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Senate

The Senate met at 11 a.m. and was called to order by the Honorable ALEX PADILLA, a Senator from the State of California.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, in these challenging times, give our lawmakers the courage and wisdom to keep America a beacon of freedom. Lord, strengthen our Senators, giving them a sense of Your abiding presence. May they honor Your Name in their thoughts, words, and actions. Provide them with compassion for the poor and helpless, and use them to rescue the perishing.

Bless our great land. Use us all to serve one another with humility, following Your example of sacrifice. Lord, fill us with Your hope, that we may become instruments of Your peace.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mrs. MURRAY).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 14, 2023.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable ALEX PADILLA, a Senator from the State of California, to perform the duties of the Chair.

PATTY MURRAY,
President pro tempore.

Mr. PADILLA thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gina R. Mendez-Miro, of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

MICHIGAN STATE UNIVERSITY SHOOTING

Mr. SCHUMER. Mr. President, first, on a very sad note, our hearts are with East Lansing today, the campus, the entire community. We are learning more about this terrible shooting. What happened there, on a college campus, is devastating, and it breaks the hearts of Americans everywhere.

UNIDENTIFIED FLYING OBJECTS

Mr. President, now, on the briefing that we just received, we are learning

more and more about these four objects by the hour. U.S. and Canadian forces are working to recover the objects that were shot down. In the briefing, the military and intelligence people outlined their approach to each of the four objects.

What I can say after our briefing is that our defense and intelligence Agencies are focused like a laser on gathering every piece of information about these objects to figure out exactly what is happening.

What we saw over the weekend is that if they see anything that is a threat to America or the American people, they will take appropriate action, and they made clear that Americans are in no physical harm on the ground from any of these objects.

The military and intelligence Agencies are working around the clock to come up with a comprehensive picture of what is happening, and, as they recover more evidence, the picture will be filled in, in a careful, thoughtful but decisive way. The administration is carefully evaluating, as I said, each of the four objects as they happen, and I believe they have taken the right approach on each of the four objects. We still have questions about many issues, but they are making every real effort, and the American people should have a good deal of confidence in our military and intelligence to handle our security.

JUDICIAL NOMINATIONS

Mr. President, now, on judges, today, the Senate reaches a major milestone as we confirm the 100th—100th—judicial nominee of the Biden administration. That is 100 judges who will bring balance and excellence to the Federal bench, 100 judges who have expanded the diversity and dynamism of the judiciary, 100 judges who embody the best of our justice system: experience, fairmindedness, and, most of all, fidelity to the Constitution.

Today's nominee, Judge Gina Mendez-Miro, is remarkable in her own right. Judge Mendez-Miro, nominated

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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to serve as a district judge for the District of Puerto Rico, would make history as the first openly LGBTQ member of that court. That is something to celebrate, something to be proud of, and something that shows America can, little by little, live up to its promise of opportunity for all, regardless of his or her background.

Judge Mendez-Miro is already a deeply respected member of the Puerto Rican court of appeals, and I am confident she will make an excellent district court judge.

Mr. President, whenever we reach a milestone like today's, it is as good an opportunity as any to pause and evaluate everything we have accomplished and what it means for our country. Today, because of the work done by this majority, our Federal judiciary is far more balanced, far more diverse, far more experienced than the one we had just 2 years ago, and it is something every American can be proud of. This Senate has confirmed more judges by this point in a President's term than either of the previous two administrations.

Of the 100 judges, 76 are women—76. Today, only about one-third of active Federal judges are women. So this is a sorely needed step in the right direction, redressing what has been a time-old imbalance.

Sixty-eight of these judges are people of color: 33 Black judges, 25 Black women judges, 21 from Hispanic backgrounds. We confirmed the first Muslim American Federal judge in U.S. history, and, of course—of course—we confirmed the first Black woman ever to sit on the U.S. Supreme Court: Judge Ketanji Brown Jackson.

And diversity can take many forms. Justice Jackson, for instance, is also the first public defender to ever bear the title Justice. It is no small feat to confirm the first ever Justice who knows firsthand what it is like to defend the rights of the accused.

And perhaps more than at any other point in history, our bench has more public defenders, civil rights lawyers, election lawyers—people who have understood average folks as they walk through their lives. From Myrna Perez, who directed the Brennan Center for voting rights and elections, to Holly Thomas, who led DOJ's civil rights division, to Nina Morrison, the former senior litigator of the Innocence Project, these judges are the kind of heavy hitters who, until now, rarely made it to the Federal bench.

We Democrats are proud—very proud—that we are changing that. Diversity is something we are all proud to celebrate, but it is not diversity on its own that matters here. If our democracy is to prosper in the 21st century, the American people must have confidence that our Federal courts can faithfully adhere to the principle of equal justice under law.

The more our judges reflect our Nation's vibrancy and diversity, the more effective they will be in administering

equal justice. The more Americans look at our courts and see people who look like them and come from their backgrounds and share similar experiences, the better off our judicial system will be.

Now, that does not change the obligation of judges, who have to apply the law fairly, impartially, and equally. On the contrary, I believe diversity enhances the court's ability to rule impartially. So you can bet that we will continue in this effort.

I want to thank all of my colleagues who worked so hard in the last 2 years to confirm these remarkable judges. I want to thank my Republican colleagues who worked with us as well because their support has made this milestone possible. And, of course, above all, I want to thank my colleagues on the Judiciary Committee, particularly Chairman DURBIN, for his leadership in seeing these judges through the nomination process.

And as a sign of what is to come, last week, Senator DURBIN led the Judiciary Committee to advance another 24—that is 24—new judicial nominees.

Mr. President, the Senate will keep going to confirm even more judges to the bench as quickly as we can. When we began our majority, I said judges would be one of our top priorities in this Chamber, and we have kept that promise, and we are going to continue to work in the months and years ahead to ensure our courts advance the cause of equal justice under law for every single person in this country.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I ask unanimous consent to complete my remarks prior to the scheduled rollcall votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATIONS

Mr. McCONNELL. Mr. President, today, our colleagues on the Commerce Committee will hear from someone they already know very well. Our Democratic colleagues have scheduled yet another hearing for a radical nominee they have already twice failed to get through the Senate. Now, the far left is betting the third time will be a charm.

The problem is Gigi Sohn is no more qualified to be installed on the FCC than she was back in 2021 or 2022.

The Federal Communications Commission is an important and sensitive regulatory body. It is charged with reg-

ulating a huge amount of our communications with each other as American citizens: our radio and television, our cable and satellite, our broadband internet. They are unelected people who exercise enormous power in areas that directly intersect with the American people's First Amendment rights and free speech and free expression.

The country needs our FCC Commissioners to be thoughtful, sober, non-partisan referees, not activists and ideologues who want to bend our airwaves to their agenda.

This nominee, Ms. Sohn, has spent her entire career proving she is totally—totally—unsuited to this sensitive job. She is a hardcore liberal activist who has literally said the FCC should consider revoking the broadcast licenses at news stations that she disagreed with. That is completely disqualifying and then some. This is America. We don't pull journalists and broadcasters off the air because unelected bureaucrats disagree with them.

And this only scratches the surface. She has a record of siding with criminals over law enforcement. She has deep, longstanding ties to a radical organization that opposes law enforcement's lawful access to data and information—an organization connected to, among other people, the leaker, liar, and fugitive Edward Snowden.

Among the strongest supporters of her nomination are groups who have called American cops "agents of white supremacy." The same people who want to defund the police, who oppose laws against online sex trafficking—they want this woman in this position of power. And they want it badly.

The Fraternal Order of Police wrote our colleagues Senator CRUZ and Senator CANTWELL to explain that putting Gigi Sohn on the FCC would be a disaster for law and order. They said confirming this person would "show a complete disregard for the hard-working men and women of law enforcement."

And even unrelated to her radical views, this nominee is also swamped with serious ethical questions. Seven years ago, when she was advising a past FCC Chairman, the Commission was closing in on a bipartisan deal she thought was too moderate. So she leaked nonpublic information in order to gin up outrage from the radical left, pressure the Commissioners, and tank the compromise.

In another instance, she was a board member of an organization that stole copyrighted content and illegally put it online.

Every American who watches sports on TV knows that familiar disclaimer—that you can't rebroadcast television programs without express written consent. Well, this nominee helped run an entire organization whose very mission—very mission—was violating copyright law in that sort of way.

And it gets even worse. Ms. Sohn's organization was supposed to pay a

huge fine to the broadcasters, over \$30 million. But at just the same time that she was nominated by the President to regulate and oversee these broadcasters, they all magically reached a new settlement that just so happened to reduce the fine by 98 percent—from \$32 million to a few hundred thousand dollars, just like that.

When Senators have asked for more details about these questionable settlements, she has been less than forthcoming. The fact pattern makes one wonder if she thought she could start cashing in favors from the people she is supposed to regulate before she even got the job.

Oh, and by the way, this nominee made personal cash contributions to the campaigns of multiple current sitting Senators while her own nomination was pending before them. She sent money to four Democratic Senators even as a pending nominee—a pending nominee—before the Senate.

The latest reappearance of this nomination is a case study in President Biden's refusal to pivot, moderate, or find common ground. They are tripling down on extremism that even a Democratic Senate has already rejected twice. I urge our colleagues on the Commerce Committee to push for answers.

The Senate must say no to a radical activist controlling our airwaves. And the American people should ask why—why—the Biden administration is this desperate to control what citizens can see, hear, think, and say.

VOTE ON MENDEZ-MIRO NOMINATION

The ACTING PRESIDENT pro tempore. Under the previous order, the question is, Will the Senate advise and consent to the Mendez-Miro nomination?

Mr. REED. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 11 Ex.]

YEAS—54

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Lujan	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murkowski	Warnock
Feinstein	Murphy	Warren
Fetterman	Murray	Welch
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wicker
Hassan	Peters	Wyden

NAYS—45

Barrasso	Fischer	Paul
Blackburn	Grassley	Ricketts
Boozman	Hagerty	Risch
Braun	Hawley	Romney
Britt	Hoeben	Rounds
Budd	Hyde-Smith	Rubio
Capito	Johnson	Schmitt
Cassidy	Kennedy	Scott (FL)
Cornyn	Lankford	Scott (SC)
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Marshall	Tillis
Cruz	McConnell	Tuberville
Daines	Moran	Vance
Ernst	Mullin	Young

NOT VOTING—1

Casey

The nomination was confirmed.

The PRESIDING OFFICER (Mr. HICKENLOOPER). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 7, Lindsay C. Jenkins, of Illinois, to be United States District Judge for the Northern District of Illinois.

Richard J. Durbin, Sheldon Whitehouse, Martin Heinrich, Tim Kaine, Tammy Baldwin, Ben Ray Lujan, Tammy Duckworth, John W. Hickenlooper, Amy Klobuchar, Jack Reed, Jeanne Shaheen, Brian Schatz, Benjamin L. Cardin, Edward J. Markey, Alex Padilla, Margaret Wood Hassan, Catherine Cortez Masto.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Lindsay C. Jenkins, of Illinois, to be United States District Judge for the Northern District of Illinois, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 12 Ex.]

YEAS—58

Baldwin	Collins	Graham
Bennet	Coons	Grassley
Blumenthal	Cornyn	Hassan
Booker	Cortez Masto	Heinrich
Brown	Duckworth	Hickenlooper
Cantwell	Durbin	Hirono
Capito	Feinstein	Kaine
Cardin	Fetterman	Kelly
Carper	Gillibrand	King

Klobuchar	Peters	Stabenow
Lujan	Reed	Tester
Manchin	Romney	Van Hollen
Markey	Rosen	Warner
Menendez	Rounds	Warnock
Merkley	Sanders	Warren
Murkowski	Schatz	Welch
Murphy	Schumer	Whitehouse
Murray	Shaheen	Wyden
Ossoff	Sinema	
Padilla	Smith	

NAYS—41

Barrasso	Hagerty	Ricketts
Blackburn	Hawley	Risch
Boozman	Hoeben	Rubio
Braun	Hyde-Smith	Schmitt
Britt	Johnson	Scott (FL)
Budd	Kennedy	Scott (SC)
Cassidy	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Tuberville
Cruz	McConnell	Vance
Daines	Moran	Wicker
Ernst	Mullin	Young
Fischer	Paul	

NOT VOTING—1

Casey

The PRESIDING OFFICER (Mr. LUJÁN). On this vote, the yeas are 58, the nays are 41.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Lindsay C. Jenkins, of Illinois, to be United States District Judge for the Northern District of Illinois.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:25 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. LUJÁN).

EXECUTIVE CALENDAR—Continued

VOTE ON JENKINS NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Jenkins nomination?

Mr. CARDIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 13 Ex.]

YEAS—59

Baldwin	Capito	Cortez Masto
Bennet	Cardin	Duckworth
Blumenthal	Carper	Durbin
Booker	Collins	Feinstein
Brown	Coons	Fetterman
Cantwell	Cornyn	Gillibrand

Graham	Merkley	Shaheen
Grassley	Murkowski	Sinema
Hassan	Murphy	Smith
Heinrich	Murray	Stabenow
Hickenlooper	Ossoff	Tester
Hirono	Padilla	Tillis
Kaine	Peters	Van Hollen
Kelly	Reed	Warner
King	Romney	Warnock
Klobuchar	Rosen	Warren
Luján	Rounds	Welch
Manchin	Sanders	Whitehouse
Markey	Schatz	Wyden
Menendez	Schumer	

Hassan	Merkley	Shaheen
Heinrich	Murkowski	Sinema
Hickenlooper	Murphy	Smith
Hirono	Murray	Stabenow
Kaine	Ossoff	Tester
Kelly	Padilla	Tillis
King	Peters	Van Hollen
Klobuchar	Reed	Warner
Luján	Rosen	Warnock
Manchin	Sanders	Warren
Markey	Schatz	Welch
Menendez	Schumer	Whitehouse

Shaheen	Sinema	Smith
Stabenow	Tester	Van Hollen
Warner	Warnock	Warren
Welch	Whitehouse	Wyden

NAYS—45

Barrasso	Hagerty	Ricketts
Blackburn	Hawley	Risch
Boozman	Hoeven	Romney
Braun	Hyde-Smith	Rounds
Britt	Johnson	Rubio
Budd	Kennedy	Schmitt
Cassidy	Kennedy	Scott (FL)
Cotton	Lankford	Scott (SC)
Cramer	Lee	Sullivan
Crapo	Lummis	Thune
Cruz	Marshall	Tuberville
Daines	McConnell	Vance
Ernst	Moran	Wicker
Fischer	Mullin	Young
	Paul	

NOT VOTING—1

Casey

The nomination was confirmed.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 12, Matthew L. Garcia, of New Mexico, to be United States District Judge for the District of New Mexico.

Richard J. Durbin, Sheldon Whitehouse, Martin Heinrich, Tim Kaine, Tammy Baldwin, Ben Ray Lujan, Tammy Duckworth, John W. Hickenlooper, Amy Klobuchar, Jack Reed, Jeanne Shaheen, Brian Schatz, Edward J. Markey, Benjamin L. Cardin, Alex Padilla, Margaret Wood Hassan, Catherine Cortez Masto.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Matthew L. Garcia, of New Mexico, to be United States District Judge for the District of New Mexico, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 14 Ex.]

YEAS—54

Baldwin	Cardin	Duckworth
Bennet	Carper	Durbin
Blumenthal	Collins	Feinstein
Booker	Coons	Fetterman
Brown	Cornyn	Gillibrand
Cantwell	Cortez Masto	Graham

Barrasso	Grassley	Ricketts
Blackburn	Hagerty	Risch
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Britt	Hyde-Smith	Rubio
Budd	Johnson	Schmitt
Capito	Kennedy	Scott (FL)
Cassidy	Lankford	Scott (SC)
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Marshall	Tuberville
Cruz	McConnell	Vance
Daines	Moran	Wicker
Ernst	Mullin	Young
Fischer	Paul	

NOT VOTING—1

Casey

The PRESIDING OFFICER (Mr. WELCH). On this vote, the yeas are 54, the nays are 45.

The motion is agreed to.

Under the previous order, with respect to the Jenkins nomination, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the Garcia nomination.

The legislative clerk read the nomination of Matthew L. Garcia, of New Mexico, to be United States District Judge for the District of New Mexico.

The PRESIDING OFFICER. The Senator from Oregon.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. MERKLEY. Mr. President, I ask unanimous consent that at 4:30 p.m. today, all postcloture time with respect to the Garcia nomination be considered expired and the Senate vote on confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO ELVIA MONTOYA

Mr. MERKLEY. Mr. President, I come to the floor today to recognize and bid farewell to a valued member of my team, our legislative director, Elvia Montoya.

Five years ago, our office had the fortune of bringing Elvia onboard as a legislative correspondent—or LC—working on issues of education, equal rights, and healthcare. These are incredibly important issues. And she did such an incredible job working on them that it wasn't long at all before she was promoted to handle them as our legislative assistant.

And time and time again, year after year, no matter what new task she took on or what challenge was thrown at her, she succeeded and thrived.

Every Oregonian, every American, across this Nation is better off today, thanks to her tireless efforts.

Seventy-two thousand children in our State, for instance, who normally get free or reduced-priced lunches during the school year continue to get healthy and nutritious meals during the summer months. They have Elvia to thank for that because she is the one who included language in the fiscal year 2020 Further Consolidated Appropriations Act to reinstate the program.

Thousands of nurses are on the job today saving lives because we invested in the training and workforce development that are key to the future of this critical profession through the Nursing Workforce Reauthorization Act of 2019. And Elvia wrote that bill and helped get it passed as part of the CARES Act; and thank goodness she did, or the nursing shortage today would be much worse than it is.

And Elvia was always three steps ahead in the lead-up to the COVID-19 pandemic. In January of 2020, over 2 months before life as we knew shut down and people were only vaguely aware of a new virus coming out of China, she saw right away that this had the potential to upend life around the Globe.

By the end of that month, she had persuaded me to lead a letter calling on the World Health Organization to declare a public health emergency of international concern.

By the end of February, our office had a resource page for Oregonians who were starting to hear about this new, dangerous virus and were growing nervous. This was phenomenal timing because Oregon had its first confirmed case on Friday, February 28, 2020. The announcement came well after working hours.

But even late on a Friday evening, she was on the ball, alerting me and other senior staff and starting to prepare for the long battle ahead as she led our team in that battle for the next year-plus.

She kept tabs on the virus, day in and day out, leading briefings for our team and providing daily updates on the spread and impact of the virus. And she led my team's efforts to help enact the COVID relief bills as we took up and passed them here on the Senate floor—from the Coronavirus Preparedness and Response Supplemental Appropriations Act to the Families First Coronavirus Response Act; the CARES Act to the Paycheck Protection Program and Healthcare Enforcement Act.

And she wasn't just invested in policy. She was also invested in the logistical challenges we faced under COVID. One night, when a truck was supposed to be delivering supplies of personal protective equipment—or PPE, as we call it—delivering it from the national stockpile to the main resource warehouse in Oregon, from where it would be distributed to hospitals and clinics and other places the following morning, things went awry.

The security guards at the facility hadn't received the right paperwork when the tractor trailer pulled up. So they turned the truck away.

Now, at that time, we were in such short supply of PPE, and our healthcare practitioners were risking their lives because of that shortage. So this was incredibly important that we get these supplies delivered.

Doctors and nurses and other first responders on the frontlines of the pandemic were counting on that delivery of supplies that was now headed in the wrong direction. So Elvia jumped into action. She started calling folks at HHS and other Federal and State agencies. She woke people up. She tracked down cell phone numbers, including the numbers of the guards who were on duty. Eventually, she got that truck turned around and those supplies were delivered.

She was able to do this because she had worked for months and months to build connections and relationships with folks working, at every level, on responding to the pandemic. Thus, when an incident like this occurred, she knew how to make sure the bureaucratic redtape didn't stop people from getting the help and resources they needed.

And so it was when our previous legislative director left to go to the State Department in January of 2021, it was clear that Elvia's tenacity, resourcefulness, humor, warmth, professionalism would make her the perfect choice to ably step up and fill that role.

Almost overnight, she went from focusing exclusively on healthcare and education to overseeing the entire pantheon of our team's legislative activities, with all of the added responsibilities—like staffing vote-aramas—that came along with the role.

As legislative director, she has personally taken point on our efforts to protect American democracy and ensure every American's right to vote. She quickly and deeply immersed herself in the intricacies of the issues of voter suppression, of dark money, and gerrymandering that we sought to address in the For the People Act and its derivative, the Freedom to Vote Act.

On top of that, Elvia got familiar with the history and arcane procedures of this body that are so much in need of reform today, helping to craft workable options to restore the Senate to being a better legislative body that our Founders intended it to be.

And even now, she has continued to take the lead on my "Mysteries of the Senate" project, where every week we prepare a memo for the caucus explaining another aspect of the Senate's arcane history and procedures. This is valuable, I hope, because I believe we cannot begin to improve the way we function unless Members understand better the Senate's history and the web of rules and precedents that guide how we operate.

It would be an understatement to say that Elvia has excelled at every task

and every issue she has taken on over these last 5 years. It has been a pleasure for me to work with her. It has been a pleasure for the entire team to work with her. And she has contributed greatly to the future of our team nurturing and bringing along new staffers, making sure they not only are up to speed on the issues but fully integrated participants in our collective effort to improve policies to benefit Oregonians and to benefit Americans.

Elvia, all of us on the team—all of us on team Merkley—thank you deeply for your dedication. We wish you all the best in your next chapter as you take your talents back home to Oregon. I think all of us are a bit jealous of that opportunity to be fully back home. And we know that wherever you are, you will never stop fighting to build a better world.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority whip.

MASS SHOOTINGS

Mr. DURBIN. Mr. President, today is Valentine's Day and a day we set aside to celebrate love, but far too many American families this day have haunting memories and unfathomable pain. They are the families of Americans killed by gun violence.

Last night, the families of three Michigan State University students joined the heartbroken ranks. Five additional victims were wounded. It was the 67th mass shooting in the United States of America in this calendar year. February 14, the 67th mass shooting—more than 1 mass shooting every day this year. What is a mass shooting? When four people or more are injured or killed.

No other nation on Earth accepts this wholesale slaughter that we have now become so inured to in the United States. We shouldn't be. Americans have seen too much carnage from guns. I am sick of it. This Nation is sick of it.

Five years ago today, a 19-year-old gunman murdered 17 people and wounded 17 more at Marjory Stoneman Douglas High School in Parkland, FL—the fifth anniversary of it, and we are observing the madness and slaughter that took place in Michigan. The gunman fired indiscriminately at Parkland, at students and teachers, and used a Smith & Wesson AR-15 assault rifle. The dead included 14 students and 3 staff members who died trying to protect them.

The Parkland shooting horrified our Nation. It cut especially deep at Northern Illinois University in DeKalb, IL, 65 miles outside of Chicago. You see, exactly 10 years ago on Valentine's Day 2008, a gunman armed with a shotgun

and three semiautomatic pistols kicked open the door of an auditorium-style classroom at Northern Illinois and walked up and down the aisle, shooting people indiscriminately. The shooting lasted just under 6 minutes. When it ended, 5 students had died at Northern and more than 20 were injured.

Six weeks into the year 2023, and already this year, at least 5,127 Americans have died from gun violence according to the Gun Violence Archive. They died in homicides, suicides, and accidental shootings.

Last year, Congress passed and President Biden signed the most sweeping gun safety law in 30 years—the Bipartisan Safer Communities Act. Among other things, it toughened background checks for gun purchasers under the age of 21 and cracked down on the trafficking and straw purchasing of firearms. It also included funding to help States implement red flag laws to keep guns out of the hands of people who pose a danger to themselves or others. Just today, my home State of Illinois was awarded \$9½ million in funding under the new law to help carry out Illinois' red flag law. That is progress. But the majority of Americans support even stronger gun safety laws, including closing the gaps in the background check system for gun purchases.

I believe that Congress should also restore the ban on assault weapons, including AR-15-style rifles—increasingly the weapon of choice for mass shooters. These military-style weapons have no place in schools, neighborhoods, or college campuses.

One month after the Parkland school massacre, student survivors of that slaughter organized a rally called March for Our Lives. Hundreds of thousands of people attended the march in Washington. One of those powerful speakers that day was a young woman named Emma Gonzalez, a survivor of Parkland. She warned Americans that day, "Fight for your lives before it's someone else's job."

In America today, gun violence can strike any family, anywhere, anytime. Today on this grim anniversary, we must recommit ourselves to a better America, to do more to protect our kids, our schools, our communities, and our country from the scourge of gun violence.

CORPORATE BANKRUPTCY

Mr. President, last month, the Third Circuit Court of Appeals rejected an attempt by the venerable corporation Johnson & Johnson, which sought to make a mockery of our system of justice and bankruptcy laws. In this case, Johnson & Johnson tried to use a legal scheme known as the Texas two-step. It is an accurate name because it would have allowed Johnson & Johnson to dance around its obligations to the consumers it had harmed. This is not a few people we are talking about; this case concerns 40,000 Americans who used Johnson & Johnson products and have been diagnosed with ovarian cancer or mesothelioma.

Let's start from the beginning. For years, Johnson & Johnson denied that the talcum powder in its product known as baby powder contained asbestos. They denied it, but the company's internal documents tell a different story. They indicated that Johnson & Johnson was aware for decades that its products contained asbestos, but J&J kept those products on the market anyway, and consumers, who trusted the brand, kept using them.

In the years that followed, tens of thousands of these loyal customers were diagnosed with debilitating and in some cases terminal illnesses. Eventually, many of the same customers filed lawsuits against Johnson & Johnson, but before most of the claims against the company could be heard, Johnson & Johnson closed the doors to the courtroom. It used the so-called Texas two-step to transfer its legal liabilities to a shell company and then, step two, had the shell company declare bankruptcy.

Here is the important part: When the shell company declared bankruptcy, Johnson & Johnson asked the court to freeze all ongoing litigation. That maneuver effectively prevented the company's victims from proceeding with their cases. Instead, these victims have to get in line in bankruptcy court, along with many creditors, and wait for some small payment years ahead.

That was Johnson & Johnson's devious scheme, and it was all going according to plan until last month when the Third Circuit stepped in and stopped the music on Johnson & Johnson's Texas two-step. The Third Circuit ruled that Johnson & Johnson's shell company had not acted in good faith when it declared bankruptcy. They were right.

The Third Circuit's ruling is an important victory, but the tragic reality is, for some of Johnson & Johnson's baby powder victims who sought justice, it was too little too late.

One of those victims was Kimberly Naranjo. Throughout her life, Ms. Naranjo was a model of resilience. She grew up surrounded by addiction and abuse and spent her teenage years moving from one foster home to another. Ms. Naranjo also struggled with addiction herself, but at the age of 19, she had her first child, and she changed course in her life. She set herself on the path to recovery and resolved to provide her seven children the stability and love she never knew.

Eventually, Ms. Naranjo found her calling. She earned a degree in alcohol and drug counseling and landed her dream job supporting other people on their path to recovery. But then, 3 days into her new job, Ms. Naranjo felt a pain in her side. She went to the doctor, who diagnosed her with mesothelioma. Soon after her diagnosis, Ms. Naranjo determined the only way—the only way—she could have been exposed to asbestos was through that so-called safe baby powder she used on all of her children, Johnson & Johnson baby powder.

Last year, the Judiciary Committee, which I chair, held a hearing on corporate use of bankruptcy. We included Johnson & Johnson's use of the Texas two-step. We were joined by Ms. Naranjo, who shared her story. She told the committee:

When I learned that I could file a lawsuit against Johnson & Johnson and have it decided by a jury, I finally saw a path forward for my family.

She continued:

That hope was taken from me. I learned that Johnson & Johnson filed for bankruptcy and that I would not receive a court date.

Ms. Naranjo died from her illness last month, weeks before turning 50 and weeks before the Third Circuit's ruling against Johnson & Johnson. She never received the justice she deserved.

Make no mistake, as long as the world's biggest, wealthiest companies have the ability to game our legal system and escape liability, there will be more tragic stories like Ms. Naranjo's because Johnson & Johnson is not alone in abusing bankruptcy law to avoid accountability, and that is a fact. In fact, other very large, very solvent companies are getting in on the game.

One similar case is currently being considered by the Seventh Circuit Court of Appeals. This one concerns a familiar name—3M—and its subsidiary Aearo Technologies. Like Johnson & Johnson, 3M is trying to game the bankruptcy system to avoid accountability to its customers. And these are not your average consumers; in this case, we are talking about 230,000 military veterans.

So what happened? These veterans claim they suffered hearing loss because they wore defective earplugs while in service to our country. These earplugs were manufactured by 3M and that subsidiary I mentioned, Aearo Technologies.

When those veterans came forward with their allegations, 3M turned to the same get-out-of-jail-free card that Johnson & Johnson tried to use. Aearo declared bankruptcy, and then 3M, which is certainly not bankrupt, promptly asked the court to use the bankruptcy stay to freeze all ongoing earplug litigation from American veterans.

So instead of facing the lawsuits these veterans brought, 3M is trying to use chapter 11 bankruptcy to lock the doors to the courtroom. How about that?

Fortunately, in this case, a judge refused to let 3M get away with it. Last August, a bankruptcy court ruled against the company's cynical legal scheme. But instead of changing course on this shady strategy, Aearo Technologies of 3M fame appealed the case to the Seventh Circuit.

Earlier this month, I led a number of my colleagues in the Senate and House in submitting an amicus brief to the Seventh Circuit. In it, we wrote that the Congress did not intend for the bankruptcy system to serve as a get-

out-jail-free card for wealthy corporations facing litigation, especially from American veterans.

I hope the Seventh Circuit joins the Third Circuit in ruling against these schemes to deny Americans and veterans their day in court. But the truth is, these companies are trying to game the system that we in Congress created. As lawmakers, we write the laws and the rules for declaring chapter 11 bankruptcy. So, really, we have the responsibility to step up and confront these corporate abusers of bankruptcy. We must work together to keep the doors of our justice system open to every American seeking their day in court.

I believe the Senate is capable of doing things, even hard things. I believe we can bring America closer to our central aspiration of justice, and I believe we can instill more faith in this Nation of laws by ending these corporate abuses of bankruptcy once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

HONORING THE MEMORIES OF THE VICTIMS OF THE SENSELESS ATTACK AT MARJORY STONEMAN DOUGLAS HIGH SCHOOL ON FEBRUARY 14, 2018

Mr. SCOTT of Florida. Mr. President, it is hard to believe that it has been 5 years since February 14, 2018—the tragic day that the world witnessed a senseless attack and the loss of 17 innocent lives at Marjory Stoneman Douglas High School in Parkland, FL.

Today, I again come before the Senate to introduce this resolution to honor the 17 beautiful lives that were stolen from us that day. I think of them often. I talk to their families. They were sons and daughters, parents and partners. Some were educators, athletes, musicians; many of them, just kids with a life full of promise ahead of them. My heart breaks knowing they never got the chance to pursue their dreams and that their families will forever have a piece of their heart missing.

While we can't bring back the lives lost on that tragic day 5 years ago, I will always work to honor them and do everything in my power to protect our students and educators and ensure they have a safe environment to learn and succeed.

As in legislative session, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 60, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 60) honoring the memories of the victims of the senseless attack at Marjory Stoneman Douglas High School on February 14, 2018.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCOTT of Florida. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 60) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

Mr. SCOTT of Florida. Mr. President, I yield the floor.

NOT VOTING—1

Casey

The nomination was confirmed. The PRESIDING OFFICER (Mr. MARKEY). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state. The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 15, Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon.

Richard J. Durbin, Sheldon Whitehouse, Martin Heinrich, Tim Kaine, Tammy Baldwin, Ben Ray Lujan, Tammy Duckworth, John W. Hickenlooper, Amy Klobuchar, Jack Reed, Jeanne Shaheen, Brian Schatz, Edward J. Markey, Benjamin L. Cardin, Alex Padilla, Margaret Wood Hassan, Catherine Cortez Masto.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Utah (Mr. LEE) and the Senator from North Carolina (Mr. TILLIS).

Further, if present and voting, the Senator from Utah (Mr. LEE) would have voted "nay" and the Senator from North Carolina (Mr. TILLIS) would have voted "nay."

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 16 Ex.]

YEAS—53

[Rollcall Vote No. 15 Ex.]
YEAS—53

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Lujan	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murkowski	Warnock
Feinstein	Murphy	Warren
Fetterman	Murray	Welch
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden
Hassan	Peters	

NAYS—46

Barrasso	Grassley	Risch
Blackburn	Hagerty	Romney
Boozman	Hawley	Rounds
Braun	Hoeben	Rubio
Britt	Hyde-Smith	Schmitt
Budd	Johnson	Scott (FL)
Capito	Kennedy	Scott (SC)
Cassidy	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Paul	
Fischer	Ricketts	

Baldwin	Graham	Murray
Bennet	Hassan	Ossoff
Blumenthal	Heinrich	Padilla
Booker	Hickenlooper	Peters
Brown	Hirono	Reed
Cantwell	Kaine	Rosen
Cardin	Kelly	Sanders
Carper	King	Schatz
Collins	Klobuchar	Schumer
Coons	Lujan	Shaheen
Cortez Masto	Manchin	Sinema
Duckworth	Markey	Smith
Durbin	Menendez	Stabenow
Feinstein	Merkley	Tester
Fetterman	Murkowski	Van Hollen
Gillibrand	Murphy	

Warner
Warnock

Warren
Welch

Whitehouse
Wyden

NAYS—44

Barrasso	Fischer	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeben	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Cornyn	Lankford	Sullivan
Cotton	Lummis	Thune
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Paul	

NOT VOTING—3

Casey

Lee

Tillis

The PRESIDING OFFICER (Mr. WARNOCK). On this vote, the yeas are 53, the nays are 44.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon.

The PRESIDING OFFICER. The Senator from Rhode Island.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, I am back today now for the 20th time to shed a little light on the dark money scheme to capture and control our Supreme Court.

Part of what allows that scheme to flourish is the ethics-free zone around the Supreme Court. It is quite unique. So let's look at it.

The last time I gave this speech, No. 19, I walked through the various problems with how the Supreme Court handles allegations of misconduct by the Justices.

The short answer is that it doesn't.

The U.S. Supreme Court is the only court in the country not covered by an ethics code. And worse than that, it is the only part of the Federal Government that has no process for ethics investigation and enforcement—none.

Now, any meaningful ethics regime contains three things: first, a process for receiving complaints; second, a process for investigating those complaints once they are received; and, third, a process for reporting the result and holding powerful people accountable should those complaints turn out to be merited.

The House and the Senate, for instance, we have our Ethics Committees. The executive branch has inspector generals and the attorney general. The Federal courts, except the Supreme Court, have their own investigative procedures. It is just the Supreme Court that has none. The closest you get is probably a motion to recuse.

Let's start with the difficulty of raising ethics complaints with the Supreme Court. People who are concerned about ethics violations over at the Court have to get pretty creative because the Court has no place to submit

an ethics complaint. If you like, there is no inbox.

We saw this play out when Judge Kavanaugh became Justice Kavanaugh. Multiple ethics complaints were pending against Judge Kavanaugh. The lower courts, like the DC Circuit that he was sitting on, do have a process for receiving complaints and for investigating them; and pursuant to that process, a special panel was appointed to review the complaints against Judge Kavanaugh.

But as soon as Judge Kavanaugh squeaked onto the Supreme Court as Justice Kavanaugh—poof—the lower courts lost jurisdiction over him, and the complaints had to be dismissed mid-investigation.

Now, the complaints could have been refiled up at the Supreme Court, but there was no place to file them.

We saw the problem again when a man named Robert Schenck sent Chief Justice Roberts a letter explaining how he learned, after a donor's private dinner with Justice Alito and his wife, how the Supreme Court was going to rule in the Hobby Lobby decision.

Apparently, a letter directly to the Chief Justice isn't a proper way to lodge a complaint because Schenck never heard back from the Court.

Months later, Schenck then went to the New York Times, which was following up on an earlier POLITICO story about Schenck's covert lobbying campaign to have wealthy rightwing donors invite some of the Justices to meals, to their vacation homes, or to private clubs.

It took the press, the fourth estate, to fill in the investigatory gap about that \$30 million wining and dining campaign.

More recently, a former coworker of the Chief Justice's spouse alleged ethics problems with the Chief Justice's failure to disclose financial connections between his spouse and parties and law firms appearing before the Court. With no mechanism to ask the Supreme Court to review whether this arrangement presented a conflict, the former coworker sent his complaint around to congressional offices in hopes that someone might take it seriously somewhere.

Again, the complaint made it to the fourth estate; and, again, without an inbox at the Court or a process, it took journalists to give the inquiries an airing.

Set aside the merits of these complaints, the point is: They never got in the door for the Court's consideration. The Court's refusal to receive ethics complaints is unique to the Supreme Court, and I submit it is not serving the institution well. So even if there were an inbox for an ethics complaint, the Court still has no process to investigate it.

Turn back to Mr. Schenck. After the New York Times reported on his allegation, there was understandable public uproar.

Chairman HANK JOHNSON and I wrote to the Court as Courts subcommittee

chairs to ask whether it was investigating the allegations. After months of silence, amid growing public clamor, the Court did something it almost never does: It acknowledged the accusations.

Mr. President, I have a two-page letter from the Court's legal counsel, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

In that letter, the Court said the equivalent of: Justice Alito says he didn't leak the decision, and that is good enough for us. No mention in the letter of the lobbying campaign or of private wining and dining and no description of anything resembling an actual investigation.

I have been the attorney general of my State, a position that has criminal jurisdiction across the entire State. Only three attorneys general in the country have that; Rhode Island is one of them. I have been the United States attorney for my State and led Federal investigations. I know a little bit about investigations.

It is "investigation 101" to take statements from witnesses. That is how you make a record, and that is how you deter lying: by tying people to a statement so they can be held accountable if it turns out that the statement is false. No sign in the letter that that was done.

Same again with Justice Thomas regarding his refusal to recuse himself from cases implicating his wife's efforts at overturning the 2020 election.

Back in January 2022, Justice Thomas participated as the lone dissenter in a decision that allowed the House January 6 Select Committee access to records from the Trump White House. And a couple of months later, it turned out that Justice Thomas's wife had texted with White House officials repeatedly about overturning the 2020 election. So she was clearly covered by that investigative effort by the January 6 Commission.

He did not recuse; and, indirectly, it was suggested that Justice Thomas knew nothing at all about his wife's activity, so he didn't need to recuse.

OK. But that is a fact question. What did Justice Thomas know about his wife's activities at the time of the case? Easy to ask him. Easy to take a statement from him. But no sign that that was done. So, of course, no statement and no consequences.

Later, after the reporting about Justice Thomas's wife's activities came out in the public press and he failed to recuse himself in another case, the issue was no longer just a fact question about what Justice Thomas knew, he was now on notice about his wife's conduct, and he still did not recuse.

Why not? Again, no justification, no investigation, no conclusion. The Court has repeatedly failed to investigate or even acknowledge this glaring problem, which brings us to the third element of an effective ethics regime: accountability and transparency—a report at the end.

An investigation ought to be designed to get to the truth and to report its findings so that people can be held accountable for wrongdoing and the public can have confidence in the outcome.

That is a statement so obvious I find it hard to believe I actually have to say it here about the Court.

The one investigation we have seen the Supreme Court undertake was done in response to the Alito draft opinion leak. As an investigation, it was pitiful and marred with conflicts.

My surmise—my surmise—is that in the heat of the Court's ire about the leak, the assumption was made that some clerk or staffer was responsible. Chief Justice Roberts directed the Marshal of the Court to investigate. He called the leak a "singular and egregious breach of trust that is an affront to the Court and the community of public servants who work here."

Well, for more than 8 months, the public waited to find out whether the Marshal's investigation would live up to the Chief Justice's words.

In the end, the Court's handling of the Dobbs investigation was a case study in how not to conduct a fair and transparent investigation. The problems were numerous, not least that the Marshal of the Court isn't normally responsible for leading investigations. But the problem that really emerged was that some of the prime suspects for the leak were her bosses, and the investigation held the Justices to a different standard than everyone else at the Court. Everyone else at the Court had to sit down for formal interviews, had to turn over their private communications, had to sign affidavits under oath, but when it came to the Justices, it was different. They were subject to something that the Court called an iterative process. I have no idea what an iterative process is. I can tell you what it isn't. It isn't an investigative process. The Justices even asked questions of their own—some statement.

The premise seems to be that even here, the Justices can never be investigated. This was going to be a top-tier investigation as long as it looked like it was going to be clerks and staff, but once it looked like it might be Justices involved in the leak, suddenly the wheels fell off.

I have never seen an investigation where the investigator called in a third party to provide public assurance that they did a good job, like a little sidecar running next to the investigation: Yeah, they are doing a good job. In this case—worse—it was a third party with conflicts of interest, with relationships with obvious suspects and with contracts with the Court.

So if you compare all of that with how misconduct investigations are handled everywhere else in the Federal Government, you see some pretty big discrepancies. In the executive branch, Congress has established inspectors general who are surrounded by professional staff experienced in internal investigations. IGs know how to conduct

real interviews and record witness statements. Congress has its own internal procedures and investigators for ethics complaints. We have our Ethics Committee. The House has its Ethics Committee. Congress set up procedures for ethics investigations in the lower courts. They exist. Judges are investigated, and people can know where you submit your complaint and how that complaint gets investigated.

The Supreme Court is unique across the entire Federal Government in being impenetrable to investigation, from no ethics inbox, to no process for reviewing a complaint, to no credible report at the end of the day. The highest Court in the land should not be held to the lowest standards in government.

So last week, Congressman HANK JOHNSON and I, joined by Senator BLUMENTHAL and Congressmen NADLER, QUIGLEY, and CICILLINE, reintroduced our Supreme Court Ethics, Recusal, and Transparency Act. Our bill would finally require the Supreme Court to have not just a code of conduct but a real process to enforce that code and other Federal ethics laws.

Our bill would also update judicial ethics laws, ending the ability of judges to ignore conflicts of interest and their recusal obligations; requiring Justices of the Supreme Court to disclose gifts and travel, as other Federal officials do; and exposing the real interests appearing at the Court behind amici curiae who lobby the Court under fake names.

Apparently, there has been a half-hearted effort at the Court to begin to deal with this. The Washington Post reported last week that the Justices discussed for years a binding code of ethics to no result, and the effort seems to have fallen apart. So that leaves Congress in the position that if they won't fix it, we will.

There are many problems plaguing our Supreme Court. Far-right, dark-money interests spent years stacking the Court with their handpicked Justices, who in turn have delivered for those interests at every available opportunity. We need to undo the damage wrought by the Court that dark money built and by those who built it, but we can start—we can start—by bringing basic standards of integrity to the Supreme Court, standards all other judges follow and standards that govern all high-ranking Federal officials across all three branches of Government—officials who are paid by taxpayers to serve the best interests of the American people.

To be continued.

Mr. WHITEHOUSE. I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES, THE LEGAL OFFICE,
Washington, DC, November 28, 2022.

Hon. SHELDON WHITEHOUSE,
U.S. Senate,
Washington, DC.

Hon. HENRY C. JOHNSON,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN WHITEHOUSE AND CHAIRMAN JOHNSON: I am writing in response to your letter dated November 20, 2022.

Justice Alito has said that neither he nor Mrs. Alito told the Wrights about the outcome of the decision in the Hobby Lobby case, or about the authorship of the opinion of the Court. Gail Wright has denied Mr. Schenck's allegation in multiple interviews, saying the account given by Mr. Schenck was "patently not true." (Don Wright is deceased.) Justice and Mrs. Alito became acquainted with the Wrights some years ago because of their support for the Supreme Court Historical Society, and they had a casual and purely social relationship. The Justice never detected any effort on the part of the Wrights to obtain confidential information or to influence anything he did in either an official or private capacity. Mr. Schenck's allegation that Justice Alito or Mrs. Alito gave the Wrights advance word about the outcome in Hobby Lobby or the authorship of the Court's opinion is also uncorroborated. Politico reports that despite several months of efforts, the publication was "unable to locate anyone who heard about the decision directly from either [Justice] Alito or his wife before its release at the end of June 2014." The New York Times stated that "the evidence for Mr. Schenck's account of the breach has gaps."

There is nothing to suggest that Justice Alito's actions violated ethics standards. Relevant rules balance preventing gifts that might undermine public confidence in the judiciary and allowing judges to maintain normal personal friendships. Judicial Conference gift regulations provide that a judge may not accept a gift from a person seeking official action from or doing business with the judge's court or whose interests may be substantially affected by the performance or non-performance of the judge's official duties, with only limited exceptions. See Guide to Judiciary Policy, vol. 2C, Ch. 6, §620.35. The Wrights owned a real estate business in Dayton, Ohio, and to our knowledge, they have never had a financial interest in a matter before the Court. In addition, the term "gift" is defined to exclude social hospitality based on personal relationships as well as modest items, such as food and refreshments, offered as a matter of social hospitality. Id. §620.25(a), (b). Similarly, Justice and Mrs. Alito also did not receive any reportable gifts from the Wrights. Gifts of less than "minimal value" received from one source in a calendar year need not be reported. And gifts do not count toward this threshold if they take the form of food, lodging, or entertainment received as personal hospitality of an individual, or food or beverages which are not consumed in connection with a gift of overnight lodging. See 5 U.S.C. App. §§102(a)(2)(A), 109(5)(D).

Very truly yours,

ETHAN V. TORREY,
Legal Counsel.

Mr. WHITEHOUSE. I yield the floor.
The PRESIDING OFFICER. The Senator from North Carolina.

VALENTINE'S DAY

Mr. TILLIS. Mr. President, when I look back at the 8 years I have been in the Senate, I can think of a lot of things I like about this job. I have real-

ly gotten to know staff on both sides of the aisle, a lot of Members on both sides of the aisle, being coached more than once by Elizabeth and Leigh on parliamentary procedure and rules of the Senate—those are all things I like about the Senate. But every year on this day, there is one thing I don't like about the Senate, and that is because 2 out of the last 10 years, Senate business has brought me here instead of being home with my wife on Valentine's Day.

Mr. President, my wife and I have been married for 36 years, and our first two babies—our two babies were born in Atlanta, GA, the Presiding Officer's great State. My wife Susan has been my valentine for 36 years, and I am away from her once again.

So if it wasn't a violation of the rules, I would pick up a sign just like this that says "I love my wife, and I wish her a happy Valentine's Day," but that is against the rules, so I am not going to do that. Instead, I am going to say: Susan Tillis, I love you, and thank you for 36 great years.

Thank you, Mr. President.

The PRESIDING OFFICER. Without objection.

The Senator from Indiana.

ABRAHAM LINCOLN

Mr. YOUNG. Mr. President, during the Civil War, Walt Whitman took stock of Abraham Lincoln's appearance. The President had a face, the poet wrote, like a "Hoosier Michelangelo." But Whitman sensed that underneath the lines and the crags were wells of wisdom and tact perfectly suited to the President, hard-earned long ago.

You see, Abraham Lincoln is widely regarded as one of our country's greatest Presidents, a visionary and an inspiring leader who appealed to the highest American ideals and moved our Nation toward a more perfect Union.

Sunday marks the 214th anniversary of Abraham Lincoln's birth. Even today, historians still wrestle with the question, how is a man of such character forged? The answer, I think, can be found in Southern Indiana, near the Ohio River. In 1860, when asked for details of his youth by a biographer, Abraham Lincoln was uncooperative. It could all, he said, "be condensed into a single sentence—the short and simple annals of the poor."

"That's all you or any one can make of it," Lincoln insisted. But, if you will pardon me, I would like to make a little more of it. My colleagues from Kentucky will no doubt point out that Lincoln's birth occurred in their Commonwealth, and as my colleagues from Illinois will likely remind you, when Abraham Lincoln departed for the White House, it was from their State. I will give them this: Lincoln was indeed born in Kentucky, and he did make his name in Illinois. But Abraham Lincoln was a Hoosier. "It was there I grew up," he recalled of Southern Indiana. It was there in Spencer County "I grew to my present enormous height," he once joked.

True, there is little left that Abraham Lincoln would recognize in our State today. There are just reminders of a once unbroken forest among the low hills; the soil—in it the graves of loved ones; and a great river separating north from south. In what does remain, though, we can still see where his character was formed, what prepared him for the trials to come.

The Lincolns arrived the same year Indiana became a State. It was still the frontier line. The woods were full of bears and the night air alive with the roar of mountain lions. This was a hard and heartbreaking life, uncertain and often short. Those years of Abraham Lincoln's life were characterized by loss—first the loss of his mother Nancy and later his sister Sarah—and by constant labor which he grew to so dislike. Schooling was scarce. Opportunities for self-improvement were few. By his own account, he had no more than a year of formal education.

Decades later, when Abraham Lincoln recalled his life in Indiana, he wrote, "My childhood home I see again, and sadden with the view," but he also wrote that among the memories, there was "pleasure in it, too." There were happy days in the Little Pigeon Creek community, captivating friends with his homespun stories, and there was the love of a stepmother who nurtured his curiosity.

The sparse schooling he had taught him to read and to write. In fact, he pored over what few books he could find: the Bible, a tattered biography of George Washington borrowed from a neighbor, and later a collection of Indiana law containing the Declaration of Independence and the Constitution of the United States.

There was the Ohio River. That river was a gateway of possibilities and a point of departure to the outside world. Lincoln earned his first half dollar ferrying passengers on the river. He first saw the horror of slavery traveling down it.

By the time Abe Lincoln and his family left the Little Pigeon Creek community in 1830, Lincoln had spent a quarter of his life in Indiana. He crossed the Wabash River into Illinois, a grown man whose heart, touched by grief, was kind, generous, and strong; who could spin a yarn like no other; whose intellect far outpaced his meager education. Of course, he carried with him a great reverence for our founding's promise of freedom and a burning desire to rise in life.

Although Lincoln was loathe to speak of it as he grew older, those 14 years in Spencer County, IN—the sad and the joyous—shaped him. The qualities that saved the Union in its time of greatest peril were forged in the Indiana wilderness.

In March of 1865, only a few weeks before Lincoln's death, he addressed the 140th Indiana Regiment. The soldiers had recently captured a Confederate flag in North Carolina, which the President gave to Indiana Governor

Oliver Morton. Lincoln reminded those Hoosiers assembled that he was raised in their State, and he praised their Hoosier valor. But he was ever mindful of the Union. He said that day, "I would not wish to compliment Indiana above other states."

Well, Mr. President, for whatever it is worth, I do, because Lincoln belongs to all Americans, but Hoosiers can claim a special connection with Abraham Lincoln.

So, on the occasion of his birth, we once again celebrate the life and legacy of this remarkable Hoosier. He represents the best of us. He was one of us. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO TRUDY PERKINS

Mr. BROWN. Mr. President, I rise today to honor Trudy Perkins, my communications director and the former acting chief of staff of my office, as she moves on to a new, well-deserved chapter—retirement.

Trudy's career has been unparalleled to say the least. She has spent 20 years working in Congress. Her service has made a difference for her colleagues and for so many Americans.

She grew up in Albany. If you take Route 90 just about 150 miles west—well, about 200 miles west, you will hit Cleveland. If you drive about 110 miles west, you will hit my wife's hometown of Ashtabula, OH. It is fitting that her final role in the Senate brought her back to a city on I-90.

Trudy is a proud member of the Alpha Kappa Alpha Sorority and is an alumna of the State University of New York at Oswego. She spent the early years of her career working in television news, first in Albany—I know, in the Presiding Officer's State, you say "All-ba-nee," but up north, we say "All-buh-nee"—and then in Baltimore.

In 2002, she started on Capitol Hill with one of the real superstars in the House, now the late Representative Elijah Cummings, where she worked her way up to communications director and deputy chief of staff during her almost 20 years with that office. She served as an invaluable adviser to Representative Cummings. He trusted her with anything and everything. He often gave her phone number out to constituents and told them "Why don't you call Trudy" because things always got done. You know how Members of Congress don't always get them done, but people like Trudy Perkins do. He knew, no matter what the task was, that Trudy wouldn't just deliver, but she would do it kindly; she would do it with a smile; and she would do it with a positive attitude. It was easy for anyone to see her dedication to public

service and always, always, always to the constituents she served. She was dependable. She was hard-working. She was an integral member of their team and of the Cummings' office family.

Trudy has been an integral and trusted leader in my office. We were so lucky to have inherited her, in a sense, after the death of Representative Cummings. In January 2020, she joined my staff as the communications director. At the time, she was the only Black communications director serving in a Senate personal office. She had a talent for communications and press and the experience to prove it. That was clear to me before we ever spoke.

As I got to know her, I learned how much she cared about the issues that I care about and that Senator WYDEN does and Senator WARNOCK, the Presiding Officer, does. I learned how much she cared about those issues that matter most: civil rights, labor rights. She understood this from the writings about Dr. King's speeches, when Dr. King spent a lot of time talking to labor unions. Dr. King, in his last weeks of life, went to Memphis because of a labor strike of sanitation workers, and she understood, as I do and as John Lewis did, how Dr. King wove workers' rights and civil rights and women's rights and human rights all together. Trudy gets that.

From day one, she proved to be such an asset in our office by stepping in and leading a robust communications team during some of the most tumultuous years in the Senate that I have ever seen. In her first month, we faced domestic and foreign crises that she navigated with a steady hand. During her second month, the COVID-19 pandemic broke out. It was an uncertain time. We all know that, and all of us in the country know that. We had never seen anything like it. Trudy stepped up and delivered for Ohioans and for her team in our office.

She transitioned our press shop from an in-person operation to a virtual one. It was a transition nobody had ever tried before that brought challenges and technical difficulties but also new opportunities to connect with Ohioans and with the Ohio media. At every turn, Trudy Perkins led with grace. She made sure that Ohioans got the information they needed to navigate the pandemic. She made a difference for so many in our office and in our State.

Her impact can't be measured just by her ability to meet challenge after challenge as her leadership also extended far beyond the technical aspects of a difficult job. She was a compassionate resource for everyone on her staff.

She took time to get to know the team and understand how they operated as a unit and who they are as individuals. She listened. She truly cared. And for the communications team, Trudy Perkins was a rock. She was a smiling face on Zoom calls. She organized virtual game nights and made a

difficult time a little easier as our office and world settled into a “new normal.”

A couple of years later, when our chief of staff took a temporary leave from the office, it wasn't even a close call. We knew Trudy was the right choice to lead the entire office in the interim. It was a big job to take on. She stepped up. The transition was seamless. She led the office through a historic year that brought so many wins for Ohioans: the CHIPS Act, the PACT Act, the Inflation Reduction Act. She led our shift back to an in-person work.

To say the least, it has been an eventful 3 years. Through it all, Trudy has been a dedicated member of this office. She has been a leader. This office wouldn't be the place it is today without her.

As a communications director, she always had her team's back. She went to bat for them. She supported them in and out of the office, attending events on her personal time, like choir concerts, to cheer them on.

As a manager, she gave junior staff the room they needed to grow. She listened. She recognized potential. She invested in every member of our team. She made sure everyone was set up for success so they would move forward even after she would leave.

She is a trusted adviser, a talented brainstormer. She is an advocate for women, especially for women of color, across the Senate. She makes colleagues feel appreciated and seen.

Most of all, Trudy believes in this office and this institution and the good that each of us can do for Ohioans and Americans.

Every member of our staff—from the interns to the senior staff—have learned from Trudy Perkins, whether it is her communications expertise or how to stay calm in stressful situations or even just to show kindness and smile after a long day.

We have certainly picked up a few of her sayings along the way, like “no ma'am pam” and “hot diggity dog.” She doesn't always talk that way, but sometimes.

We will miss her sense of humor. We will miss her laugh, which you can hear from any corner of the office. And if the microphones were loud enough, you could have just heard it then from this corner. I know every member of Team Brown will miss having her as part of this team.

At the beginning of this Congress, I asked each member of my staff to share a meaningful memory from the 117th Congress—and this is where the Presiding Officer comes in. Trudy reminded me of the Letter from a Birmingham Jail reading that she organized after former Senator Jones asked me to continue the tradition. We chose three Republicans and three Democrats to read Dr. King's immortal words. Trudy asked that Senator WARNOCK read the final section, as RAPHAEL is the first Black Senator from Georgia

and serves as the senior pastor of Ebenezer Baptist Church in Atlanta, where Dr. King attended and Dr. King's father was the pastor.

It was a moment of immense symbolism and joy as he read his predecessor's words on the Senate floor. That letter also includes perhaps my favorite Dr. King quote:

Human progress never rolls in on the wheels of inevitability.

I will say that again:

Human progress never rolls in on the wheels of inevitability.

Progress rolls in because we make it so. It rolls in because we organize, we push, we work every angle for as long as it takes. Progress rolls in because of people like Trudy Perkins who dedicate their lives to fighting to make a difference in this world. Our country is a better place because of her service and because of her leadership.

Trudy will be spending more time with her mother in Maryland. Her dedication to her family has always been unwavering.

Trudy, you will be missed more than you know. We will continue to fight for the values that you hold dear and make a difference in the lives of all Ohioans.

On behalf of everyone in our office, the staff on the Banking and Housing Committee, some of my colleagues who know Trudy, and all those who have had the honor of working with her, we congratulate Trudy Perkins on her career. We wish her well in retirement. We thank her from the bottom of our hearts for her terrific service to our Nation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I just want my colleague to know that what you just heard from Senator BROWN is why, every single day, he gives public service a good name. He shows up, and he works for the people. It is thrilling to see that, as always, he recognizes that he can't do it by himself. He has got staff, and it is so appropriate to hear him and his gracious remarks about his colleague who is moving on.

Mr. President, it is great to see you.

For those who aren't familiar, those of us on the Senate Finance Committee have been so proud to work with our colleague Senator WARNOCK, particularly his championship of affordable medicine and affordable insulin, where he has been a leader for all of us on this side of the aisle. And had he had his way, all Americans—not just those who depend on Medicare—would already have the benefits of more affordable medicine.

NOMINATION OF ADRIENNE C. NELSON

Mr. President, I want to use my time to offer my unwavering support for the confirmation of Associate Justice Adrienne Nelson to the U.S. District Court for Oregon.

Through a powerful combination of legal knowledge and a commitment to

justice for all, Justice Adrienne Nelson has amassed an extraordinary record, earning her a well-deserved seat on the Oregon Supreme Court, the first Black woman ever to serve there.

Before she was the first Black woman Oregon Supreme Court justice, before law school, before her impressive legal career, which includes her 12 years of experience on Multnomah County Circuit Court, in private practice, as a public defender, even before she could vote, Judge Nelson was No. 1 in her class at an Arkansas high school that wouldn't recognize her as valedictorian because of the color of her skin. The lawsuit that followed in her name ensured that no student could be denied any accomplishment based on their race, and that victory activated a lifelong legal mind and civil rights champion.

Around my State, Justice Nelson is lauded for her prodigious work ethic, her integrity, and her humility. Support for her nomination comes from her fellow Justices on the Oregon Supreme Court, nonprofit and business leaders, law enforcement officials from urban and rural communities; and that includes district attorneys, the sheriff of our largest county, and a former U.S. Attorney who served under both Democratic and Republican administrations.

There is so much to like about Judge Nelson, but what I like most is that she is a role model for young people. Young people in my State really look up to Judge Nelson. In fact, there is an Adrienne C. Nelson High School in Happy Valley, OR. I think everybody reports that the students there just adore her.

In addition to these impressive accomplishments and the praise and her service as a role model, she has never lost sight of that valedictorian fighting tooth and nail within the American legal system to make ours a better and even stronger country for everybody. I am certain she is going to bring that dedication and commitment to justice for all to every single case that crosses her desk.

There is no question that, with Justice Nelson's top-notch qualifications, she is going to make a superb Federal judge. It is all these reasons together that causes me tonight to urge our colleagues—it will happen shortly, later in the week—to vote for this supremely qualified candidate to the U.S. District Court.

In Oregon, we are all so proud of Judge Adrienne Nelson, and I believe all Americans will be when she is in service on the court.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF MATTHEW GARCIA

Mr. DURBIN. Mr. President, I rise to speak on the confirmation of Matthew Garcia to the U.S. District Court for the District of New Mexico.

Mr. Garcia is an experienced litigator with deep ties to the New Mexico legal community. He received degrees from the University of New Mexico, the Harvard Kennedy School of Government, and the University of New Mexico School of Law before establishing a career in civil rights litigation. Mr. Garcia represented plaintiffs in religious liberty, unlawful discrimination, and wage theft cases. He also gained experience in multistate antitrust actions and personal injury matters. In 2019, Mr. Garcia left private practice and joined the New Mexico State government as general counsel to New Mexico Governor Michelle Lujan Grisham. He now serves as her chief of staff and advises on issues related to State constitutional questions and statutory interpretation.

Throughout his career, Mr. Garcia has appeared frequently in State and Federal court. His breadth of experience in government and the private sector will make him ready to serve on the District of New Mexico from day one. The American Bar Association unanimously rated Mr. Garcia "well qualified," and he has the strong support of his home-State Senators, Mr. HEINRICH and Mr. LUJÁN.

I supported his nomination and was glad to see him confirmed.

CONFIRMATION OF LINDSAY C. JENKINS

Mr. DURBIN. Mr. President, I rise to speak on the confirmation of Lindsay Jenkins to U.S. District Court for the Northern District of Illinois.

Born in Cleveland, OH, Ms. Jenkins received her bachelor's degree from Miami University of Ohio and her J.D., *summa cum laude*, from Cleveland-Marshall College of Law. After clerking for Judge Solomon Oliver, Jr., on the U.S. District Court for the Northern District of Ohio and working in private practice for 2 years, Ms. Jenkins spent the majority of her legal career—15 years—as an Assistant U.S. Attorney for the Northern District of Illinois.

As an Assistant U.S. Attorney, Ms. Jenkins prosecuted a range of cases, including violations of drug and firearm

laws, fraud, gang-related activity, civil rights violations, and corruption. In addition to her caseload at the U.S. Attorney's Office, she took on supervisory responsibilities, rising to become chief of the Criminal Division. In that role, she oversaw all criminal prosecutions in the Northern District of Illinois, supervising nearly 150 prosecutors across 9 prosecution sections.

In 2021, Ms. Jenkins returned to private practice, primarily working on internal investigations and white collar cases. The American Bar Association rated Ms. Jenkins as unanimously "well qualified." Given her qualifications and her deep knowledge of the Northern District, Senator DUCKWORTH and I strongly support Ms. Jenkins.

I thank my colleagues for confirming her.

CONFIRMATION OF GINA MENDEZ-MIRO

Mr. DURBIN. Mr. President, I rise to speak on the confirmation of Judge Gina Mendez-Miro to the U.S. District Court for the District of Puerto Rico.

Judge Mendez-Miro is an experienced jurist and dedicated public servant. A graduate of the University of Puerto Rico and Princeton University, she spent several years in private practice before devoting the rest of her legal career to public service. Judge Mendez-Miro has served in all three branches of the Puerto Rico government. She served as Assistant Attorney General for Human Resources for the Puerto Rico Department of Justice, as director of judicial programs and general counsel and director of legal affairs in the Puerto Rico judicial branch's office of courts administration, and as chief of staff for the Puerto Rico Senate. In 2016, Judge Mendez-Miro was appointed by the Governor of Puerto Rico and unanimously confirmed by the Puerto Rican Senate to serve on the Puerto Rico Court of Appeals. The American Bar Association unanimously rated Judge Mendez-Miro as "qualified."

I supported her nomination and was glad to see her confirmed.

VOTE EXPLANATION

Mr. HEINRICH. Mr. President, on February 13, 2023, I was unavoidably absent for rollcall vote No. 9. My absence was due to official duties in New Mexico that presented an unavoidable conflict. Had I been present, I would have voted yea on vote No. 9.

On February 13, 2023, I was unavoidably absent for rollcall vote No. 10. My absence was due to official duties in New Mexico that presented an unavoidable conflict. Had I been present, I would have voted yea on vote No. 10.

SENATE SELECT COMMITTEE ON ETHICS RULES OF PROCEDURE

Mr. COONS. Mr. President, in accordance with rule XXVI, paragraph 2 of

the Standing Rules of the Senate, I ask unanimous consent for myself as chairman of the Select Committee on Ethics and for Senator LANKFORD as vice chairman of the committee that the rules of procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and revised November 1999, be printed in the CONGRESSIONAL RECORD for the 118th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE SELECT COMMITTEE ON ETHICS

PART I: ORGANIC AUTHORITY

SUBPART A—S. RES. 338 AS AMENDED

*S. Res. 338, 88th Cong., 2d Sess. (1964)*¹

Resolved, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph 1 of Rule XXIV of the Standing Rules of the Senate at the beginning of each Congress. For purposes of paragraph 4 of Rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c) (1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.²

(2) Three members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a member of the majority Party and one member of the quorum is a member of the minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.³

(d) (1) A member of the Select Committee shall be ineligible to participate in—

(A) any preliminary inquiry or adjudicatory review relating to—

(i) the conduct of—

(I) such member;

(II) any officer or employee the member supervises; or

(III) any employee of any officer the member supervises; or

(ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Select Committee with respect

to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review. Notice of such disqualification shall be given in writing to the President of the Senate.

(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.⁴

Sec. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct⁵ and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) (A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

(B) pursuant to subparagraph (A) recommend discipline, including—

(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure

proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(b) For the purposes of this resolution—

(1) the term "sworn complaint" means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

(2) the term "preliminary inquiry" means a proceeding undertaken by the Select Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred; and

(3) the term "adjudicatory review" means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(c) (1) No—

(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

(C) letter of admonition pursuant to subsection (d)(3) may be issued, unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.

(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the Members of the Select Committee voting.

(d) (1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a

preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

(4) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).

(e) (1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews.

(i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.⁶

Sec. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners,⁷ and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.⁸

(b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.⁹

(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.¹⁰

(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.¹¹

(d)(1) Subpoenas may be authorized by—

(A) the Select Committee; or

(B) the chairman and vice chairman, acting jointly.

(2) Any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

(3) The chairman or any member of the Select Committee may administer oaths to witnesses.¹²

(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific

factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under paragraph 2(c) [NOTE: Now Paragraph 1] of Rule XXXIV or paragraph 1 of Rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.¹³

Sec. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

Sec. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a Member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

SUBPART B—PUBLIC LAW 93-191—FRANKED MAIL, PROVISIONS RELATING TO THE SELECT COMMITTEE

Sec. 6. (a) The Select Committee on Standards and Conduct of the Senate [NOTE: Now the Select Committee on Ethics] shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551-559 and 701-706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a

record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

SUBPART C—STANDING ORDERS OF THE SENATE REGARDING UNAUTHORIZED DISCLOSURE OF INTELLIGENCE INFORMATION, S. RES. 400, 94TH CONGRESS, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) I shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SUBPART D—RELATING TO RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS RECEIVED BY MEMBERS, OFFICERS AND EMPLOYEES OF THE SENATE OR THEIR SPOUSES OR DEPENDENTS, PROVISIONS RELATING TO THE SELECT COMMITTEE ON ETHICS

Section 7342 of title 5, United States Code, states as follows:

Sec. 7342. Receipt and disposition of foreign gifts and decorations.

“(a) For the purpose of this section—

“(1) ‘employee’ means—

“(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

“(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in

the case of an organization performing services under such section, any individual involved in the performance of such services;

“(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

“(D) a member of a uniformed service;

“(E) the President and the Vice President;

“(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

“(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

“(2) ‘foreign government’ means—

“(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

“(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

“(C) any agent or representative of any such unit or such organization, while acting as such;

“(3) ‘gift’ means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

“(4) ‘decoration’ means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

“(5) ‘minimal value’ means a retail value in the United States at the time of acceptance of \$100 or less, except that—

“(A) on January 1, 1981, and at 3 year intervals thereafter, minimal value’ shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

“(B) regulations of an employing agency may define minimal value’ for its employees to be less than the value established under this paragraph; and

“(6) ‘employing agency’ means—

“(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

“(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2)(d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

“(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

“(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

“(b) An employee may not—

“(1) request or otherwise encourage the tender of a gift or decoration; or

“(2) accept a gift or decoration, other than in accordance with, the provisions of subsections (c) and (d).

“(c)(1) The Congress consents to—

“(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

“(B) the accepting by an employee of a gift of more than minimal value when such gift

is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that

“(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

“(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

“(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

“(A) deposit the gift for disposal with his or her employing agency; or

“(B) subject to the approval of the employing agency, deposit the gift with that agency for official use. Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)

(1) or provide for its disposal in accordance with subsection (e)(2).

“(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B) (ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

“(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

“(e) (1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

“(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any

such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

“(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

“(2) Such listings shall include for each tangible gift reported—

“(A) the name and position of the employee;

“(B) a brief description of the gift and the circumstances justifying acceptance;

“(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

“(D) the date of acceptance of the gift;

“(E) the estimated value in the United States of the gift at the time of acceptance; and

“(F) disposition or current location of the gift.

“(3) Such listings shall include for each gift of travel or travel expenses—

“(A) the name and position of the employee;

“(B) a brief description of the gift and the circumstances justifying acceptance; and

“(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

“(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

“(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

“(2) Each employing agency shall—

“(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

“(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

“(C) take any other actions necessary to carry out the purpose of this section.

“(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.

“(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

“(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

“(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.”

PART II: SUPPLEMENTARY PROCEDURAL RULES—145 CONG. REC. S1832 (DAILY ED. FEB. 23, 1999)¹⁴

RULE 1: GENERAL PROCEDURES

(a) OFFICERS: In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) PROCEDURAL RULES: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) MEETINGS:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3) (A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) QUORUM:

(1) A majority of the members of the Select Committee shall constitute a quorum for the

transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 5 and any deposition taken outside the presence of a Member under Rule 6, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) ORDER OF BUSINESS: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) HEARINGS ANNOUNCEMENTS: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) OPEN AND CLOSED COMMITTEE MEETINGS: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specific period or purpose.

(h) RECORD OF TESTIMONY AND COMMITTEE ACTION: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness's testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 5 on Procedures for Conducting Hearings.)

(i) SECRECY OF EXECUTIVE TESTIMONY AND ACTION AND OF COMPLAINT PROCEEDINGS:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a complaint or allegation shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) **RELEASE OF REPORTS TO PUBLIC:** No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) **INELIGIBILITY OR DISQUALIFICATION OF MEMBERS AND STAFF:**

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) a preliminary inquiry or adjudicatory review relating to (i) the conduct of (I) such member; (II) any officer or employee the member supervises; or (ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member of the Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Committee and the determinations and recommendations of the Committee with respect to any such preliminary inquiry or adjudicatory review.

(4) Whenever any member of the Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review, or disqualifies himself or herself under paragraph (3) from participating in any preliminary inquiry or adjudicatory review, another Senator shall be appointed by the Senate to serve as a member of the Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Committee with respect to such preliminary inquiry or adjudicatory review. Any member of the Senate appointed for such purposes shall be of the same party as the member who is ineligible or disqualifies himself or herself.

(5) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any preliminary inquiry, adjudicatory review, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(4).

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(1) **RECORDED VOTES:** Any member may require a recorded vote on any matter.

(m) **PROXIES; RECORDING VOTES OF ABSENT MEMBERS:**

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of a preliminary inquiry or an adjudicatory review, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested of the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) **APPROVAL OF BLIND TRUSTS AND FOREIGN TRAVEL REQUESTS BETWEEN SESSIONS AND DURING EXTENDED RECESSES:** During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to

approve or disapprove blind trusts under the provision of Rule XXXIV.

(o) **COMMITTEE USE OF SERVICES OR EMPLOYEES OF OTHER AGENCIES AND DEPARTMENTS:** With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR COMPLAINTS, ALLEGATIONS, OR INFORMATION

(a) **COMPLAINT, ALLEGATION, OR INFORMATION:** Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, a sworn complaint or other allegation or information, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate. Such complaints or allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) **SOURCE OF COMPLAINT, ALLEGATION, OR INFORMATION:** Complaints, allegations, and information to be reported to the Committee may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints, defined as a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate;

(2) anonymous or informal complaints;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) **FORM AND CONTENT OF COMPLAINTS:** A complaint need not be sworn nor must it be in any particular form to receive Committee consideration, but the preferred complaint will:

(1) state, whenever possible, the name, address, and telephone number of the party filing the complaint;

(2) provide the name of each member, officer or employee of the Senate who is specifically alleged to have engaged in improper conduct or committed a violation;

(3) state the nature of the alleged improper conduct or violation;

(4) supply all documents in the possession of the party filing the complaint relevant to or in support of his or her allegations as an attachment to the complaint.

RULE 3: PROCEDURES FOR CONDUCTING A PRELIMINARY INQUIRY

(a) **DEFINITION OF PRELIMINARY INQUIRY:** A "preliminary inquiry" is a proceeding undertaken by the Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) **BASIS FOR PRELIMINARY INQUIRY:** The Committee shall promptly commence a preliminary inquiry whenever it has received a sworn complaint, or other allegation of, or information about, alleged misconduct or violations pursuant to Rule 2.

(c) **SCOPE OF PRELIMINARY INQUIRY:**

(1) The preliminary inquiry shall be of such duration and scope as is necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Chairman and Vice Chairman, acting jointly, on behalf of the Committee may supervise and determine the appropriate duration, scope, and conduct of a preliminary inquiry. Whether a preliminary inquiry is conducted jointly by the Chairman and Vice Chairman or by the Committee as a whole, the day to day supervision of a preliminary inquiry rests with the Chairman and Vice Chairman, acting jointly.

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, or subpoenas deemed appropriate to obtain information upon which to make any determination provided for by this Rule.

(d) **OPPORTUNITY FOR RESPONSE:** A preliminary inquiry may include an opportunity for any known respondent or his or her designated representative to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(e) **STATUS REPORTS:** The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(f) **FINAL REPORT:** When the preliminary inquiry is completed, the staff or outside counsel shall make a confidential report, oral or written, to the Committee on findings and recommendations, as appropriate.

(g) **COMMITTEE ACTION:** As soon as practicable following submission of the report on the preliminary inquiry, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence and, in such case, the Committee shall dismiss the matter. The Committee, or Chairman and Vice Chairman acting jointly on behalf of the Committee, may dismiss any matter which, after a preliminary inquiry, is determined to lack substantial merit. The Committee shall inform the complainant of the dismissal.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In such case, the Committee may dis-

pose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline and which shall not be subject to appeal to the Senate. The issuance of a letter of admonition must be approved by the affirmative recorded vote of no fewer than four members of the Committee voting.

(3) The Committee may determine that there is such substantial credible evidence and that the matter cannot be appropriately disposed of under paragraph (2). In such case, the Committee shall promptly initiate an adjudicatory review in accordance with Rule 4. No adjudicatory review of conduct of a Member, officer, or employee of the Senate may be initiated except by the affirmative recorded vote of not less than four members of the Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN ADJUDICATORY REVIEW

(a) **DEFINITION OF ADJUDICATORY REVIEW:** An "adjudicatory review" is a proceeding undertaken by the Committee after a finding, on the basis of a preliminary inquiry, that there is substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) **SCOPE OF ADJUDICATORY REVIEW:** When the Committee decides to conduct an adjudicatory review, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. An adjudicatory review shall be conducted by outside counsel as authorized by section 3(b)(1) of Senate Resolution 338 unless the Committee determines not to use outside counsel. In the course of the adjudicatory review, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct any inquiries or interviews, take sworn statements, use compulsory process as described in Rule 6, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make a determination.

(c) **NOTICE TO RESPONDENT:** The Committee shall give written notice to any known respondent who is the subject of an adjudicatory review. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an adjudicatory review. The notice shall include a statement of the nature of the possible violation, and description of the evidence indicating that a possible violation occurred. The Committee may offer the respondent an opportunity to present a statement, orally or in writing, or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) **RIGHT TO A HEARING:** The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand (not requiring discipline by the full Senate).

(e) **PROGRESS REPORTS TO COMMITTEE:** The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the adjudicatory review. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) **FINAL REPORT OF ADJUDICATORY REVIEW TO COMMITTEE:** Upon completion of an adjudicatory review, including any hearings held pursuant to Rule 5, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the adjudicatory review and which may recommend disciplinary action, if appropriate. Findings

of fact of the adjudicatory review shall be detailed in this report whether or not disciplinary action is recommended.

(g) **COMMITTEE ACTION:**

(1) As soon as practicable following submission of the report of the staff or outside counsel on the adjudicatory review, the Committee shall prepare and submit a report to the Senate, including a recommendation or proposed resolution to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No adjudicatory review of conduct of a Member, officer or employee of the Senate may be conducted, or report or resolution or recommendation relating to such an adjudicatory review of conduct may be made, except by the affirmative recorded vote of not less than four members of the Committee.

(2) Pursuant to S. Res. 338, as amended, section 2 (a), subsections (2), (3), and (4), after receipt of the report prescribed by paragraph (f) of this rule, the Committee may make any of the following recommendations for disciplinary action or issue an order for reprimand or restitution, as follows:

(i) In the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these;

(ii) In the case of an officer or employee, a recommendation to the Senate of dismissal, suspension, payment of restitution, or a combination of these;

(iii) In the case where the Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate, and subject to the provisions of paragraph (h) of this rule relating to appeal, by a unanimous vote of six members order that a Member, officer or employee be reprimanded or pay restitution or both;

(iv) In the case where the Committee determines that misconduct is inadvertent, technical, or otherwise of a de minimis nature, issue a public or private letter of admonition to a Member, officer or employee, which shall not be subject to appeal to the Senate.

(3) In the case where the Committee determines, upon consideration of all the evidence, that the facts do not warrant a finding that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Committee may dismiss the matter.

(4) Promptly, after the conclusion of the adjudicatory review, the Committee's report and recommendation, if any, shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation, if any, shall be printed and made public, unless the Committee determines by the recorded vote of not less than four members of the Committee that it should remain confidential.

(h) **RIGHT OF APPEAL:**

(1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (g)(2)(iii), may, within 30 days of the Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the appeal to the Committee and the presiding officer of the Senate. The presiding officer shall

cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) S. Res. 338 provides that a motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

RULE 5: PROCEDURES FOR HEARINGS

(a) **RIGHT TO HEARING:** The Committee may hold a public or executive hearing in any preliminary inquiry, adjudicatory review, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand. (See Rule 4(d).)

(b) **NON-PUBLIC HEARINGS:** The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) **ADJUDICATORY HEARINGS:** The Committee may, by the recorded vote of not less than four members of the Committee, designate any public or executive hearing as an adjudicatory hearing; and any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) **SUBPOENA POWER:** The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 6.)

(e) **NOTICE OF HEARINGS:** The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) **PRESIDING OFFICER:** The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) WITNESSES:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by recorded vote of not less than four members of the Committee, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness's scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working

days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) **RIGHT TO TESTIFY:** Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) **CONDUCT OF WITNESSES AND OTHER ATTENDEES:** The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) ADJUDICATORY HEARING PROCEDURES:

(1) **NOTICE OF HEARINGS:** A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) PREPARATION FOR ADJUDICATORY HEARINGS:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) **SWEARING OF WITNESSES:** All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) **RIGHT TO COUNSEL:** Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) RIGHT TO CROSS-EXAMINE AND CALL WITNESSES:

(A) In adjudicatory hearings, any respondent and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness's scheduled appearance, a witness or a witness's counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness's counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) ADMISSIBILITY OF EVIDENCE:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a recorded vote of not less than four members of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, by a Member, officer, or employee within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of not less than four members of the full Committee that the interests of justice require that such evidence be admitted.

(7) **SUPPLEMENTARY HEARING PROCEDURES:** The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) TRANSCRIPTS:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own

remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness's testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 6: SUBPOENAS AND DEPOSITIONS

(A) SUBPOENAS:

(1) AUTHORIZATION FOR ISSUANCE: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time during a preliminary inquiry, adjudicatory review, or other proceeding.

(2) SIGNATURE AND SERVICE: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) WITHDRAWAL OF SUBPOENA: The Committee, by recorded vote of not less than four members of the Committee, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(B) DEPOSITIONS:

(1) PERSONS AUTHORIZED TO TAKE DEPOSITIONS: Depositions may be taken by any member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) DEPOSITION NOTICES: Notices for the taking of depositions shall be authorized by

the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time during a preliminary inquiry, adjudicatory review or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) COUNSEL AT DEPOSITIONS: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) DEPOSITION PROCEDURE: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) FILING OF DEPOSITIONS: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time

limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 7: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; EDUCATIONAL MANDATE; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) VIOLATIONS OF LAW: Whenever the Committee determines by the recorded vote of not less than four members of the full Committee that there is reason to believe that a violation of law, including the provision of false information to the Committee, may have occurred, it shall report such possible violation to the proper Federal and state authorities.

(b) PERJURY: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) LEGISLATIVE RECOMMENDATIONS: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in a preliminary inquiry, adjudicatory review, or other proceeding.

(d) Educational Mandate: The Committee shall develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(e) APPLICABLE RULES AND STANDARDS OF CONDUCT:

(1) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 8: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE MATERIALS:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusations of such conduct; to any resulting preliminary inquiry, adjudicatory review or other proceeding by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) PROCEDURES FOR HANDLING CLASSIFIED MATERIALS:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED DOCUMENTS:

(1) Committee Sensitive documents and materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be hand delivered by a member of the Committee staff to the member of the Committee, or to a staff person (s) specifically designated by the member, for the Member's or designated staffer's examination. A member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the Member or his or her designated staffer.

(3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, adjudicatory review, or other proceeding, shall be hand delivered to the Member or to his or her specifically designated representative.

(4) Any Member of the Senate who is not a member of the Committee and who seeks ac-

cess to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(5) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) NON-DISCLOSURE POLICY AND AGREEMENT:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the non-disclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 9: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by recorded vote of not less than four members of the Committee that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to

radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 10: PROCEDURES FOR ADVISORY OPINIONS

(a) WHEN ADVISORY OPINIONS ARE RENDERED:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) **FORM OF REQUEST:** A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) OPPORTUNITY FOR COMMENT:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) ISSUANCE OF AN ADVISORY OPINION:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form

which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) **RELIANCE ON ADVISORY OPINIONS:**

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 11: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) **BASIS FOR INTERPRETATIVE RULINGS:** Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) **REQUEST FOR RULING:** A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) **ADOPTION OF RULING:**

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) **PUBLICATION OF RULINGS:** The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) **RELIANCE ON RULINGS:** Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) **RULINGS BY COMMITTEE STAFF:** The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 12: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) **AUTHORITY TO RECEIVE COMPLAINTS:** The Committee is directed by section 6(b) of Public Law 93-191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) **DISPOSITION OF COMPLAINTS:**

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing, pursuant to the franking statute, if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an adjudicatory review, must be summarized, together with the disposition, in a report to the Senate, as appropriate.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) **ADVISORY OPINIONS AND INTERPRETATIVE RULINGS:** Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 10 and 11.

RULE 13: PROCEDURES FOR WAIVERS

(a) **AUTHORITY FOR WAIVERS:** The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) **REQUESTS FOR WAIVERS:** A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) **RULING:** The Committee shall rule on a waiver request by recorded vote with a majority of those voting affirming the decision. With respect to an individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver.

(d) **AVAILABILITY OF WAIVER DETERMINATIONS:** A brief description of any

waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 14: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 15: COMMITTEE STAFF

(a) **COMMITTEE POLICY:**

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) **APPOINTMENT OF STAFF:**

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular preliminary inquiry, adjudicatory review, or other proceeding. Such staff shall be

retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, preliminary inquiry, adjudicatory review, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any adjudicatory review undertaken after a preliminary inquiry, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) **DISMISSAL OF STAFF:** A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) **STAFF WORKS FOR COMMITTEE AS WHOLE:** All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) **NOTICE OF SUMMONS TO TESTIFY:** Each member of the Committee staff or outside counsel shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 16: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) **ADOPTION OF CHANGES IN SUPPLEMENTARY RULES:** The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a recorded vote of not less than four members of the full Committee taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) **PUBLICATION:** Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

SELECT COMMITTEE ON ETHICS

PART III—SUBJECT MATTER JURISDICTION

Following are sources of the subject matter jurisdiction of the Select Committee:

(a) The Senate Code of Official Conduct approved by the Senate in Title I of S. Res. 110, 95th Congress, April 1, 1977, as amended, and stated in Rules 34 through 43 of the Standing Rules of the Senate;

(b) Senate Resolution 338, 88th Congress, as amended, which states, among others, the duties to receive complaints and investigate allegations of improper conduct which may reflect on the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate; recommend disciplinary action; and recommend additional Senate Rules or regulations to insure proper standards of conduct;

(c) Residual portions of Standing Rules 41, 42, 43 and 44 of the Senate as they existed on

the day prior to the amendments made by Title I of S. Res. 110;

(d) Public Law 93-191 relating to the use of the mail franking privilege by Senators, officers of the Senate; and surviving spouses of Senators;

(e) Senate Resolution 400, 94th Congress, Section 8, relating to unauthorized disclosure of classified intelligence information in the possession of the Select Committee on Intelligence;

(f) Public Law 95-105, Section 515, relating to the receipt and disposition of foreign gifts and decorations received by Senate members, officers and employees and their spouses or dependents;

(g) Preamble to Senate Resolution 266, 90th Congress, 2d Session, March 22, 1968; and

(h) The Code of Ethics for Government Service, H. Con. Res. 175, 85th Congress, 2d Session, July 11, 1958 (72 Stat. B12). Except that S. Res. 338, as amended by Section 202 of S. Res. 110 (April 2, 1977), and as amended by Section 3 of S. Res. 222 (1999), provides:

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

APPENDIX A—OPEN AND CLOSED MEETINGS

Paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate reads as follows:

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in classes (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

APPENDIX B—"SUPERVISORS" DEFINED

Paragraph 12 of Rule XXXVII of the Standing Rules of the Senate reads as follows:

For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, and other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

REVISIONS

RULES OF PROCEDURE—SELECT COMMITTEE ON ETHICS

Date revised	Amendment
December 1989	Allows for a reduced quorum to take testimony except during an adjudicatory hearing.
February 1993	Adopted, under Admissibility of Evidence, paragraph (C), Rule 412 of the Federal Rules of Evidence.
May 1993	Corrected the following grammatical errors in the publication: page 2 section (d)(1) change paragraph 11 to paragraph 12; page 14 section (k)(B) change paragraph 11 to paragraph 12; page 15 section (5) change to "Whenever a member of the Committee is ineligible . . ."
April 1997	Amends Rule 9(c) Procedures for Handling Committee Sensitive and Classified Documents: (1) Strike "Committee Sensitive and classified documents and materials shall be segregated in secure filing safes." Insert "Committee Sensitive documents and materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes." (2) Strike "If necessary, requested materials may be taken by a member of the Committee staff to the office of a member of the Committee for his or her examination, but the Committee staff member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by the Chairman or Vice Chairman." Insert "If necessary, requested materials may be hand delivered by a member of the Committee staff to the member of the Committee, or to a staff person(s) specifically designated by the member, for the member's or designated staffer's examination. A member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the member or his or her designated staffer." (3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, an initial review, or an investigation, shall be hand delivered to the Member or to his or her specifically designated representative. (4) [Renumbered] (5) [Renumbered] Amends Committee Rule 14 by adding the following sentence to paragraph (c). "The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision. With respect to an individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver."
November 1999	Extensively amends the Supplementary Procedural Rules to reflect changes to the Committee charter as agreed to by S. Res. 222 ["Senate Ethics Procedure Reform Resolution of 1999"].

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ENDNOTES

1. As amended by S. Res. 4, 95th Cong., 1st Sess. (1977), S. Res. 110, 95th Cong., 1st Sess. (1977), S. Res. 204, 95th Cong., 1st Sess. (1977), S. Res. 230, 95th Cong., 1st Sess. (1977), S. Res. 312, 95th Cong., 1st Sess. (1977), S. Res. 271, 96th Cong., 1st Sess. (1979), S. Res. 78, 97th Cong., 1st Sess. (1981). Brackets reflect renumbering of paragraphs in Senate Rule XXXVII effected by S. Res. 236, 101st Cong., 2d Sess. (1990). Amended by S. Res. 222, 106th Cong., 1st Sess. (1999). The amendments made by S. Res. 222, Senate Ethics Procedure Reform Resolution of 1999, shall take effect on November 5, 1999, except that the amendments shall not apply with respect to further proceedings in any preliminary inquiry, initial review, or investigation commenced before November 5, 1999, under Senate Resolution 338, agreed to July 24, 1964.
2. Subsection (c) was amended by S. Res. 222, 106th Cong., 1st Sess. (1999).
3. Subsection 3 was amended by S. Res. 78, 97th Cong., 1st Sess. (1981).
4. Subsection d(1)-(3) was added by S. Res. 110, §203, 95th Cong., 1st Sess. (1977) and amended by S. Res. 222, 106th Cong., 1st Sess. (1999).
5. Reference to Senate Code of Official Conduct was added by S. Res. 110, §201, 95th Cong., 1st Sess. (1977).
6. Subsections (b)-(h) were added by and subsection (i) was amended by S. Res. 110, §202, 95th Cong., 1st Sess. (1977). Subsections (a)-(e) and (g)-(h) were amended by S. Res. 222, 106th Cong., 1st Sess. (1999).
7. Paragraph 7 was amended by S. Res. 110, §204, 95th Cong., 1st Sess. (1977).
8. Paragraph 8 was added by S. Res. 230, 95th Cong., 1st Sess. (1977).
9. Subsection (b)(1) was added by S. Res. 110 §204, 95th Cong., 1st Sess. (1977).
10. Subsection (b)(2) was amended by S. Res. 222, 106th Cong., 1st Sess. (1999).
11. Subsection (c) was added by S. Res. 110, §204, 95th Cong., 1st Sess. (1977).
12. Subsection (d) was added by S. Res. 312, 95th Cong., 1st Sess. (1977) and was amended by S. Res. 222, 106th Cong., 1st Sess. (1999).
13. Subsection was added by S. Res. 110, §206, 95th Cong., 1st Sess. (1977).
14. As amended 145 Cong. Rec. S14203 (daily ed. Nov. 5, 1999).

RECOGNIZING THE DEFENDERS OF BATAAN AND CORREGIDOR

Mr. HEINRICH. Mr. President, we must never forget the "first to fire"

troops from the United States and the Philippines who bravely defended Bataan, Corregidor, and other critical locations throughout the Pacific theater in the early months of World War II before enduring some of the most harrowing prisoners of war experiences in history.

Their combat experiences began hours after the attack on Pearl Harbor, Hawaii Territory, on December 7, 1941. Imperial Japanese forces launched coordinated attacks throughout Asia, striking Malaya, Thailand, Singapore, Shanghai, Hong Kong, and the American Territories of Guam, Midway, Wake Island, Howland Island, and the Commonwealth of the Philippines.

By December 22, 1941, the American Territories of Guam and Wake Island were surrendered to Imperial Japan. The Commonwealth of the Philippines was under a full-scale invasion.

By March 10, 1942, the U.S. Asiatic Fleet was destroyed, and U.S. Army Forces on Java in the Dutch East Indies were surrendered, and General Douglas MacArthur was evacuated from Corregidor to Australia.

By June 9, 1942, all of the Philippines was surrendered. The Japanese occupied the Alaskan islands of Kiska and Attu. Japanese forces threw three captured American aviators from the Battle of Midway into the sea.

Only in the Philippine Islands did U.S. Armed Forces under the command of the United States Army Forces Far East—USAFFE—wage a prolonged, 6-month resistance to Imperial Japan's invasion in contrast to other Allied encounters with Japan throughout Southeast Asia.

In the Philippines, the "first to fire" at the Japanese invaders on December 8, 1941, were the New Mexico National Guardsmen from the 200th and 515th Coast Artillery (AA) regiments, who were stationed at Fort Stotsenburg north of Manila with the mission of protecting Clark Field.

With the activation of War Plan Orange (WPO-3) on December 24, 1941, USAFFE forces on the island of Luzon in the Philippines withdrew into the Bataan Peninsula to defend Manila Bay and await for reinforcements, which were never to come.

The withdrawal was covered by 26th Cavalry Regiment (Philippine Scouts) and the Provisional Tank Group commanded by Brigadier General James R. N. Weaver that was composed of the 192nd GHQ Light Tank Battalion made up of Company A from Janesville, WI, Company B from Maywood, IL, Company C from Port Clinton, OH, and Company D from Harrodsburg, KY, and the GHQ 194th Light Tank Battalion made up of Company A from Brainerd, MN, Company B from Saint Joseph, MO, and Company C from Salinas, CA, and the 17th Ordnance Company (Armored).

On January 16, 1942, when Troop G of the 26th Cavalry encountered Japanese forces at an escape route to Bataan, Lieutenant Edwin P. Ramsey ordered

the last cavalry charge in American history.

For the next 4 months, an estimated 12,000 American troops, 76,000 Filipino troops, and 20,000 Filipino civilians endured siege conditions marked by hunger, disease, and confusion with dwindling and antiquated war materiel.

The Japan's successful command of the air and sea in Southeast Asia and the Southwest Pacific combined with Washington and London's "Europe First" strategy foreclosed sending reinforcements and supplies to the besieged islands in the Pacific.

Despite the combat prowess, dedication, and pure heroism of the American and Filipino troops on Bataan, Commanding General Edward B. King understood his seriously degraded force could not continue. He surrendered the Bataan Peninsula on April 9, 1942.

With surrender, thousands of troops and civilians were assembled at the Port of Mariveles at the tip of Bataan for a 65-mile merciless march in the tropical sun up the peninsula to a train station at San Fernando where they were packed standing into small unventilated boxcars for the 24 miles to Capas. From there, the survivors were forced to march 6 miles to Camp O'Donnell, a makeshift POW camp with only one source of water.

This forced trek came to be known as the Bataan Death March as it was marked by the Japanese capturers' conscious cruelty of withholding food, water, and medicine, for looting and murder, and for inflicting capricious abuse and torture upon defenseless prisoners.

For the next month, the Japanese under the command of General Masaharu Homma unleashed a continual air and artillery assault on the fortress islands of Corregidor (Ft. Mills), Ft. Frank, Ft. Hughes, and Ft. Drum in Manila Bay.

After Japanese forces breached beach defenses on Corregidor, Commanding General Jonathan Wainwright surrendered Corregidor and its associated islands on May 6, 1942.

General Homma refused to accept the surrender and kept the men and women held on the islands in Manila Bay as hostages until he received assurance on June 9, 1942, that all the USAFFE troops throughout the Philippines had surrendered.

On June 7, 1942, the Imperial Japanese Army occupied the Aleutian Island of Attu, capturing the population of 42 Unangax (Aleut) and two American citizens, one of whom was executed and the other taken to Japan with the Alaska Natives as prisoners of war.

Included in the surrenders in the Philippines were female nurses of U.S. Army, Navy, Philippine Army, and civilian volunteers who became the first large group of American women in combat and, alongside the five Navy nurses surrendered on Guam in December 1941, comprised the first group of American military women taken captive and imprisoned by an enemy.

Between January of 1942 and December of 1944, thousands of prisoners of war from the United States who had survived the surrenders throughout the Pacific were shipped in unmarked transports, known as “hellships” for forced labor, often with private companies, throughout the Japanese Empire.

By the war’s end, more than 12,000 Americans had died in squalid POW camps, in the fetid holds of the “hellships,” or in forced labor camps owned by Japanese companies where they were denied food, water, sanitation, clothing, and medical care. As a result, the death rate for American POWs of Japan was 40 percent. Less than half of the men of New Mexico Coast Artillery and the members of the 192nd and 194th Provisional Tank Battalions returned home after the war.

Surviving as a POW of Japan and returning home was the beginning of new battles: finding acceptance in society and living with serious mental and physical ailments that the Veterans Administration was unprepared to address, resulting in death rates that were more than twice those of the comparably aged White male population of the time.

The veterans of the early defensive battles in the Pacific represented all States, Tribes, and Territories of the United States, a diversity of ethnicities and religions embodying the American spirit of perseverance, faith, and optimism.

President Ronald Reagan first proclaimed National Former Prisoner of War Recognition Day in 1988, which was established to coincide with April 9, the anniversary of the surrender of Bataan and the start of the Bataan Death March.

The U.S. Navy has honored the service and heroism of the veterans of early battles in the Pacific by naming several ships after the 1942 fighting in the Philippines and other places in the Pacific, including one still in service, the USS *Bataan* (LHD-5), homeported in Norfolk, VA; as well as the now decommissioned USS *Corregidor* (CVE-58); USS *Antrim* (FFG-20); USS *Bangust* (DE-739), USS *Baron* (DE-739), USS *Elrod* (FFG-55), and USS *Rooks* (DD-804).

It is time to recognize the Defenders of Bataan and Corregidor: ordinary men and women who found uncommon courage in extraordinary circumstances to fight the impossible and endure the unimaginable for freedom from tyranny and oppression.

ADDITIONAL STATEMENTS

RECOGNIZING WAVES

• Mrs. BLACKBURN. Mr. President, in 1973 the citizens of Fairview, TN set out to solve a problem. Their community was growing, but individuals with intellectual and developmental disabilities were being left behind. Not content to ignore their plight, a small

group of families and local leaders put their heads together. After much deliberation, Waves was born.

50 years later, what started as a small but significant passion project has blossomed into a pillar of the Williamson County community. Each day, close to 100 full-time and part-time employees and volunteers serve more than 700 children and adults through early learning, adult day service, adult residential, and employment programs.

Here in Washington, we provide what support we can to community programs like these. But, as the people at Waves and other places like it will tell you, what keeps these organizations going is the support of their friends and neighbors and the belief in the possibility of a loving and more supportive world.

As they celebrate their 50th anniversary, I want to thank the dedicated team at Waves for giving so much of themselves to this cause. On behalf of all Tennesseans, I wish you the very best and look forward to seeing what you do next.●

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 424. A bill to protect the seniors of the United States, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-479. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Revised Jurisdictional Thresholds for Section 8 of the Clayton Act” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on the Judiciary.

EC-480. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Revised Jurisdictional Thresholds for Section 7A of the Clayton Act” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on the Judiciary.

EC-481. A communication from the Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled “2019 Annual Report of the National Institute of Justice”; to the Committee on the Judiciary.

EC-482. A communication from the Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled “Literature Review and Data Analysis on Deaths in Custody”; to the Committee on the Judiciary.

EC-483. A communication from the President of the United States Capitol Historical Society, transmitting, pursuant to law, the Society’s fiscal year 2022 annual report and the Uniform Resource Locator (URL); to the Committee on Rules and Administration.

EC-484. A communication from the Director, Office of Congressional Affairs, Federal Election Commission, transmitting, pursuant to law, a report relative to notifying Congress that the Commission did not complete or initiate competitive sourcing for conversion in fiscal year 2022, nor do they plan to do so in fiscal year 2023; to the Committee on Rules and Administration.

EC-485. A communication from the Regulation Development Coordinator, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Modifications of Approval Requirements for Courses Designed to Prepare Individuals for Licensure or Certifications” (RIN2900-AQ91) received in the Office of the President of the Senate on January 26, 2023; to the Committee on Veterans’ Affairs.

EC-486. A communication from the Regulation Development Coordinator, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Federal Civil Penalties Inflation Adjustment Act Amendments” (RIN2900-AR79) received in the Office of the President of the Senate on January 26, 2023; to the Committee on Veterans’ Affairs.

EC-487. A communication from the Regulation Development Coordinator, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Emergent Suicide Care” (RIN2900-AR50) received in the Office of the President of the Senate on January 26, 2023; to the Committee on Veterans’ Affairs.

EC-488. A communication from the Senior Advisor, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Commissioner, Administration for Native Americans, Department of Health and Human Services, received in the Office of the President of the Senate on January 26, 2023; to the Committee on Indian Affairs.

EC-489. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Withdrawal of the Statement of Enforcement Principles Regarding ‘Unfair Methods of Competition’ under Section 5 of the FTC Act” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Commerce, Science, and Transportation.

EC-490. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Policy Statement of the Federal Trade Commission on Rebates and Fees in Exchange for Excluding Lower-Cost Drug Products” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Commerce, Science, and Transportation.

EC-491. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Telemarketing Sales Rule Fees” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Commerce, Science, and Transportation.

EC-492. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Adjustments to Civil Penalty Amounts” received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Commerce, Science, and Transportation.

EC-493. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Automotive Fuel Ratings, Certification, and Posting" (RIN3064-AB39) received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Commerce, Science, and Transportation.

EC-494. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Safety Evaluation for BWRVIP-321, Boiling Water Reactor and Internals Project, Plan for Extension of the Boiling Water Reactor Integrated Surveillance Program Through Second License Renewal" received during adjournment of the Senate in the Office of the President of the Senate on January 19, 2023; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO (for himself, Mr. GRASSLEY, Mr. CORNYN, Mr. THUNE, Mr. SCOTT of South Carolina, Mr. CASIDY, Mr. LANKFORD, Mr. YOUNG, Mr. BARRASSO, Mrs. BLACKBURN, and Mr. JOHNSON):

S. 398. A bill to prevent the use of additional Internal Revenue Service funds from being used for audits of taxpayers with taxable incomes below \$400,000 in order to protect low- and middle-income earning American taxpayers from an onslaught of audits from an army of new Internal Revenue Service auditors funded by an unprecedented, nearly \$80,000,000,000, infusion of new funds; to the Committee on Finance.

By Mr. KAINE (for himself, Mrs. FEINSTEIN, Mr. WARNER, Mr. CARDIN, Mr. VAN HOLLEN, Mr. SCHATZ, Mr. MARKEY, Ms. DUCKWORTH, Ms. HIRONO, Mr. KING, Mrs. SHAHEEN, Mr. CASEY, Mr. DURBIN, Mr. WHITEHOUSE, and Mr. CARPER):

S. 399. A bill to place limitations on exempting positions from the competitive service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. DUCKWORTH (for herself and Mrs. FISCHER):

S. 400. A bill to require the Secretary of Transportation to annually report on aviation consumer complaints related to passengers with a disability; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAPO (for himself, Mr. RISCH, Mr. HAGERTY, Mrs. HYDE-SMITH, Mr. CRAMER, Mr. CASSIDY, Mr. LANKFORD, Mr. TILLIS, Mr. MARSHALL, Mr. KENNEDY, Ms. LUMMIS, Mr. WICKER, Mr. SCOTT of Florida, Mrs. CAPITO, Mr. BOOZMAN, Mr. VANCE, Mr. BUDD, Mr. BRAUN, Mrs. BRITT, Mr. DAINES, Mr. CRUZ, Mr. COTTON, Mrs. FISCHER, Mrs. BLACKBURN, Mr. HAWLEY, and Mr. MORAN):

S. 401. A bill to amend the Internal Revenue Code of 1986 to remove silencers from the definition of firearms, and for other purposes; to the Committee on Finance.

By Mr. BRAUN:

S. 402. A bill to amend title VII of the Civil Rights Act of 1964 to require the Equal Employment Opportunity Commission to approve commencing, intervening in, or participating in certain litigation, and for other

purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUJÁN (for himself, Ms. COLLINS, and Mr. CARDIN):

S. 403. A bill to amend the Public Health Service Act to authorize a public education campaign across all relevant programs of the Health Resources and Services Administration to increase oral health literacy and awareness; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CORTEZ MASTO (for herself and Ms. ROSEN):

S. 404. A bill to require the Secretary of Energy to obtain the consent of affected State and local governments before making an expenditure from the Nuclear Waste Fund for a nuclear waste repository, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MARKEY (for himself, Ms. WARREN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. BOOKER, Mr. SANDERS, and Mr. PADILLA):

S. 405. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to increase the availability of heating and cooling assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MURPHY (for himself and Mr. LUJÁN):

S. 406. A bill to establish the Public Health Information and Communications Advisory Committee for purposes of providing recommendations and reports, and to support educational initiatives on communication and dissemination of information during public health emergencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. RUBIO:

S. 407. A bill to amend title XIX of the Social Security Act to establish a methodology for determining State allotments for Medicaid disproportionate share hospital payments that is based on State poverty levels, to require States to prioritize disproportionate share hospital payments on the basis of Medicaid inpatient utilization and low-income utilization rates, and for other purposes; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. PADILLA, Mr. MERKLEY, Mr. BROWN, Mr. CASEY, Ms. WARREN, Mr. MARKEY, Mr. BLUMENTHAL, Mr. BENNET, Mr. MURPHY, Mr. KAINE, Mr. WARNOCK, Ms. BALDWIN, Mr. BOOKER, Ms. STABENOW, Mr. SANDERS, Mr. REED, and Mrs. FEINSTEIN):

S. 408. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profits excise tax on crude oil and to rebate the tax collected back to individual taxpayers, and for other purposes; to the Committee on Finance.

By Mr. RUBIO:

S. 409. A bill to amend the Higher Education Act of 1965 to provide student loan deferment for victims of terrorist attacks; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAWLEY:

S. 410. A bill to authorize a Federal report and longitudinal study regarding the effects of social media on users under age 18; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. RUBIO, Ms. CORTEZ MASTO, Mr. SCOTT of Florida, Mr. MANCHIN, Ms. COLLINS, and Mr. KING):

S. 411. A bill to amend title 18, United States Code, to reauthorize and expand the National Threat Assessment Center of the Department of Homeland Security; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself and Mr. CORNYN):

S. 412. A bill to provide that it is unlawful to knowingly distribute private intimate visual depictions with reckless disregard for the individual's lack of consent to the distribution, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN (for himself, Mr. WYDEN, Mr. SCHATZ, Mr. VAN HOLLEN, Mr. REED, Mr. LUJÁN, and Ms. BALDWIN):

S. 413. A bill to amend the Internal Revenue Code of 1986 to increase the rate of the excise tax on the repurchase of corporate stock, and for other purposes; to the Committee on Finance.

By Mr. TESTER (for himself and Mr. BOOZMAN):

S. 414. A bill to amend title 38, United States Code, to improve and to expand eligibility for dependency and indemnity compensation paid to certain survivors of certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THUNE (for himself, Mr. BARRASSO, Mr. BRAUN, Mr. CRAPO, Mrs. FISCHER, Ms. LUMMIS, Mr. MULLIN, Mr. RISCH, and Mr. ROUNDS):

S. 415. A bill to provide reliable and evidence-based food and energy security; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WICKER (for himself, Mr. CARDIN, Mrs. SHAHEEN, Mr. TILLIS, Mr. BLUMENTHAL, Mr. GRAHAM, Mr. WHITEHOUSE, and Mr. RUBIO):

S. 416. A bill to designate the Russian-based mercenary Wagner Group as a foreign terrorist organization, and for other purposes; to the Committee on Foreign Relations.

By Mr. VAN HOLLEN (for himself and Mr. CARDIN):

S. 417. A bill to direct the Secretary of the Interior to remove or permanently conceal the name of Francis Newlands on the grounds of the memorial fountain located at Chevy Chase Circle in the District of Columbia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HAWLEY:

S. 418. A bill to provide financial assistance to schools impacted by radioactive contaminants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HAWLEY:

S. 419. A bill to require social media platforms to verify that all individuals who create an account on the platform are age 16 or older, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PAUL (for himself, Mr. JOHNSON, Mr. LEE, Mr. COTTON, Mr. RUBIO, Ms. LUMMIS, Mr. VANCE, Mr. BRAUN, and Mr. CRAMER):

S. 420. A bill to prohibit Federal funds from being made available to facilities that refuse to provide treatment based on COVID-19 vaccination status; to the Committee on Health, Education, Labor, and Pensions.

By Ms. ERNST:

S. 421. A bill to prohibit Federal funding to the Wuhan Institute of Virology and to require a GAO study regarding Federal funds previously provided to such institute or to entities affiliated with the Chinese Government; to the Committee on Foreign Relations.

By Mr. BUDD (for himself, Mr. TILLIS, Mr. RISCH, Mr. CRAPO, Mr. CRUZ, Mr. DAINES, Mr. ROUNDS, and Mrs. BLACKBURN):

S. 422. A bill to remove legal impediments preventing construction of a border barrier along the international border between the United States and Mexico, improve the construction requirements for such barrier,

make previously appropriated funds available for constructing such barrier until expanded, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VAN HOLLEN:

S. 423. A bill to streamline enrollment in health insurance affordability programs and minimum essential coverage, and for other purposes; to the Committee on Finance.

By Mr. SCOTT of Florida:

S. 424. A bill to protect the seniors of the United States, and for other purposes; read the first time.

By Mr. GRAHAM:

S. 425. A bill to amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCOTT of Florida (for himself and Mr. RUBIO):

S. Res. 60. A resolution honoring the memories of the victims of the senseless attack at Marjory Stoneman Douglas High School on February 14, 2018; considered and agreed to.

By Mr. GRASSLEY (for himself, Mr. COONS, Mr. BARRASSO, Mrs. BRITT, Mr. CARPER, Mr. CRAMER, Mr. CRAPO, Mr. DAINES, Mr. DURBIN, Mrs. HYDE-SMITH, Mr. KING, Ms. KLOBUCHAR, Mr. LANKFORD, Mr. MERKLEY, Mr. SCOTT of Florida, Mr. RISCH, and Mr. WARNOCK):

S. Res. 61. A resolution designating March 3, 2023, as "National Speech and Debate Education Day"; considered and agreed to.

By Mr. BRAUN (for himself and Mr. YOUNG):

S. Res. 62. A resolution recognizing the Little Sisters of the Poor of Indianapolis on its 150th Anniversary; considered and agreed to.

By Mr. BOOKER (for himself, Mr. SCOTT of South Carolina, Mr. WARNOCK, Mr. BOOZMAN, Ms. CORTEZ MASTO, Mrs. CAPITO, Ms. CANTWELL, Mr. CRAMER, Ms. HASSAN, Mr. CRAPO, Mr. CARPER, Mr. HAGERTY, Mr. MARKEY, Mrs. HYDE-SMITH, Mr. LUJÁN, Ms. LUMMIS, Mr. PADILLA, Mr. MORAN, Mr. WYDEN, Mr. RISCH, Mr. VAN HOLLEN, Mr. ROUNDS, Mr. MERKLEY, Mr. RUBIO, Ms. STABENOW, Mr. SCOTT of Florida, Mr. COONS, Mr. TILLIS, Mr. CASEY, Mr. WICKER, Mr. KING, Mr. YOUNG, Mr. KAINE, Mrs. BRITT, Ms. WARREN, Mr. SANDERS, Mr. GRASSLEY, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Ms. SMITH, Mr. WELCH, Mr. HICKENLOOPER, Ms. ROSEN, Mr. PETERS, Ms. HIRONO, Mr. WARNER, Mr. SCHATZ, Mr. MENENDEZ, Mr. REED, Mr. CARDIN, Mr. BLUMENTHAL, Mr. DURBIN, Mr. HEINRICH, Mr. BROWN, Mrs. MURRAY, Mr. KELLY, Mr. MURPHY, Mr. FETTERMAN, Ms. DUCKWORTH, Ms. BALDWIN, Mr. WHITEHOUSE, Mr. BENNETT, and Mr. SULLIVAN):

S. Res. 63. A resolution celebrating Black History Month; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. MCCONNELL):

S. Res. 64. A resolution to authorize testimony and representation in United States v. GossJankowski; considered and agreed to.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. HAGERTY, the name of the Senator from Kentucky (Mr. PAUL) was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to repeal the amendments made to reporting of third party network transactions by the American Rescue Plan Act of 2021.

S. 27

At the request of Mr. HOEVEN, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 27, a bill to prohibit the Department of Defense from requiring contractors to provide information relating to greenhouse gas emissions.

S. 29

At the request of Mr. CRUZ, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 29, a bill to provide remedies to members of the Armed Forces discharged or subject to adverse action under the COVID-19 vaccine mandate.

S. 31

At the request of Mr. BARRASSO, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 31, a bill to provide for the development and issuance of a plan to increase oil and gas production on Federal land in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.

S. 51

At the request of Mr. CARPER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 51, a bill to provide for the admission of the State of Washington, D.C. into the Union.

S. 85

At the request of Mr. HAWLEY, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 85, a bill to impose sanctions with respect to TikTok, and for other purposes.

S. 107

At the request of Mr. RUBIO, the name of the Senator from Louisiana (Mr. KENNEDY) was added as a cosponsor of S. 107, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the Food and Drug Administration's jurisdiction over certain tobacco products, and to protect jobs and small businesses involved in the sale, manufacturing, and distribution of traditional and premium cigars.

S. 124

At the request of Mr. SCHATZ, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 124, a bill to increase the rates of pay under the statutory pay systems and for prevailing rate employees by 8.7 percent, and for other purposes.

S. 168

At the request of Mr. ROUNDS, the name of the Senator from Kansas (Mr.

MORAN) was added as a cosponsor of S. 168, a bill to amend the Defense Production Act of 1950 to include the Secretary of Agriculture on the Committee on Foreign Investment in the United States and require review of certain agricultural transactions, and for other purposes.

S. 170

At the request of Mr. SCOTT of Florida, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 170, a bill to establish a Joint Select Committee on Afghanistan to conduct a full investigation and compile a joint report on the United States withdrawal from Afghanistan.

S. 176

At the request of Mr. KING, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 176, a bill to amend the Agricultural Trade Act of 1978 to extend and expand the Market Access Program and the Foreign Market Development Cooperator Program.

S. 178

At the request of Mr. BLUMENTHAL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 178, a bill to establish protections for passengers in air transportation, and for other purposes.

S. 204

At the request of Mr. THUNE, the names of the Senator from Indiana (Mr. BRAUN), the Senator from Texas (Mr. CORNYN), the Senator from Nebraska (Mrs. FISCHER) and the Senator from North Carolina (Mr. TILLIS) were added as cosponsors of S. 204, a bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

S. 209

At the request of Mr. MARKEY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 209, a bill to prohibit air carriers from imposing fees that are not reasonable and proportional to the costs incurred by the air carriers, and for other purposes.

S. 247

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 247, a bill to support State, Tribal, and local efforts to remove access to firearms from individuals who are a danger to themselves or others pursuant to court orders for this purpose.

S. 252

At the request of Mr. MARKEY, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 252, a bill to direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

S. 259

At the request of Ms. CANTWELL, the names of the Senator from California

(Mrs. FEINSTEIN) and the Senator from California (Mr. PADILLA) were added as cosponsors of S. 259, a bill to ensure transparent and competitive transportation fuel markets in order to protect consumers from unwarranted price increases.

S. 319

At the request of Ms. LUMMIS, the names of the Senator from Alaska (Mr. SULLIVAN) and the Senator from Louisiana (Mr. CASSIDY) were added as cosponsors of S. 319, a bill to prohibit the President from issuing moratoria on leasing and permitting energy and minerals on certain Federal land.

S. 323

At the request of Ms. HIRONO, the name of the Senator from Colorado (Mr. HICKENLOOPER) was added as a cosponsor of S. 323, a bill to ensure the privacy of pregnancy termination or loss information under the HIPAA privacy regulations and the HITECH Act.

S. 344

At the request of Mr. TESTER, the names of the Senator from Vermont (Mr. WELCH), the Senator from Nevada (Ms. CORTEZ MASTO), the Senator from South Dakota (Mr. ROUNDS) and the Senator from Hawaii (Mr. SCHATZ) were added as cosponsors of S. 344, a bill to amend title 10, United States Code, to provide for concurrent receipt of veterans' disability compensation and retired pay for disability retirees with fewer than 20 years of service and a combat-related disability, and for other purposes.

S. 362

At the request of Mr. ROUNDS, the name of the Senator from North Dakota (Mr. CRAMER) was added as a cosponsor of S. 362, a bill to require the Federal financial institutions regulatory agencies to take risk profiles and business models of institutions into account when taking regulatory actions, and for other purposes.

S. 369

At the request of Mr. CRUZ, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 369, a bill to require the Committee on Foreign Investment in the United States to review any purchase or lease of real estate near a military installation or military airspace in the United States by a foreign person connected to or subsidized by the Russian Federation, the People's Republic of China, the Islamic Republic of Iran, or the Democratic People's Republic of Korea, and for other purposes.

S. 370

At the request of Mr. CRUZ, the names of the Senator from Alabama (Mrs. BRITT) and the Senator from North Carolina (Mr. BUDD) were added as cosponsors of S. 370, a bill to amend section 212 of the Immigration and Nationality Act to ensure that efforts to engage in espionage or technology transfer are considered in visa issuance, and for other purposes.

S. 380

At the request of Mr. RUBIO, the name of the Senator from Tennessee

(Mrs. BLACKBURN) was added as a cosponsor of S. 380, a bill to amend title 18, United States Code, to punish the distribution of fentanyl resulting in death as felony murder.

S.J. RES. 10

At the request of Mr. TUBERVILLE, the names of the Senator from South Dakota (Mr. ROUNDS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S.J. Res. 10, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Veterans Affairs relating to "Reproductive Health Services".

S.J. RES. 11

At the request of Mrs. FISCHER, the name of the Senator from Ohio (Mr. VANCE) was added as a cosponsor of S.J. Res. 11, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to "Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THUNE (for himself, Mr. BARRASSO, Mr. BRAUN, Mr. CRAPO, Mrs. FISCHER, Ms. LUMMIS, Mr. MULLIN, Mr. RISCH, and Mr. ROUNDS):

S. 415. A bill to provide reliable and evidence-based food and energy security; to the Committee on Banking, Housing, and Urban Affairs.

Mr. THUNE. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food and Energy Security Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL OR CLOSELY RELATED BUSINESS.—The term "agricultural or closely related business" means a for-profit or not-for-profit entity that is involved in—

(A) the production of agricultural products or livestock; or

(B) the supply chain of an entity involved in the production of agricultural products or livestock.

(2) ENERGY OR CLOSELY RELATED BUSINESS.—The term "energy or closely related business" means a for-profit or not-for-profit entity that is involved in—

(A) the production, development, or marketing of electricity, fuel (including biofuels), or other related products; or

(B) the supply chain of an entity involved in the production, development, or marketing of electricity, fuel (including biofuels), or other related products.

(3) FEDERAL REGULATOR.—The term "Federal regulator" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Federal Deposit Insurance Corporation;

(D) the Financial Stability Oversight Council;

(E) the National Credit Union Administration;

(F) the Bureau of Consumer Financial Protection;

(G) the Commodity Futures Trading Commission; and

(H) the Securities and Exchange Commission.

SEC. 3. REGULATIONS AND GUIDANCE.

(a) IN GENERAL.—As part of any public notice of a proposed regulation, final regulation, or guidance that could affect, directly or indirectly, the extension of capital to or investments in an agricultural or closely related business or an energy or closely related business, a Federal regulator shall provide a detailed analysis of the estimated impact the regulation or guidance would have on food prices, electricity prices, and fuel prices, as applicable, including a description of the methodology and variables used in the estimates.

(b) CONTENTS.—The estimated impacts required under subsection (a) shall include how the proposed regulation or guidance would, as applicable, affect—

(1) food prices (broken down by the applicable expenditure categories listed in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor) over 1 year, 3 years, 5 years, and 10 years;

(2) electricity prices (broken down by the applicable expenditure categories listed in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor) over 1 year, 3 years, 5 years, and 10 years; and

(3) fuel prices (broken down by the applicable expenditure categories listed in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor) over 1 year, 3 years, 5 years, and 10 years.

SEC. 4. PROHIBITION.

A Federal regulator shall not implement any regulation or guidance that could affect, directly or indirectly, the extension of capital to or investments in an agricultural or closely related business or an energy or closely related business if—

(1) the analysis of estimated impacts under section 3 estimate that implementation of the regulation or guidance would result in an increase in food prices, electricity prices, or fuel prices; and

(2) the annualized rate of increase in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the Department of Labor is 4.5 percent or greater.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act may be construed as affecting any regulation or guidance of a Federal regulator that was implemented before January 1, 2023.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 60—HONORING THE MEMORIES OF THE VICTIMS OF THE SENSELESS ATTACK AT MARJORY STONEMAN DOUGLAS HIGH SCHOOL ON FEBRUARY 14, 2018

Mr. SCOTT of Florida (for himself and Mr. RUBIO) submitted the following

resolution; which was considered and agreed to:

S. RES. 60

Whereas, on February 14, 2018, a mass shooting that took the lives of 17 teachers and students took place at Marjory Stoneman Douglas High School in Parkland, Florida;

Whereas the people of the United States continue to pray for the individuals who were affected by this tragedy;

Whereas the Parkland community has shown strength, compassion, and unity over the past 5 years; and

Whereas February 14, 2023, marks 5 years since the horrific attack: Now, therefore, be it

Resolved, That the Senate—

(1) honors the memories of the victims of the senseless attack at Marjory Stoneman Douglas High School on February 14, 2018, and offers heartfelt condolences and deepest sympathies to the families, loved ones, and friends of the victims;

(2) honors the survivors of the attack and pledges continued support for their recovery;

(3) recognizes the strength and resilience of the Marjory Stoneman Douglas High School community; and

(4) expresses gratitude to the emergency medical and health care professionals of the Parkland community for their efforts in responding to the attack and caring for the victims and survivors.

SENATE RESOLUTION 61—DESIGNATING MARCH 3, 2023, AS “NATIONAL SPEECH AND DEBATE EDUCATION DAY”

Mr. GRASSLEY (for himself, Mr. COONS, Mr. BARRASSO, Mrs. BRITT, Mr. CARPER, Mr. CRAMER, Mr. CRAPO, Mr. DAINES, Mr. DURBIN, Mrs. HYDE-SMITH, Mr. KING, Ms. KLOBUCHAR, Mr. LANKFORD, Mr. MERKLEY, Mr. SCOTT of Florida, Mr. RISCH, and Mr. WARNOCK) submitted the following resolution; which was considered and agreed to:

S. RES. 61

Whereas it is essential for youth to learn and practice the art of communicating with and without technology;

Whereas speech and debate education offers students myriad forms of public speaking through which students may develop talent and exercise unique voice and character;

Whereas speech and debate education gives students the 21st century skills of communication, critical thinking, creativity, and collaboration;

Whereas critical analysis and effective communication allow important ideas, texts, and philosophies the opportunity to flourish;

Whereas personal, professional, and civic interactions are enhanced by the ability of the participants in those interactions to listen, concur, question, and dissent with reason and compassion;

Whereas students who participate in speech and debate have chosen a challenging activity that requires regular practice, dedication, and hard work;

Whereas teachers and coaches of speech and debate devote in-school, afterschool, and weekend hours to equip students with life-changing skills and opportunities;

Whereas National Speech and Debate Education Day emphasizes the lifelong impact of providing people of the United States with the confidence and preparation to both discern and share views;

Whereas National Speech and Debate Education Day acknowledges that most achieve-

ments, celebrations, commemorations, and pivotal moments in modern history begin, end, or are crystallized with public address;

Whereas National Speech and Debate Education Day recognizes that learning to research, construct, and present an argument is integral to personal advocacy, social movements, and the making of public policy;

Whereas the National Speech & Debate Association, in conjunction with national and local partners, honors and celebrates the importance of speech and debate through National Speech and Debate Education Day; and

Whereas National Speech and Debate Education Day emphasizes the importance of speech and debate education and the integration of speech and debate education across grade levels and disciplines: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 3, 2023, as “National Speech and Debate Education Day”;

(2) strongly affirms the purposes of National Speech and Debate Education Day; and

(3) encourages educational institutions, businesses, community and civic associations, and all people of the United States to celebrate and promote National Speech and Debate Education Day.

SENATE RESOLUTION 62—RECOGNIZING THE LITTLE SISTERS OF THE POOR OF INDIANAPOLIS ON ITS 150TH ANNIVERSARY

Mr. BRAUN (for himself and Mr. YOUNG) submitted the following resolution; which was considered and agreed to:

S. RES. 62

Whereas, in 1839, Saint Jeanne Jugan brought a blind, paralyzed woman in from the cold and placed the woman in Saint Jeanne Jugan’s own bed;

Whereas, in 1841, the “family” of Saint Jeanne Jugan and other women who helped care for the growing number of individuals in need that arrived at the doorstep of Saint Jeanne Jugan relocated to a larger home in order to house more individuals in need;

Whereas Saint Jeanne Jugan and the other caregivers took the form of a religious community, first calling themselves the Servants of the Poor and later the Little Sisters of the Poor;

Whereas Saint Jeanne Jugan was elected Mother Superior of the Little Sisters of the Poor;

Whereas the Little Sisters of the Poor received diocesan approval on May 29, 1852;

Whereas Pope Pius XI recognized the Little Sisters of the Poor as a Pontifical Institute on July 9, 1854;

Whereas Pope Leo XIII approved of the Constitutions of the Little Sisters of the Poor on March 1, 1879, when there were 2,400 Little Sisters of the Poor in 9 countries;

Whereas the congregation spread across Europe and North Africa before coming to the United States;

Whereas, in February of 1873, the Little Sisters of the Poor came to Indianapolis, Indiana, and opened a small home on Kentucky Avenue;

Whereas, in the spring of 1878, the Little Sisters of the Poor received a permit to construct a new building to support the large demand for their assistance;

Whereas the cornerstone for the new home of the Little Sisters of the Poor was completed in 1878, and Bishop Silas Francis Marean Chatard dedicated the building in 1879; and

Whereas the Little Sisters of the Poor have provided food, shelter, and medical care to

the Indianapolis, Indiana, community since 1873: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Little Sisters of the Poor should be commended for its philanthropy, the care it provides for the aging poor, and its dedication to the care of those in need, all of which have been vital to the health and well-being of the at-risk community in Indiana;

(2) the work of the Little Sisters of the Poor continues to enrich the United States and the world through—

(A) dedication to the health and wellness of those who are unable to provide for themselves; and

(B) service to the community; and

(3) the work of the Little Sisters of the Poor should be recognized, emulated, and celebrated, especially during February 2023, which marks 150 years of service to the Indianapolis, Indiana, community by the Little Sisters of the Poor.

SENATE RESOLUTION 63—CELEBRATING BLACK HISTORY MONTH

Mr. BOOKER (for himself, Mr. SCOTT of South Carolina, Mr. WARNOCK, Mr. BOOZMAN, Ms. CORTEZ MASTO, Mrs. CAPITO, Ms. CANTWELL, Mr. CRAMER, Ms. HASSAN, Mr. CRAPO, Mr. CARPER, Mr. HAGERTY, Mr. MARKEY, Mrs. HYDE-SMITH, Mr. LUJÁN, Ms. LUMMIS, Mr. PADILLA, Mr. MORAN, Mr. WYDEN, Mr. RISCH, Mr. VAN HOLLEN, Mr. ROUNDS, Mr. MERKLEY, Mr. RUBIO, Ms. STABENOW, Mr. SCOTT of Florida, Mr. COONS, Mr. TILLIS, Mr. CASEY, Mr. WICKER, Mr. KING, Mr. YOUNG, Mr. KAINE, Mrs. BRITT, Ms. WARREN, Mr. SANDERS, Mr. GRASSLEY, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Ms. SMITH, Mr. WELCH, Mr. HICKENLOOPER, Ms. ROSEN, Mr. PETERS, Ms. HIRONO, Mr. WARNER, Mr. SCHATZ, Mr. MENENDEZ, Mr. REED, Mr. CARDIN, Mr. BLUMENTHAL, Mr. DURBIN, Mr. HEINRICH, Mr. BROWN, Mrs. MURRAY, Mr. KELLY, Mr. MURPHY, Mr. FETTERMAN, Ms. DUCKWORTH, Ms. BALDWIN, Mr. WHITEHOUSE, Mr. BENNET, and Mr. SULLIVAN) submitted the following resolution; which was considered and agreed to:

S. RES. 63

Whereas, in 1776, people envisioned the United States as a new nation dedicated to the proposition stated in the Declaration of Independence that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness”;

Whereas Africans were first brought involuntarily to the shores of the United States as early as the 17th century;

Whereas African Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

Whereas, in 2023, the vestiges of those injustices and inequalities remain evident in the society of the United States;

Whereas, in the face of injustices, people of good will and of all races in the United States have distinguished themselves with a commitment to the noble ideals on which the United States was founded and have fought courageously for the rights and freedom of African Americans and others;

Whereas African Americans, such as Lieutenant Colonel Allen Allensworth, Maya Angelou, Arthur Ashe, Jr., James Baldwin, James Beckwourth, Clara Brown, Blanche Bruce, Ralph Bunche, Shirley Chisholm, Holt Collier, Miles Davis, Louis Armstrong, Larry Doby, Frederick Douglass, W. E. B. Du Bois, Ralph Ellison, Medgar Evers, Aretha Franklin, Alex Haley, Dorothy Height, Jon Hendricks, Olivia Hooker, Lena Horne, Charles Hamilton Houston, Mahalia Jackson, Stephanie Tubbs Jones, B.B. King, Martin Luther King, Jr., Coretta Scott King, Thurgood Marshall, Constance Baker Motley, Rosa Parks, Walter Payton, Bill Pickett, Homer Plessy, Bass Reeves, Hiram Revels, Amelia Platts Boynton Robinson, Jackie Robinson, Aaron Shirley, Sojourner Truth, Harriet Tubman, Booker T. Washington, the Greensboro Four, the Tuskegee Airmen, Prince Rogers Nelson, Recy Taylor, Fred Shuttlesworth, Duke Ellington, Langston Hughes, Muhammad Ali, Elijah Cummings, Ella Fitzgerald, Mamie Till, Toni Morrison, Gwen Ifill, Diahann Carroll, Chadwick Boseman, John Lewis, Katherine Johnson, Rev. C.T. Vivian, Hank Aaron, Edith Savage-Jennings, Septima Clark, Mary McLeod Bethune, Cicely Tyson, John Hope Franklin, Colin Powell, bell hooks, Bob Moses, Sidney Poitier, Bill Russell, and Chief Justice of South Carolina Ernest Finney, along with many others, worked against racism to achieve success and to make significant contributions to the economic, educational, political, artistic, athletic, literary, scientific, and technological advancement of the United States;

Whereas the contributions of African Americans from all walks of life throughout the history of the United States reflect the greatness of the United States;

Whereas many African Americans lived, toiled, and died in obscurity, never achieving the recognition those individuals deserved, and yet paved the way for future generations to succeed;

Whereas African Americans continue to serve the United States at the highest levels of business, government, and the military;

Whereas the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month;

Whereas Negro History Week represented the culmination of the efforts of Dr. Carter G. Woodson, the "Father of Black History", to enhance knowledge of Black history through *The Journal of Negro History*, published by the Association for the Study of African American Life and History, which was founded by Dr. Carter G. Woodson and Jesse E. Moorland;

Whereas Black History Month, celebrated during the month of February, originated in 1926 when Dr. Carter G. Woodson set aside a special period in February to recognize the heritage and achievements of Black people in the United States;

Whereas Dr. Carter G. Woodson stated, "We have a wonderful history behind us... If you are unable to demonstrate to the world that you have this record, the world will say to you, 'You are not worthy to enjoy the blessings of democracy or anything else.'";

Whereas, since its founding, the United States has imperfectly progressed toward noble goals;

Whereas the history of the United States is the story of people regularly affirming high ideals, striving to reach those ideals but often failing, and then struggling to come to terms with the disappointment of that failure, before committing to try again;

Whereas, on November 4, 2008, the people of the United States elected Barack Obama, an

African-American man, as President of the United States; and

Whereas, on February 22, 2012, people across the United States celebrated the groundbreaking of the National Museum of African American History and Culture, which opened to the public on September 24, 2016, on the National Mall in Washington, District of Columbia: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges that all people of the United States are the recipients of the wealth of history provided by Black culture;

(2) recognizes the importance of Black History Month as an opportunity to reflect on the complex history of the United States, while remaining hopeful and confident about the path ahead;

(3) acknowledges the significance of Black History Month as an important opportunity to commemorate the tremendous contributions of African Americans to the history of the United States;

(4) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from the past and understand the experiences that have shaped the United States; and

(5) agrees that, while the United States began as a divided country, the United States must—

(A) honor the contribution of all pioneers in the United States who have helped to ensure the legacy of the great United States; and

(B) move forward with purpose, united tirelessly as a nation "indivisible, with liberty and justice for all."

SENATE RESOLUTION 64—TO AUTHORIZE TESTIMONY AND REPRESENTATION IN UNITED STATES V. GOSSJANKOWSKI

Mr. SCHUMER (for himself and Mr. McCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 64

Whereas, in the case of *United States v. Gossjankowski*, Cr. No. 21-123, pending in the United States District Court for the District of Columbia, the prosecution has requested the production of testimony from Daniel Schwager, a former employee of the Office of the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent current and former officers and employees of the Senate with respect to any subpoena, order, or request for evidence relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Daniel Schwager, a former employee of the Office of the Secretary of the Senate, is authorized to provide relevant testimony in the case of *United States v. Gossjankowski*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mr. Schwager, and any cur-

rent or former officer or employee of the Secretary's office, in connection with the production of evidence authorized in section one of this resolution.

AUTHORITY FOR COMMITTEES TO MEET

Mr. MERKLEY. Madam President, I have four requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, February 14, 2023, at 10 a.m., to conduct a hearing.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Tuesday, February 14, 2023, at 10 a.m., to conduct a hearing on a nomination.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, February 14, 2023, at 11 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Tuesday, February 14, 2023, at 2:30 p.m., to conduct a closed briefing.

PRIVILEGES OF THE FLOOR

Mr. WYDEN. Madam President, I ask unanimous consent that the following members of my team be granted floor privileges for the remainder of the Congress: Erika Fountain, Erin Evans, Aaron Tyler Mentzer, Eric LoPresti, Allison Crha, Nicole Brussel Faria, Eleanor DeGarmo, and Aaron Parzuchowski.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SPEECH AND DEBATE EDUCATION DAY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 61, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 61) designating March 3, 2023, as "National Speech and Debate Education Day".

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. I ask unanimous consent that the resolution be agreed to,

the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 61) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

RECOGNIZING THE LITTLE SISTERS OF THE POOR OF INDIANAPOLIS ON ITS 150TH ANNIVERSARY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 62, submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 62) recognizing the Little Sisters of the Poor of Indianapolis on its 150th Anniversary.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 62) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

CELEBRATING BLACK HISTORY MONTH

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 63, submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 63) celebrating Black History Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. I know of no further debate on the resolution.

The PRESIDING OFFICER. Is there further debate?

Hearing no further debate, the question is on adoption of the resolution.

The resolution (S. Res. 63) was agreed to.

Mr. SCHUMER. I ask unanimous consent that the preamble be agreed to and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

AUTHORIZING TESTIMONY AND REPRESENTATION IN UNITED STATES V. GOSSJANKOWSKI

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 64, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 64) to authorize testimony and representation in United States v. GossJankowski.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, in this criminal case pending in Federal district court in the District of Columbia and arising out of the events of January 6, 2021, the prosecution has requested testimony from a Senate witness.

In this case brought against Vitali GossJankowski trial is expected to commence on February 27, 2023, and the prosecution has requested testimony from Daniel Schwager, formerly counsel to the Secretary of the Senate, concerning his knowledge and observations of the process and constitutional and legal bases for Congress' counting of the Electoral College votes. Senate Secretary Berry would like to cooperate with this request by providing relevant testimony in this trial from Mr. Schwager.

In keeping with the rules and practices of the Senate, this resolution would authorize the production of relevant testimony from Mr. Schwager, with representation by the Senate legal counsel.

Mr. SCHUMER. I further ask that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 64) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

MEASURE READ THE FIRST TIME—S. 424

Mr. SCHUMER. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 424) to protect the seniors of the United States, and for other purposes.

Mr. SCHUMER. I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR WEDNESDAY, FEBRUARY 15, 2023

Mr. SCHUMER. Mr. President, finally, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. on Wednesday, February 15; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that following the conclusion of morning business, the Senate proceed to executive session and resume consideration of the Nelson nomination, postcloture, and that at 11:30 a.m. the Senate vote on confirmation of the Nelson nomination; further, that if cloture is invoked on the Reyes nomination, the confirmation vote occur at 4:30 p.m.; further, that at 1:50 p.m., the Senate vote on the motion to invoke cloture on the Calbretta nomination, and if cloture is invoked, all postcloture time be considered expired upon the disposition of the Reyes nomination; further, that if any nominations are confirmed during Wednesday's session, the motions to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's actions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. For the information of the Senate, there will be two rollcall votes at 11:30 a.m., one rollcall vote at 1:50 p.m., and up to three rollcall votes at 4:30 p.m.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:03 p.m., stands adjourned until 10 a.m. tomorrow.

CONFIRMATIONS

THE JUDICIARY

Executive nominations confirmed by
the Senate February 14, 2023:

LINDSAY C. JENKINS, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

GINA R. MENDEZ-MIRO, OF PUERTO RICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO.

MATTHEW L. GARCIA, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.