

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

#### SEC. 12. SECURITY SERVICE FEE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

##### “§ 70121. Security service fee

“(a) IN GENERAL.—

“(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to pay for the costs of providing port security services. The amount of the fees assessed and collected under this paragraph and paragraph (2) shall, in the aggregate, be sufficient to provide the services and levels of funding described in section 70122(c).

“(2) INTERNATIONAL TRANSHIPMENT SECURITY FEE.—The Secretary shall also assess and collect an international maritime transshipment security user fee for providing security services for shipments of cargo and transportation of passengers entering the United States as part of an international transportation movement by water through Canadian or Mexican ports at the same rates as the fee imposed under paragraph (1). The fee authorized by this paragraph shall not be assessed or collected on transshipments from—

(A) Canada after the date on which the Secretary determines that an agreement between the United States and Canada, or

(B) Mexico after the date on which the Secretary determines that an agreement between the United States and Mexico,

has entered into force that will provide equivalent security regimes and international maritime security user fees of the United States and that country for transshipments between the countries.

“(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Secretary shall ensure that the fees are reasonably related to the costs of providing services rendered and the value of the benefit derived from the continuation of secure international maritime transportation.

“(c) IMPOSITION OF FEE.—

“(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary shall impose the fees under subsection (a) through the publication of notice in the Federal Register and begin collection of the fee within 60 days of the date of enactment of the Maritime Transportation Security Act of 2004, or as soon as possible thereafter. No fee shall be assessed more than once, and no fee shall be assessed for international ferry voyages.

“(2) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

“(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee under subsection (a), the Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both. The Secretary shall evaluate the fee annually to determine whether it is necessary and appropriate to pay the cost of activities and services, and

shall adjust the amount of the fee accordingly.

“(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

“(d) ADMINISTRATION OF FEES.—

“(1) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

“(2) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

“(e) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

“(3) shall remain available until expended.

“(f) REFUNDS.—The Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

“(g) SUNSET.—The fees authorized by subsection (a) may not be assessed after September 31, 2009.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 2, is amended by adding at the end the following:

“70121. Security service fee”.

#### SEC. 13. PORT SECURITY CAPITAL FUND.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 11, is further amended by adding at the end the following:

##### “§ 70122. Port security capital fund.

“(a) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Port Security Capital Fund. There are appropriated to the Fund such sums as may be derived from the fees authorized by section 70121(a).

“(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security—

“(1) to provide financial assistance to port authorities, facility operators, and State and local agencies required to provide security services to defray capital investment in transportation security at port facilities in accordance with the provisions of this chapter;

“(2) to provide financial assistance to those entities required to provide security services to help ensure compliance with Federal area maritime security plans; and

“(3) to help defray the costs of Federal port security programs.

“(c) ALLOCATION OF FUNDS.—

“(1) FUNDS DERIVED FROM SECURITY FEES.—From amounts in the Fund attributable to fees collected under section 70121(a)(1) and (2)—

“(A) no less than \$400,000,000 (or such amount as may be appropriate to reflect any modification of the fees under section 70121(c)(3)) shall be made available each fiscal year for grants under section 70107 to help ensure compliance with facility security plans or to help implement Area Maritime Transportation Security Plans;

“(B) funds shall be made available to the Coast Guard for the costs of implementing sections 70114 and 70115 fully by the end of fiscal year 2006;

“(C) funds shall be made available to the Coast Guard for the costs of establishing

command and control centers at United States ports to help coordinate port security law enforcement activities and implementing Area Maritime Security Plans, and may be transferred, as appropriate, to port authorities, facility operators, and State and local government agencies to help them defray costs associated with port security services;

“(D) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of implementing cargo security programs, including the costs of certifying secure systems of transportation under section 70116;

“(E) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

“(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector), of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

“(2) TRANSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

“(d) UTILIZATION REPORTS.—The Commandant of the Coast Guard and the Secretary of Homeland Security shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on utilization of amounts received from the Fund.

“(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to port sponsors from the Fund.”.

(f) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 11, is amended by adding at the end the following:

“70122. Port security capital fund”.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 327—PROVIDING FOR A PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Rules and Administration:

##### S. RES. 327

Whereas, judicial nominations have long been the subject of controversy and delay in the United States Senate;

Whereas, in the past the controversy over judicial nominees has occurred when different political parties control the White House and the Senate;

Whereas, in the current Congress, even though the White House and the Senate are controlled by the same party, the controversy over judicial nominees continues and has reached a crisis point;

Whereas, during the current Administration there have for the first time been Senate filibusters of nominees to the U.S. Circuit Courts of Appeal;

Whereas, the White House has made recess appointments of two of these filibustered nominees;

Whereas, the minority party has taken the position that further Senate confirmations of the President's judicial nominees would be blocked unless the White House gives assurances that it will no longer make such recess appointments.

*Resolved,*

**SECTION 1. PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES.**

(a) **TIMETABLES.**—

(1) **COMMITTEE TIMETABLES.**—The Chairman of the Committee on the Judiciary, in collaboration with the Ranking Member, shall—

(A) establish a timetable for hearings for nominees to the United States district courts, courts of appeal, and Supreme Court, to occur within 30 days after the names of such nominees have been submitted to the Senate by the President; and

(B) establish a timetable for action by the full Committee to occur within 30 days after the hearings, and for reporting out nominees to the full Senate.

(2) **SENATE TIMETABLES.**—The Majority Leader shall establish a timetable for action by the full Senate to occur within 30 days after the Committee on the Judiciary has reported out the nominations.

(b) **EXTENSION OF TIMETABLES.**—

(1) **COMMITTEE EXTENSIONS.**—The Chairman of the Committee on the Judiciary, with notice to the Ranking Member, may extend by a period not to exceed 30 days, the time for action by the Committee for cause, such as the need for more investigation or additional hearings.

(2) **SENATE EXTENSIONS.**—

(A) **IN GENERAL.**—The Majority Leader, with notice to the Minority Leader, may extend by a period not to exceed 30 days, the time for floor action for cause, such as the need for more investigation or additional hearings.

(B) **RECESS PERIOD.**—Any day of a recess period of the Senate shall not be included in the extension period described under subparagraph (A).

Mr. SPECTER. Mr. President, I have sought recognition to submit a resolution providing for a protocol for the nonpartisan confirmation of judicial nominees. We have come to a crisis situation in the Senate on the confirmation of Federal judges. This has been a highly controversial subject since the beginning of the Republic. There have been controversies from time to time, pitched debates in the Senate Chamber, nominees confirmed and some nominees rejected.

The current controversies focused significantly in the last 2 years of President Reagan's Presidency when the Democrats won control of the Senate in the 1986 elections. For the last 2 years of President Reagan's tenure, the Presidential appointments were slowed down. The same thing happened during the 4 years of President George Herbert Walker Bush. When President Clinton was elected, and we had a Democrat in the White House, when we Republicans gained control of the Senate in the 1994 elections, President Clinton's nominations were slowed down. Pretty much a tit-for-tat situation.

Now that we have had both the Presidency and the Senate under Republican

stewardship, the controversy has reached a new level where for the first time in the history of the Republic, court of appeals nominees have been filibustered. The responsibility of the President has been to use his constitutional authority for interim appointments. Those two interim appointments have been roundly criticized by the Democrats.

And the position has been stated on the other side of the aisle that there will be no more confirmations of Federal judges until there is a commitment, an indication, or some statement, or some understanding that the interim appointments will no longer be made.

My State of Pennsylvania is very severely impacted by this controversy. We have a nomination pending before the Senate of a distinguished Federal judge, Judge Van Antwerpen, who is ready for confirmation. The Court of Appeals for the Third Circuit is badly understaffed. We have some five nominees for the United States District Court for the Eastern District of Pennsylvania awaiting confirmation. There again, the courts are in need of the services of these prospective Federal judges.

The resolution, which I am submitting today, is a protocol which would call for a hearing in the Judiciary Committee 30 days after a President submits a nomination; 30 days later, a vote by the committee; 30 days after that, floor action in the Senate; 30 days after that, a decision on the outcome.

It is true there would not be the opportunity for filibuster, but the Republic has survived for more than 200 years before the filibuster was used. There was one illustration where there was a filibuster for a Supreme Court nominee, but that is really irrelevant to the kinds of controversies we have now, or the situation we are in at the present time.

Beyond my State of Pennsylvania, there are other States, other circuits, having judicial crises, and we ought to take the Federal judicial nominating confirmation process out of the politicization course, and we ought to try to work this through.

It may be that, in August, when there is some uncertainty as to who will occupy the White House and which party will control the Senate, that some accommodation can be reached. But right now litigants are being denied the prompt disposition of their cases. It is a well-known maxim that justice delayed is justice denied. It is my hope that we could find an accommodation somewhere here to do the people's business.

It is well known that partisanship is at a very high level in the Congress today—in the House of Representatives, where there is a narrow margin for the Republicans; and the partisanship here in the Senate, where there is a 51-49 majority for the Republicans.

But we ought to establish a protocol. We ought to establish a procedure. The

protocol I am proposing is not in concrete. I am prepared to discuss it to find ways of working it out.

I had thought of putting in a provision that if it was a party line vote in the Judiciary Committee, even though there was not a majority in favor of sending a nominee to the floor, but a party line vote, that it come to the floor. I have decided to omit that.

I had thought about putting a provision in that if the Supreme Court nominee did not have a majority, the nominee would come to the floor in any event. And I have omitted that.

Twice in the past 14 years, nominees have come to the floor of the Senate for the Supreme Court of the United States without having a majority vote in the Judiciary Committee. But both times—one a 5-to-8 vote, the nominee came to the floor; another time, on a 7-7 tie, there was a 13-1 vote to send the nominee to the floor. And I have decided, in the interest of avoiding a controversy, to omit that.

But I ask my colleagues to review this resolution for a protocol and to see if we cannot find some way to confirm Federal judges without figuring out whose ox is being gored.

**SENATE RESOLUTION 328—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CONTINUED HUMAN RIGHTS VIOLATIONS COMMITTED BY FIDEL CASTRO AND THE GOVERNMENT OF CUBA**

Mr. NELSON of Florida (for himself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

**S. RES. 328**

Whereas, one year ago, in March 2003, Fidel Castro and the Government of Cuba led a nationwide campaign to arrest and jail dozens of prominent democracy activists and critics of the repressive regime in Cuba;

Whereas credible nongovernmental observers report that the imprisoned democracy activists include—

- (1) Osvaldo Alfonso Valdes, sentenced for 18 years;
- (2) Librado Linares Garcia, sentenced for 20 years;
- (3) Raul Rivero Castaneda, sentenced for 20 years;
- (4) Martha Beatriz Roque Cabello, sentenced for 20 years;
- (5) Victor Rolando Arroyo Carmona, sentenced for 26 years;
- (6) Mijail Barzaga Lugo, sentenced for 15 years;
- (7) Oscar Elias Biscet, sentenced for 25 years;
- (8) Margarito Broche Espinosa, sentenced for 25 years;
- (9) Dr. Marcelo Cana Rodriguez, sentenced for 18 years;
- (10) Roberto de Miranda Hernandez, sentenced for 20 years;
- (11) Carmelo Diaz Fernandez, sentenced for 18 years;
- (12) Eduardo Diaz Fleitas, sentenced for 21 years;
- (13) Antonio Diaz Sanchez, sentenced for 20 years;
- (14) Alfredo Dominguez Batista, sentenced for 14 years;

(15) Oscar Espinosa Chepe, sentenced for 20 years;  
 (16) Alfredo Felipe Fuentes, sentenced for 26 years;  
 (17) Efrén Fernandez Fernandez, sentenced for 12 years;  
 (18) Adolfo Fernandez Sainz, sentenced for 15 years;  
 (19) Jose Daniel Ferrer Garcia, sentenced for 25 years;  
 (20) Luis Enrique Ferrer Garcia, sentenced for 28 years;  
 (21) Orlando Fundora Alvarez, sentenced for 20 years;  
 (22) Prospero Gainza Aguero, sentenced for 25 years;  
 (23) Miguel Galban Gutierrez, sentenced for 26 years;  
 (24) Julio Cesar Galvez Rodriguez, sentenced for 15 years;  
 (25) Jose Luis Garcia Paneque, sentenced for 24 years;  
 (26) Edel Jose Garcia Diaz, sentenced for 16 years;  
 (27) Ricardo Gonzalez Alfonso, sentenced for 20 years;  
 (28) Diosdado Gonzalez Marrero, sentenced for 20 years;  
 (29) Lester Gonzalez Penton, sentenced for 20 years;  
 (30) Alejandro Gonzalez Raga, sentenced for 14 years;  
 (31) Jorge Luis Gonzalez Tanquero, sentenced for 20 years;  
 (32) Leonel Grave de Peralta Almenares, sentenced for 20 years;  
 (33) Ivan Hernandez Carrillo, sentenced for 25 years;  
 (34) Normando Hernandez Gonzalez, sentenced for 25 years;  
 (35) Juan Carlos Herrera Acosta, sentenced for 20 years;  
 (36) Regis Iglesias Ramirez, sentenced for 18 years;  
 (37) Jose Ubaldo Izquierdo Hernandez, sentenced for 16 years;  
 (38) Reinaldo Labrada Pena, sentenced for 6 years;  
 (39) Nelson Alberto Aguiar Ramirez, sentenced for 13 years;  
 (40) Marcelo Lopez Banobre, sentenced for 15 years;  
 (41) Jose Miguel Martinez Hernandez, sentenced for 13 years;  
 (42) Hector Maseda Gutierrez, sentenced for 20 years;  
 (43) Mario Enrique Mayo Hernandez, sentenced for 20 years;  
 (44) Dr. Luis Milan Fernandez, sentenced for 13 years;  
 (45) Nelson Moline Espino, sentenced for 20 years;  
 (46) Angel Juan Moya Acosta, sentenced for 20 years;  
 (47) Jesus Mustafa Felipe, sentenced for 25 years;  
 (48) Felix Navarro Rodriguez, sentenced for 25 years;  
 (49) Jorge Olivera Castillo, sentenced for 18 years;  
 (50) Pablo Pacheco Avila, sentenced for 20 years;  
 (51) Hector Palacios Ruiz, sentenced for 25 years;  
 (52) Arturo Perez de Alejo Rodriguez, sentenced for 20 years;  
 (53) Omar Pernet Hernandez, sentenced for 25 years;  
 (54) Horacio Julio Pina Borrego, sentenced for 20 years;  
 (55) Fabio Prieto Llorente, sentenced for 20 years;  
 (56) Alfredo Pulido Lopez, sentenced for 14 years;  
 (57) Jose Gabriel Ramon Castillo, sentenced for 20 years;  
 (58) Arnaldo Ramos Lauzerique, sentenced for 18 years;

(59) Blas Giraldo Reyes Rodriguez, sentenced for 25 years;  
 (60) Pedro Pablo Alvarez Ramos, sentenced for 25 years;  
 (61) Alexis Rodriguez Fernandez, sentenced for 15 years;  
 (62) Omar Rodriguez Saludes, sentenced for 27 years;  
 (63) Pedro Arguelles Moran, sentenced for 20 years;  
 (64) Omar Ruiz Hernandez, sentenced for 18 years;  
 (65) Claro Sanchez Albtarriba, sentenced for 15 years;  
 (66) Ariel Sigler Amaya, sentenced for 20 years;  
 (67) Guido Sigler Amaya, sentenced for 20 years;  
 (68) Ricardo Enrique Silva Gual, sentenced for 10 years;  
 (69) Fidel Suarez Cruz, sentenced for 20 years;  
 (70) Manuel Ubals Gonzalez, sentenced for 20 years;  
 (71) Julio Antonio Valdes Guevara, sentenced for 20 years;  
 (72) Miguel Valdes Tamayo, sentenced for 15 years;  
 (73) Hector Raul Valle Hernandez, sentenced for 12 years;  
 (74) Manuel Vazquez Portal, sentenced for 18 years; and  
 (75) Antonio Augusto Villarreal Acosta, sentenced for 15 years;

Whereas the imprisoned political opponents of Castro include librarians, journalists, poets, and others who have supported the Varela Project, which seeks to bring free speech, open elections, and democracy to Cuba;

Whereas Fidel Castro seized the opportunity to expand his brutal oppression of the people of Cuba while the attention of the United States and other nations around the world was focused on the war in Iraq;

Whereas the failure to condemn the Government of Cuba's continued political repression of democracy activists will further undermine the opportunity for freedom on the island; and

Whereas the international community missed an opportunity to speak against such brutal repression in a meaningful manner during the 59th Session of the United Nations Commission on Human Rights held in Geneva, Switzerland, from March 17, 2003, through April 23, 2003; Now, therefore, be it

*Resolved*, That the Senate—

(1) reaffirms—

(A) Senate Resolution 272, 107th Congress, unanimously agreed to June 10, 2002, calling for, among other things, amnesty for all political prisoners in Cuba;

(B) Senate Resolution 97, 108th Congress, unanimously agreed to April 7, 2003, condemning the crackdown on democracy activists in Cuba; and

(C) Senate Resolution 62, 108th Congress, unanimously agreed to June 27, 2003, calling upon the Organization of American States Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba;

(2) calls on the Government of Cuba to immediately release individuals imprisoned for political purposes;

(3) praises the bravery of those Cubans who, because they practiced free speech and signed the Varela Project petition, have been targeted in this most recent government crackdown;

(4) calls on foreign governments to—

(A) increase the pressure on the Government of Cuba to improve its record on human rights in Cuba; and

(B) invite civil society leaders and democracy activists in Cuba to official events;

(5) calls upon the 60th Session of the United Nations Commission on Human Rights in Geneva from March 15, 2004, to April 23, 2004, to—

(A) condemn Cuba for its human rights abuses; and

(B) demand that inspectors from the International Commission of the Red Cross be allowed to visit and inspect the conditions of prisons to assess for the international community the extent of human rights abuses and the current situation in Cuba; and

(6) urges the President to direct United States Representatives at the 60th Session of the Commission on Human Rights to make the strong condemnation of the human rights situation in Cuba a top priority.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

SA 3009. Mr. ROCKEFELLER (for himself and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed to amendment SA 2947 submitted by Ms. MURKOWSKI and intended to be proposed to the bill H.R. 4, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 3007. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2961 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 4 through 7, and insert the following:

“(i) 15 percent for fiscal year 2004;  
 “(ii) 25 percent for fiscal year 2005;  
 “(iii) 35 percent for fiscal year 2006;  
 “(iv) 45 percent for fiscal year 2007;”.

SA 3008. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 2960 submitted by Mr. TALENT and intended to be proposed to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike lines 17 through 24, and insert the following: “least 20, but less than 24, hours per week in a month, as 0.675 of a family.

“(ii) In the case of a family in which the total number of hours in which any adult recipient or minor child head of household in