



**Legislative Bulletin.....September 25, 2003**

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**H.Res. 377— Recommitting the Conference Report on H.R. 2115 - Flight 100-Century of Aviation Reauthorization Act to the conference committee**

**Order of Business:** The resolution is scheduled to be considered on Thursday, September 25, 2003.

**Summary:** H.Res. 377 would recommit the Conference Report on H.R. 2115, the Flight 100 Century of Aviation Reauthorization Act to the Conference Committee. Once a Conference Report is filed, as this one was on July 25, no changes can be made to the bill unless the bill is recommitted to the Conference Committee.

A provision in the Conference Report that limits the Administration's authority under current law to contract out air traffic control services, but does not prohibit all contracting out has drawn the opposition of some unions who want a complete prohibition. It is reported that because of the provision in the Conference Report there are not sufficient votes to adopt the Conference Report in either the House or Senate.

The Administration has indicated that if a complete prohibition on contracting air traffic control services is included in the final Conference Report, the President's senior advisors will recommend that he veto the bill.

The following is from the Administration's Statement of Administrative Policy:

“However, the Administration strongly opposes provisions in H.R. 2115 which would:

Restrict the Department of Transportation's ability to manage the air traffic control system by prohibiting the conversion of government-provided air traffic control functions to the private sector. Such restrictions are unnecessary and would hinder the ability of the Federal Aviation Administration (FAA) to manage the air traffic control

system. If the final legislation includes provisions that would inappropriately prohibit the conversion of FAA facilities or functions from the Federal Government to the private sector, the President's senior advisors would recommend that he veto the bill.”

For more information on this issue visit the RSC Policy Brief at:  
<http://www.house.gov/burton/RSC/AirTrafficPrivatization.pdf>

In addition, the Heritage Foundation released the following this week:  
<http://www.heritage.org/Research/SmartGrowth/wm340.cfm>

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## **H.J.Res. \_\_\_ — Continuing Resolution (Young of Florida)**

**Order of Business:** The Joint Resolution is scheduled to be considered on Thursday, September 25<sup>th</sup>, under a unanimous consent agreement.

**Summary:** (Taken From RSC Review of the Joint Resolution and Appropriations Committee Summary)

Funds ongoing activities through October 31, 2003 (except Defense, Homeland Security, and Legislative Branch), under the fiscal year 2003 terms, conditions and funding rates. Note the funding rate includes Supplementals, which would mean some accounts would be funded at an inflated rate.

Shifts \$2.2 billion in Advance Education funding included in the FY 03 Omnibus to regular FY 03 spending thus “freeing up” an additional \$2.2 billion in FY 04. This provision was included in the House-passed Labor/HHS bill and is consistent with the agreement between the Leadership, the Administration, and the RSC regarding FY 04 spending.

All authorities necessary to make entitlement (mandatory) payments continue to be extended through the month of December.

Maintains funding for imminent danger special pay and family separation allowances for the military at rates provided in the FY 2003 Supplemental Appropriations Act through the period of the CR.

Allows continuation of the following otherwise expiring programs: Overseas Private Investment Corporation; Franchise Funds; and Child Nutrition Programs.

Provides for the continued collection of maintenance fees and expedited processing fees authorized under the Federal Insecticide, Fungicide, and Rodenticide Act and continues the prohibition against registration fees.

Provides that the Superfund program continues to operate at the FY 2003 enacted level by providing additional resources for the program from general revenues.

Allows NASA to account for funds under a new account structure for the duration of the CR.

Allows the Department of Housing and Urban Development to operate certain FHA loan guarantee programs at a rate that reflects current usage.

Provides for the continuation of fee collection authorities to allow the Small Business Administration's 504 and SBIC capital access programs to continue to operate during the CR period.

Maintains the current levels of support to the Federated States of Micronesia and the Republic of the Marshall Islands; it is needed because the financial support in the existing compacts of free association which expire on September 30, 2003.

Allows the Shivwitz Indian Land and Water Settlement to be completed by the end of fiscal year 2003, as required by law.

Allows the District of Columbia to spend local funds at the budget levels in the House-passed FY 2004 D.C. Appropriations bill through the period of the CR.

Ensures that funding is available during the period of the CR to conduct administrative oversight and to pay certain Department of Transportation personnel managing surface and aviation programs, in the absence of reauthorizations for such programs.

At the Administration's request, provides legislative authorization to implement a new \$550 million Foreign Military Financing (FMF) 12-year loan to the Czech Republic for the purchase of 14 used F-16 aircraft, weapons, training and related logistics support from the United States.

Extends waiver authority for the DOD Cooperative Threat Reduction project through the period of the CR.

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## **H.R. 3161—To ratify the authority of the Federal Trade Commission to establish a do-not-call registry (Tauzin)**

**Order of Business:** The bill is scheduled to be considered on Thursday, September 25<sup>th</sup>, under a unanimous consent agreement.

**Summary:** H.R. 3161 would authorize the Federal Trade Commission (FTC) to “implement and enforce” a national do-not-call registry and would ratify the do-not-call registry provision of the Telemarketing Sales Rule that the FTC promulgated this past March.

**Additional Background:** On March 11, 2003, President Bush signed into law a bill that “establish[ed] fees sufficient to implement and enforce” the do-not-call registry (H.R. 395; Public Law 108-10). To view the House roll-call vote for H.R. 395, which passed 418-7 on February 12, 2003, go to this weblink:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=26>

To view the RSC Legislative Bulletin on H.R. 395, go to this weblink:

<http://www.house.gov/burton/RSC/Lb21203.pdf>

Further, in the Omnibus Appropriations Act for Fiscal Year 2003 (H.J.Res. 2; Public Law 108-7), Congress granted the FTC the authority to spend “offsetting collections derived from fees sufficient to implement and enforce the do-not-call provisions of the Telemarketing Sales Rule, 16 C.F.R. Part 310, promulgated under the Telephone Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.), estimated at \$18,100,000.”

Yesterday, U.S. District Judge Lee West of the Western District of Oklahoma said in a 19-page judgment that Congress granted the FTC the authority to *enforce* the do-not-call list—but not to *establish* it. Judge West said the Federal Communications Commission—not the FTC—has authority to establish a do-not-call list. To read a news story about the judgment, visit this website:

<http://www.washtimes.com/business/20030924-095334-2782r.htm>

The do-not-call list is currently scheduled to go into effect on October 1, 2003. More than 50 million consumers have thus far placed their phone numbers on the list.

<http://www.donotcall.gov/>

**Committee Action:** The bill was referred to the Committee on Energy & Commerce on September 24, 2003, but is coming directly to the House floor without committee consideration.

**Administration Position:** The FTC has expressed strong disagreement with Judge West’s ruling.

**Cost to Taxpayers:** According to CBO, the do-not-call registry would have no net effect on the federal budget since any expenditures for administering the list would be offset by the fees

collected from telemarketers. To view CBO's cost estimate for H.R. 395, go to this website: <http://www.cbo.gov/showdoc.cfm?index=4041&sequence=0>.

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

**Constitutional Authority:** Though a committee report citing constitutional authority is unavailable, Article I, Section 8, Clause 3 of the Constitution grants Congress the power to “regulate Commerce...among the several States....”

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## **Pallone Motion to Instruct Conferees on H.R. 1308—the All-American Tax Relief Act**

**Order of Business:** On Wednesday, September 24, 2003, Rep. Frank Pallone (D-NJ) notified the House of his intention to offer a motion to instruct conferees on H.R. 1308—the All-American Tax Relief Act.

**Text of Motion:** Although text of the Pallone motion was not available at press time, presumably the text of the Pallone motion is identical to the Democrat motions on this bill over the last several months, which say that:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides immediate payments to taxpayers receiving additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.
2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.
3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.
4. To the maximum extent possible within the scope of the conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of astronauts who died in the *Columbia* disaster.
5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees, and the House conferees shall file a conference report

consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

**Additional Background:** Substantively identical Democrat motions to instruct failed on numerous occasions recently:

DeLauro Motion, July 16<sup>th</sup>: 206-220

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=370>

Michaud Motion, July 17<sup>th</sup>: 202-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=390>

Bell Motion, July 18<sup>th</sup>: 188-201

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=396>

Van Hollen Motion, July 21<sup>st</sup>: 193-212

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=398>

Ross Motion, July 25<sup>th</sup>: 202-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=446>

Bishop (NY) Motion, July 25<sup>th</sup>: 206-216

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=447>

Solis Motion, July 25<sup>th</sup>: 202-221

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=449>

Cooper Motion, September 5<sup>th</sup>: 186-210

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=477>

Ruppertsberger Motion, September 10<sup>th</sup>: 206-213

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=493>

Davis (TN) Motion, September 10<sup>th</sup>: 195-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=501>

Ryan (OH) Motion, September 23<sup>rd</sup>: 199-214

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2003&rollnumber=509>

To view the RSC Legislative Bulletin on H.R. 1308, as it was considered in the House, visit this webpage: <http://www.house.gov/burton/RSC/LB61203A.pdf>

**Cost to Taxpayers:** Any motion to instruct conferees is non-binding and thus would have no effect on the cost of the underlying legislation.

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