

as of the time at which the original check was truncated; and

(B) bears the legend: "This is a legal copy of your check. You can use it in the same way you would use the original check."; and

(2) the consumer recedit rights established under section 7 when a consumer believes in good faith that a substitute check was not properly charged to the account of the consumer.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The notice required by subsection (a) shall be provided—

(A) to each consumer that is a customer of the bank as of the effective date of this Act, and that receives original checks or substitute checks along with periodic account statements, not later than together with the first regularly scheduled communication with the customer after the effective date of this Act;

(B) at the time at which a customer relationship is initiated, if such relationship is initiated on or after the effective date of this Act and such customer will receive original checks or substitute checks along with periodic account statements; and

(C) to each customer of the bank that requests a copy of a check and receives a substitute check, at the time of the request.

(2) MODE OF DELIVERY.—A bank may provide the notices required by this subsection by United States mail, or by any other means through which the consumer has agreed to receive account information.

(c) MODEL LANGUAGE.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Board shall publish model forms and clauses that a depository institution may use to describe each of the elements required by subsection (a).

(2) SAFE HARBOR.—A bank shall be treated as being in compliance with the requirements of subsection (a) if the substitute check notice of the bank uses a model form or clause published by the Board, and such model form or clause accurately describes the policies and practices of the bank. A bank may delete any information in the model form or clause that is not required by this Act, or rearrange the format of such form.

(3) USE OF MODEL LANGUAGE NOT REQUIRED.—This section shall not be construed as requiring any bank to use a model form or clause that the Board prepares under this subsection.

#### SEC. 13. EFFECT ON OTHER LAW.

This Act shall supersede any provision of Federal or State law, including the Uniform Commercial Code, that is inconsistent with this Act, but only to the extent of the inconsistency.

#### SEC. 14. REGULATIONS.

The Board may prescribe such regulations as it deems necessary to implement, prevent circumvention or evasion of, or facilitate compliance with the provisions of this Act.

#### SEC. 15. STUDY AND REPORT ON FUNDS AVAILABILITY.

(a) STUDY.—In order to evaluate the implementation and the impact of this Act, the Board shall conduct a study of—

(1) the percentage of total checks cleared in which the paper check is not returned to the paying bank;

(2) the extent to which financial institutions make funds available to consumers for local and nonlocal checks prior to the expiration of maximum hold periods;

(3) the length of time within which depository banks learn of the nonpayment of local and nonlocal checks;

(4) the increase or decrease in check-related losses over the study period; and

(5) the appropriateness of the time periods and amount limits applicable under sections 603 and 604 of the Expedited Funds Availability Act, as in effect on the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 30 months after the effective date of this Act, the Board shall submit a report to Congress concerning the results of the study conducted under

this section, together with any recommendations for legislative action.

#### SEC. 16. EVALUATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) STUDY.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall evaluate the implementation and administration of this Act, including—

(1) an estimate of the gains in economic efficiency made possible from check truncation;

(2) an evaluation of the benefits accruing to consumers and financial institutions from reduced transportation costs, longer hours for accepting deposits for credit within 1 business day, the impact of fraud losses, and an estimate of consumers' share of the total benefits derived from this Act; and

(3) an assessment of consumer acceptance of the check truncation process resulting from this Act, as well as any new costs incurred by consumers who had their original checks returned with their regular monthly statements prior to the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress concerning the findings and conclusions of the Comptroller General in connection with the evaluation conducted pursuant to subsection (a), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

#### SEC. 17. VARIATION BY AGREEMENT.

(a) SECTION 8.—Any provision of section 8 may be varied by agreement of the banks involved.

(b) NO OTHER PROVISIONS MAY BE VARIED.—Except as provided in subsection (a), no provision of this Act may be varied by agreement of any person or persons.

#### SEC. 18. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act shall become effective 12 months after the date of enactment of this Act.

### COMMENDING AUGUST HIEBERT

### EXPRESSING SENSE OF THE SENATE REGARDING THE CENTENARY OF THE RHODES SCHOLARSHIPS IN THE UNITED STATES

### HONORING MAYNARD HOLBROOK JACKSON, JR.

### COMMENDING GENERAL ERIC SHINSEKI

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following Senate resolutions, en bloc: S. Res. 186, S. Res. 187, S. Res. 188, and S. Res. 190.

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

The legislative clerk read as follows:

A resolution (S. Res. 186) commending August Hiebert for his Service to the Alaska Communications Industry.

A resolution (S. Res. 187) expressing the sense of the Senate regarding the centenary of the Rhodes Scholarships in the United States and the establishment of the Mandela Rhodes Foundation.

A resolution (S. Res. 188) honoring Maynard Holbrooke Jackson, Jr., former Mayor

of the City of Atlanta, and extending condolences of the Senate on his death.

A resolution (S. Res. 190) commending General Eric Shinseki of the United States Army for his outstanding service and commitment to excellence.

There being no objection, the Senate proceeded to consider the resolutions, en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolutions be agreed to, en bloc; that the preambles be agreed to, en bloc; that the motions to reconsider be laid upon the table; and that any statements relating to these resolutions be printed in the RECORD.

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

The resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 186

Whereas Augie Hiebert came to Alaska in 1939 and built the first successful commercial radio station;

Whereas on Dec. 7, 1941, Augie Hiebert picked up the first report of the raid on Pearl Harbor from his radio station in Fairbanks, Alaska giving military leaders the first word of the attack that began World War II;

Whereas in 1953, Augie Hiebert founded Alaska's first television station;

Whereas Augie Hiebert established Alaska's first FM radio station and was named president of the Alaska Broadcasting system, overseeing the affiliation of nine stations that serve all major Alaska communities;

Whereas Augie Hiebert helped establish Alaska's first satellite earth station activated in 1970;

Whereas Augie Hiebert led in the development of the Territory and State of Alaska, working for over a half century to pioneer modern radio and television on behalf of the broadcast industry;

Whereas Augie Hiebert has been a pillar of the Alaska community as president of the Anchorage Chamber of Commerce and the Association of the U.S. Army in Alaska, and as director of the Alaska Educational Broadcasting Committee, the CBS Television Network Affiliates Association, the Civil Air Patrol, and the Pioneers of Alaska: Now, therefore, be it

Resolved, That it is the sense of the Senate that Augie Hiebert is commended for his service to the communications industry in Alaska and the world and for bringing the best that broadcasting has to offer to the people of Alaska.

The resolution (S. Res. 187) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 187

Whereas the Rhodes Scholarships, the oldest international fellowships, were initiated after the death of Cecil Rhodes in 1902, and now bring outstanding students from the United States, Australia, Bangladesh, Bermuda, Canada, the Commonwealth Caribbean, Germany, Hong Kong, India, Jamaica, Kenya, Malaysia, New Zealand, Pakistan, Singapore, South Africa, Uganda, Zambia, and Zimbabwe to the University of Oxford;

Whereas the first American Rhodes Scholars were elected in 1904, and since that time

distinguished American Rhodes alumni have included over 20 members of Congress, a President of the United States, 3 Supreme Court justices, cabinet members, military leaders, 80 heads of colleges or universities, and prominent artists, scientists, and business people;

Whereas the Mandela Rhodes Foundation, a partnership between the Rhodes Trust and the Nelson Mandela Foundation, was established in February, 2002;

Whereas after a lifetime of struggle against apartheid and the momentous challenge of governing the new South Africa as its first democratically elected President, Nobel Peace Prize Laureate Nelson Rolihlahla Mandela continues to be devoted to building a society characterized by justice and opportunity in the Republic of South Africa;

Whereas President Mandela's efforts have manifested themselves in the work of the Nelson Mandela Children's Fund, established in the wake of President Mandela's pledge to devote 1/3 of his Presidential salary to projects aimed at improving the quality of life of South Africa's disadvantaged children; and

Whereas in Cape Town in February, 2002, President Mandela noted that the partnership between the Rhodes Trust and the new Mandela Foundation signals "the closing of the circle and the coming together of 2 strands in our history": Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the centenary of the Rhodes Scholarships in the United States;

(2) welcomes the establishment of the Mandela Rhodes Foundation, which embodies the spirit of reconciliation and shared commitment that is one of South Africa's greatest assets;

(3) shares the Foundation's commitment to support initiatives aimed at increasing educational opportunities, fostering leadership, and promoting human resource development throughout Africa; and

(4) affirms the support of the United States for these worthy goals throughout the sub-Saharan region, and asserts that the pursuit of these goals is in the shared interest of the American and African people.

The resolution (S. Res. 188) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 188

Whereas the Honorable Maynard Holbrook Jackson, Jr. was born on March 23, 1938, in Dallas, Texas, and at the age of 14 entered Morehouse College as a Ford Foundation Early Admission Scholar;

Whereas the Honorable Maynard Holbrook Jackson, Jr. graduated *cum laude* from North Carolina Central University School of Law;

Whereas the Honorable Maynard Holbrook Jackson, Jr. became the first African-American Vice Mayor of the City of Atlanta;

Whereas the Honorable Maynard Holbrook Jackson, Jr. proved to be a gifted and brilliant political leader, and he later became the first African-American Mayor of the City of Atlanta;

Whereas, during his years in office, the Honorable Maynard Holbrook Jackson, Jr. was the catalyst for the design of a \$400 million terminal at Atlanta's Hartsfield International Airport;

Whereas the Honorable Maynard Holbrook Jackson, Jr. helped to secure Atlanta's selection as the site of the 1996 Summer Olympics;

Whereas the Honorable Maynard Holbrook Jackson, Jr. served as president of the National Conference of Democratic Mayors and

the National Black Caucus of Local Elected Officials;

Whereas the Honorable Maynard Holbrook Jackson, Jr. became Chair of the National Voting Rights Institute of the Democratic National Committee;

Whereas the Honorable Maynard Holbrook Jackson, Jr. established the American Voters League, a nonpartisan organization committed to increasing voter turnout;

Whereas upon being elected Mayor of Atlanta, the Honorable Maynard Holbrook Jackson, Jr. began encouraging and fostering interracial understanding in Atlanta;

Whereas the Honorable Maynard Holbrook Jackson, Jr. was a strong supporter of affirmative action, civil rights, and the expansion of social and economic gains for minorities;

Whereas the Honorable Maynard Holbrook Jackson, Jr. was a great champion for diversity, inclusion, and fairness—not just in government and business, but also in all areas of life;

Whereas the Honorable Maynard Holbrook Jackson, Jr. was a wonderful human being who never wavered from the principles that guided his life and career;

Whereas the efforts of the Honorable Maynard Holbrook Jackson, Jr. on behalf of the City of Atlanta and all Americans earned him the esteem and high regard of his colleagues; and

Whereas the untimely death of the Honorable Maynard Holbrook Jackson, Jr. has deprived his community, the City of Atlanta, the state of Georgia, and the entire Nation of an outstanding leader: Now, therefore, be it

*Resolved*: That the Senate—

(1) honors the life and accomplishments of the Honorable Maynard Holbrook Jackson Jr.;

(2) recognizes the legendary compassion exhibited by the Honorable Maynard Holbrook Jackson, Jr. as a civil rights leader; and

(3) extends its condolences to the Jackson family and the City of Atlanta on the death of a remarkable man.

The resolution (S. Res. 190) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 190

Whereas General Eric Shinseki, the Army's 34th Chief of Staff, retired in June 2003, from active military duty after 37 distinguished years of service;

Whereas General Shinseki, a native of Hawaii, graduated from the United States Military Academy, West Point, in 1965 and served in a variety of assignments, including 2 combat tours in Vietnam, and was wounded twice in combat while serving his country;

Whereas General Shinseki has been awarded the Defense Distinguished Service Medal, Distinguished Service Medal, Legion of Merit (with oak leaf clusters), Bronze Star Medal with "V" Device (with 2 oak leaf clusters), Purple Heart (with oak leaf cluster), Meritorious Service Medal (with 2 oak leaf clusters), Air Medal, Army Commendation Medal (with oak leaf cluster), Army Achievement Medal, Parachutist Badge, Ranger Tab, Office of the Secretary of Defense Identification Badge, Joint Chiefs of Staff Identification Badge, and the Army Staff Identification Badge;

Whereas General Shinseki has spent the last 4 years of his career in the highest position attainable in the Army and has proven himself a tremendous leader who has demonstrated unselfish devotion to this Nation and the soldiers he leads;

Whereas General Shinseki focused the Army on improved readiness in preparation for war and transformed the Army into the lean, agile, lethal fighting force that achieved victories during Operations Enduring Freedom and Iraqi Freedom;

Whereas General Shinseki provided the vision to set the Army on a path of transformation that will provide the Nation with an Army that is more lethal, agile, deployable, and flexible; capable of fighting and winning this Nation's wars in all future threat environments.

Whereas General Shinseki exemplifies the trademark characteristics exhibited by all great leaders and is a remarkable man of integrity, courage, and honor;

Whereas General Shinseki is an American hero who has been selfless in his service to his country through war, peace, and personal trial, and epitomizes the spirit of aloha; and

Whereas John F. Kennedy, the 35th President of the United States once said, "When at some future date the high court of history sits in judgment of each one of us—recording whether in our brief span of service we fulfilled our responsibilities, we will be measured by the answers to 4 questions—were we truly men of courage . . . were we truly men of judgment . . . were we truly men of integrity . . . were we truly men of dedication?" and whereas when history looks back at the Army's 34th Chief of Staff, it will be clear that this was truly a man of courage, judgment, integrity, and dedication: Now, therefore, be it

*Resolved*,

**SECTION 1. COMMENDATION.**

The Senate—

(1) thanks General Eric Shinseki of the United States Army on behalf of a grateful Nation; and

(2) commends General Eric Shinseki for his extraordinary dedication to service to this great country and for his lifetime of commitment to excellence.

**SEC. 2. TRANSMITTAL OF RESOLUTION.**

The Senate directs the Secretary of the Senate to transmit an enrolled copy of this resolution to General Eric Shinseki.

**MEASURE READ THE FIRST TIME—S. 11**

Mr. FRIST. Mr. President, I understand that S. 11 is 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 legislative clerk read as follows:

A bill (S. 11) to protect patients' access to quality and affordable health care by reducing the effects of excessive liability costs.

Mr. FRIST. I now ask for its second reading and object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

**UNANIMOUS CONSENT AGREEMENT—ADJOURNMENT RESOLUTION**

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate receives the adjournment resolution, it be agreed to and the motion to reconsider be laid upon the table, provided the text is identical to the resolution that is at the desk.

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