

SNOWE, BREAUX, BOXER and LAUTENBERG in introducing legislation to reauthorize a highly successful and collaborative program known as the National Estuary Program (NEP).

In 1987, Congress created the NEP to restore designated estuaries of national significance. Since 1987, the EPA estimates that the NEP has preserved, restored or created approximately 719,000 habitat acres, and has leveraged \$200 million in local, State and private sector funding, with an average leveraging ratio of 11 to 1. The NEP has accomplished this by fostering and maintaining strong partnerships among Federal, State and local governments, the private sector and local stakeholders, and by using a consensus, community-based approach with strong local control in developing and implementing their Comprehensive Conservation and Management Plans (CCMPs).

Today, there are 28 estuaries in the NEP, covering more than 42 percent of the continental U.S. shoreline. Nearly half of the U.S. population resides in coastal areas, with thousands of new residents arriving every year. In the United States, estuaries provide habitat for three-quarters of America's commercial fish catch, and 80-90 percent of the recreational fish catch.

Estuarine-dependent fisheries are among the most valuable, with an estimated worth of \$1.9 billion nationwide. Coastal recreation and tourism generate an additional \$8 to \$12 billion annually. According to recent analyses by the Environmental Protection Agency (EPA), estuaries of the NEP employ 39 million people and support total economic output and employee wages estimated in the trillions. The tourism sector alone employs 1.2 million people and generates more than \$87 billion in expenditures.

Despite their economic and environmental importance, the Nation's estuaries are under increasing threat by the many competing demands placed upon them. Estuaries in the NEP face numerous challenges, including over-enrichment of nutrients, loss of habitat, declines in fish and wildlife, and introduction of invasive species, causing severe declines in water quality, living resources and overall ecosystem health. According to the recent EPA National Coastal Condition Report describing the ecological and environmental conditions of U.S. coastal waters and estuary resources, the overall condition of our Nation's coastal waters is fair to poor, and 44 percent of estuarine habitats are impaired for human or aquatic life use.

The NEP offers an effective means to deal with these national problems. The flexible and collaborative nature of the NEP has allowed the local Estuary Programs to develop innovative approaches to address the problems facing estuarine systems, approaches uniquely tailored to local environmental conditions, and to the needs of local communities and constituencies. At the same time, the national struc-

ture provided by the NEP has facilitated the sharing of management approaches, technologies, and ideas that underscore this program's success. Indeed, the National Commission on Ocean Policy highlighted the NEP's focus "on bringing together stakeholders in particular areas that are in or approaching a crisis situation." Additionally, the Commission found "the assessment and planning process used by the NEP holds promise for the future of ecosystem-based management."

Reauthorizing the NEP is an important step in the process of addressing the threats to the health and stability of our Nation's estuaries, which remain one of our Nation's most important economic and environmental resources. The legislation introduced today would reauthorize funding for the NEP at \$35 million annually to provide the funds necessary for this program to succeed into the future. I look forward to working with my colleagues on reauthorization of the NEP in the months ahead.

I ask by unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL ESTUARY PROGRAM.

Section 320(i) of the Federal Water Pollution Control act (33 U.S.C. 1330(i)) is amended by striking "2005" and inserting "2010".

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF J. LEON HOLMES

Mr. FRIST. I ask unanimous consent that at 9:45 a.m., on Tuesday, July 6, the Senate proceed to executive session for the consideration of Calendar No. 165, the nomination of J. Leon Holmes to be U.S. district judge for the Eastern District of Arkansas. I further ask consent that there then be 6 hours of debate equally divided between the chairman and ranking member or their designees; provided further that following that debate the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate. I further ask consent that following the vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 676, 711, 713, 714, 716, 717, 718, 719, 721, 722, 723,

724, 726, 728, 730, and all nominations on the secretary's desk.

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

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

The nominations considered and confirmed are as follows:

NOMINATIONS

DEPARTMENT OF STATE

James Francis Moriarty, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

Benjamin A. Gilman, of New York, to be a Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Deputy Representative of the United States of America to the United Nations.

Joseph D. Stafford III, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Lewis W. Lucke, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

R. Niels Marquardt, of California, a Career Member of the Senior Foreign Service, Class of Counselor to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Charles P. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Suzanne Hale, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia.

William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Bolivarian Republic of Venezuela.

Ralph Leo Boyce, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

John Marshall Evans, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Tom C. Korologos, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Douglas L. McElhaney, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bosnia and Herzegovina.

William T. Monroe, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Bahrain.

NOMINATIONS PLACED ON THE SECRETARY'S
DESK

FOREIGN SERVICE

PN1645 Foreign Service nominations (173) beginning Jean Elizabeth Akers, and ending Jenifer Lynn Neidhart de Ortiz, which nominations were received by the Senate and appeared in the Congressional Record of May 18, 2004.

NOMINATIONS DISCHARGED

Mr. FRIST. Continuing in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: June Carter Perry, PN1548; Joyce Barr, PN1546; Barrie Walkley, PN1550; James McGee, PN1541, Cynthia Efird, PN1621; Jackson McDonald, PN1419; Christopher Dell, PN1629.

I further ask consent that the Senate proceed to their consideration, the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

June Carter Perry, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Joyce A. Barr, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Namibia.

R. Barrie Walkley, of California, a Career Member of the Senior Foreign Service, Class of Minister Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

James D. McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar.

Cynthia G. Efird, of the District of Columbia, a Career Member of the Senior Foreign

Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Jackson McDonald, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Christopher William Dell, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate resumes legislative session.

AUTHORITY TO FILE

Mr. FRIST. I ask unanimous consent, notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Wednesday, June 30, from 10 a.m. to 12 noon.

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

SIGNING AUTHORITY

Mr. FRIST. I ask unanimous consent that during the adjournment of the Senate, the Senator from Virginia and the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

AUTHORITY TO MAKE
APPOINTMENTS

Mr. FRIST. I ask unanimous consent, notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or inter-parliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

COOPERATIVE RESEARCH AND
TECHNOLOGY ENHANCEMENT
ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 484, S. 2192.

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

The legislative clerk read as follows:

A bill (S. 2192) to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.

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

Mr. HATCH. Madam President, I rise today to support passage of S. 2192, the

Cooperative Research and Technology Enhancement Act of 2004 or CREATE Act. I am pleased that the Senate is considering this important patent legislation. I would like to thank Senators LEAHY, KOHL, GRASSLEY, FEINGOLD and SCHUMER, for their work on, and cosponsorship of, this bill.

The CREATE Act responds to an important need of our inventive community. This act will encourage greater cooperation among universities, public research institutions and the private sector. It does so by enabling these parties to share freely information among researchers that are working under a joint research agreement to develop new technology. It also allows these entities, particularly universities, to structure their relationships with other research collaborators in a more flexible manner.

The CREATE Act has benefited significantly from the commendable work of our colleagues in the House. In particular, we take note of the House Report, H. Rep. 108-425, which accompanied passage of H.R. 2391, the House counterpart of S. 2192. The committee notes that the House report addresses a number of important issues related to the implementation of the act, and provides necessary guidance to the Patent and Trademark Office as to its responsibilities under the legislation.

In the interest of further transparency and guidance, and importantly to prevent the public from being subject to separate enforcement actions by owners of patentably indistinct patents, we offer the following guidance on some key aspects of this legislation. We believe that this guidance is entirely consistent with the policy objectives of the House Report, but explicate some of the most critical and complex aspects of the intended operation of the CREATE Act where multiple patents issue on the patentably indistinct inventions.

As the House report correctly notes, the CREATE Act will enable different parties to obtain and separately own patents with claims that are not patentably distinct—in other words, where the claim in one patent would be “obvious” in view of a claim in the other patent. The courts and the U.S. Patent and Trademark Office term this “nonstatutory” and “obviousness-type” double patenting. This is not the first time that Congress has amended the patent laws in a manner that has expanded opportunities for double patenting. The Patent Law Amendments Act of 1984 first created the opportunity for double patenting for patents issued to different inventors that were owned by one entity or which were commonly assigned. In the legislative history for the Patent Law Amendments Act of 1984, Congress indicated its expectation that any newly created opportunities for double patenting would be treated no differently than double patenting for patents issued to the same inventor. We do the same today with respect to the remedial provision in the CREATE Act, but discuss