

CONGRESSIONAL RECORD SUMMARY

Wednesday, October 16, 2002

SENATE

Measures Introduced:

S. 3116. *A bill to permanently eliminate a procedure under which the Bureau of Alcohol, Tobacco, and Firearms can waive prohibitions on the possession of firearms and explosives by convicted felons, drug offenders, and other disqualified individuals; to the Committee on the Judiciary.*

"...I rise today to introduce important gun control legislation that would shut down permanently the guns for felons program. [] Today the Supreme Court is hearing arguments in a case that could jeopardize our efforts to ensure that convicted felons do not have access to guns by possibly giving Federal judges the power to rearm those felons regardless of the Congressional funding ban. I have been active in pushing for the funding ban, and it certainly was not my intention, nor do I believe it was anyone else's intention, to give judges power to unilaterally give felons their firearm privileges back. It is hard enough for ATF, after conducting an intensive investigation, to make judgments about an individual felon; for a court to do it on its own is completely inappropriate. To put it simply, courts will lack the resources to make an informed judgment in this regard. In any case, Congress' intent, and the appropriate rule, is that felons should be prohibited from owning guns period. Enacting my legislation will eliminate the guns for felons program permanently and prevent the need for Congress to revisit this issue every year..."

Corzine

Pages S 10571, S 10573-4

S. 3118. *A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.*

Ensign

Pages S 10571, S 10575

S. 3120. *A bill to impose restrictions on the ability of officers and employees of the United States to enter into contracts with corporations or partnerships that move outside the United States while retaining substantially the same ownership; to the Committee on Governmental Affairs.*

Grassley

Pages S 10571, S 10576-8

Measures Reported:

S. 486, *to reduce the risk that innocent persons may be executed, with an amendment in the nature of a substitute. (Senate Report No. 107-315)*

S. 630, *to prohibit senders of unsolicited commercial electronic mail from disguising the source of their messages, to give consumers the choice to cease receiving a sender's unsolicited commercial electronic mail messages, with an amendment in the nature of a substitute. (Senate Report No. 107-318)*

S. 2644, *to amend chapter 35 of title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements, with an amendment in the nature of a substitute.*

Pages S 10570, D 1091

Measures Passed:

Reporting of Appropriation Bills: Senate agreed to S. Res. 304, encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002, after agreeing to the following amendment proposed thereto:

Pages S 10527-31, S 10553, D 1091

Conrad Modified Amendment No. 4886, in the nature of a substitute.

Pages S 10528-31, S 10553, D 1091

Measures Passed (Cont.):

Continuing Appropriations: Senate passed H.J. Res. 123, making further continuing appropriations for the fiscal year 2003, clearing the measure for the President.

Pages S 10557-9, S 10593, D 1091

See Page S 10558-9: Homeland Security Impacts Of Long-Term CR.

GSA Construction--No new starts for any GSA line-item construction (\$630 million); would delay \$300 million for 11 courthouse construction projects, \$30 million for 6 border station construction projects, and \$300 million for 5 other construction projects, including funds for consolidating Food and Drug Administration facilities, a major Census building, and the US mission to the UN in New York. Projects would become more expensive due to inflation.

Consumer Product Protection Act: Senate passed H.R. 2621, to amend title 18, United States Code, with respect to consumer product protection, after agreeing to the following amendment proposed thereto:

Pages S 10593-4, D 1091

Reid (for Kohl) Amendment No. 4888, in the nature of a substitute.

Pages S 10594, D 1091

Border Commuter Student Act: Senate passed H.R. 4967, to establish new nonimmigrant classes for border commuter students, clearing the measure for the President.

Pages S 10598, D 1091

Senate Legal Representation: Senate agreed to S. Res. 344, to authorize representation by the Senate Legal Counsel in *Manshardt v Federal Judicial Qualifications Committee, et al.*

"...Mr. President, an unsuccessful applicant for U.S. Attorney in Los Angeles has commenced a civil action in Federal court in California against Senator Feinstein, Senator Boxer, a prominent Republican businessman and political leader in California, and a judicial screening panel set up by these defendants, to challenge the use of this screening panel to identify potential nominees for Federal District Court judgeships in California. Specifically, the plaintiff alleges that the use of informal screening panels to develop lists of potential judicial nominees violates the Federal Advisory Committee Act, the Government in the Sunshine Act, and the separation of powers..." (Daschle, page S 10599)

Cyber Security Research and Development Act: Committee on Commerce, Science, and Transportation was discharged from further consideration of H.R. 3394, to authorize funding for computer and network security research and development and research fellowship programs, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2182, Senate companion measure, after withdrawing the committee amendment in the nature of a substitute, and agreeing to the following amendment proposed thereto:

Pages S 10599-S 10601, D 1092

Reid (for Wyden/Allen) Amendment No. 4890, in the nature of a substitute.

Pages S 10601, D 1092

Subsequently, S. 2182 was returned to the Senate calendar.

Pages S 10601, D 1092

H.R. 3295. Help America Vote Act--Conference Report:

By 92 yeas to 2 nays (Vote No. 238), Senate agreed to the conference report on H.R. 3295, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, clearing the measure for the President.

Pages S 10488-S 10516, D 1092

*"... To secure the rights afforded by this legislation, the Department of Justice can ask the **Federal courts** to act. In addition, States are required to establish an administrative procedure open to any person who believes a violation of any of the requirements has occurred, is occurring or will occur. States are free to add additional safeguards to protect these rights and are encouraged to provide the most effective remedy available to enforce them..." (Durbin, page S 10496)*

"... While I would have preferred that we extend the private right of action afforded private parties under NVRA, the House simply would not entertain such an enforcement provisions. Nor would they accept Federal judicial review of any adverse decision by a State administrative body. However, the state-based administrative procedure must meet basic due process requirements and afford an aggrieved party a hearing on the record if they so choose..." (Dodd, page S 10505)

H.R. 5010. Defense Appropriations--Conference Report:

*By 93 yeas to 1 nay (Vote No. 239), Senate agreed to the conference report on H.R. 5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, **clearing the measure for the President.***

Pages S 10516-24, D 1092

"... The bill will also ensure that funds are made available to establish an impartial, multidisciplinary, confidential Domestic Violence Fatality Review Team. The team would be charged with investigating every domestic fatality in the military and helping to find ways to prevent fatalities in the future. Finally, this bill would require that the Secretary report to Congress on progress in implementing the recommendations of the National Defense Task Force on Domestic Violence..." (Wellstone, page S 10521)

Unanimous Consent Request--Shedd Nomination.

Pages S 10524-6

"...Mr. President, last week, the Judiciary Committee pulled from their agenda the pending nomination of Judge Dennis Shedd to fill a seat on the 4th circuit court of appeals. That was contrary to all of the understandings as to what would happen with regard to that nominee. [] The Senate must be in executive session in order to move to discharge a nomination. That would not happen. Having said that, we feel we must make another effort. Therefore, I ask unanimous consent that the Senate proceed to executive session; that the nomination of Dennis Shedd, to be a Fourth Circuit judge, be discharged from the Judiciary Committee and placed on the calendar; further, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; that following the vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session. Finally, I ask unanimous consent that this action occur prior to the adjournment of the 107th Congress..." (Lott, pages S 10524-5)

[Continued next page]

Unanimous Consent Request–Shedd Nomination (Cont.):

“...I object. [] Let me respond briefly. It has been the practice of the Senate, since we have been in the majority, to take up all nominations that have been reported out of the committee. This nomination has yet to be reported out of the committee. There have been a number of others who have sought recognition and have asked to be heard on the Shedd nomination, which is why the nomination was tabled. I hasten to add that, on that very day--I don't recall the exact number--a significant number of judicial nominations were passed out. I believe the number was 17. So there are 17 additional judicial nominations, which brings us close now to 100 judicial confirmations, if we deal with those 17 pending now on the calendar. More than 80 have already passed and were confirmed, and we have 17 pending and could be confirmed before the end of the year. That is close to an all-time record...” (Daschle, page 10525)

“...I do want to respond to the comments about the nominations that have been confirmed and those that are still pending. There have been 131 judicial nominations submitted by President Bush during the 107th Congress--32 U.S. circuit nominees; 98 district nominees, and one U.S. Court of International Trade judge. So far, 80 of the 131 nominees have been confirmed--14 U.S. circuit court judges and 66 district court judges. But the key figure is that there are still 49 nominations pending before the Senate, without final action 49 nominations. There are still 31 nominations pending in committee. Of the 16 U.S. circuit court positions that have not been confirmed--15 are still in the committee, just one is on the floor, and that one is the nominee for the Sixth Circuit, Mr. John Rogers, who has been pending on the Executive Calendar since July. I thought there had been an agreement that we would move that nomination before the August recess. Again, that circuit court nominee has been pending on the Senate floor since July--almost 4 months ago. And there are 15 other circuit nominees in committee, some of whom have been waiting over 500 days without even a hearing...” (Lott, page S 10525)

Petitions And Memorials:

POM-357. A resolution adopted by the Legislative of Guam relative to supporting efforts for a Constitutional amendment to limit the authority of the federal court system to appropriate money through judicial orders; to the Committee on Finance.

Page S 10570

Remarks:

The Prosecutorial Remedies And Tools Against Exploitation Of Children Today (PROTECT) Act.

“... Incidentally, this same constitutional law scholar (Professor Schauer) testified in favor of the Child Pornography Prevention Act, CPPA, in 1996, but he also correctly warned us then about the precise parts of that law that would be struck down. Here is what he said this time around:
[W]hether it is open to academic or congressional criticism, Justice Kennedy's opinion for a 7-2 Court still represents the definitive and authoritative interpretation of the First Amendment in the child pornography context, and thus represents the law. Legislation inconsistent with Free Speech Coalition would not only be inconsistent with current constitutional law, therefore, but would also represent a tactical mistake in an attempt to combat the horror of child pornography. As the six year course of litigation under the previous Act so well demonstrates, constitutionally suspect legislation under existing Supreme Court interpretations of the First Amendment, whatever we may think of the wisdom and accuracy of those interpretations, puts the process of prosecuting the creators of child pornography on hold while the appellate courts proceed at their own slow pace'...”

Leahy

Pages S 10487-8

Remarks (Cont.):

Bankruptcy Conference Report.

"...I would like to inform my colleagues that I have requested to be notified of any unanimous consent agreement before the Senate proceeds to the consideration of S. 3074 or any other legislation creating new bankruptcy judgeships. I believe that these changes should be enacted as part of the comprehensive bankruptcy reform conference report. Majority Leader Daschle has indicated that there will be a lame duck session, and he has indicated that the bankruptcy conference report will be taken up and passed. So I urge my colleagues in the House and Senate to pass the comprehensive bankruptcy reform conference report..."

Grassley

Page S 10559

HOUSE

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

Reports Filed:

Reports were filed today as follows:

Supplemental report on H.R. 3215, to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling (H. Rept. 107-591 Pt. 2).

Page D 1094, (See next issue.)

Suspensions:

The House agreed to suspend the rules and pass the following measures:

H.R. 2155, Sober Borders Act. Debated on Oct. 15, **to amend title 18, United States Code**, to make it illegal to operate a motor vehicle with a drug or alcohol in the body of the driver at a land border port of entry (agreed to by a 2/3 yeas-and-nays vote of 296 yeas to 94 nays, Roll No. 465);

Pages H 7948-49, D 1094

H.J. Res. 123 - Making Further Continuing Appropriations:

The House passed H.J. Res. 123, making further continuing appropriations for the fiscal year 2003 by a recorded vote of 228 yeas to 172 noes, Roll No. 470.

Page D 1094, (See next issue.)

Rejected the Obey motion to recommit the joint resolution to the committee on appropriations with instructions to report it back to the House forthwith with an amendment that strikes "November 22, 2002" and inserts "October 21, 2002" by a yeas-and-nays vote of 194 yeas to 210 nays, Roll No. 469.

Page D 1094, (See next issue.)

H. Res. 585, the rule that provided for consideration of the joint resolution was agreed to by a recorded vote of 206 yeas to 193 noes, Roll No. 468. Agreed to order the previous question by a yeas-and-nays vote of 209 yeas to 193 nays, Roll No. 467. **Pursuant to the rule, House Resolutions 550, 551, and 577 were laid on the table.**

Pages H 7950, D 1094, (Continued next issue)

Combined Consideration of Measures:

The Chair entertained the following combined request under the Speaker's guidelines as recorded on page 712 of the House rules and manual with assurances that it had been cleared by the bipartisan floor and leadership of all respective committees. The Majority Leader asked unanimous consent and it was subsequently agreed to that the House that it:

1. Be considered to have discharged from committee and passed: **S. 1270, to designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the "Wayne Lyman Morse United States Courthouse"--clearing the measure for the President; H.R. 5640, to amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged;**

Page D 1095, (See next issue.)

7. That the committees being discharged be printed in the Record, the texts of each measure and any amendment thereto be considered as read and printed in the Record, and that motions to reconsider each of these actions be laid upon the table.

Page D 1095, (See next issue.)

H.R. 5596 - Exemption for Certain Political Committees from Notification Requirements:

The House passed H.R. 5596, to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law.

Page D 1096, (See next issue.)

Supplemental Report:

The Committee on the Judiciary received permission to file a supplemental report on H.R. 3215, to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling.

Page D 1096, (See next issue.)

Committee Meetings:

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on "*The United States and Canada Safe Third Country Agreement.*"

Page D 1096

Committee Meetings for Thursday, October 17, 2002:

Committee on Energy and Commerce: @ 9:00 a.m. Subcommittee on Oversight and Investigations hearing titled "*Securing America: The Federal Government's Response to Nuclear Terrorism at Our Nation's Ports and Borders.*" 2123 Rayburn.

Committee on the Judiciary: @ 2:00 p.m. Subcommittee on Immigration, Border Security, and Claims, oversight hearing on "*Use of DOJ Funds by State and Local Correctional Facilities to Assist the INS in Identifying and Deporting Criminal Aliens on an Expedited Basis.*" 2237 Rayburn.

Next SENATE MEETING: Thursday, 11:00 a.m., October 17, 2002.

Next HOUSE MEETING: Thursday, 10:00 a.m., October 17, 2002.

OLA: S. Schwarz, A. Santos