



Legislative Bulletin.....October 2, 2001

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H.R. 169—Notification and Federal Employee Anti-discrimination and Retaliation Act of 2001 (Sensenbrenner)

Order of Business: The bill is scheduled to be considered under a motion to suspend the rules on Tuesday, October 2nd.

Summary: H.R. 169 would require that any payment to any current or former federal employee or applicant in connection with certain anti-discrimination and whistle-blower protection proceedings come from a fund established for such payments out of operating expenses of the agency to which the discriminatory conduct is attributable. **In other words, federal agencies would become financially and otherwise accountable for violations of anti-discrimination and whistleblower protection laws.**

Each federal agency would be required to submit an annual report to the Speaker of the House, the President pro tempore of the Senate, the Equal Employment Opportunity Commission (EEOC), and the Attorney General providing detailed information concerning anti-discrimination and whistle-blower cases.

The President would be required to issue rules to carry out this title and mandate an executive branch study to determine the best practices for federal agency disciplinary actions against

such employees. The General Accounting Office would be required to report on the effects of eliminating the requirement that federal employees exhaust administrative remedies before filing complaints with the EEOC.

The bill would direct each federal agency to post on its website certain statistical data relating to equal employment opportunity complaints filed by federal employees with the agency.

Additional Background: Under current law, court-ordered monetary settlements in favor of employees who sue federal agencies in discrimination or reprisal complaints are paid out of the judgment fund of the Treasury.

Cost to Taxpayers: According to CBO, implementing H.R. 169 would cost up to \$5 million each year, subject to appropriations.

Does the Bill Create New Federal Programs or Rules?: Yes, it would create a new annual report from all federal agencies, new executive branch studies, and a new financial system for paying fines.

Constitutional Authority: The Judiciary Committee (in House Report 107-101) cites constitutional authority in Article I, Section 8, but fails to cite a specific clause.

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H.J.Res. 42—Memorializing fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland (Castle)

Order of Business: The resolution is scheduled to be considered under a motion to suspend the rules on Tuesday, October 2nd.

Summary: The resolution would express the sense of the Congress that each year, the American flags on all federal office buildings be lowered to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland, on a Sunday in October.

Cost to Taxpayers: None.

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.Res. ____—Congratulating Cal Ripken (Ehrlich)

Order of Business: The resolution is scheduled to be considered under a motion to suspend the rules on Tuesday, October 2nd.

Summary: H.Res. ____ would congratulate Baltimore Orioles player, Cal Ripken, on the announcement of his retirement from baseball, honor him for his extraordinary career, and thank him for his contributions to baseball and the nation.

Cost to Taxpayers: None.

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.R. 2385—Virgin River Dinosaur Footprint Preserve Act (Hansen)

Order of Business: The bill is scheduled to be considered under a motion to suspend the rules on Tuesday, October 2nd.

Summary: H.R. 2385 would authorize the Secretary of the Interior to award a grant (capped at \$500,000) to St. George, Utah, for the purchase of 10 acres of land of the privately owned Proposed Virgin River Dinosaur Footprint Preserve. St. George would have to:

- 1) enter into a cooperative agreement with the federal government for the management of the property;
- 2) use the property to preserve the paleontological resources there;
- 3) allow appropriate scientific research on the property; and
- 4) give the public opportunities for educational activities on the land.

Under the cooperative agreement, the federal government would be authorized to provide technical and financial assistance to St. George, provided that such financial assistance does not total more than \$500,000 and that any such grant is matched by St. George with non-federal (including in-kind) contributions.

If the property were not used for said purposes, the property would revert to the United States. Any transfer of the property by St. George would have to include the same conditions for land use as were given St. George by the federal government.

Additional Background: According to the Resources Committee, in February of 2000, dinosaur tracks, tail-draggings, and skin imprints of unprecedented quality dating as far back as the Jurassic Period (208 to 146 million years ago) were discovered on private land near St.

George, Utah, during excavation activities. These paleontological resources are reportedly some of the most clear and complete imprints ever found.

Since the discovery, according to the Committee, over 140,000 people have visited the site. While St. George and private land-owners have worked together to allow access to, yet preserve, the paleontological finds, difficulties in accommodating the large crowds have arisen.

Cost to Taxpayers: CBO estimates that implementing H.R. 2385 would cost **\$1 million** during FY2002, assuming appropriation of the specified amounts, and that providing additional financial or technical assistance would not significantly increase the Department of the Interior's costs in any given year.

Does the Bill Create New Federal Programs or Rules?: Yes, it would authorize a new land-management agreement with a city (allowing for technical and financial assistance) and prescribe conditions for land-use.

Constitutional Authority: The Resources Committee (in House Report 107-215) cites constitutional authority in Article I, Section 8 (powers of Congress); and Article IV, Section 3 (congressional powers regarding new lands, territories, and states); but fails to cite a specific clause in either case.

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H.R. 1456—To expand the boundary of the Booker T. Washington National Monument, and for other purposes. (Goode)

Order of Business: The bill is scheduled to be considered under a motion to suspend the rules on Tuesday, October 2nd.

Summary: H.R. 1456 would authorize the Secretary of the Interior to acquire “from willing owners” up to 15 acres of additional, surrounding lands for the Booker T. Washington National Monument in Franklin County, Virginia. The additional lands, which will be administered by the Secretary as part of the original Monument lands, can be acquired by donation, by purchase with donated or appropriated funds, or by land exchange. Most of the surrounding farmlands are currently up for sale, according to the Resources Committee.

Additional Background: Born into slavery on a tobacco farm, Booker T. Washington became a renowned educator in the mid-to-late 1800s. Designated in April 1956, the Monument preserves the birthplace and childhood home of Mr. Washington. For more information on the Monument, go to this website: <http://www.nps.gov/bowa/>

Cost to Taxpayers: CBO and the National Park Service estimate that acquiring the lands will cost a total of **\$410,000** in FY2002 and FY2003. There would be no significant additional cost to develop or manage the new lands.

Does the Bill Create New Federal Programs or Rules?: The bill would provide for the expansion of an existing National Monument.

Constitutional Authority: The Resources Committee (in House Report 107-223) cites constitutional authority in Article I, Section 8 (powers of Congress) but fails to cite a specific clause.

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H.R. 2666 – Vocational and Technical Entrepreneurship Development Act of 2001 (Brady (PA))

Order of Business: The bill will be considered under suspension of the rules on Tuesday, October 2, 2001.

Summary: H.R. 2666 requires the Small Business Administration to establish a new grant program to make grants of at least \$200,000 to small business development centers (SBDCs) to provide technical assistance to **high schools** or postsecondary vocational or technical schools for the “**development and implementation of curricula** designed to promote vocational and technical entrepreneurship” (emphasis added). SBDCs are jointly funded by the private sector, schools, and federal, state, and local governments to provide management assistance to current and prospective small business owners.

HR 2666 directs the SBA to select “an association” to act as a clearinghouse of information and expertise. [The Association of Small Business Development Centers testified before the subcommittee, and it appears this group would qualify as the clearinghouse: <http://www.asbdc-us.org/about.html>]

The bill also requires the SBA to submit an evaluation of this program by March 31, 2004

Cost to Taxpayers: CBO estimates that H.R. 2666 would authorize the appropriation of \$7 million a year during the FY2002-2004 period to fund the new program. CBO estimates that implementing the bill would cost \$20 million over the FY2002-2006 period, subject to appropriation.

Constitutional Authority: In House Rpt. 107-212, the Small Business Committee finds authority for this legislation under Article I, Section 8, Clause 18 of the Constitution (all laws necessary and proper).

Does the Bill Create New Federal Programs or Rules: YES, the bill creates a new SBA program.

Possible Concerns: In the past some Members have expressed concern about high schools focusing on job training to the detriment of academics and with federal involvement in curricula development. This bill creates a federal funding stream for the curriculum development in high schools, in addition to vocational schools. The bill does not specify that the curriculum is to be for students in designated vocational education tracks or classes.

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H.Res. 198 – Congratulating Tony Gwynn (Davis, Susan (CA))

Order of Business: The bill will be considered under suspension of the rules on Tuesday, October 2, 2001.

Summary: H.Res.198 congratulates Tony Gwynn on the announcement of his retirement from the San Diego Padres and from Major League Baseball.

The resolution resolves:

- “That the House of Representatives congratulates Tony Gwynn on the announcement of his retirement, honors him for an outstanding career, and thanks him for his contributions to baseball and to his community.”

Cost to Taxpayers: None.

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

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

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H.R. 1161 – To authorize the American Friends of the Czech Republic to establish a memorial to honor Tomas G. Masaryk in the District of Columbia (Gilman)

Order of Business: The bill will be considered under suspension of the rules on Tuesday, October 2, 2001.

Summary: The bill authorizes the Government of the Czech Republic to establish a memorial to honor Tomas G. Masaryk on federal land in D.C. According to the committee report: Tomas Garrigue Masaryk (1850-1937) was the first president of Czechoslovakia. He taught at major universities in the United States and married a native of Brooklyn, New York. President Masaryk's close personal relationship with many notable Americans, including President Woodrow Wilson, ultimately led to the recognition by the United States of a free Czechoslovakia in 1918.

As reported, the bill does not mandate a specific location for the memorial apart from federal land in the District of Columbia, although the introduced version designated federal land across the street from the International Monetary Fund and the World Bank.

Cost to Taxpayers: The bill states that the US Government “shall not pay any expense for the establishment of the memorial or its maintenance” and that it shall be in accordance with the Commemorative Works Act (CWA). According to CBO, the CWA requires that any entity that receives a permit to build a memorial in the District must deposit an amount equal to 10 percent of the estimated construction cost in the U.S. Treasury—costs that CBO estimates to be negligible. CBO estimates that enacting H.R. 1161 would have no significant impact on the federal budget.

Constitutional Authority: House Rpt. 107-221 cites Article I, section 8 of the Constitution of the United States (Powers of Congress), but fails to reference a specific Constitutional Authority.

Does the Bill Create New Federal Programs or Rules: The bill grants authority to a foreign government to use US federal lands.

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H.R. 1384 –To amend the National Trails System Act to designate the Navajo Long Walk to Bosque Redondo as a national historic trail (Udall (NM))

Order of Business: The bill will be considered under suspension of the rules on Tuesday, October 2, 2001.

Summary: H.R. 1384 would amend the National Trails System Act to add the Long Walk Trail in New Mexico and Arizona to the list of routes to be studied for possible inclusion in the National Trails System, and would give the Secretary of the Interior three years to study it.

Cost to Taxpayers: According to CBO, based on information provided by the National Park Service, CBO estimates that it would cost the federal government about \$400,000 over the next three years to conduct the required study, subject to appropriation.

The 106th Congress (Title II of P.L. 106-511) **authorized \$1.5 million for FY00-02 funding from the Defense Department to match state funds for the establishment and development of a Bosque Redondo memorial and visitor center.** The legislation also authorizes the National Park Service to work with the Navajo Nation and the Mescalero Tribe to develop a symposium on the Long Walk and a curriculum for New Mexico schools.

RSC Note: Last year's cost estimates of the maintenance backlog for federally owned properties, including the national park system, ranged anywhere from \$8 to \$15 billion.

Constitutional Authority: House Rpt. 107-222 cites Article I, section 8 of the Constitution of the United States (Powers of Congress), but fails to reference a specific Constitutional Authority.

Does the Bill Create New Federal Programs or Rules: YES, the bill authorizes a new study and may result in additional lands being added to the National Trails System.

Administration Position: "While the Department could support H. R. 1384 in concept, if it were amended to authorize a suitability and feasibility study [Note: it has been so amended], **we will not consider requesting funding for the study in this or the next fiscal year.** Furthermore, in order to better plan for the future of our National Parks, we believe that such studies should carefully examine the full life cycle operation and maintenance costs that would result from each alternative considered. **We caution that our support of H. R. 1384, if amended to authorize a study, does not mean that the Department, in the future, will support designations that may be recommended by the study.**" — John Parsons, Department of Interior, subcommittee testimony May 8, 2001.

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H.R. 203 — To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes (Sweeney)

Order of Business: The bill will be considered under suspension of the rules on Tuesday, October 2, 2001.

Summary: H.R. 203 would require the Small Business Administration (SBA) to establish a pilot program for small business development centers (SBDCs) to counsel small business owners on compliance with federal and state regulations. SBDCs are cooperative efforts of the private sector, schools, and federal, state, and local governments to provide management assistance to current and prospective small business owners. Each SBA grant shall be not less than \$200,000.

The bill also requires participating SBDCs to file quarterly reports on the services provided and requires the SBA to submit an annual report to Congress. H.R. 203 includes a section stating that no SBDCs may disclose the name or address of any individual or small business receiving SBDC assistance. The two exceptions for this prohibition are 1) if ordered to do so by a court in a civil or criminal enforcement and 2) if the SBA “considers it necessary” while undertaking a financial audit of an SBDC.

Cost to Taxpayers: CBO estimates H.R. 203 would authorize \$5 million a year to fund the new program. Based on the SBA's historical spending patterns, CBO estimates that implementing the bill would cost \$23 million over the FY2002-2006 period, subject to appropriation.

Constitutional Authority: In Committee Report 107-210, the Committee finds the authority for this legislation in Article I, Section 8, clause 18 (all laws necessary and proper) of the Constitution of the United States.

Does the Bill Create New Federal Programs or Rules: YES, the bill creates a new pilot program in the SBA and establishes new annual reporting requirements for the SBA and quarterly reporting requirements for small business development centers.

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