

who has been nominated by President Bush to fill a vacancy in the Northern District of Florida as a Federal district court judge.

I would like to have the record reflect Mr. Smoak is a man of great integrity, a person who will distinguish himself on the bench, as he has in every other aspect of his life.

He is from Panama City, FL, where he has practiced law in a very distinguished fashion for quite a number of years. He is one of those people who folks speak about in superlative terms. And one can understand why.

Mr. Smoak graduated from the University of Florida in 1972, with a law degree; after having gone to the U.S. Military Academy at West Point, graduating in 1965. From 1965 to 1970, Mr. Smoak was an infantry officer, serving extensively in Vietnam, where he distinguished himself by receiving a Silver Star medal and a Bronze Star medal, among other military awards he received for his distinguished service to his Nation.

Mr. President, better than I, I think I should quote from among those who have known him and have practiced law with him, and those who have been in the community with him.

I will quote from Mr. Paul Anderson of Panama City, who speaks of Mr. Smoak in this fashion:

Dick Smoak is simply one of the finest lawyers and finest men I have ever had the privilege of knowing. Describing Dick requires the use of words such as integrity, character and professionalism. As a legal practitioner, Dick knows the law and applies it logically to each case he handles.

Mr. President, in addition to that, one of those things I believe I like about Mr. Smoak that speaks so highly of him is that Mr. Anderson speaks about the fact that he does not compromise his principles.

With that, Mr. President, I urge my colleagues to vote favorably on this nomination of Mr. Richard Smoak to serve as a Federal district court judge for the Northern District of Florida.

Mr. NELSON of Florida. Mr. President, I urge my colleagues to vote in favor of John Richard Smoak for appointment to the United States District Court for the Northern District of Florida. Mr. Smoak has long served his Nation, from his highly decorated service in Vietnam to his efforts to improve the judiciary system in Florida.

He has resided and has practiced civil law for over the last 30 years in Panama City, FL. During that time, he represented a wide variety of clients from doctors to small business owners to truckdrivers to national corporations in many areas of the law. This broad experience will serve him well as a Federal judge.

Mr. Smoak is a well-regarded and highly qualified attorney. I, along with Senator MARTINEZ, believe he will make a great addition to the Federal bench and urge our colleagues to vote in support of his nomination.

The PRESIDING OFFICER (Mr. COLEMAN). Is all time yielded back?

Mr. MARTINEZ. Mr. President, I yield back the remainder of my time.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John Richard Smoak, of Florida, to be United States District Judge for the Northern District of Florida? The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUE), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—97

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kennedy	Specter
Coburn	Kerry	Stabenow
Cochran	Kohl	Stevens
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Warner
DeWine	Lugar	Wyden
Dodd	Martinez	

NOT VOTING—3

Corzine Inouye Rockefeller

The nomination was confirmed.

**NOMINATION OF SUSAN BIEKE NELSON TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT**

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Susan Bieke Neilson, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Mr. SPECTER. Mr. President, I ask unanimous consent that this vote be 10 minutes, with a 5-minute extra.

The PRESIDING OFFICER. The yeas and nays have not yet been ordered.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that this next vote be taken on a voice vote.

Mr. REID. Mr. President, reserving the right to object, Senator LEAHY is not on the floor; therefore, we would have to object.

Mr. LOTT. I thank the Chair.

The PRESIDING OFFICER. Is time yielded back? If so, the question is, Will the Senate advise and consent to the nomination of Susan Bieke Neilson to be United States Circuit Judge for the Sixth Circuit? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUE), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 277 Ex.]

YEAS—97

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kennedy	Specter
Coburn	Kerry	Stabenow
Cochran	Kohl	Stevens
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Warner
DeWine	Lugar	Wyden
Dodd	Martinez	

NOT VOTING—3

Corzine Inouye Rockefeller

The nomination was confirmed. The PRESIDING OFFICER. The President is notified of the Senate's action.

**LEGISLATIVE SESSION**

The PRESIDING OFFICER. The Senate returns to legislative session.

DEPARTMENTS OF LABOR,  
HEALTH AND HUMAN SERVICES,  
AND EDUCATION, AND RELATED  
AGENCIES APPROPRIATIONS  
ACT, 2006—Continued

AMENDMENT NO. 2283, AS FURTHER MODIFIED

Mr. HARKIN. Mr. President, I ask unanimous consent to call up amendment No. 2283.

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

Mr. HARKIN. Mr. President, I ask unanimous consent to send to the desk a modification of that amendment.

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

Mr. HARKIN. I ask that the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 2283), as further modified, is as follows:

On page 169, line 18, strike “\$183,589,000: Provided, That \$120,000,000 of amounts available for influenza preparedness” and replace with “\$8,158,589,000: Provided, That these funds shall be distributed at the discretion of the President, after consultation with the Chairmen and Ranking Members of the House and Senate Committees on Appropriations, the Chairmen and Ranking Members of the House and Senate Subcommittees on Labor, Health and Human Services, and Education Appropriations, the Chairmen and Ranking Member of the Senate Health, Education, Labor, and Pensions Committee, and the Senate Majority and Minority Leaders. Provided further, That \$8,095,000,000 of amounts available for influenza and other potential pandemics preparedness is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006 and”

Mr. HARKIN. Mr. President, I also would ask that Senator SPECTER be made a cosponsor of this amendment.

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

Mr. HARKIN. Mr. President, this is the amendment that a lot of us talked about earlier that provides funding for a possible avian flu pandemic. We have worked a lot on both sides of the aisle. I especially thank our chairman, Senator SPECTER, for his guidance and leadership on this amendment, for working this out and, again, ensuring that we can move ahead to make sure this country is ready with the funds we need to provide for better global surveillance, to provide for stockpiling of antivirals and vaccines, for money that is going to be needed for building flu vaccine manufacturing plants and for making sure our public health infrastructure is adequate and that we have the surge capacity in hospitals. That is all in this amendment.

Again, I thank Senator SPECTER for his leadership on this amendment in working it out so that we can move to a voice vote on this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, very briefly, Senator HARKIN is due great credit for this very important amendment, having taken the lead in establishing the fund. We have structured it,

after consultation with a number of our colleagues, so that funds will be expended at the discretion of the President, after consultation with certain named Members of both the House and the Senate. This is in anticipation of the administration sending over a proposal in which we should have ample time to give due consideration before the conference.

This is a very significant step forward so that we do not face a crisis where the administration wants something done, but only the Congress, under the Constitution, has the authority to appropriate the funds.

I salute my colleague, Senator HARKIN, and all those who worked on the amendment.

We jointly urge its adoption.

AMENDMENT NO. 2283, AS FURTHER MODIFIED

Mr. LIEBERMAN. Mr. President, I would like to take this opportunity to congratulate Senator SPECTER and Senator HARKIN and their staff on moving the avian influenza amendment forward in a bipartisan manner. They have done a tremendous job on coming to an agreement.

Senator HARKIN and Senator SPECTER's amendment includes my proposal for funding for migratory wild bird surveillance which I would like to take a moment to outline more thoroughly.

As we all know, the potential for an influenza pandemic is increasing as the H5N1 virus has now moved swiftly across Asia, Russia, Turkey and now the EU, killing millions of domesticated poultry and over 60 humans to date. History and science tell us that wild birds are the ones that spread deadly avian influenza viruses. It happened before during the 1918 influenza epidemic that killed an estimated 40 million people worldwide. We must act now to ensure that this does not happen again. We have the tools. We just need to increase and strengthen them.

My proposal seeks to provide funds supporting an early warning system for global influenza that starts with wild birds. This is a major gap in our flu tracking system. The proposed warning system would track and monitor avian viruses and their mutations carried by wild birds by expanding the Centers of Disease Control's wild bird surveillance efforts which are currently not extensive. The CDC's efforts must be tied together with the network of global organizations, including nongovernmental organizations that have the capacity to expand and comprehensively collect and disseminate these tracking data from around the world.

Just as we track hurricanes as they begin as a tropical storm, we must track wild birds and the viral storms they carry over oceans and continents and share that data with the world.

The purposes of my proposal are to support efforts: to more rapidly and efficiently detect, verify, and report on the presence of H5N1 and other highly pathogenic avian influenzas and infectious diseases in migratory wild birds and waterfowl; to use information on

viral strains found in wild birds to better delineate any mutations in the virus; to use information on when and where highly pathogenic avian influenza viruses and other infectious diseases are identified in migratory birds to better guide preparedness in the U.S. and around the world, to carry out a comprehensive migratory bird surveillance program that will provide early warning to specific areas to enhance poultry biosecurity and surveillance, and other human protective measures as necessary; to create an open access database where information on highly pathogenic avian influenza viruses and other infectious diseases identified in migratory birds are shared in as close to real time as possible; to protect the health and safety of U.S. citizens and officials traveling and living abroad; and to protect the economic interests of the U.S. and its partners from threats to health, agriculture, and natural resources.

It is the intent of my proposal that within 90 days of the appropriation, the Centers for Disease Control's influenza branch enter into a contract with one or more nongovernmental organizations chartered in the U.S. with extensive global wildlife health experience in tracking disease in wild birds, including free-ranging, captive, and wild bird species, with a proven ability in identifying avian influenza in birds, and with accredited zoological facilities in the U.S.

The influenza branch and the contracting nongovernmental organization(s) will collaborate with appropriate Federal and State agency partners, including the Department of Agriculture acting through the Agricultural Research Service and the Animal and Plant Health Inspection Service, the U.S. Geological Survey, and the U.S. Fish and Wildlife Service; various U.S. State wildlife agencies, multilateral agency partners, including the Food and Agriculture Organization, the World Health Organization, the Office International des Epizooties, and the World Conservation Union; conservation organizations with expertise in international and domestic bird monitoring surveillance; accredited colleges of veterinary medicine; and other national and international partners, as necessary.

The contracting nongovernmental organization, in coordination with the influenza branch of the CDC, shall manage an international surveillance program in which all partners named above are encouraged: to monitor and test for the presence or arrival of avian influenza and other significant avian pathogens at important bird areas around the world and in marketplaces with intense trade in wild birds; to use trained professionals to collect samples and other data and send samples to appropriate diagnostic centers; to use the international surveillance network to conduct disease surveillance activities on migratory birds worldwide, domestic and international field investigations on migratory birds, training and