

has no or minimal psychic or physiological dependence liability, DEA may nonetheless schedule DHEA if DEA concludes, after consideration of the facts and relative importance of other of the factors such as the actual or relative potential for abuse; the history and current pattern of abuse; or the scope, duration, and significance of abuse, that it should be scheduled. Karen P. Tandy, the administrator of the DEA, has written me a letter stating that the presence of each of the eight factors is not a mandatory prerequisite to scheduling. I ask unanimous consent that the letter dated May 20, 2004, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,  
DRUG ENFORCEMENT ADMINISTRATION,  
Washington, DC, May 20, 2004.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to respond to questions your staff posed regarding consideration of certain statutory factors incident to scheduling substances under the Controlled Substances Act.

The relevant statutory provision, 21 U.S.C. §811(c), requires consideration of eight specific factors as one of the prerequisites to whether a substance should be scheduled. The presence of each individual factor or specific findings with respect to each individual factor are not a mandatory prerequisite to scheduling. These statutory factors are: (1) The drug's actual or relative potential for abuse; (2) Scientific evidence of the drug's pharmacological effects; (3) The state of current scientific knowledge regarding the subject; (4) Its history and current pattern of abuse; (5) The scope, duration, and significance of abuse; (6) What, if any, risk there is to the public health; (7) The drug's psychic or physiological dependence liability and; (8) Whether a substance is an immediate precursor of a substance already controlled.

You should be aware that evaluation of these eight factors is not solely determinative and is part of a more extensive scheduling process. The entire process for scheduling substances to which these eight factors apply includes: consideration of additional statutory criteria relevant to each specific schedule [21 U.S.C. §811(b)]; an evaluation and recommendation by the Secretary of Health and Human Services; and then a formal rulemaking.

I appreciate the opportunity to clarify this matter, and please let me know if I may answer any further questions.

Sincerely,

KAREN P. TANDY,  
Administrator.

Mr. KENNEDY. Will my good friend from Utah yield for a further question?

Mr. HATCH. Certainly.

Mr. KENNEDY. If DHEA becomes an abuse problem by athletes or by youngsters or teenagers, and DEA fails to act, can the Senator assure me and the senior Senator from Illinois that the Judiciary Committee will act accordingly?

Mr. HATCH. Yes, I am committed to stepping in to change the law to protect the public health if abuse of DHEA by athletes or by youngsters or teenagers is a problem and DEA fails to take effective action with the author-

ity we have given it. I must add for the record that at the present time I am not aware of sufficient evidence of DHEA abuse among athletes or young people to warrant it being categorized as an anabolic steroid at this time.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I, too, am committed to acting whenever any substance, whether it is DHEA or another steroid substance, becomes an abuse problem.

Mr. MCCONNELL. I ask unanimous consent that the technical amendment at the desk be agreed to; the committee-reported amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3982) was agreed to, as follows:

In section 4(c) in the matter proposed to be inserted, strike "primarily".

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

The bill (S. 2195), as amended, was read the third time and passed.

#### DISTRICT OF COLUMBIA APPROPRIATIONS FOR THE FISCAL YEAR 2005, AND FOR OTHER PURPOSES—CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I submit a report of the committee of conference on the bill (H.R. 4850), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850), making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the proceedings of the House in the RECORD of Tuesday, October 5, 2004.)

Ms. LANDRIEU. Mr. President, I am very pleased to join Chairman DEWINE while the Senate considers passage of the fiscal year 2005 District of Columbia appropriations conference report. The bill totals \$560 million, which is an increase of \$18.3 million from fiscal year 2004. The conference agreement represents a concerted effort of the House and Senate members to complete a bi-partisan bill only 6 days into the new fiscal year. This is a true win for the District of Columbia, whose budget has been delayed in Congress past December and January in recent years.

During our 3-year term as chairman and ranking member of the D.C. Appropriations Subcommittee, Senator DEWINE and I have met many challenges to stay in our allocation and deal appropriately with controversial issues. Above it all we have remained great friends. The conference report meets the District's current needs in security, criminal justice, education, and child welfare.

The conference report funds the three criminal justice functions transferred to the Federal Government for funding and oversight in the National Capital Revitalization and Self-Government Improvement Act of 1997. These functions, the courts, offender supervision, and defender services, are funded at a level which will meet the needs of FY 2005, though it was necessary to reduce funding in order to support other priorities of the Mayor and Council of the District.

The conferees recommend \$190.8 million for the D.C. Courts, of which \$56 million is for capital improvements which we believe will be sufficient to continue restoration of the historic Old Courthouse and planning for the new Family Court facility. I was pleased to attend the ribbon cutting just a few weeks ago for the renovated interim space of the Family Court, which we funded last year. The courts have done a tremendous job of improving how the court operates, as well as improving the points where residents interact with the court—the training of their staff and the aesthetic of space. It is so important, especially for children visiting the court, to have a space that welcomes them and enables confidence in the justice system. The courts are to be commended for doing so much with small increases and we have confidence they will be able to continue this year.

In addition, \$180 million is included for the Court Services and Offender Supervision Agency which is responsible for all adult offenders reentering the community from prison. This agency has a critical role in public safety in the District and we have worked to ensure they have the tools needed to do their job. Chairman DEWINE championed an initiative to lower the caseload ratios for special population offenders and expand use of technology to ensure offenders are meeting their parole requirements. The conference also includes \$38.5 million for defender services which represents indigent defendants in the District. It is our intention this level will enable the courts to increase the pay of lawyers from \$50 to \$60 per hour, an increase which was started 3 years ago.

Outside of the Congress' responsibility for the main criminal justice functions in the District, the bill also funds several key initiatives which the House and Senate have launched to contribute to improving education and the welfare of children in the District. I want to recognize Senator DEWINE's commitment to abused and neglected children in this city, including \$5 million for early intervention services,

mental health services, and to support foster parents. Through Senator DEWINE's commitment the status of children in the child welfare system has improved greatly, and with his sure hand I am confident it will continue to improve. There is much work to be done. In addition, \$6 million was included in the conference report on behalf of the House Chairman RODNEY FRELINGHUYSEN to renovate school libraries in the District of Columbia public schools which will enable many more of the 65,000 student in the system to enjoy books and technology.

Great communities need great schools. This bill includes \$26 million for public education in support of the committee's goal to improve education in the District, evenly divided between traditional public schools and public charter schools. A new superintendent has been hired for the D.C. Public School system, Dr. Clifford Janey, and we are excited about his energy to reform and improve and want to support his efforts as strongly as possible. This bill includes certain tools to contribute to Dr. Janey's work.

In our public schools we must recognize and reward excellence. We must acknowledge and eliminate failure. This bill directs a total of \$4 million for a new incentive grant program for public education improvement in both traditional public schools and public charter schools. These grants will be awarded to the principal of high-performing or significantly improved public schools to reward their good work. A reward is a powerful incentive to build on success and meet some of the areas which can make their school thrive. I want to take this opportunity to recognize the House chairman and ranking member for their support of this new program which will contribute to reinvigorating our public schools.

The second prong of the School Improvement Fund, \$13 million for public charter schools, is a contribution to strengthen the chartering system. With 42 charters granted to date, the highest number of charter schools per capita, is a leader in the effort to use charter schools to spur system-wide improvement from within our system of public education. Senator DEWINE and I maintain our commitment to serve as a full and equal partner in this endeavor.

Strengthening charter schools, which were created in the District by Congress in the 1995 School Reform Act, is a primary tenet of our work to improve education. Pursuant to Section 120 of P.L. 106-522, the FY 01 DC Appropriations Act, the local government is prohibited from amending the School Reform Act. Therefore, Congress has continued our oversight responsibility of the charter school law this year. The bill fortifies the environment where strong, accountable, academically excellent charter schools flourish.

Finally, the conference report begins a new investment in the administration of justice in the District by con-

tributing \$8 million to the construction of a new forensics lab, a top priority for the Mayor and council. This laboratory will alleviate contract pressure D.C. imposes on other Federal agencies, such as the FBI, to complete local forensic work and ensure timely processing of lab work, such as DNA tests. The bill also contributes to security and emergency preparedness in the Nation's capital with \$21 million to bolster the police and first responders. This includes the annual payment of \$15 million for security of Federal installations in the city and to enable the police presence now required. The conferees also provide \$6 million to complete the Unified Communications Center which will coordinate all first responders in the capital region. In addition to all of the important investments in the District, there is \$7.8 million for cleaning up the Anacostia River and providing recreation for the entire region and \$2.5 million for transportation improvements.

I would like to close by thanking the Mayor of the District of Columbia, Anthony Williams, the entire Council, particularly the Chair Linda Cropp, and the D.C. Delegate to Congress EL-EANOR HOLMES NORTON for their many contributions and advice in developing this bill. The D.C. Appropriations Subcommittee has a unique role to fund certain aspects of the city government and we could not do that well without the guidance of the elected representative of the city's residents. They are great partners for Chairman DEWINE and I to ensure the bill meets the needs of the District. I am especially pleased this year that we are passing the final budget so early in the fiscal year, because the city's local budget, nearly \$8 billion, of locally-generated tax dollars, must be approved as part of this bill.

I appreciate the chairman's consideration and our ability to work together so well. And finally, no bill could be completed without the diligent work of our staff, Mary Dietrich for Senator DEWINE and Kate Eltrich and Kathleen Strotzman on my staff. This year has been blessed by a comity not often observed in the Congress in regards to our Capital City, and I thank all my colleagues for their commitment to a positive year and a first-rate bill for the District.

Mr. MCCONNELL. Mr. President, was that the reading of the DC conference report?

The PRESIDING OFFICER. Yes.

Mr. MCCONNELL. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4850, the DC appropriations bill, provided that the conference report be adopted, and the motion to reconsider be laid upon the table.

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

The conference report was agreed to.

#### SENATE LEGAL COUNSEL AUTHORIZATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 450, which was submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 450) to authorize testimony and representation of the United States v. Daniel Bayly, et al.

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

Mr. FRIST. Mr. President, this resolution concerns a request for testimony and representation in a criminal case arising out of the Enron debacle. The Justice Department's Enron Task Force has brought a case in Federal court in Texas against six individuals formerly associated with the Enron Corporation and Merrill Lynch. The indictment alleges conspiracy, false statements, obstruction of justice, and perjury relating to transactions involving offshore power barges. The Government alleges that Enron in essence parked assets with Merrill Lynch to enhance fraudulently Enron's financial statements.

The transactions at the center of this case were the subject of extensive investigation and a hearing by the Permanent Subcommittee on Investigations of the Committee on Government Affairs during the last Congress. In the course of the subcommittee's investigation, subcommittee staff interviewed two of the individuals who are now on trial, about these transactions.

Last Congress the Senate agreed to Senate Resolution 317, authorizing the Permanent Subcommittee on Investigations to cooperate with requests from law enforcement agencies for access to subcommittee records from its Enron investigation. In June of this year, the Senate agreed to Senate Resolution 394, authorizing a former subcommittee counsel and a subcommittee detailee who interviewed the defendants to testify at this trial.

The trial of this case began on September 20, 2004, in Houston. One of the defendants has now additionally subpoenaed a former subcommittee employee and a former detailee to testify about the same events. Accordingly, this resolution would authorize the former subcommittee staff to testify at this trial with representation by the Senate Legal Counsel.

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

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

The resolution (S. Res. 450) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows: