

CONGRESSIONAL RECORD SUMMARY

Wednesday, July 17, 2002

SENATE

Measures Introduced:

S. 2739. *A bill to provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes; to the Committee on the Judiciary. "... The legislation I introduce today will ensure the integrity of our death penalty system. The Act addresses post-conviction DNA testing for defendants, provides grants to States to fund state post-conviction DNA testing programs, and creates new grant programs to train State prosecutors, defense counsel and judges to ensure that defendants receive a fair capital trial..."*

Hatch

Pages S 6947, S 6950-1

S. 2740. *An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.*

Dorgan

Page S 6947

S. 2746. A bill to establish a Federal Liaison on Homeland Security in each State, to provide coordination between the Department of Homeland Security and State and local first responders, and for other purposes; to the Committee on Governmental Affairs.

Feingold

Pages S 6947, S 6956-7

Measure Reported:

S. 2740, *making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003. (Senate Report No. 107-212)*

Pages S 6947, D 767

S. 812. Greater Access to Affordable Pharmaceuticals Act:

Pursuant to the order of July 16, 2002, **Senate agreed to the motion to proceed to consideration of S. 812,** to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, and began consideration of the bill.

Pages S 6878-S 6931, D 767

By unanimous consent, **Senate agreed to the committee reported amendment,** that the bill, as amended, be considered as original text for the purpose of further amendment, and that no points of order be considered waived by virtue of this agreement.

Pages S 6887, D 767

The following amendments were proposed and considered as follows:

Adopted:

By 69 yeas to 30 nays (Vote No. 179), **Reid (for Dorgan) Amendment No. 4300 (to Amendment No. 4299),** of a perfecting nature.

Pages S 6890-S 6909, D 767

By a unanimous vote of 99 yeas (Vote No. 180), **Cochran/Breaux Amendment No. 4301 (to Amendment No. 4299),** to protect the health and safety of Americans.

Pages S 6909-30, D 767

S. 812. Greater Access to Affordable Pharmaceuticals Act (Cont.):

Pending:

Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Pages S 6889-S 6931, D 767

During consideration of this measure today, Senate also took the following action:

By a unanimous vote of 99 yeas (Vote No. 178), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, *Senate agreed to the motion to close further debate on the motion to proceed to consideration of S. 812, listed above.*

Pages S 6883, D 767

H.R. 5011. Military Construction Appropriations:

Senate began consideration of H.R. 5011, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, *striking all after the enacting clause and inserting in lieu thereof the text of S. 2709, Senate companion measure*, taking action on an amendment proposed thereto.

Pages S 6931-4, D 767

A unanimous-consent agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, July 18, 2002, with a vote on final passage to occur at approximately 10:45 a.m.

Pages S 6965, D 767

By prior unanimous consent, upon passage of the bill, the Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate.

Pages S 6906, D 767

H.R. 3763. Corporate and Auditing Accountability, Responsibility, and Transparency Act Conferees:

Pursuant to the order of July 15, 2002, the Chair was authorized to appoint the following conferees on the part of the Senate to H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws: Senators Sarbanes, Dodd, Johnson, Reed, Leahy, Gramm, Shelby, Bennett, and Enzi.

Pages S 6898, D 768

Executive Session:

Senate agreed to the motion to proceed to Executive Session to consider the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit.

Pages S 6964, D 768

Nomination Cloture Motion Filed:

A motion was entered to close further debate on the nomination of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Friday, July 19, 2002.

Pages S 6964-5, D 768

Committee Meetings:

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation concluded oversight hearings to examine public mass transit systems, focusing on the reauthorization of certain programs within the Transportation Equity Act for the 21st Century (TEA 21), including the Job Access and Reverse Commute (JARC) program.

Page D 768

Committee on Finance: Committee held hearings to examine different strategies used to perpetuate schemes, scams, and cons regarding fuel tax fraud, and how this fraud affects the Highways, Airport, and Airway Trust Funds.

Committee on the Judiciary: *Subcommittee on the Constitution held hearings on S.J. Res. 35, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.*

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Committee Meetings For Thursday, July 18, 2002:

Special Committee on Aging: @ 9:30 a.m. To hold hearings to examine issues with respect to identity theft. SD-628.

Committee on Appropriations: @ 2:00 p.m. Business meeting to mark up **H.R. 5010**, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003; *proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003*; proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003; and a proposed resolution encouraging the Committee on Appropriations to report thirteen fiscally responsible, bipartisan appropriation bills to the Senate no later than July 31, 2002. S-128, Capitol.

Page D 773

Committee on the Judiciary: @ 10:00 a.m. Business meeting to resume markup of **H.R. 3375**, to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; and **S. 486, to reduce the risk that innocent persons may be executed; and to begin markup of S. 862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; S. 2395**, to prevent and punish counterfeiting and copyright piracy; **S. 2513**, to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence. SD-226.

Page D 774

Remarks:

Confirmation Of Lavenski Smith To The US Court Of Appeals For The Eighth Circuit.

"...I voted not to confirm Lavenski Smith to the U.S. Court of Appeals for the Eighth Circuit, which includes my State of Minnesota. While I have supported the vast majority of administration appointments that have come to the floor to date, I voted against this nominee because I am concerned about his lack of experience and qualifications, as well as about what I consider to be an excessively ideological approach to important issues, such as women's reproductive rights, in his legal work so far. [] Mr. Smith has just 7 years' experience practicing law, in which time he has gained minimal Federal experience and minimal appellate experience. He has no experience arguing cases before the Eighth Circuit, the court to which he has now been confirmed..."

Wellstone

Page S 6943

HOUSE

Bills Introduced:

H.J. Res. 106. *A joint resolution proposing an amendment to the Constitution of the United States respecting real and virtual child pornography; to the Committee on the Judiciary.*

Brown

Page H 4872

H. Res. 491. *A resolution supporting the use of fair trade certified coffee; to the Committee on Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Stark

Pages D 4872, E 1283-84

Reports Filed:

Reports were filed today as follows:

H. Res. 488, *providing for consideration of H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003 (H. Rept. 107- 585).*

H. Res. 489, *providing for consideration of H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003 (H. Rept. 107-586).*

Pages H 4871-72, D 770

H.R. 5093 - Interior Appropriations:

The House passed H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003 by a yea-and-nay vote of 377 yeas to 46 nays, Roll No. 318. The bill was also considered on July 16.

Pages H 4773-H 4838, H 4847-59, D 770

"...The Federal courts have also mandated that the government provide Indians with an historical accounting based on trust principles that apply to all Americans. The D.C. Federal District Court and a unanimous D.C. Circuit have already ruled that the government owes Indians an historical accounting of all funds from the date the funds were deposited into Federal accounts for Indians. To overturn the earlier mandate of the Congress and the Federal courts for this important act of government accountability fails the poorest Americans: Indians, who rely on money from their lands to whom the Federal Government owes a trust responsibility. This provision also raises new claims that this proposed congressional action constitutes an unconstitutional taking of Indians' property: their money..."
(Kildee, page H 4787)

H.R. 5093 - Interior Appropriations (Cont.):

Points of Order Sustained Against:

Shadegg amendment that sought to allow Regional Foresters to exempt projects involving the removal of trees from the *applicability of the citizen suit authority* contained in the Endangered Species Act on the basis that a wildfire is likely to cause harm to the forest ecosystem and destroy human life and dwellings.

Pages H 4849-50, D 771

H.R. 3763 - Company Accounting Reform and Investor Protection Act:

The House disagreed to the Senate amendment to H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws and agreed to a conference. Appointed as conferees: From the Committee on Financial Services, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Chairman Oxley and Representatives Baker, Royce, Ney, Kelly, Cox, LaFalce, Frank, Kanjorski, and Waters. Provided that Representative Shows is appointed in lieu of Representative Waters for consideration of section 11 of the House bill and section 305 of the Senate amendment, and modifications committed to conference.

Pages H 4838-47, D 771

"...There are certain provisions within the Senate-passed bill that the House should recede to. It is basically the Sarbanes-Leahy bill, and the ranking member of the House Committee on the Judiciary has focused in on the Leahy provisions, particularly section 802, dealing with the criminal penalties for the altering of documents; section 805, mandating a review of the Federal sentencing guidelines; section 806, creating a private cause of action for whistleblowers if they are in any way discriminated against, a civil cause of action; and very, very importantly, a statute of limitations, because the statute of limitations issue that we are talking about was not dealt with by this Congress. The statements that we did were erroneous. We need to deal with that because, unfortunately, by the time we discovered the wrongdoing that took place in the Enron case, in the Global Crossing case, in the WorldCom case, et cetera, the private cause of action may have seen the statute of limitations expire..." (LaFalce, page 4839)

Appointed as conferees from the Committee on the Judiciary, for consideration of section 105 and titles 8 and 9 of the Senate amendment, and modifications committed to conference: Chairman Sensenbrenner and Representatives Smith of Texas and Conyers.

Pages H 4847, D 771

Rejected the Conyers motion to instruct conferees to recede from disagreement with the Senate positions relating to document retention, extension of the statute of limitations, whistleblower protection, and sentencing enhancements by a yea-and-nay vote of 207 yeas to 218 nays, Roll No. 313.

Pages H 4838-47, D 771

Committee Meetings:

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations held a hearing on **"Government Travel and Purchase Card Programs at the Department of the Army."**

Committee on the Judiciary: *Ordered reported the following measures: S. 487, Technology, Education, and Copyright Harmonization Act of 2001; H.R. 3951, amended, Financial Services Regulatory Relief Act of 2002; and H.R. 4965, Partial-Birth Abortion Ban Act of 2002.*

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Committee Meetings (Cont.):

Committee on Rules: *Granted, by a vote of 9 to 1, an open rule on H.R. 5120, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003*, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides that the bill shall be considered for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule provides that the amendment printed in the Rules Committee report accompanying the resolution may be offered only at the appropriate point in the reading of the bill, shall be considered as read, and shall not be subject to amendment. The rule provides that the Chairman of the Committee of the Whole shall accord priority in recognition to Representative Goss of Florida or his designee to offer the amendment printed in the report. The rule waives all points of order against the amendment printed in the report. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. On July 16, testimony was heard from Representatives Istook, Flake, Hoyer, and DeLauro.

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Committee on Rules: *Granted, by voice vote, a structured rule on H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003*, providing one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule provides that the bill shall be considered as read through page 61, line 16. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule provides that where points of order are waived against part of a paragraph, points of order against a provision in another part of that paragraph may be made only against that provision and not against the entire paragraph. The rule provides that no amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution and except pro forma amendments offered at any time by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate. The rule provides that the amendment printed in the report may be offered only by a member specified in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. Finally, the rule provides one motion to recommit with or without instructions.

Pages D 772-73

Committee on Standards of Official Conduct: Adjudicatory Subcommittee continued hearings in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. Testimony was heard from Representative Traficant. The Subcommittee denied all of Representative Traficant's motions to dismiss the charges against him. The summation of charges against Representative Traficant were presented to the Subcommittee by Paul Lewis, a Counsel to the Committee on Standards of Official Conduct. Representative Traficant was heard in his defense to rebut the charges against him. Subcommittee will meet tomorrow.

Select Committee on Homeland Security: Concluded hearings on H.R. 5005, Homeland Security Act of 2002.

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Committee Meetings for Thursday, July 18, 2002:

Committee on the Judiciary: @ 10:00 a.m. Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "*The U.S. Patent and Trademark Office: Fee Schedule Adjustment and Agency Reform.*" 2141 Rayburn.

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Committee on Standards of Official Conduct: @ 10:00 a.m. Adjudicatory Subcommittee, to continue in the Matter of Representative James A. Traficant, Jr., to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. 2237 Rayburn.

Conference - Meeting of Conferees on H.R. 4775: @ 10:00 a.m. *Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002. Room to be announced.*

Page D 775

Remarks:

Corporate Fraud Accountability Act.

*"...This bill will undoubtedly strengthen existing laws that will criminalize obstruction of justice such as document shredding, and provide prosecutors with the necessary tools to prosecute such actions, and create a new 'Securities Fraud' section. It will also increase penalties for mail and wire fraud. **The U.S. sentencing commission will then have the authority to change guidelines to reflect the grave nature of pension, securities and accounting fraud crimes...**"*

Gilman

Page E 1279

Introduction of a House Resolution Urging the Government to Purchase Fair Trade Certified Coffee. [See H. Res. 491 above.]

"... The Resolution we are introducing today recommends that Congress, the Judicial Branch and the Executive Branch exclusively purchase fair trade coffee for all of their offices and events. It sends an important message about the willingness of our Federal Government to aid farmers in other countries by supporting family farms and in turn promoting better labor practices world-wide..."

Stark

Pages E 1283-84

President's Executive Order Granting Citizenship to U.S. Servicemen on Active Duty.

Hastings

Pages E 1284-85

Partial Birth Abortion Act.

Pence

Page H 4860

Next SENATE MEETING: Thursday, 9:30 a.m., July 18, 2002.

Next HOUSE MEETING: Thursday, 10:00 a.m., July 18, 2002.

OLA: S. Schwarz, A. Santos