democrats have been calling for the Republican leadership to allow a vote on my price gouging legislation, the Federal Response to Energy Emergencies, the FREE Act.

129 Democrats have signed a discharge petition to request that my price gouging legislation be brought to the floor for a vote. They say imitation is the sincerest form of flattery. Well, after 8 months of Democrats demanding that the Republican leadership bring legislation to the floor to protect the American consumers from price gouging, the Republicans have finally proposed their own bill.

While I am pleased that we have finally convinced the Republicans to bring legislation on price gouging to the floor, it is the American people who should be the winners today.

This legislation is long overdue. In the past 8 months the Republicans have failed to act to address price gouging, gas prices have exceeded \$3 a gallon. Crude oil prices have broken records. Americans have endured significant financial hardships, and oil companies have reaped record profits.

Let us be clear. Republicans claim to have passed a price gouging bill last October. However, that legislation was so toothless that it is being ignored by the Republicans in the other body.

During that debate, I offered the FREE Act amendment as a substitute. All but two Republicans voted against my legislation. While I am pleased that the Republican leadership has finally brought a gas bill to the floor, I will say that this new bill was immediately put on the suspension calendar without any hearings, without any meaningful debate.

Several of my colleagues may not appreciate the differences between the bill before us today and the Democratic legislation, the FREE Act. Although these differences should not delay price gouging legislation any longer than it already has been, it is my hope that the Republicans will be willing to address these issues of true price gouging

as this piece of legislation moves forward.

Our bill, the FREE Act, would specifically set out guidelines for the FTC to use to define price gouging, including provisions that make unconscionable pricing, providing false pricing information, and market manipulation illegal, all of which is lacking in the bill before us today.

The FREE Act also contains a provision that would promote price transparency, providing consumers with the information to know that oil and gas prices are fair and reasonable, again a standard lacking in the legislation before us today.

The FREE Act would also apply to natural gas and propane. Neither natural gas nor propane are even mentioned in the bill before us today.

Had the Republican bill, H.R. 5253, the bill before us today, been considered even by any committee in this Congress, or even just allowed to be amended on the floor here today, we could make changes that would make this a better bill.

Nonetheless, Congress has a responsibility to pass a price gouging bill. I am pleased the Republicans have stopped stonewalling. Democrats will continue to put pressure on the Republican leadership until a real, true price gouging bill is enacted, to ensure that it contains the strongest provisions to protect the American consumer.

It has taken 8 months for Democrats to finally shame the Republican leadership into passing price gouging legislation. If the Republicans are serious about helping American people, several of my Democratic colleagues have proposals to help ease the pain at the pump. It is my hope that it will not take 8 months for the Republicans to consider these proposals as we continue to work on the issue of high gas prices.

□ 1130

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the gentlewoman from Albuquerque, New Mexico (Mrs. WILSON) manage the remainder of the majority time on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

My colleague from Michigan talks about the need to move quickly, and the truth is, I introduced a price-gouging bill in September of last year in the wake of Katrina. It was a bipartisan bill with the gentleman from Ohio (Mr. BROWN) as the lead cosponsor.

In October, we passed price-gouging legislation combined with the refinery bill in what is called the Gas Act, and it is true my colleague from Michigan did propose an alternative which I opposed because I felt as though the defi-

nitions in his bill were unclear and would invite litigation rather than solutions.

We are trying to move forward with a piece of legislation that will give real authority to the Federal Trade Commission that they do not currently have now. Twenty-three States have laws on price gouging. So we have got about close to half the States in the Nation have some form of law in price gouging, all with various provisions, definitions and so forth, but the Federal Trade Commission that is empowered at the Federal level with being the agency responsible for looking at consumers and consumer protection only has authority to look at gasoline and oil with respect to collusion. If there is collusion between two companies on setting the price of gasoline, then they have the authority to investigate, but they have no authority to investigate when it comes to unreasonable and unfair trade practices. This legislation we are offering today would give them that new authority at the Federal level.

I think this is a good piece of legislation, and I would ask my colleagues to support it.

H.R. 5253 would prohibit price gouging at any time. It is not limited to emergencies or in the wake of natural disasters. I will be very honest; the thing that caused me to introduce price-gouging legislation last September was what we all saw in the wake of Katrina: opportunists taking advantage of a terrible situation and a natural disaster to pump up the price of gasoline for people who were trying to flee for their lives. That is not right, and it is what spurred me to introduce the price-gouging legislation.

The modification in the bill that is before us today is that the price-gouging authority for the Federal Trade Commission would not require a disasters trigger, but they could look at unfair trade practices at any time, not limited to emergencies. It also covers gasoline, diesel, crude oil, home heating oil and biofuels. So it goes across a wide variety of full types.

It also sets pretty stiff criminal and civil penalties for price gouging and allows these investigations by the Federal Trade Commission as well as by the States.

Under these provisions, the Federal Trade Commission would consider public comment in defining exactly what wholesale pricing is, what retail pricing is, and it gives them some regulatory authority to come up with definitions. The truth is, we have got 23 State laws. Some of those laws are very, very different, and I think it makes some sense to allow the States and those involved to come up with a national definition that will work best for consumers in the marketplace.

The legislation we are offering today would not, however, preempt those State laws. So the States would still be able to use their State laws to address problems with price gouging in their

own jurisdictions. This would give additional authority to the Federal Trade Commission and to States that choose to use the Federal law to investigate price gouging in their own States.

It seems to me that this is one thing that we have to do. We have done it first in a larger bill, as a piece of a larger bill last October, but I think the approach we are trying to take here in the House of Representatives is to say we want America to be more energy independent, and that is going to take a long-term, balanced approach that deals with supply, demand and protecting consumers.

This is one piece of that puzzle. We will be dealing with other pieces of that puzzle as we move along, everything from coal-to-oil gasification, encouraging more hydrogen-powered cars, encouraging more E85, using ethanol in our gas tanks, so both conservation and increasing domestic supply so that America becomes more energy independent.

I encourage my colleagues to support this proposal.

Mr. Speaker, I reserve the balance of my time.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HIGGINS) who has been a real advocate on lowering some of these special tax privileges for the big oil and gas companies.

Mr. HIGGINS. Mr. Speaker, I want to thank my colleague from Michigan (Mr. STUPAK), who has been a real leader on this issue, and all of the members of the Democratic Caucus who have weighed in aggressively and substantially on this issue.

The fact of the matter is the President last week has suggested that the State attorneys general be more aggressive about enforcing anti-price-fixing or gas-gouging laws. The States and the people of America are looking for the Federal Government to provide leadership on this issue.

The fact of the matter is that high gas prices are a result of an energy policy that is disastrous. It does not do anything to promote alternative energy fuel sources. It does nothing to promote conservation, and it gives huge, huge incentives to the oil companies to continue to manipulate prices to the American citizens.

This anti-price-gouging legislation is important, but it is late. We have to learn not to react to a crisis but to influence conditions to avert a crisis. The American people are looking for leadership. This is one step, albeit a small step, toward achieving that, but we have to promote more aggressively, more effectively, policies that are substantial toward dealing with the fundamental problems here.

In the other House, there was a suggestion of a \$100 tax rebate to folks in this country, which would have required \$10 billion of additional borrowing, and basically subsidizing consumption, which does nothing to address the fundamental issues.

So I thank the gentleman for the time.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I rise in support of this measure, and I want to particularly thank the Energy and Commerce Committee, especially Mrs. WILSON, for the leadership she has provided on this important issue, and for the helpful suggestions and work by Mr. CASTLE and Mrs. JOHNSON of Connecticut and Mr. KIRK and their staffs. They helped put all this package together under the leadership of Mrs. WILSON.

This bill is far stronger than the price-gouging language the House considered last fall and could offer Americans true protection if price gouging is occurring. The bill will allow new suits under Federal law against retail and wholesale price gouging, and those suits can be brought by either the Federal Government or a State attorney general.

The penalties in the bill are significant, as they should be, and the bill allows criminal as well as civil penalties.

Finally, the bill would distribute the money from suits back to those who were harmed through State victim compensation funds.

So I think we have taken into consideration every criticism that was leveled last fall, and it has been addressed forthrightly. American consumers are demanding protection from price gouging. The President has echoed that call, and now Congress is heeding it. I urge adoption of the bill.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY), an advocate of consumers before she got to Congress, and she continues in that present capacity today as a strong advocate for consumers.

Ms. SCHAKOWSKY. Mr. Speaker, I want to thank the gentleman from Michigan for his great leadership to try and help consumers to bring the price of gasoline down.

Mr. Speaker, gasoline prices have doubled since the Bush administration took office. On Sunday, Secretary Bodman declared there was an energy crisis in this country, and the Republicans are scrambling to play catch-up.

Since last September, Speaker HASTERT has blocked action on Congressman STUPAK's bill, which would impose tough criminal penalties on oil and gas companies that engage in price gouging. Congressional Republicans have consistently voted down efforts to give the FTC new authority to prosecute companies that price gouge. Instead, Republicans passed an energy bill which the Energy Information Administration said would raise gasoline prices, and it has.

Last Tuesday, President Bush called on his administration to investigate

possible price gouging, even though the FTC was completing a report on price gouging that Congress requested last year. Then, on Friday, the President said, "I have no evidence that there's any rip-off taking place." Think back to the investigation.

Is it any wonder, Mr. President, that Americans are skeptical that you are serious about investigating your Big Oil buddies? On Friday you said, "It's the role of the FTC to assure me that my inclinations and instincts are right."

Was that an order for a rubber stamp, Mr. President? No wonder the American people are a bit skeptical, Mr. President, that your oil-dominated administration will work to protect them or, once again, to protect the oil and gas companies, but we need to begin with a serious investigation of those oil companies. I hope that you are really serious.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Speaker, I thank the gentlewoman from New Mexico for recognizing me. I also thank her for her leadership in sponsoring this very important piece of legislation, and it would be a bright day in America and in this Congress if we could spend a minute or two working on issues that will increase supplies, assure honesty in the energy world in a difficult period of time and do so with a focus on policy and good sound legislation, rather than trying to make political points, speech after speech after speech.

What we have here before us today is a good piece of legislation, and it does four critical things. First, it directs the Federal Trade Commission to define price gouging, to define what wholesale sales are and what retail sales are and to come up with rules that will implement those definitions.

It also provides for strong civil enforcement by the Federal Trade Commission and the State attorneys general for criminal enforcement.

It provides strong civil penalties. Those penalties would be three times the ill-gotten gains for the retailer, plus an amount not to exceed \$3 million per day for continuing violations.

It also provides for strong criminal penalties, and these penalties are \$150 million and/or imprisonment for not more than 2 years, and on the retail side, \$2 million and imprisonment not more than 2 years.

These are real penalties, and this will, with the proper rulemaking process, lead to a deterrent that will result, in my opinion, in energy prices reflecting true costs.

It is important to emphasize that this legislation does not upset State laws. It is enforceable by State attorneys general and, as I said a minute ago, does provide vigorous civil and criminal penalties.

There is no excuse for price gouging in energy, and with the passage of this

legislation, that will be more fully assured.

I want to thank my friend from New Mexico for her leadership in this area. I urge my colleagues to support this legislation.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS) who is a member of the Energy and Commerce Committee and has been advocating to try to get energy prices under control from refinery to gasoline.

Mr. DAVIS of Florida. Mr. Speaker, for years, many Members of this Congress have pushed for exactly this type of measure to be adopted today that would give the Federal Trade Commission, the FTC, the authority it needs to investigate price gouging.

We are living in a time in my home State of Florida and every State with record profits and record prices, and I think the only people in the United States of America who think there is nothing wrong with these prices are the executives of these oil companies.

The only good thing that has come out of the price that we are all having to pay at the pump, it has finally forced this Congress to take a necessary first step. I commend Congresswoman WILSON. This bill is meaningful. It is a good first step in setting significant fines and penalties if, in fact, there is truly an investigation and enforcement or even the threat of enforcement. This bill will give the FTC the authority to define what price gouging is and then to take action.

□ 1145

The strong arm of the Federal Government is necessary to act. This is too much power in the hands of a few companies for a single State to act against.

As Congresswoman SCHAKOWSKY pointed out, the unfortunate gratuitous remarks by the President that he does not think there is price gouging undermines our actions today. I do not know what it feels like to him and others, but it sure feels like price gouging to me when I fill up my car, and I think I can say that on behalf of the Floridians that I represent.

So this is only a first step. If this administration is not truly serious about investigating and letting these companies know there is a meaningful risk of enforcement and fines and penalties, this Congress should take further action, and we should not wait until prices go up further and profits go up further.

I would also say now is the time for the leadership in this Congress to bring up the CAFE standards as well. There are other steps we can be taking to raise fuel efficiency standards and to reduce interdependency on other countries. So I salute Congresswoman WILSON on this bill, but this has to be the first step of many in this Congress if we are truly serious as Democrats and Republicans at cracking down on price gouging.

Mrs. WILSON of New Mexico. Mr. Speaker, I thank my colleague for his

kind remarks. I would yield 3 minutes to the Subcommittee on Consumer Protection Chair from the Energy and Commerce Committee, the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, as I think most of us know after listening to this debate, the fuel prices around this country have been rising. Beginning with the summer driving season, I think particularly in Florida where we have so many tourists, we are concerned about it, and of course we know that during the time of growing economies, and China and India are consuming more and more of the world's available petroleum supplies, that puts us competitive here in the United States.

To make matters worse, nuclear ambitions in Iran, the fourth largest producer of oil, intentions in Nigeria, the 12th, have created what would be perceived to be a perfect storm, which is a precipitous rise in gasoline and other fuel prices.

Our problem back home now is how to manage those global issues so that they will have as little impact at home on the average working American who just wants to take his family on that planned vacation to Florida, let us hope, under a tight budget or maintain his delivery business without taking out additional loans just to fill up his car. I am happy that my colleague, Mrs. WILSON, is taking up this bill, H.R. 5253, the Federal Energy Price Protection Act of 2006. I commend her leadership for this.

I believe this bill deals directly and aggressively with the need to stabilize the price of fuel in an uncertain world market and ensure that greed and opportunism does not worsen those challenges by gouging the consumer at the pump. This bill for the first time allows the Federal Trade Commission, which I have jurisdiction over as chairman of the Commerce, Trade and Consumer Protection Subcommittee, at any time, my colleagues, to prosecute price gouging. This bill takes aim at those in the wholesale and retail markets for gasoline, diesel fuel, crude oil, home heating oil and biofuels who prey on their consumers for their own unjust enrichment.

The FTC is directed to define what price gouging actually is. We have had them in a hearing, and they have described it, but it is not a precise definition. Let us get a precise definition. And a very important point: This legal recourse and its enforcement provisions against gouging are always available, not just in times of natural or energy emergencies like we had in Katrina.

Mr. Speaker, this bill's hammer is triggered by consumer rip-offs, not just bureaucratic proclamations. In addition, State Attorney Generals will be empowered to bring cases under the Federal law, and those cases can lead

to extremely strong civil and criminal penalties and to multi-millions of dollars, and the possibility of a visit to the nearest correctional facility.

This is a very aggressive piece of legislation targeted at a problem that weakens this country not only in dollars but what it does to the everyday life of an American, vacations missed, budgets broken and businesses stretched thin.

Mr. Speaker, I urge my colleagues to pass H.R. 5253 and once and for all make it clear that we in Congress are serious about solving our energy challenges at home so that we can be more successful in solving them abroad. This bill will serve us and our children well.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH), who is always down here every day advocating for the American people.

Mr. KUCINICH. Mr. Speaker, this bill is called the Federal Energy Price Protection Act of 2006 because the bill will protect today's excessive gasoline prices from government intervention. This bill will prevent our government from actually doing anything to reduce the price of gasoline.

To reduce the price of gasoline, one must understand the underlying causes of excessive costs. Consider the fact that it costs only \$20 a barrel to extract oil out of the ground today, but oil companies are making \$72 a barrel. At the same time, the crude oil reserves already pumped out and in storage are at all-time highs. Therefore, crude is not constrained, and the excessive price for a barrel of oil is not based on a free market. The crude oil price is being manipulated with much speculation that recent increase in the oils futures market had played a significant role. The recent increase in profits in the refinery business correlate with the industry effort to shut down to independent refineries to constrict supply. These two factors account for 99 percent of the excessive profits.

Now, the FTC has approved the oil companies' monopolies, and they set the stage for the increased prices. This same FTC is going to define price gouging, as if they don't know what it already is? I suspect, under the FTC, the excessive profits are unlikely to be illegal unless the FTC can show manipulations occurred. Since manipulation is well disguised by the industry, the FTC will be easily able to brush aside excessive profits as nothing more than a market signal. Any definition drafted by the current FTC will also likely establish that the price of crude oil set by the world market and therefore any profits relative to that price are not price gouging. This bill will enable the Federal Government to cut off aggressive State actions by intervening and then settling with minimum penalties.

Mr. Speaker, the American people want something done now. We need a windfall profits tax, 100 percent on windfall profits. That will give the oil companies a signal that they won't forget.

Mrs. WILSON of New Mexico. Mr. Speaker, I reserve our time, and I believe I also have the right to close.

Mr. STUPAK. Mr. Speaker, may I inquire how much time we have remaining.

The SPEAKER pro tempore. The gentleman from Michigan has 8 minutes.

Mr. STUPAK. Mr. Speaker, I have no other requests for time, so let me say a few words, and then will yield back.

Mr. Speaker, the American people are quite fed up with the price gouging that is going on at the gasoline pump. They know gouging when they see it, and they are being gouged. The Federal Government has the responsibility to protect consumers from price gouging.

Congress needs to pass legislation to allow the Federal Trade Commission to prosecute price gouging. While the bill before us is not perfect, I am pleased that the Republicans have finally realized that price gouging is a serious issue and it is an issue that needs to be addressed. Our constituents are looking to Congress for relief. It is our duty to approve legislation that would provide relief to protect Americans from the increased financial hardship from gasoline price gouging rates that is currently taking place.

Mr. Speaker, just as Republicans have finally joined with us Democrats in addressing price gouging, I challenge the Republicans, I challenge the chairman of our Energy and Commerce Committee to take up other proposals we have, Mr. MARKEY's proposal, a member of the Energy and Commerce Committee, to reduce the royalties. Oil companies get to drill on Federal lands; they do not have to pay any royalties. With record profits, they should be paying increased royalties to the American people. Or Mr. HIGGINS who spoke earlier today about his piece of legislation that takes away the tax break from the oil companies that have record profits last year of \$113 billion, or in its first quarter of this year, it is approximately \$20 billion, in the first quarter, in the first 90 days, \$20 billion in profits. Why do they need tax breaks? Even the President said, as we were debating the Energy Policy Act of 2005 last year, that when oil is over \$40 a barrel, there is no need for tax breaks. But yet we continue to give tax breaks to the oil companies. So there are other proposals. Or even the proposal I have before this committee that Mr. KUCINICH spoke of, the Pump Act, to prevent unfair manipulating of prices. We know that if this Congress were to act, we could immediately bring down the price of a barrel of oil by \$20 if we take the speculation, the fear and greed out of the oil futures market.

Mr. Speaker, of the billions of dollars of oil that is traded in futures market, 75 percent is not regulated. A mere 25 percent is regulated by NYMEX, New York Mercantile Exchange. The other 75 percent is unregulated. Therefore, they use fear; they use speculation to drive up that price.

So we have legislation that would actually reduce that, and let all those who trade in the futures market when we deal with oil to bring their transactions, to bring some transparency and bring it before the Commodities Futures Trading Commission to reduce that price of oil by \$20 per barrel.

Mr. Speaker, as a Member of this House, I would urge my colleagues to vote "yes" on this legislation. It is an initial start. We can improve on it. And as this process goes through, even though we were denied hearings, even an opportunity to amend this legislation; in fact, most Members have never seen it before. It was only introduced yesterday. We would hope that as this bill moves through the entire legislative process, that the other body would at least include all energy products, like natural gas which is not included in this bill, propane which is not included in this bill. What about the market manipulation, predatory pricing, regional price differences, all the things that we know happen in this country but yet we do not address in this bill? Like I said, it is an initial good start. We are glad to see the Republican leadership finally acknowledge there is price gouging, but rest assured, the Democrats will continue to come up with bold new ideas on how to get our hands on this energy crisis we are dealing with and the skyrocketing high gasoline prices. The American people are fed up. They have a right to be. This is a good first start. I urge my colleagues to vote for this legislation.

Mr. Speaker, I yield back the balance of our time.

Mrs. WILSON of New Mexico. Mr. Speaker, I thank my colleague from Michigan for his support of this legislation. I introduced a bipartisan bill in September of 2005 about the same time that my colleague from Michigan did. Our approaches are different in some respects, but this legislation we are voting on today, a slightly different version of which was included in the October 2005 Gas Act that the House has already passed, is a good bill. It is a solid piece of legislation and deserves the support of the House.

I also recognize that this is only one piece of the puzzle. We want to give the Federal Trade Commission the authority to investigate possible price gouging. But that is not going to solve all of our energy problems. This focuses on one piece of the problem. The bill that we will consider next on the floor of the House will also look at another piece of the problem, and we are going to try to pass some further legislation that deals with tax codes, that increases domestic supply, that invests in alternative sources, things like E-85.

Since we passed the Energy Act in August and the chairman of the Energy and Commerce Committee came out to New Mexico to sign that landmark piece of legislation, there are 29 new ethanol plants that have requested permits so that we can use corn to fuel our vehicles rather than having to import oil from other countries.

Mr. Speaker, this bill includes strong penalties, in fact stronger than the ones that my colleague from Michigan has in his bill. I think maybe if we would have worked together, we could have come up with a good bill that both of our names were on. It gives us good clear definitions and says, we have got 23 States that have price-gouging laws, we need to get a clear Federal definition of price gouging, and the Federal Trade Commission will give that to us.

It also deals with every month of the year. The bill that we introduced in September, and my colleague from Michigan's bill as well, only deals with emergencies, when a disaster is declared. I think there is justification for saying the Federal Trade Commission should have authority to look at unfair trade practices, whatever time they may be.

□ 1200

Mr. STUPAK. Mr. Speaker, will the gentlewoman yield?

Mrs. WILSON of New Mexico. I yield to the gentleman from Michigan.

Mr. STUPAK. The gentlewoman is wrong on our legislation. My legislation, the FREE Act, applies to everything. It was your legislation that only dealt with national emergencies.

Mrs. WILSON of New Mexico. If I am incorrect on that, I apologize, Mr. STUPAK. It was my understanding that your bill would require a trigger.

Mr. STUPAK. If we had hearings and witnesses, we could bring out the differences between the bills, but since we have been denied it, I have to use this tactic to get the record straight on the floor.

Mrs. WILSON of New Mexico. I thank my colleague from Michigan.

This is a piece of legislation that all of us have been working on for over 8 months now, and I look forward to working with him as we move forward.

Also, this piece of legislation does not overwrite State law. In other words, those 23 States that do have some form of price-gouging legislation, that law stays in effect so that States can use the Federal law, the Federal Trade Commission can use the Federal law, or States can use their own law so that we don't preempt State law.

I think this is a good piece of legislation, a piece of legislation that will help to address the problems that every American is feeling at the pump and help to make America more energy independent. I ask my colleagues for their support, and I urge adoption of H.R. 5253.

Mr. ETHERIDGE. Mr. Speaker, I am going to vote for H.R. 5253 because I think it is a good bill and a timely bill. What took so long? Last September, Representative BART STUPAK, Representative STEPHANIE HERSETH, and I drafted H.R. 3936, the Free Act, which would impose severe penalties on oil companies, gas stations, and anyone who would collude to raise the price of gas.

But for eight months the Republican leadership of this House has sat on this legislation



and not allowed it to move forward. Only now, after gas prices have risen to new heights, do the Republicans bring up this bill and call it their own.

I urge support on H.R. 5253, but the American people deserve better leadership in this body.

Mr. BARTON of Texas. Mr. Speaker, I ask that this exchange of letters be included in the RECORD during today's debate on H.R. 5253.

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, May 3, 2006.

Hon. JOE BARTON,  
Chairman Committee on Energy and Commerce,  
Rayburn House Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN BARTON: In recognition of the desire to expedite consideration of H.R. 5253, a bill to prohibit price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil, the Committee on the Judiciary hereby waives consideration of the bill. There are a number of provisions contained in H.R. 5253 that implicate the Rule X jurisdiction of the Committee on the Judiciary. Specifically, the bill contains increases in criminal penalties under title 18 of the United States Code, which implicate the Judiciary Committee's jurisdiction under Rule X(I)(1)(7) ("criminal law enforcement").

The Committee takes this action with the understanding that by forgoing consideration of H.R. 5253, the Committee on the Judiciary does not waive any jurisdiction over subject matter contained in this or similar legislation. The Committee also reserves the right to seek appointment to any House-Senate conference on this legislation and requests your support if such a request is made. Finally, I would appreciate your including this letter in the CONGRESSIONAL RECORD during consideration of H.R. 5253 on the House floor. Thank your attention to these matters.

Sincerely,

F. JAMES SENSENBRENNER, JR.,  
Chairman.

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COM-  
MERCE,  
Washington, DC, May 3, 2006.

Hon. F. JAMES SENSENBRENNER, JR.,  
Chairman, Committee on the Judiciary, Ray-  
burn House Office Building, Washington,  
DC.

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter concerning H.R. 5253, a bill to prohibit price gouging in the sale of gasoline, diesel fuel, crude oil, and home heating oil.

I appreciate your willingness not to seek a referral on H.R. 5253. I agree that your decision to forego action on the bill will not prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or future legislation. Further, I recognize your right to request conferees on those provisions within the Committee on the Judiciary's jurisdiction should they be the subject of a House-Senate conference on this or similar legislation.

I will include our exchange of letters in the Congressional Record during consideration of the bill on the House floor.

Sincerely,

JOE BARTON,  
Chairman.

Mr. GENE GREEN of Texas. Mr. Speaker, this legislation gives the FTC explicit authority to define and prosecute price gouging by gasoline retailers and wholesale distributors.

Given the amount of anger that Americans are feeling at the gasoline pumps, we should

have enacted similar legislation in law long ago.

There are certainly some price gougers out there, especially in situations with tight supplies during emergencies, but the American people should know that this legislation will not bring relief at the pump this year.

First, the FTC will take six months to define price gouging before they can enforce the new law.

Second, when the price of oil is \$75 like it is this week, the price of gasoline is going to be high, without any price gouging by anybody.

The price of oil used to be controlled by OPEC, but most energy experts believe that stable OPEC nations are producing at near full capacity.

The two major reasons why prices are going up is because of high global demand, particularly the booming economies of China and India, and instability in producing nations.

Iraq's oil production has never recovered to pre-war levels due to the insurgency, and many believe that Iran's oil production could soon be reduced due to our tensions with that nation.

In addition to being a large oil producer, Iran sits on the Straits of Hormuz between the Persian Gulf and the Indian Ocean.

If conflict were to occur in that global oil shipping choke point, the price of oil will increase even further.

Unfortunately instability in oil producing countries is not limited to the Middle East. Nigeria, Angola, and other areas of Africa are experiencing civil wars which are limiting oil exports.

Our Administration has been engaged in a war of words with the President of Venezuela, which is one of our major oil suppliers.

Bolivia just sent the army in to occupy its oil and gas fields, some of which had been jointly explored with Spanish and U.S. oil companies under contracts approved by previous governments.

With all of these developments in oil producing nations and the surging global economy, the price of oil has gone up dramatically and the price of gasoline tracks the price of oil.

If a gas station or a gasoline distributor wants to use the background of a rising market price to engage in price-gouging, they should be stopped and punished.

The legislation by my friend BART STUPAK may be superior to this legislation in some ways, and if the House was under Democratic control we would have a more democratic process.

But this is a decent piece of legislation that gives the FTC authority to investigate price gouging, so for that reason alone we should approve it.

Mr. DINGELL. Mr. Speaker, I congratulate my colleagues on the other side of the aisle for awakening at long last to the need to pass strong anti-price gouging legislation to protect America's energy consumers.

It would have been far better if the House majority had come to this realization last fall, when Representative STUPAK offered a stronger version of the bill we are now debating. Instead, the Republicans voted down the STUPAK bill on three separate occasions in Committee and on the House floor. Apparently, the Majority has now seen the light, as this new bill borrows heavily from H.R. 3936, anti-

gouging legislation sponsored by Rep. STUPAK.

Better late than never, I suppose. But in the meantime, seven critical months have elapsed during which all manner of shenanigans may have occurred in the energy markets. Fortunately for consumers, a mild winter sheltered them from the full effects of high prices during the winter heating season, but last month gasoline prices shot up. As we approach the summer driving season, there is no relief in sight.

In a perfect world, I would support Representative STUPAK's bill over the legislation now under consideration. In fact, since last December House Republicans could have signed the discharge petition pending on the Stupak bill and passed it on the suspension calendar. That would have empowered the Federal Trade Commission to go after price gougers—or better yet—the enactment of anti-gouging authority might have deterred gasoline price gougers from taking advantage of U.S. consumers.

Nonetheless, the bill before us today is much improved from the version the Majority offered in the fall. The American energy consumer is hurting and action is needed. I will, with some misgivings, support the bill before the House.

Mrs. WILSON of New Mexico. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 5253.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. WILSON of New Mexico. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

#### REFINERY PERMIT PROCESS SCHEDULE ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5254) to set schedules for the consideration of permits for refineries.

The Clerk read as follows:

H.R. 5254

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Refinery Permit Process Schedule Act".

#### SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "applicant" means a person who is seeking a Federal refinery authorization;

(3) the term "biomass" has the meaning given that term in section 932(a)(1) of the Energy Policy Act of 2005;