



Legislative Bulletin.....October 8, 2002

Contents:

- **H.J.Res. 114**—Authorization for the Use of Military Force Against Iraq

Rolled Votes:

- **S. 2690**— A bill to reaffirm the reference to one Nation under God in the Pledge of Allegiance
- **H. R. 5422**—To prevent child abduction, and for other purposes
- **H.Res. 549**—Expressing appreciation for the Prime Minister of Great Britain for his loyal support and leadership in the war on terrorism and reaffirming the strong relationship between the people of the United States and Great Britain

**H.J.Res. 114—Authorization for the Use of Military Force Against Iraq
(Hastert)**

Order of Business: The resolution is scheduled to be considered on Tuesday, October 8th, subject to a structured rule permitting at least 17 hours of debate. For the amendments made in order under the rule, see the “Amendments” section below.

Summary: H.J.Res. 114 would authorize the President to use the Armed Forces “as he determines to be necessary and appropriate” to:

- “defend the national security of the United States against the continuing threat posed by Iraq; and
- “enforce all relevant United Nations Security Council resolutions regarding Iraq.”

Within 48 hours of authorizing force, the President would have to convey to Congress his determination that:

- reliance by the United States on further diplomatic or other peaceful means alone either—
 - will not adequately protect the national security of the United States against the continuing threat posed by Iraq, or
 - is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and
- acting pursuant to this joint resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001.

At least once every 60 days, the President would have to report to Congress on actions taken pursuant to the exercise of authority granted by this resolution and on the status of planning for efforts that are expected to be required after such actions are completed.

H.J.Res. 114 makes explicit that nothing in this resolution should be interpreted to supersede the War Powers Resolution (Public Law 93-148). Rather, this resolution's authorization of force is intended to constitute specific statutory authority under the War Powers Resolution. The War Powers Resolution was passed to ensure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities (or into situations where imminent involvement in hostilities is clearly indicated by the circumstances) and to the continued use of such forces in hostilities or in such situations.

H.J.Res. 114 would also encourage the President to:

- “strictly enforce through the United Nations Security Council all relevant Security Council resolutions regarding Iraq and encourages him in those efforts; and
- “obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions regarding Iraq.”

The resolution also contains six pages of findings, including the following examples:

- “Whereas in 1990 in response to Iraq’s war of aggression against and illegal occupation of Kuwait, the United States forged a coalition of nations to liberate Kuwait and its people in order to defend the national security of the United States and enforce United Nations Security Council resolutions relating to Iraq;
- “Whereas after the liberation of Kuwait in 1991, Iraq entered into a United Nations sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed, among other things, to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them, and to end its support for international terrorism;
- “Whereas in Public Law 105–235 (August 14, 1998), Congress concluded that Iraq’s continuing weapons of mass destruction programs threatened vital United States interests and international peace and security, declared Iraq to be in ‘material and unacceptable breach of its international obligations’ and urged the President ‘to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations;’
- “Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations;
- “Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

- “Whereas members of al-Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq;
- “Whereas Iraq’s demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself; and
- “Whereas it is in the national security interests of the United States to restore international peace and security to the Persian Gulf region.”

Administration Position: The language of this resolution is that which was agreed to by President Bush, Republican congressional leaders, and House Minority Leader Gephardt.

Amendments (summaries provided by Rules Committee; edits in *italics* provided by RSC staff):

Spratt Amendment in the Nature of a Substitute. *Expresses a sense of Congress that the President should persist in his efforts to obtain approval of the Security Council for any actions taken against Iraq. Encourages the President to first seek a new UN Security Council resolution demanding unconditional disarmament of weapons of mass destruction, providing for unconditional and unrestricted reentry of UN weapons inspectors, and authorizing a U.S.-led force to protect the UN inspectors. Requests that the President seek subsequent authorization from Congress to use the armed forces of the U.S. in the absence of a UN Security Council resolution sufficient to eliminate, by force if necessary, all Iraqi weapons of mass destruction, long-range ballistic missiles, and the means of producing such weapons and missiles. Encourages the President to form a multinational coalition (including Arab and Islamic countries) in the event of employing military force pursuant to a new UN resolution. Provides expedited consideration for congressional authorization in the absence of a new UN Security Council resolution. [The amendment provides the text for the straightforward authorization of military force against Iraq that could come to the House and Senate floors as a privileged, non-amendable resolution within a day of its introduction. Either body would have to immediately take up the resolution passed by the other body. Any specific rules stated for this expedited consideration would supersede the standing rules of either body.]*

In the event of an insufficient UN resolution (or none at all), the President could seek expedited congressional authorization only after certifying to Congress that he has sought a new UN resolution authorizing force, the new UN resolution is insufficient to compel Iraqi compliance with previous UN resolutions, the use of military force is likely to compel Iraqi compliance, the use of force will not impair the fight against international terrorism, and the U.S. is in the process of forming an international coalition to support and participate in the use of military force.

States that this resolution satisfies the requirements of the War Powers Resolution. Mandates reports from the President to Congress at least every 60 days. Preserves the President’s right to use military force in self-defense. (1 hour of debate)

Lee Amendment in the Nature of a Substitute. *Expresses a sense of Congress that the U.S. should work through the UN to seek to resolve the matter of ensuring that Iraq is not developing weapons of mass destruction, through mechanisms such as the resumption of weapons inspections, negotiation, enquiry, mediation, regional arrangements, and other peaceful means.*

Asserts that “the United Nations was established for the purpose of preventing war and resolving disputes between nations through peaceful means, including ‘by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements, or other peaceful means.’” Claims that “unilateral United States military action against Iraq may undermine cooperative international efforts to reduce international terrorism and to bring to justice those responsible for the attacks of September 11, 2001.” Also states that “unilateral United States military action against Iraq may also undermine United States diplomatic relations with countries throughout the Arab and Muslim world and with many other allies,” and that “a preemptive unilateral United States first strike could both set a dangerous international precedent and significantly weaken the United Nations as an institution.” (1 hour of debate)

Cost to Taxpayers: This resolution itself would not authorize any specific appropriation or direct expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The International Relations Committee, in House Report 107-721, cites constitutional authority in Article I, Section 8, Clause 18 (“necessary and proper”).

Additionally, H.J.Res. 114 cites the War Powers Resolution (Public Law 93-148) as its legal basis. The War Powers Resolution was intended to ensure the collective judgment of the federal Legislative and Executive branches in war-making decisions and to address the inherent conflict between these two branches in the Constitution on this matter.

Article II, Section 2 of the Constitution names the President as Commander-in-Chief of the Armed Forces. His powers to appoint our ambassadors, make treaties subject to Senate concurrence, and receive foreign ambassadors give him exclusive authority to conduct foreign policy. But the power given to Congress in Article I, Section 8 to declare war and to exercise civilian control of the military sets up this conflict.

Staff Contact: Paul Teller, paul.teller@mail.house.gov, (202) 226-9718

S. 2690— A bill to reaffirm the reference to one Nation under God in the Pledge of Allegiance. (Senator Tim Hutchinson)

Order of Business: The bill was considered on Monday, October 7th, under a motion to suspend the rules and pass the bill. A recorded vote will be taken today.

Summary: Contains numerous findings related to the historical intersection of government and religious expression, including the Mayflower compact in 1620, the Declaration of Independence, the Constitutional Convention, the Gettysburg Address, and numerous Supreme Court rulings upholding religious expression in government activities. Congress further finds under the bill that the decision by the 9th Circuit Court of Appeals holding that the phrase “under God” in the Pledge of Allegiance is unconstitutional is erroneous.

The bill further reaffirms (by recodifying) the wording of the Pledge of Allegiance, including the phrase “under God” and reaffirms the language of our national motto “One Nation under God.”

Cost to Taxpayers: CBO estimates that enacting this legislation would result in no cost to the federal government.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The Committee finds the authority for this legislation in Article I, section 8, clause 18 of the Constitution (make all laws necessary and proper).

Staff Contact: Neil Bradley, x6-9717

H. R. 5422—To prevent child abduction, and for other purposes (Sensenbrenner)

Order of Business: The bill was considered on Monday, October 7th, under a motion to suspend the rules and pass the bill. A recorded vote will be taken today.

Summary:

- Makes murder in the perpetration of child abuse or as part of a pattern or practice of assault or torture against children first-degree murder.
- Increases the penalties for violating sexual abuse statutes and directs the U.S. Sentencing Commission to increase the penalties for kidnapping.
- [Includes the provisions of these four other bills previously passed by the House:](#)
 - H.R. 2146 -- Two Strikes and You're Out Child Protection Act - Amends the Federal criminal code to provide for mandatory life imprisonment of a person convicted of a Federal sex offense in which a minor is the victim if the person

has a prior sex conviction in which a minor was the victim, unless a death sentence is imposed. Passed the House 382-34 on March 14, 2002 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=64>)

- H.R. 4477 -- Sex Tourism Prohibition Improvement Act of 2002 - Amends Federal criminal code provisions prohibiting traveling in interstate or foreign commerce for the purpose of engaging in an illicit sexual act with a juvenile to prohibit: (1) traveling into the United States for such purpose; (2) traveling in foreign commerce and engaging in such sexual conduct; or (3) arranging, inducing, procuring, or facilitating such travel. Passed the House 418-8 on June 26, 2002 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=259>)
 - H.R. 4679 -- Lifetime Consequences for Sex Offenders Act of 2002 - Amends the Federal criminal code to make the authorized term of supervised release after imprisonment for the offenses of sexual abuse, sexual exploitation of children, transportation for illegal sexual activity (generally), and sex trafficking of children any term of years or life. Passed the House 409-3 on June 25, 2002 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=255>)
 - H.R. 1877 -- Child Sex Crimes Wiretapping Act of 2002 - Amends the Federal criminal code to authorize the interception of wire, oral, or electronic communications in the investigation of: (1) the buying or selling of a child for sexual exploitation; (2) child pornography; (3) felony coercion and enticement to engage in prostitution or other illegal sexual activity; (4) felony transportation of minors to engage in prostitution or other illegal sexual activity (including a felony violation of sexual abuse and sexual exploitation of children provisions if the sexual activity occurred, or was intended to occur, within U.S. special maritime and territorial jurisdiction); and (5) travel with intent to engage in a sexual act with a juvenile. – Passed the House 396-11 on May 21, 2002 (<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=175>)
- Eliminates the statute of limitations for child abduction and sex crimes.
 - Prohibits pre-trial release for those who rape or kidnap children.
 - Removes the waiting period to report missing children
 - Requires each Federal, State, and local law enforcement agency to refer each reported case of a missing child under the age of 21 to the National Crime Information Center of the Department of Justice. Current law only requires the reporting of those under 18.
 - Requires the Attorney General to submit a report to Congress detailing the number of times since January 1993 that DOJ has inspected the records of any producer of pornographic material (to ensure that minors were not used in production of pornography) and to report the number of violations prosecuted as a result of those inspections.

- Increases the authorization for the annual grant to the National Center for Missing and Exploited Children (NCMEC) to \$20 million from \$10 million and extends the authorization through 2004.
- Authorizes COPS funding to assist States in enforcing a law which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply.
- Authorizes the Secret Service to provide forensic and investigative assistance regarding missing or exploited children to state or local law enforcement agencies or the NCMEC if they request assistance. (Jackson-Lee/Schiff amendment accepted in committee)
- **AMBER Alert Provisions:**
 - Requires the Attorney General to designate a DOJ officer as the national coordinator of the AMBER Alert communications network to (1) eliminate gaps in the network; (2) work with States to encourage development of additional elements; (3) work with States to ensure regional coordination; and (4) serve as the nationwide point of contact for the development of the network and regional coordination for alerts. The coordinator must notify and consult the FBI concerning each child abduction alert issued on the AMBER network.
 - The bill also establish minimum voluntary standards for the issuance of alerts and the extent of dissemination of alerts, though it specifies that the Coordinator is not to interfere with the current local or state system of voluntary coordination.
 - Authorizes \$20 million for grants to States to pay up to 50% of the costs for the development and enhancement of communications systems along highways for recovery of abducted children. The Secretary of Transportation would carry out the program.
 - Authorizes \$5 million for grants to States to pay up to 50% of the costs of activities in support of AMBER Alert communications plans, including the development of education and training programs, and law enforcement programs. The Attorney General would carry out the program.

Additional Information:

AMBER alerts are named for Amber Hagerman, a 9-year-old brutally murdered in Arlington, Texas, in 1996 and now operating in 62 jurisdictions (20 states, 42 counties and multi-county regions such as the D.C. metropolitan area).

President Bush recently announced his own plan to improve the AMBER system by ordering the Justice Department to set national standards. He said at a White House conference on Missing Exploited and Runaway Children that he was releasing \$10 million toward the effort of improving the system through a special coordinator in the Justice Department.

Washington Post Op-Ed From Sunday, September 29, 2002, "Code AMBER: The Perils of a Posse on Wheels" By Cynthia Gorney <http://www.washingtonpost.com/wp-dyn/articles/A13948-2002Sep27.html>

Cost to Taxpayers: A CBO cost estimate is unavailable but the bill authorizes at least \$65 million in spending.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates new and increases already existing penalties for crimes against children. The bill also reauthorizes the grant program for the National Center for Missing and Exploited Children and creates two new AMBER alert grant programs.

Constitutional Authority: A Judiciary Committee report citing constitutional authority is unavailable.

Staff Contact: Sheila Moloney; 202-226-9719; Sheila.Moloney@mail.house.gov

H.Res. 549—Expressing appreciation for the Prime Minister of Great Britain for his loyal support and leadership in the war on terrorism and reaffirming the strong relationship between the people of the United States and Great Britain (Graves)

Order of Business: The resolution was considered on Monday, October 7th, under a motion to suspend the rules and pass the resolution. A recorded vote will be taken today.

Summary: H.Res. 549 would resolve that the House:

- “expresses sincere appreciation for Prime Minister Tony Blair for his leadership in the war on terrorism;
- “expresses its deepest sympathy to British victims of terrorism and their families, including the 67 British citizens who were victims of the terrorist attack on September 11, 2001;
- “commends the efforts of British intelligence and defense agencies for their continued efforts in the war on terrorism; and
- “reaffirms the strong and special relationship between the people of the United States and Great Britain.”

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Staff Contact: Paul Teller, paul.teller@mail.house.gov, (202) 226-9718
