



Legislative Bulletin.....May 7, 2002

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Courthouse and Federal Building Designations:

H.R. 4486— Clarence B. Craft Post Office Designation (Boozman)

Clarence Craft passed away on March 28, 2002. He was awarded the Congressional Medal of Honor for single-handedly maintaining during WWII an attack on Hen Hill, the tactical position on which the entire Naha-Shuri-Yonaburu line of Japanese defense on Okinawa, Ryukyu Islands was hinged. The post office is located in Fayetteville, Arkansas.

Sources: http://www.cmohs.org/recipient/recent_dep_cit.htm
<http://www.nwaonline.net/pdfarchive/2002/march/31/3-31-02%20A4.pdf>

H.R. 4028— Richard Arnold U.S. State Courthouse Designation (Boozman)

Since 1992, Judge Arnold has served as chief judge of the Court of Appeals for the Eighth Circuit in St. Louis, MO. He received his LL.B. magna cum laude from Harvard Law School, where he led his class. After serving as law clerk to Justice William J. Brennan, Jr., he practiced for 13 years in Washington, D.C. and in Arkansas. He then served as legislative assistant to Sen. Dale Bumpers. According to the bill sponsor, the judge is currently on senior status and would hear cases only in St. Louis, not in the courthouse to be named after him in Little Rock, Arkansas.

Source: http://www.nyu.edu/publicaffairs/newsreleases/f_arnold_lect.shtml

H.R. 4006—Alfonse M. D’Amato U.S. Courthouse Designation Act (King)

Senator D'Amato was born on August 1, 1937 in Brooklyn, New York. He graduated from the Syracuse University School of Business Administration in 1959 and the Syracuse University Law School in 1961. He was elected to the United States Senate in 1980 and served through 1998. The courthouse is located in Central Islip, New York.

S. 378 — Paul Simon Job Corps Center Designation Act (Durbin)

Paul Simon was a U.S. senator from Illinois from 1985 to 1997.

Simon, a Democrat, was born Nov. 29, 1928, in Eugene, Oregon. He built a chain of 15 newspapers in southern and central Illinois, which he sold in 1966 to devote full time to public service and writing. Simon served two years, 1951-53, in the U.S. Army and was assigned to the Counter-Intelligence Corps as a special agent along the Iron Curtain in Europe.

He was elected to the Illinois House in 1954 and to the Illinois Senate in 1962 where he played a leading role in chartering the state's community college system. Simon was elected lieutenant governor in 1968 and was the first in the state's history to be elected to that post with a governor of another party. Simon was elected to the U.S. House of Representatives in 1974 and served Illinois' 22nd and 24th Congressional Districts for 10 years.

In 1984, Simon upset three-term incumbent Charles Percy to win election to the U.S. Senate. In 1987-88, he sought the Democratic nomination for president. In November 1994, Paul Simon announced that he would retire from the Senate when his term expired Jan. 3, 1997.

The Job Corps center is located in Chicago, Illinois.

H.R. 2911— Harvey W. Wiley Federal Building Designation (Hoyer)

Harvey Wiley was born on October 18, 1844, at Kent, Indiana. He received his bachelor's degree from Hanover College and his doctor of medicine from Indiana Medical College in 1871. He was the chief chemist at the U.S Department of Agriculture and served as the first commissioner of what would later become the Food and Drug Administration – from 1907 through 1912. He focused his knowledge of medical science on the problems of food adulteration and marshaled the attention of his fellow physicians on the necessity of legal standards to safeguard food and drugs. The development of analytical chemistry, in which his was a major role, revealed the chemical composition of foods and made possible the detection of adulteration. The building is located in College Park, Maryland.

Sources: http://www.lhc.nlm.nih.gov/M3W3/phs_history/phs_history_104.html
<http://vm.cfsan.fda.gov/~lrd/history1.html>

H. R. 3908—North American Wetlands Conservation Reauthorization Act (Hansen)

Order of Business: The bill is scheduled to be considered on Tuesday, May 7, under a motion to suspend the rules and pass the bill.

Summary:

H.R. 3908 is a 5-year reauthorization of the North American Wetlands Conservation Act (NAWCA), a program that supports wetland protection in Canada, the United States and Mexico and was not set to expire until next year. The U.S. Fish and Wildlife Service uses NAWCA funds for wetlands in North America, including matching grants, cooperative projects, and land acquisition. Under current law, NAWCA specifies that 50 to 70% of the funds available must be spent on projects within Canada and Mexico, with the remaining 30 to 50% spent on U.S. projects. H.R. 3908 reverses this allocation so U.S. projects will receive 50-75% of the funds and Mexico and Canada get the remainder.

Since Congress first authorized the program (sponsored by Senator George Mitchell (D-ME)) in 1989, the wetlands law has funded nearly 900 projects at a federal cost of approximately \$460 million. \$1.3 billion has come in the form of matching contributions from state and local governments and private partners. This has resulted in the protection, restoration, or enhancement of approximately 8.3 million acres of wetlands and associated habitat in the U.S. and Canada and over 444,000 acres in Mexico.

Cost to Taxpayers: CBO estimates that H.R. 3908 would increase discretionary spending by \$155 million over the 2003-2007 period. An additional \$120 million would be spent after 2007. The program was first authorized in 1989 at \$50 million per year for 5 years (\$250 million). H.R. 3908 will reauthorize the program for a total of \$325 million over 5 years, **or \$75 million more than the Democrat-controlled Congress' authorization.** According to Agency testimony, during fiscal years 2000 and 2001, 237 projects were funded with \$114.8 million in NAWCA funds with \$404.7 million in matching grants.

Does the Bill Create New Federal Programs or Rules?: The bill reauthorizes a program first created in 1989, increases the authorization, and modifies the current allocation so that the U.S. projects receive more U.S. funds than Mexico and Canada (unlike current law funding, which is skewed in favor of the other two countries).

Constitutional Authority: The Resources Committee (in report #107-421) finds constitutional authority under Article I, section 8 of the Constitution (Powers of Congress) but fails to cite a specific clause.

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H. R. 2818— To authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State

of Idaho to resolve an occupancy encroachment dating back to 1971 (Simpson)

Order of Business: The bill is scheduled to be considered on Tuesday, May 7, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2818 would convey approximately 10 acres in the Sand Mountain Wilderness Study Area in Idaho to the owner of the Sand Hills Resort. In exchange for the land, the Sand Hills Resort must pay the Secretary of the Interior an amount equal to the fair market value, as valued by “qualified land appraisal.”

According to *National Journal*, there has been a longstanding dispute between the federal government and the owners of a resort in the Sand Mountain Wilderness Study Area in Idaho. The land transfer will allow the Sand Hills Resort in Idaho to continue operating the bar, restaurant, dance hall and swimming pool it has been developing for years. <http://www.sand-dunes.com/>

Cost to Taxpayers: A CBO cost-estimate is unavailable, though the bill should net revenues for the federal government because the Resort will pay for the land.

According to the Congressional Research Service the federal government owns 62.5% of the land in Idaho.

Does the Bill Create New Federal Programs or Rules?: The bill transfers federally held land back to certain citizens of Idaho in exchange for the fair market value of the land.

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

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H.R. 3954 — Caribbean National Forest Wild and Scenic Rivers Act of 2002 (*Acevedo-Vila*)

Order of Business: The bill is scheduled to be considered on Tuesday, May 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3954 amends the Wild and Scenic Rivers Act to designate three rivers (Rio Mameyes, Rio de la Mina, and Rio Icacos) in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic River System. The bill would allow, subject to the Secretary’s discretion, installation and maintenance of data collection and transmission facilities, construction and maintenance of structures to allow monitoring of threatened and endangered species, and construction and maintenance of trails for research facilities.

Bush Administration Position: At an April 10, 2002, hearing before the Subcommittee on Forests and Forest Health of the Resources Committee, the Forest Service stated its support of H.R. 3954, with some technical corrections.

Cost to Taxpayers: CBO estimates an additional cost to the Forest Service of \$35,000 per year for land management.

Does the Bill Create New Federal Programs or Rules?: The bill designates three rivers as components of the National Wild and Scenic River System.

Constitutional Authority: A Resources Committee report cites Article I, Section 8 (Powers of Congress) and Article IV, Section 3, but fails to cite specific clauses.

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H.Res. 412—Expressing regret and sympathy for the families of the 4 Canadian soldiers who lost their lives on April 17, 2002, in a friendly-fire incident in southern Afghanistan (Houghton)

Order of Business: The resolution is scheduled to be considered on Tuesday, May 7, 2002, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 412 would resolve that the House:

- “praises the performance and heroism of Canadian soldiers;
- “extends its regret and sympathy to the families of the 4 Canadian soldiers who lost their lives and others who suffered injury on April 17, 2002, in a friendly-fire incident in southern Afghanistan, and to the Government and people of Canada for their loss; and
- “reaffirms the Nation's appreciation for Canada's strong support and commitment to the war against terrorism.”

The resolution affirms that since the attacks of September 11, 2001, the government and people of Canada have offered their “steadfast support” to the United States and have provided “significant military support” to the international war against terrorism, first deploying troops to Afghanistan in October 2001.

Further, the resolution notes that on January 7, 2002, the Government of Canada announced it would be sending an additional 750 troops to Afghanistan from the 3rd Battalion of the Princess Patricia's Canadian Light Infantry Battle Group to support the coalition against terrorism. Troops from this battalion were the victims of the friendly-fire accident on April 17th.

Cost to Taxpayers: The resolution would authorize no expenditure.

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

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H.R. 4560—Auction Reform Act (Tauzin)

Order of Business: The bill is scheduled to be considered on Tuesday, May 7, 2002, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4560 would delay indefinitely the two auctions of the television spectrum (the 700 megahertz band), which is managed by the federal government. The bill would also repeal the deadlines for auctioning licenses for broadcasters. The auctions, set by Congress in 1997, are currently scheduled for June 19, 2002.

The intent of the auction was to sell the 700 megahertz band (which was expected to be mostly vacant by now) to companies that would use the band for advanced wireless communications services. Since the band is still mostly occupied by television broadcasters, an auction of the spectrum now would not accomplish the intended goal.

Within a year of enactment, the Federal Communications Commission (FCC) would be required to report to Congress specifying when the FCC intends to reschedule the two auctions. The FCC would also be required to describe its progress in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

Additional Background: The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television (DTV) is completed. The auction of the 700 megahertz band was intended to happen after such transition to DTV. Since this transition has not occurred at the expected pace, the continued occupation of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that would put the spectrum to its most productive use.

The FCC's rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations has produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services.

Cost to Taxpayers: CBO estimates that enacting this bill would reduce expected proceeds from the authority to auction these frequencies. It would therefore lead to an increase in mandatory spending of \$2.8 billion in FY2003 and a net increase in mandatory spending of **\$1.4 billion** over the FY2003-2007 period. The sale of the 700 megahertz band was budgeted as an offset under the Balanced Budget Act of 1997 and the Consolidated Appropriations Act for FY2000.

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

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

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H.Con.Res. 271 — Expressing the sense of the Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote these goals (Heather Wilson)

Order of Business: The resolution is scheduled to be considered on Tuesday, May 7th, under a motion to suspend the rules and pass the bill.

Summary: The resolution includes several clauses related to health insurance coverage, including:

- The Census Bureau has estimated that “42 million Americans are without health insurance coverage, many of whom are among the most vulnerable of American citizens who can be financially devastated by serious illness, disease, or accident.”
- “Studies have shown that people with health insurance are healthier than those who are uninsured and receive care through emergency rooms or safety net health care services.”
- More than “17.3 million of the uninsured are employed, but are not offered health insurance through their employers.”
- “Studies have shown that many citizens and small businesses are unaware of the various options they have for obtaining affordable health care coverage.”
- Eligible individuals are not enrolled in public assistance programs, such as SCHIP and Medicaid, “due primarily to lack of outreach, education, and accessible enrollment processes.”

The resolution goes on to express the Sense of Congress that:

“(1) a National Importance of Health Care Coverage Month should be established to promote a multifaceted educational effort about the importance of health care coverage, and to increase awareness of the many available health care coverage options, and should include efforts to inform those eligible for public insurance programs of how to access those programs; and
(2) the President should issue a proclamation calling on the Federal Government, States, localities, citizens, and businesses of the United States to conduct appropriate programs, fairs, ceremonies, and activities to promote this educational effort.”

Cost to Taxpayers: None.

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

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H.R. 3525—Enhanced Border Security and Visa Entry Reform Act (Concur in Senate Amendment) (Sensenbrenner)

Order of Business: The bill as amended by the Senate is scheduled to be considered on Tuesday, May 7, 2002, under a motion to suspend the rules and pass the bill.

Additional Information: H.R. 3525 passed the House as a stand-alone bill by voice vote on December 19, 2001, and on May 21, 2001, as part of H.R. 1885 (245(i) Extension) by a vote of 336 to 43. The bill under consideration today is the stand-alone bill (H.R. 3525) as it passed the House, plus several Senate amendments, as indicated below.

Summary (New Senate amendments are underlined in red bold):

Funding

- Directs the Attorney General, during each of FY 2002 through 2006, to increase the number of Immigration and Naturalization (INS) investigators and inspectors by at least 200 full-time employees (for each category) over the number authorized by the USA PATRIOT ACT
- Waives INS personnel limits
- Authorizes “such sums as may be necessary” to increase INS staff
- Authorizes “such sums as may be necessary” to increase the annual rate of basic pay for certain INS staffers
- Authorizes “such sums as may be necessary” to train INS staffers on an ongoing basis
- Authorizes “such sums as may be necessary” for the State Department to implement enhanced security measures for the review of visa applicants
- Authorizes an additional \$150 million to the INS for improvements in technology and infrastructure for border security
- Allows an increase in land border fees to help offset technology costs
- Authorizes “such sums as may be necessary” for facility improvements and expansions for the INS and the State Department
- Sets machine-readable visa fees charged by the State Department and allows additional service fees to be charged. Collected fees would be credited as an offset to State Department appropriations.

Interagency Information Sharing

- Directs U.S. law enforcement and intelligence entities to share alien admissibility- and deportation-related information with the INS and the Department of State until implementation of the new information-sharing plan (described below)

- Directs the President to: (1) issue a report on admission- and deportation-related law enforcement and intelligence information needed by the INS and the State Department, and (2) develop a related information-sharing plan within one year of enactment of the USA PATRIOT ACT
- Requires such plan to provide source and privacy protections and provides criminal penalties for information misuse
- Directs the INS to fully integrate its databases and data systems
- Directs the President to develop and implement an “interoperable law enforcement and intelligence electronic data system” (with name-matching and linguistic capacity, including at least four priority languages) for visa, admissibility, or deportation determination purposes, which shall include the INS integrated system. This system would be known as “Chimera” (after a mythical, lion-headed, serpent-tailed monster).
- **Delays (up to one year) various deadlines regarding the development and implementation of the interoperable electronic data system required by this section. The waiver of federal acquisition rules for this system, as contained in the Senate-passed bill, will be struck by an enrolling resolution that the Senate will pass today. Therefore, the development of “Chimera” would be subject to federal acquisition rules.**
- Authorizes appropriations of “such sums as are necessary” for the name-matching, linguistic, and reporting activities in this section
- Directs the President to establish the Commission on Interoperable Data Sharing, which shall: (1) monitor information misuse protections under the alien screening plan; (2) provide oversight of the interoperable data sharing system; and (3) report annually to Congress
- Authorizes appropriations of “such sums as may be necessary” for the Commission

Visa Issuance

- Requires the Secretary of State, upon issuance of an alien visa, to provide the INS with an electronic version of the alien's visa file prior to the alien's U.S. entry
- Sets forth technology standards and interoperability requirements respecting the development and implementation of the integrated entry and exit data system (as required by Public Law 106-215) and related tamper-resistant, machine-readable documents containing biometric identifiers (operational by October 26, 2004)
- Requires a visa-waiver country, in order to maintain program participation, to certify by October 26, 2004, that it has a program to issue to its nationals qualifying machine-readable passports that are tamper-proof and contain biometric identifiers (**originally October 26, 2003 in the House-passed bill**)
- Authorizes appropriations of “such sums as may be necessary” to carry out these visa-issuance requirements, “including reimbursement to international and domestic standards organizations”
- Authorizes “such sums as may be necessary” for the Secretary of State to: (1) establish a Terrorist Lookout Committee at each U.S. mission; (2) provide consular staff with visa screening training; and (3) provide for the use of terrorist-related intelligence in such activities' performance

- Prohibits the admission of an alien from a country designated to be a state sponsor of international terrorism unless the Secretary has determined that such individual does not pose a risk or security threat to the United States
- Conditions participation in the visa waiver program upon a country's timely reporting to the United States of its stolen blank passports.
- Requires the INS to perform a check of lookout databases prior to permitting an alien's U.S. admission
- Directs the Secretary and the Attorney General, as appropriate, within 72 hours of notification of a lost or stolen U.S. or foreign passport, to enter such passport's identification number into the interoperable data system. Provides for similar procedures for previous lost or stolen passports and for the transition period to the new interoperable data system.
- Directs the Attorney General to ensure that refugees and aliens being granted asylum are issued work authorizations that contain fingerprint and photo identification

Admission and Inspection of Aliens

- Authorizes “such sums as may be necessary” for the President to study the feasibility of establishing a North American National Security Program (among United States, Canada, Mexico), including consideration of alien pre-clearance and pre-inspection.
- **Authorizes joint U.S.-Canada border inspection projects**
- Requires commercial aircraft or vessels arriving at, or departing from, the United States to provide immigration officers with specified passenger, other occupant, and crew manifest information
- Prohibits air carrier entry until such information has been provided
- Provides monetary and non-entry penalties for noncompliance
- Requires electronic manifest transmission beginning January 1, 2003;
- Allows the Attorney General the ability to waive the manifest requirements
- Directs the President to conduct a feasibility study regarding such provisions' extension to commercial land carriers
- Directs INS to adequately staff ports of entry (so that no passenger waits more than 45 minutes for inspection).

Foreign Students and Exchange Visitors

- Instructs the Attorney General to develop an electronic means of verifying and monitoring the foreign student and exchange visitor information program, including aspects of: (1) documentation and visa issuance, (2) U.S. admission, (3) institution notification, (4) documentation transmittal, and (5) registration and enrollment
- Requires an institution to notify the INS of the failure of a foreign student or exchange visitor to enroll within 30 days of the registration deadline
- Increases student data collection requirements
- Sets forth transitional foreign student monitoring requirements, including: (1) restrictions on visa issuance, (2) INS notification of visa issuance, (3) institution notification of U.S. entry, and (4) INS notification (by the institution) of failure to enroll

- Directs the Attorney General to provide the Secretary of State with a list of institutions approved to accept foreign students or exchange visitors
- Authorizes appropriations of “such sums as may be necessary” for the new requirements for foreign students and exchange visitors
- Provides for INS and Department of State review (**every two years**) of institutions authorized to enroll or sponsor foreign students and exchange visitors and establishes punishments for failure to comply with requirements

Miscellaneous Provisions

- Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend by one year the deadline for presentation of biometric border crossing identification cards
- Directs the Comptroller General to determine the feasibility of requiring each nonimmigrant alien to report annually his or her address and employer's address to the INS
- Directs the Secretary of State and the INS to study various approaches for encouraging or requiring Mexico, Canada, and visa waiver countries to develop an intergovernmental network of interoperable international electronic data systems
- Maintains that this bill shall not be construed to impose requirements that are inconsistent with the North American Free Trade Agreement, or to require additional documents for certain nonimmigrant emergency or in-transit-alien for whom documentary requirements are waived
- Directs the Attorney General to report annually respecting aliens who fail to appear at removal proceedings after release on their own recognizance
- Directs the Department of State to retain every nonimmigrant visa application in judicially and administratively admissible form for a period of seven years from the date of application
- Directs the appropriate authorities to study and report to Congress on several matters addressed in this bill (**--several report-requirements added by Senate amendments**)

Cost to Taxpayers: A CBO cost estimate prepared especially for RSC Chairman John Shadegg showed that H.R. 3525 would authorize appropriations of **\$264.0 million** in the first year and **\$1.211 billion** over five years. (The 245(i) provisions from H.R. 1885 would not authorize any significant expenditure.) The composite bill would not have a significant impact on mandatory spending.

Does the Bill Create New Federal Programs or Rules?: Yes, as detailed above.

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

Special Note – Vote Recommendation: Rep. Tom Tancredo is recommending a "yes" vote today on H.R. 3525. The bill, as passed by the Senate, does not contain a 245(i) extension.

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