

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. On the Executive Calendar, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar No. 228 and the two military promotions reported by the Armed Services Committee during today's session.

I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Richard James O'Connell, of Arkansas, to be United States Marshal for the Western District of Arkansas for the term of four years.

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William S. Wallace, 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. Edmund P. Giambastiani, Jr., 0000

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

STRENGTHEN AMERICORPS PROGRAM ACT

Mr. GRASSLEY. Madam President, in regard to S. 1276, I ask unanimous consent that the Senate immediately proceed to this bill, which was introduced earlier today and is being held at the desk.

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

The legislative clerk read as follows:

A bill (S. 1276) to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

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

Mr. BOND. Madam President, I rise today to support legislation that will strengthen the Corporation for National and Community Service's

AmeriCorps program. The Strengthen AmeriCorps Program Act of 2003 is a bipartisan bill that I introduce with my colleague and good friend, Senator BARBARA MIKULSKI, and a number of my other colleagues. As the ranking member and chair of the Corporation's appropriations committee and members of the authorizing committee, Senator MIKULSKI and I believe that this bill will not only address the Corporation's accounting problems, but more importantly, it will protect and expand volunteer service opportunities across our Nation.

Many of my colleagues have heard from their constituents and the media in recent weeks about the potential cuts to the AmeriCorps program. This bill addresses those concerns and the long-standing concerns about the management and financial problems of the Corporation by creating a budgeting mechanism that ensures the Corporation has the funds needed to pay educational awards. Under our bill, the Corporation would be able to enroll about 50,000 AmeriCorps members, without the need for additional funds.

As many of my colleagues know, the President has asked every American to volunteer in their communities and has made the AmeriCorps program a central vehicle in meeting volunteer needs. I support the President's call to service and if harnessed in the right fashion, the AmeriCorps program can play an important and effective role in improving the lives of many Americans and communities it serves.

The Corporation, unfortunately, has been plagued by significant and long-standing management problems that have been neglected for several years. One notable result of this neglect has been the inappropriate and illegal practice of enrolling more AmeriCorps members than the Corporation had budgeted. According to the Corporation's Inspector General, the number of approved AmeriCorps volunteer positions for program years 2000, 2001, and 2002, were approximately 59,000, 61,000, and 67,000, respectively, even though its budget estimates were based on enrollment levels that were around 50,000. Last year, the Corporation over-enrolled the AmeriCorps program by more than 20,000. Fortunately, the VA-HUD and Independent Agencies Appropriations Subcommittees were able to provide \$43 million more than requested in the fiscal year 2003 appropriations bill to meet the needs of these members and more. Because of continued poor budgeting practices, the VA-HUD Subcommittee also approved another \$64 million in a deficiency appropriation in the fiscal year 2003 supplemental appropriations to cover additional shortfalls.

When the over-enrollment problem first surfaced, I immediately asked the General Accounting Office and the Corporation's Inspector General to review the accounting practices of the Corporation and its internal controls to determine the causes of this problem.

Further, I asked the GAO's Comptroller General to review the Corporation's underlying statute to determine whether the Corporation's practices complied with this law and other fiscal laws such as the Antideficiency Act.

Both the GAO and the IG found that the Corporation did not comply with the law by incorrectly recording its funding obligations. In a statement for the record for the VA-HUD and Independent Agencies Appropriations Subcommittee hearing on April 10, 2003, GAO identified several factors that led to the Corporation's incorrect accounting practice. The factors included inappropriate obligation practices, little or no communication among key Corporation executives, too much flexibility given to grantees regarding enrollments, and unreliable data on the number of AmeriCorps participants.

The GAO also found that the Corporation was not following the law in recording its legal liabilities. The GAO's finding is described in the Comptroller General's two legal opinions that were issued on April 9, 2003—B-300480, and June 6, 2003—B-300480.2. The first opinion concluded that the Corporation incurs a legal liability for the award of educational benefits of AmeriCorps participants when it enters into a grant agreement. At the time it enters a grant agreement, the Corporation approves a specified number of new participants in the AmeriCorps program. By this action:

the Corporation incurs a legal duty that once fully matured, by action of the grantee and participants outside the Corporation's control, will require the Corporation to pay education benefits to qualified participants from the National Service Trust.

The Comptroller General opinion further states that as:

the Corporation incurs an obligation for education benefits, it must record the obligation against the budget authority available in the Trust.

In other words, to ensure compliance with the law, the Corporation must record and track its obligations based on the value of the educational award multiplied by all approved positions.

We understand that recording obligations based on the approved level of AmeriCorps members in the program does not reflect the true performance of the program. We know from historical data that not all AmeriCorps volunteers successfully complete service. We also know that not all AmeriCorps members who successfully complete service use their educational award benefit. Accordingly, this bill recognizes the realities of the AmeriCorps program and allows the Corporation to maximize the number of AmeriCorps that can participate in the program.

In short, the bill allows the Corporation to fund AmeriCorps grants based on estimates of the number of members who will likely complete and use their education award. Further, the bill requires an annual actuarial audit of the National Service Trust to ensure that the Federal Government is able to

meet its liabilities. The bill also requires the chief executive officer to certify that the Corporation has properly recorded and tracked its obligations.

To ensure that the AmeriCorps program is accountable to the taxpayer and its volunteers, it is our expectation that the Corporation will use conservative assumptions in developing its funding formula. This especially is important since the Corporation has repeatedly failed to meet funding obligations resulting in actions by the Congress to provide additional funding, including a deficiency appropriation. While the program has been in place for about 10 years, there is little data on the performance of the program. Until there is reliable data, I strongly believe that the Corporation should assume a 100 percent enrollment rate for every volunteer slot approved in the grant agreements. I also believe that the Corporation should assume at least an 80 percent earnings rate for the program and at least an 80 percent education award usage rate. Further, because of poor data, the bill requires a central reserve fund to give the Corporation an extra cushion in case the actual usage rate exceeds the assumptions used in the formula.

It is my hope that we can pass this legislation as quickly as possible. This legislation provides clarification for the Corporation in determining grant award allocations to its grantees and the states. Without this legislation, uncertainty and disagreement will delay and limit the enrollment of AmeriCorps volunteers. Considering the demand and the need for this program, we cannot afford to wait.

We designed this legislation with input from the administration. I think it is a reasonable and fair approach to address this issue. It mitigates harm to AmeriCorps programs in a manner that will ensure accountability and fiscal integrity in the programs. Keeping in mind the problems identified by the auditors, which led to the enrollment freeze last November, we designed this legislation to ensure that we do not repeat those past mistakes. The enrollment freeze was an unfortunate but avoidable mistake if the Corporation had properly managed and monitored its programs.

Finally, we need to put these enrollment issues behind us. This program has had a difficult and star-crossed history, and it is unfortunate that we are here in June revisiting the implementation of the program to ensure both accountability and credibility. We need to ensure that the State and local programs are meeting both program requirements and community needs.

Before closing, I want to raise a technical issue regarding the enrollment cap of 50,000 AmeriCorps members. The Corporation enrolls members based on full-time equivalent or FTE levels since some AmeriCorps members serve part-time and others serve full-time. The cap should be based on FTE levels

so that it is consistent with normal AmeriCorps business practices.

I urge my colleagues to support this legislation and pass it as quickly as possible. Senator MIKULSKI and I have tried to construct this bill in a thoughtful and fair manner to address the concerns about the program. This bill ensures that volunteers across this Nation and the taxpayers will have confidence in the AmeriCorps program.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues Senator MIKULSKI and Senator BOND on this legislation to head off the cuts in AmeriCorps announced this week that will be so devastating to so many AmeriCorps programs in so many States.

Our bill directs the Corporation for National Service to calculate membership by a reasonable formula, and ensure that every person who commits to a year of service to their community in AmeriCorps will receive the education award.

The fiscal mismanagement at the Corporation is a serious continuing problem, but State and local programs should not have to pay for those mistakes by slashing their programs. Today, we take the first step in preserving service opportunities for this year and the future. We will continue to do all we can to increase the funds available, so that programs do not suffer because the Corporation over-enrolled 20,000 members last year. That over-enrollment is a clear signal that AmeriCorps is reviving the spirit of volunteerism in our country and we should make these opportunities available for people of all ages to serve their communities. In this struggling economy, too many after-school and summer school programs are being cut back, and health clinics and food kitchens are serving more people than ever. AmeriCorps helps these programs help others.

I commend Senator MIKULSKI and Senator BOND for their impressive bipartisan leadership on this issue, and I urge the Senate to join us in maintaining these successful programs.

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

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

The bill (S. 1276) was read the third time and passed, as follows:

S. 1276

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 "Strengthen AmeriCorps Program Act".

SEC. 2. PROCESS OF APPROVAL OF NATIONAL SERVICE POSITIONS.

(a) DEFINITIONS.—In this Act, the terms "approved national service position" and "Corporation" have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(b) TIMING AND RECORDING REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, in approving a position as an approved national service position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under subtitle E of title I of that Act (42 U.S.C. 12611 et seq.) or title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position may be approved under section 123 of the National and Community Service Act of 1990 (42 U.S.C. 12573); and

(B) shall record as an obligation an estimate of the net present value of the national service educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards for such a program.

(2) FORMULA.—In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) CERTIFICATION REPORT.—The Chief Executive Officer of the Corporation shall annually prepare and submit to Congress a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) APPROVAL.—The requirements of this subsection shall apply to each approved national service position that the Corporation approves—

(A) during fiscal year 2003 (before or after the date of enactment of this Act); and

(B) during any subsequent fiscal year.

(c) RESERVE ACCOUNT.—

(1) ESTABLISHMENT AND CONTENTS.—

(A) ESTABLISHMENT.—Notwithstanding subtitles C and D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq., 12601 et seq.), and any other provision of law, within the National Service Trust established under section 145 of the National and Community Service Act of 1990 (42 U.S.C. 12601), the Corporation shall establish a reserve account.

(B) CONTENTS.—To ensure the availability of adequate funds to support the awards of approved national service positions for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2003, a portion of the funds that were appropriated for fiscal year 2003 or a previous fiscal year under section 501(a)(2) (42 U.S.C. 12681(a)(2)), were made available to carry out subtitle C or D of title I of that Act, and remain available; and

(ii) during fiscal year 2004 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 501(a)(2) and were made available to carry out subtitle C or D of title I of that Act.

(2) OBLIGATION.—The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions; or

(B) obligates the funds for the payment of such awards for such previously approved national service positions.

(d) AUDITS.—The accounts of the Corporation relating to the appropriated funds for approved national service positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (b)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. A report containing the results of each such independent audit shall be included in the annual report required by subsection (b)(3).

(e) AVAILABILITY OF AMOUNTS.—Except as provided in subsection (c), all amounts included in the National Service Trust under paragraphs (1), (2), and (3) of section 145(a) of the National and Community Service Act of 1990 (42 U.S.C. 12601(a)) shall be available for payments of national service educational awards under section 148 of that Act (42 U.S.C. 12604).

ORDERS FOR THURSDAY, JUNE 19, 2003

Mr. GRASSLEY. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, June 19. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time of the two leaders be reserved for their use later in the day, and the Senate resume at that point consideration of S. 1, the prescription drug benefits bill.

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

PROGRAM

Mr. GRASSLEY. For the information of all Senators, then, the Senate will resume consideration of the bill now before the Senate, S. 1, the prescription drug benefits bill. There are two amendments currently pending to the bill. One is the Enzi amendment relating to disclosure and the other is Senator BINGAMAN's amendment regarding asset tests. These amendments are being reviewed and it is the leader's hope we will be able to set votes in relation to these amendments sometime tomorrow.

As mentioned earlier, we have now begun the amendment process and I hope we will continue to make progress

on the bill each day until we are done with it, and the chairman and ranking member will be working together to try to get Senators in a queue to offer amendments.

Rollcall votes will occur throughout the day during Thursday's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 5:38 p.m., adjourned until Thursday, June 19, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 2003:

THE JUDICIARY

ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, VICE MARVIN J. GARBIS, RETIRED.

FEDERAL HOUSING FINANCE BOARD

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2004, VICE J. TIMOTHY O'NEILL, TERM EXPIRED.

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2011. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED UNITED STATES AIR FORCE OFFICER FOR REAPPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 152:

To be general

GEN. RICHARD B. MYERS, 0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. ROBERT P. MEYER JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN P. ABIZAID, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BRYAN D. BROWN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAN K. MCNEILL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM G. BOYKIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CLAUDE V. CHRISTIANSON, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS OFFICER FOR REAPPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 154:

To be general

GEN. PETER PACE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT R. BLACKMAN JR., 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LINSLEY G. M. BROWN, 0000
DAWN E. CUTLER, 0000
GREGORY P. GEISEN, 0000
RONALD L. HILL, 0000
JOSEPH S. NAVRATIL, 0000
DENISE M. SHOREY, 0000

CONFIRMATIONS

Executive Nomination Confirmed by the Senate June 18, 2003:

DEPARTMENT OF JUSTICE

RICHARD JAMES O'CONNELL, OF ARKANSAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

to be lieutenant general

LT. GEN. WILLIAM S. WALLACE

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

to be admiral

ADM. EDMUND P. GIAMBASTIANI, JR.