

(C) audio-visual projects that utilize materials collected by the volunteers during their service that would be of educational value to communities.

(3) **ELIGIBILITY FOR GRANTS.**—To be eligible to compete for grants under this section, a nonprofit corporation shall have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The nonprofit corporation shall meet all appropriate Corporation management requirements, as determined by the Corporation.

(c) **GRANT REQUIREMENTS.**—Such grants shall be made pursuant to a grant agreement between the Corporation and the nonprofit corporation that requires that—

(1) the grant funds will only be used to support programs and projects described in subsection (a) pursuant to proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);

(2) the nonprofit corporation will give consideration to funding individual programs or projects by returned Peace Corps volunteers, in amounts of not more than \$100,000, under this section;

(3) not more than 20 percent of the grant funds made available to the nonprofit corporation will be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation;

(4) the nonprofit corporation will not receive grant funds for programs or projects under this section for a third or subsequent year unless the nonprofit corporation makes available, to carry out the programs or projects during that year, non-Federal contributions—

(A) in an amount not less than \$2 for every \$3 of Federal funds provided through the grant; and

(B) provided directly or through donations from private entities, in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(5) the nonprofit corporation shall manage, monitor, and submit reports to the Corporation on each program or project for which the nonprofit corporation receives a grant under this section.

(d) **STATUS OF THE FUND.**—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the Federal Government or to make the members of the board of directors or any officer or employee of such nonprofit corporation an officer or employee of the United States.

(e) **FACTORS IN AWARDED GRANTS.**—In determining the number of nonprofit corporations to receive grants under this section for any fiscal year, the Corporation—

(1) shall take into consideration the need to minimize overhead costs that direct resources from the funding of programs and projects; and

(2) shall seek to ensure a broad geographical distribution of grants for programs and projects under this section.

(f) **CONGRESSIONAL OVERSIGHT.**—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.

(g) **FUNDING.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$10,000,000. Such sum shall be in addition to funds made available to the Corporation under Federal law other than this section.

(2) **AVAILABILITY.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

## SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—

(1) by striking “2002, and” and inserting “2002,”; and

(2) by inserting before the period the following: “, \$465,000,000 for fiscal year 2004,

\$500,000,000 for fiscal year 2005, \$560,000,000 for fiscal year 2006, and \$560,000,000 for fiscal year 2007”.

Mr. REID. Mr. President, I note that Senator DODD is the sponsor of this legislation. He was in the Peace Corps, so it is totally appropriate that this matter would be sponsored by him as the lead sponsor.

I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, and that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 2667), as amended, was read the third time and passed.

## ESTABLISHING NEW NON-IMMIGRANT CLASSES FOR BORDER COMMUTER STUDENTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4967, which is at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 4967) to establish new non-immigrant classes for border commuter students.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 4967) was read the third time and passed.

## AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 343, submitted earlier today by the two leaders.

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

The legislative clerk read as follows:

A resolution (S. Res. 343) to authorize representation by the Senate Legal Counsel in *Newdow v. Eagen*, et al.

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

Mr. DASCHLE. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the District of Columbia against Secretary Jeri Thomson, Financial Clerk Timothy Wineman, their

counterparts in the House of Representatives, the Congress, and the United States.

The plaintiff in this case, Mr. Michael Newdow, is the individual challenging the constitutionality of the Pledge of Allegiance in California. Mr. Newdow alleges in this action that the disbursement of public funds to the offices of the congressional chaplains violates the First and Fifth Amendments to the Constitution, and Article VI.

Both the United States Supreme Court and the United States Court of Appeals for the District of Columbia Circuit have already established the constitutionality of the congressional chaplaincies, which date from 1789. In the landmark Supreme Court decision *Marsh v. Chambers*, 463 U.S. 783 (1983), the Supreme Court unequivocally rejected a challenge to the constitutionality of Nebraska's legislative chaplain. It stated that given the “unambiguous and unbroken history” of legislative chaplains, the “practice of opening legislative sessions with prayer has become part of the fabric of our society” and is not “an ‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgement of beliefs widely held among the people of this country.” Id. at 792. Several months later, the United States Court of Appeals for the District of Columbia Circuit, sitting en banc, dismissed a constitutional challenge to the Congressional chaplains. *Murray v. Buchanan*, 720 F.2d 689 (D.C. Cir. 1983) (en banc). It stated that the Supreme Court “answered the question presented in *Marsh* with unmistakable clarity: The ‘practice of opening each legislative day with a prayer by chaplain paid by the State [does not] violate[] the Establishment Clause of the First Amendment.’” Id. at 690 (quoting *Marsh*, 463 U.S. at 784).

This resolution authorizes the Senate legal counsel to represent Secretary Thompson and Mr. Wineman to seek dismissal of this action.

Mr. REID. Mr. President, I ask unanimous consent the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 343) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 343

Whereas, Secretary Jeri Thomson and Financial Clerk Timothy Wineman have been named as defendants in the case of *Newdow v. Eagen*, et al., Case No. 1:02CV01704, now pending in the United States District Court for the District of Columbia; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers and employees of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Secretary Thomson and Mr. Wineman in the case of *Newdow v. Eagen*, et al.

#### AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to S. Res. 344.

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

The legislative clerk read as follows:

A resolution (S. Res. 344) to authorize representation by the Senate Legal Counsel in *Manshardt v. Federal Judicial Qualifications Committee*, et al.

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

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

The laws underlying this suite do not apply to the Senate, and the Speech or Debate Clause bars suits against legislators for the performance of their duties under the Constitution. Thus, there is no legal basis for suing Senators for their role in forming, appointing, or relying on judicial screening panels.

Further, the use of informal judicial selection panels to identify potential judicial nominees as a part of the advice and consent function has a long and respected history. Also, the Supreme Court's holding in *Public Citizen versus U.S. Department of Justice* that the Federal Advisory Committee Act does not apply to the longstanding practice of soliciting views on prospective judicial nominees from an American Bar Association committee provides ample support for the challenged practice.

This resolution would authorize the Senate legal counsel to represent the Senators sued in this action to protect their role in the advice and consent process by which the President and the Senate share responsibility for the appointment of Federal judges under the Constitution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to, the motion to reconsider be laid on the table, and that any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 344) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 344

Whereas, Senators Dianne Feinstein and Barbara Boxer have been named as defendants in the case of *Manshardt v. Federal Judicial Qualifications Committee*, et al., Case No. 02-4484 AHM, now pending in the United States District Court for the Central District of California; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senators Dianne Feinstein and Barbara Boxer in the case of *Manshardt v. Federal Judicial Qualifications Committee*, et al.

#### CYBER SECURITY RESEARCH AND DEVELOPMENT ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to Calendar No. 549, S. 2182.

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

The legislative clerk read as follows:

A bill (S. 2182) to authorize funding for the computer and network security research and development and research fellowship programs, and for other purposes.

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

#### CHECKLIST PROVISION—CYBER SECURITY RESEARCH AND DEVELOPMENT ACT, HR 3394

Mr. HOLLINGS. I would like to engage in a brief colloquy with the ranking member of the Science, Technology, and Space Subcommittee of the Commerce Committee, Senator ALLEN, regarding the provisions of H.R. 3394 that provide for the National Institute of Standards and Technology, NIST, to develop checklists for widely used software products.

Mr. ALLEN. The committee, particularly Senators WYDEN and EDWARDS, working with NIST and industry, have reached agreement on this provision. We recognize that there is no "one-size-fits-all" configuration for any hardware or software systems. We have given NIST flexibility in choosing which checklists to develop and update. We have not required any Federal agency to use the specific settings and options recommended by these checklists.

Mr. HOLLINGS. The ranking member is correct. Our intent with this provision is not to develop separate checklists for every possible Federal configuration. Rather, the checklists would provide agencies with recommendations that will improve the quality and security of the settings and options they select. The use of any checklist should, of course, be consistent with guidance from the Office of Management and Budget.

Mr. ALLEN. I agree with the chairman.

Mr. WYDEN. Mr. President, I would like to say a few words about the Senate's passage of the Cybersecurity Research and Development Act.

Americans today live in an increasingly networked world. The spread of the Internet creates lots of great new opportunities. But there is also a downside: security risks. The Internet connects people not just to friends, potential customers, and useful sources of information, but also to would-be hackers, viruses, and cybercriminals.

In July 2001, after I became chairman of the Science and Technology Subcommittee of the Senate Commerce Committee, I chose cybersecurity as the topic for my first hearing. The message from that hearing was that cybersecurity risks are mounting. And that was before the horrific attacks of September 11 hammered home the point that there are determined, organized enemies of this country who wish to wreak as much havoc as they can. The terrorists are looking for vulnerabilities, and they are not technological simpletons.

This legislation is essential to the Nation's effort to address cybersecurity threats. It is a necessary complement to both the homeland security legislation pending in Congress and to the draft cybersecurity strategy released on September 18 by the administration. Because reorganizing the Federal Government to deal more effectively with security threats is only part of the battle. The same goes for many of the steps called for in the Administration's cybersecurity strategy.

In the long run, all Government and private sector cybersecurity efforts depend on people—trained experts with the knowledge and skills to develop innovative solutions and respond creatively and proactively to evolving threats. Without a strong core of cybersecurity experts, no amount of good intentions and no amount of Government reorganizing will be sufficient to keep this country one step ahead of hackers and cyberterrorists.

Therefore, this legislation makes a strong commitment to support basic cybersecurity research, so that the country's pool of top-flight cybersecurity experts can keep pace with the evolving risks. Specifically, the bill authorizes \$978 million over five years to create new cybersecurity research and development programs at the National Science Foundation, NSF, and the National Institute of Standards and Technology, NIST. The NSF program will provide funding for innovative research, multidisciplinary academic centers devoted to cybersecurity, and new courses and fellowships to educate the cybersecurity experts of the future. The NIST program likewise will support cutting-edge cybersecurity research, with a special emphasis on promoting cooperative efforts between government, industry, and academia.

All of these programs will support advanced cybersecurity research at a