APPOINTMENTS DURING ADJOURNMENT

Mr. LOTT. Mr. President, the following appointments were made pursuant to law during the sine die adjournment of the Senate:

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Dr. Paul Moore, of Mississippi and Dr. James Dobson, of Colorado (Oct. 4, 1996)

To the National Committee on Vital, and Health Statistics, pursuant to Public Law 104–191, Richard K. Harding, of South Carolina (Nov. 4, 1996)

To the Senate Delegation to the North Atlantic Assembly during the Second Session of the 104th Congress, to be held in Paris, France, Nov. 17–21, 1996, pursuant to 22 U.S.C. 1928a–1928d, Senators HATCH, WARNER, GRASSLEY, SPECTER, MURKOWSKI, COATS, and BENNETT (Nov. 8, 1996)

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Leo McCarthy, of California (Nov. 25, 1996).

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

SEATING OF SENATOR LANDRIEU

Mr. LOTT. Mr. President, earlier today, the Senate seated Senator MARY L. LANDRIEU without prejudice to the Senate's constitutional power to be the judge of the election of its Members. In so seating Senator LANDRIEU, the rights of any person or entity involved in the election contest petition are also preserved.

As a practical matter, what this means is that Senator LANDRIEU has the same rights and privileges as any other Senator with no limitation. However, her election has been contested and, as in other cases in recent history, depending on the resolution of this dispute in the Rules Committee, the Senate may ultimately be required to consider a report from the Rules Committee or not once they find out the details of what transpired.

Senator WARNER, the chairman of the Rules Committee, and Senator WENDELL FORD, ranking member, have met and discussed this matter. Senator DASCHLE and I have discussed it. They have retained counsel who are reviewing the material that is available, and at some point, once they have had an opportunity to review that and hear from the interested parties, namely Senator LANDRIEU and the candidate, Woody Jenkins, then they will make a determination depending on the facts as to whether or not an investigation and subsequent action would be required by the Rules Committee.

The Senate may take any of several courses of action. It may dismiss the petition at that time; it may declare the election to be set aside and call for a special election to fill the seat; or the Senate may declare the petitioner the winner of the election and replace the Senator already seated. Each one of those have been done at various times in the past.

But again, I think it is very important that we not prejudge anything. I do not think any Senator knows many of the details of what is involved. The committee of jurisdiction is working on it, and we should allow them to proceed in a careful but thorough and bipartisan way.

Obviously, we are removed from making any determination today, and we should be. We are just seeing that the allegations are being investigated and, as soon as possible, the Senate Rules Committee, then, will make a formal decision on whether to go forward. It is my intention, and I know it is the intention of the Democratic leader and Senator WARNER and Senator FORD, that the investigation will be thorough and fair, and that it will be handled expeditiously, and that it will be in accordance with all the rules that are established in the past with regard to what the Senate protocol is in these matters.

Not only should the investigation be fair, it should be conducted in a manner that allows us to do the people's business. That is the primary reason for seating Senator LANDRIEU without prejudice. We want to allow the Senate to proceed to its business with all 100 Senators present, accounted for, and involved in the process, while we gather whatever facts that are there and are available and need to be known. At such time as the Rules Committee makes a recommendation of disposition, the report is highly privileged and will then be subject to the Senate for consideration.

I think it is important that we apply the same fair principles to the consideration of the Rules Committee report, should one be issued. Under ordinary procedures, as with most business of the Senate, such a report would be fully debatable and subject to the usual rules and filibusters and cloture votes. However, I believe that the American people, and particularly this institution, would be better served if we agree in advance that ample opportunity will be given to all Senators for debate and consideration of any such Rules Committee report, but that ultimately debate will draw to a close, the matter will be decided, and we can move on to other business of our country that we have been sent here to accomplish.

I know, in the case a few years ago, maybe it was in the 1970's, there was a matter that was contested based, as I recall it, purely on the closeness of the election. The Senate spent 6 months and over 40 votes until it was finally resolved by setting aside the election, calling for another election, and that occurred and Senator Durkin was elected. I hope we do not have anything like that occur this year. My presumption at the beginning is nothing of that kind. There may be no further action on this, other than what happened in the Feinstein matter and in the Coverdell matter, but I would feel a need to clarify what the rules would be, or to identify what the rules will be as we proceed. I will, therefore, offer a unanimous-consent agreement which incorporates my desire to be fair to all parties but also to ensure that the matter does not become mired in a lengthy or purely partisan situation.

So, I ask unanimous consent that any resolution reported by the Committee on Rules recommending a disposition of the matter of the Louisiana Senate election of 1996 be laid before the Senate for immediate consideration following the request of the majority leader, after notification of the minority leader.

I further ask unanimous consent that time for debate on such resolution be limited to not more than 30 hours, equally divided in the usual form, and that at the conclusion of that time the Senate proceed immediately to a vote on the Rules Committee resolution, with no amendments being in order.

The PRESIDING OFFICER. Is there objection? The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished majority leader for the manner with which he has brought this matter to the floor. We have had a number of opportunities to consult with regard to his intention to make this unanimous-consent request. He has ably outlined the options available to the Rules Committee just now. He has also indicated his desire to ensure that we expedite the consideration of the report of the Rules Committee at the appropriate time.

I share his confidence in the leadership of the Rules Committee. Senator WARNER is a man of impeccable credibility, and Senator FORD has also led that committee in a similar manner. I know that he and Senator WARNER have talked about this matter already and I know that both of them are determined to bring this matter to, not only a successful conclusion, but an objective consideration at the earliest possible date.

There is no desire, let me emphasize, there is no desire to hinder the progress of the Rules Committee or the Senate itself, as we expeditiously consider the resolution and the ultimate seating of Senator LANDRIEU. As the distinguished majority leader has said, Senator LANDRIEU was seated today without prejudice, as were Senator COVERDELL and Senator FEINSTEIN in previous Congresses. So, it is with every expectation that Senator LANDRIEU will continue to present herself to the Senate with all the credibility of any other Senator that I am sure this matter will be resolved in a fair

and expeditious manner at the appropriate time.

I am concerned, however, that this particular consent request would require that the minority give up the motion to proceed to the debate and the right to debate the resolution fully if we see some need to go beyond the 30 hours. And it does not allow amendments. So, with every assurance to the majority leader that we intend to work with him in expediting this matter in an objective and fair way, I will object this afternoon to the unanimous-consent request and pledge my support in working with him to resolve this matter without the need for such an agreement today.

The PRESIDING OFFICER. Objection is heard. The unanimous-consent request is not agreed to.

Mr. LOTT. Mr. President, I do want to say I appreciate the distinguished Democratic leader's comments. I know he is sincere in those and he knows that I will keep him informed of what is happening in the Rules Committee. It could be that the Rules Committee would come to the same conclusion that they did in the so-called Feinstein and the Coverdell matters. My only goal in asking this unanimous consent is that, if it does go beyond that, that there be some way it be brought to a reasonable conclusion with ample time for Senators to be able to have debate and discussion of the issues that are involved but without it being endlessly debated, or filibustered, if you will. But my hope is we can work through that. It may not even come to that, but I understand the Senator's position and I heard what he said and I am satisfied that, if we do need to work out some arrangement as to how something would be considered in the future, we will find a way to come to an amicable agreement. I thank the Senator for his comments.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383, a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice publishes proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROPOSED AMENDMENTS TO PROCEDURAL RULES

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act (P.L. 104-1, 109 Stat. 3). The proposed amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and ten copies) to the Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipts of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

SUPPLEMENTARY INFORMATION:

I. Background

The Congressional Accountability Act of 1995 (''CAA'' or ''Act'') was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance (''Office'') shall, subject to the approval of the Board of Directors (''Board'') of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S19239 (daily ed., Dec. 22, 1995)). Amendments to these rules, approved by the Board and adopted by the Executive Director, were published September 19, 1996 in the Congressional Record (142 Cong. R. H10672 and S10980 (daily ed., Sept. 19, 1996)). The proposed revisions and additions that follow establish procedures for consideration of matters arising under Parts B and C of title II of the CAA, which are generally effective January 1, 1997.

A summary of the proposed amendments is set forth below in Section II; the text of the provisions that are proposed to be added or revised is found in Section III. The Executive Director invites comment from interested persons on the content of these proposed amendments to the procedural rules.

II. Summary of Proposed Amendments to the Procedural Rules

(A) Several revisions are proposed to provide for consideration of matters arising under sections 210 and 215 (Parts B and C of title II) of the CAA. For example, technical changes in the procedural rules will be necessary in order to provide for the exercise of various rights and responsibilities under sections 210 and 215 of the Act by the General Counsel, charging individuals and entities responsible for correcting violations. These proposed revisions are as follows:

Section 1.01 is proposed to be amended by inserting references to Parts B and C of title II of the CAA in order to clarify that the procedural rules now govern procedures under those Parts of the Act.

Section 1.02(i) is proposed to be amended to redefine the term ''party'' to include, as appropriate, a charging individual or an entity alleged to be responsible for correcting a violation.

Section 1.03(a)(3) is to be revised to provide for, as appropriate, the filing of documents with the General Counsel.

Section 1.04(d) is proposed to be amended to provide for appropriate disclosure to the public of decisions under section 210 of the CAA and to provide, in accordance with section 416(f) of the CAA, that the Board may, at its discretion, make public decisions which are not otherwise required to be made public.

Section 1.05(a) is to be revised to allow for a charging individual or party or an entity alleged to be responsible for correcting a violation to designate a representative.

Sections 1.07(a), 5.04 and 7.12 are to be revised to make clear that Section 416(c), relating to confidentiality requirements, does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215.

Section 5.01(a)(2), (b)(2), (c)(2) and (d) is proposed to be amended to allow for the filing of complaints alleging violation of sections 210 and 215 of the CAA.

Section 7.07(f), relating to conduct of hearings, is to be revised to provide that, if the representative of a charging party or an entity alleged to be responsible for correcting a violation has a conflict of interest, that representative may be disqualified.

Section 8.03(a) relating to compliance with final decisions is to be revised to implement sections 210 and 215 of the CAA.

Section 8.04 ''Judicial Review'' is proposed to be revised to state that the United States Court of Appeals for the Federal Circuit shall have jurisdiction, as appropriate, over petitions under sections 210(d)(4) and 215(c)(5) of the Act.

(B) Proposed Subpart D of these regulations implements the provisions of section 215(c) of the CAA, which sets forth the procedures for inspections, citations, notices, and notifications, hearings and review, variance procedures, and compliance regarding enforcement of rights and protections of the Occupational Safety and Health Act, as applied by the CAA. Under section 215(c), any employing office or covered employee may request the General Counsel to inspect and investigate places of employment under the jurisdiction of employing offices. A citation or notice may be issued by the General Counsel to any employing office that is responsible for correcting a violation of section 215, or that has failed to correct a violation within the period permitted for correction. A notification may be issued to any employing office that has failed to correct a violation within the permitted time. If a violation remains uncorrected, the General Counsel may file a complaint against the employing office with the Office, which is submitted to a hearing officer for decision, with subsequent review by the Board. Under section 215(c)(4), an employing office may apply to the Board for a variance from an applicable health and safety standard. In considering such application, the Board shall exercise the authority of the Secretary of Labor under sections 6(b) and 6(d) of the Occupational Safety and Health Act of 1970 (''OSHAct'') to issue either a temporary or permanent variance, if specified conditions are met.

The Executive Director has modeled these proposed rules under section 215(c), to the greatest extent practicable, on the enforcement procedures set forth in the regulations