



Legislative Bulletin.....October 15, 2002

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H.R. 5599— Applying Guidelines for the Determination of Per-pupil Expenditure Requirements for Heavily Impacted Local Educational Agencies (Thune)

Order of Business: The bill is scheduled to be considered on Tuesday, October 15th, under a motion to suspend the rules and pass the bill. If a recorded vote is requested, it will take place on Wednesday, October 16th.

Summary: H.R. 5599 makes several technical changes to the Impact Aid program (which provides additional resources to school districts whose property tax base has been impacted by federal land ownership). The changes are as follows:

- Requires the determination for “heavily impacted status” to be based on comparable districts, rather than “a comparable district” as in current law. According to the Education and the Workforce Committee, this change would bring the law back to its intended meaning before an apparent drafting error in the last Impact Aid authorization and ensure that small school districts are fairly treated.
- Deems that the Bonesteel-Fairfax School District in South Dakota has met the requirements to be eligible for a basic support payment for heavily impacted districts for fiscal year 2003. According to the Education and the Workforce Committee, the district made an error when calculating their local funding request that caused them to be ineligible for funding.
- Requires the Department of Education to treat the Impact Aid application of the Central School District in Sequoyah County, Oklahoma as filed on time and process the application for payment if it is received within 30 days of enactment of the bill. According to the Committee, the district missed the application deadline.

Cost to Taxpayers: The bill authorizes no expenditure and, according to the Education and the Workforce Committee, will have no cost.

Does the Bill Create New Federal Programs or Rules?: The bill makes three technical corrections to the Impact Aid program.

Constitutional Authority: A committee report citing constitutional authority is not available.

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S. 1339—Persian Gulf POW/MIA War Accountability Act (Senator Campbell)

Order of Business: S. 1339 passed the Senate by unanimous consent on July 29, 2002. The House Judiciary Committee reported the bill by voice vote without amendment on October 9, 2002. Now the bill is scheduled to be considered on the House floor on Tuesday, October 15th, under a motion to suspend the rules and pass the bill. If a roll-call vote is requested, it will take place on Wednesday, October 16th, after 2:00pm.

Summary: S. 1339 would amend The Bring Them Home Alive Act of 2000 (Public Law 106-484; 114 Stat. 2195; 8 U.S.C. 1157 note) to offer asylum (refugee status in the U.S.) to any Middle Easterner (and his or her immediate family) who can personally deliver into the custody of the U.S. Government a living American Persian Gulf War POW/MIA. This offer of asylum would not cover terrorists, persecutors, people who have been convicted of a serious criminal offense, or people who present a danger to the security of the United States. The Attorney General and the Secretary of State would determine whether a Middle Easterner would be eligible for this program.

Iraq, Kuwait, and any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State) would be included among the countries to which the International Broadcasting Bureau would be required to broadcast information that promotes this refugee program.

Additional Background: Currently, The Bring Them Home Alive Act law offers asylum to Asians who deliver Americans prisoners or those missing from the Vietnam or Korean wars.

S. 1339 is designed to draw attention to Americans who may be missing from the Gulf conflict—in particular Navy Lt. Cmdr. Michael Speicher, whose plane was shot down in January 1991. At first, he was presumed dead. However, in light of reports that he might be alive and in Iraq, the Pentagon has changed his status from killed in action to missing/captured.

Cost to Taxpayers: CBO estimates that S. 1339 would authorize an additional \$20,000 a year, subject to appropriations (for additional international broadcasting). The bill also could increase the number of refugees admitted to the United States, which would increase the

administrative costs for the INS and the costs for certain federal entitlement programs. However, CBO estimates that any increased spending on these activities, which would be classified as mandatory spending, would be less than \$100,000 in any year because very few additional refugees are expected under S. 1339.

Does the Bill Create New Federal Programs or Rules?: The bill would extend an existing asylum program to cover additional refugees.

Constitutional Authority: The Judiciary Committee, in House Report 107-749, cites constitutional authority in Article I, Section 8, Clause 4 (which grants Congress the power to “establish an uniform Rule of Naturalization”).

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H.R. 2155—Sober Borders Act (Flake)

Order of Business: The bill is scheduled to be considered on Tuesday, October 15th, under a motion to suspend the rules and pass the bill. If a roll-call vote is requested, it will take place on Wednesday, October 16th, after 2:00pm.

Summary: Beginning 180 days after enactment, H.R. 2155 would make it illegal to operate a motor vehicle with alcohol or an illegal drug in the body of the driver at a land border port of entry (i.e. at any immigration checkpoint operated by the Immigration and Naturalization Service at a land border between a U.S. state and a foreign country). In other words, it would be against the law for citizens and non-citizens to drive while intoxicated from alcohol or drugs into the U.S. from Mexico or Canada or out of the U.S. to Mexico or Canada. Agents of the INS would be authorized to administer a chemical or other test of the blood, breath, or urine of the suspected drunk/drugged driver and to then arrest such driver upon failing the test. [The bill clarifies that the arrest authority would not violate state laws.]

Within 180 days of this bill’s enactment, the Attorney General would have to issue regulations authorizing an INS agent to impound the vehicles of suspected drunk/drugged drivers who refuse to submit to a chemical or other test under this legislation. Refusal to take such test and conviction under this legislation would trigger notification by the Attorney General to the U.S. state or foreign country that issued the offender’s driver’s license or in which the driver resides.

At every immigration checkpoint, the Attorney General would have to post a notice that operation of a motor vehicle with alcohol or an illegal drug in the body of the driver at such checkpoint is a federal offense.

Additional Background: For some background information from the bill’s sponsor, please visit this website: <http://www.house.gov/burton/RSC/word/Flake10.doc>

Cost to Taxpayers: CBO estimates that implementing H.R. 2155 would have no significant cost to the federal government.

Does the Bill Create New Federal Programs or Rules?: The bill would create a new federal offense and new chemical-test and arrest authority for INS agents at border checkpoints.

Constitutional Authority: The Judiciary Committee, in House Report 107-754, cites constitutional authority in Article I, Section 8, Clause 4 (which grants Congress the power to “establish a uniform Rule of Naturalization”).

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H.R. 4967—Border Commuter Student Act of 2002 (Kolbe)

Order of Business: The bill is scheduled to be considered on Tuesday, October 15th, under a motion to suspend the rules and pass the bill. If a recorded vote is requested, it will take place on Wednesday, October 16th.

Summary: H.R. 4967 establishes a new nonimmigrant class for border and commuter students. These students are described in the bill as nationals of Canada or Mexico who maintain residence in their country of nationality but commute to a U.S. institution for a full or part-time course of study. The course of study may be academic, vocational, or nonacademic.

Cost to Taxpayers: The bill authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: The bill creates a new nonimmigrant class for border commuter students.

Constitutional Authority: A committee report citing constitutional authority is not available.

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H.R. 4757—Our Lady of Peace Act (*McCarthy of New York*)

Order of Business: The bill is scheduled to be considered on Tuesday, October 15, 2002, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4757 amends the Brady Handgun Violence Prevention Act to modify current federal agency requirements and to create a new **\$1 billion** grant system to states to improve the national instant criminal background check system (NICS). The bill requires

federal agency heads to provide relevant information to the national instant criminal background check system and specifies that the Immigration and Naturalization Service (INS) shall cooperate with the system. After five years, a state that provides 95% of the information (i.e. criminal records and arrests) described in the bill shall be eligible to receive an up-to-five-year waiver from its 10% matching requirement for the National Criminal History Improvement Grants.

A person convicted of a misdemeanor crime of domestic violence is added to the current list of people disqualified from acquiring a firearm, and a definition is clarified of how one is considered "mental defective." The bill includes a provision authorizing the Attorney General (AG) to establish regulations and protocols for protecting privacy of information in the NICS and noting that a state privacy law should take precedence if there is a federal-state conflict. H.R. 4757 authorizes a yearly AG report to Congress on states' progress on automating the databases, an annual congressional report from the Director of the Bureau of Justice Statistics on how implementation of record sharing is proceeding, a study and evaluation of the NICS, and a study of best practices by states.

The bill stipulates that the FBI shall not charge a user fee (such as a tax to gun purchasers) for background checks under the NICS.

Additional Information: "Our Lady of Peace" is a title frequently used in reference to Mary, the mother of Jesus. Rep. McCarthy reportedly uses this title because of a shooting at a Catholic Church named "Our Lady of Peace."

The National Rifle Association released the following as part of a statement on H.R. 4757:

When the U.S. House of Representatives passes H.R. 4757 later today, it will be taking constructive action to protect the rights of law-abiding gun owners while attempting to prevent prohibited persons from acquiring firearms. This legislation is a step in the right direction in efforts to increase the accuracy and completeness of records in the National Instant Check System (NICS).

Without question, the key provision added to this legislation is the prohibition of the federal government imposing a "gun tax," (a stipulation advocated by gun control groups) by charging fees for gun purchases through NICS. This is an important provision the National Rifle Association worked to secure. The NRA has been working for nearly a decade to improve NICS so that it works the way Congress intended it-- instantly, without any delay or waiting period for gun purchases by law-abiding buyers.

Cost to Taxpayers: The bill authorizes **\$1.13 billion** for the creation and upgrade of state instant background check systems (\$250 million a year for each of the fiscal years 2004-2006 [\$750 million] for grants to states to establish or upgrade information and identification technologies for firearms eligibility determinations and \$125 million a year for each of the fiscal years 2004-2006 [\$375 million] for automation and transmission of arrest and conviction records to state and federal record repositories). The bill also authorizes a number of studies and reports that may increase administrative costs.

Does the Bill Create New Federal Programs or Rules?: The bill modifies current law regarding the national instant background check system and creates two new federal grant programs for upgrading state instant background systems.

Constitutional Authority: The Judiciary Committee, in House Report 107-748, cites constitutional authority in Article I, Section 8, Clause 1 (the congressional power to “provide for the common Defence and general Welfare of the United States”) and Clause 18 (the congressional power to “make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers”).

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H.R. 5590—Armed Forces Domestic Security Act (Hayes)

Order of Business: The bill is scheduled to be considered on Tuesday, October 15, 2002, under a motion to suspend the rules and pass the bill.

Summary: The bill amends current military personnel law (10 U.S.C. chapter 80) to close a legal loophole that currently does not require protective orders issued by civilian courts to be enforced on military facilities. The bill adds a new provision that would ensure that a “civilian order of protection” shall have the same force and effect on a military installation as it does outside the military installation and that requires the Secretary of Defense to prescribe regulations to carry out this modification.

Cost to Taxpayers: Though a CBO cost estimate is unavailable, nothing in the legislation suggests any significant new cost to the federal government.

Does the Bill Create New Federal Programs or Rules?: The bill modifies current military law to ensure that civilian order of protection, such as a restraining order against a domestic abuser, has the same force of law on a military base as it does outside the base.

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

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