

Resolutions: To authorize GSA's fiscal year 06 Capital Investment and Leasing Program; to authorize a lease prospectus for the General Services Administration headquarters; committee resolution on the Delaware River and its Tributaries, New Jersey, New York, and Pennsylvania; committee resolution on the Beneficial Use of Dredged Material on the Delaware River, Delaware, New Jersey, and Pennsylvania; committee resolution on the South Fork of the South Branch of the Chicago River, IL; and committee resolution on the Grand and Tiger Passes and Baptiste Collette Bayou, LA.

Nominations: Marcus A. Peacock, of Minnesota, to be Deputy Administrator of the Environmental Protection Agency; and Granta Y. Nakayama, of Virginia, to be Assistant Administrator, Office of Enforcement & Compliance Assurance, Environmental Protection Agency.

Legislation: H.R. 1428 National Fish and Wildlife Foundation Reauthorization Act of 2005; S. 1250 Great Apes Bill; S. 1409 Alaska Native Villages reauthorization; S. 1265 Diesel Emissions Reduction Act of 2005; S. 1339 Duck Stamp bill; S. 1340 Pittman-Robertson extension; S. 158 Long Island Sound; S. 1410 Neotropical Birds reauthorization; S. 1415 Lacey Act technical correction; and S. 1400 Water Infrastructure Bill.

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

#### COMMITTEE ON FINANCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, July 20, 2005, at 10 a.m., in 215 Dirksen Senate Office Building, to consider the nominations of Robert M. Kimmitt, to be Deputy Secretary of the Treasury, U.S. Department of the Treasury; Randal Quarles, to be Under Secretary of the Treasury, Domestic Finance, U.S. Department of the Treasury; Sandra L. Pack, to be Assistant Secretary of the Treasury, Management, U.S. Department of the Treasury; Kevin I. Fromer, to be Deputy Under Secretary of the Treasury, Legislative Affairs, U.S. Department of the Treasury.

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

#### COMMITTEE ON FOREIGN RELATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 20, 2005, at 10:15 a.m. to hold a hearing on Accelerating Economic Progress in Iraq.

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

#### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, July 20, 2005 at 9:30 a.m. in SD-430.

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

#### COMMITTEE ON THE JUDICIARY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Reporters' Privilege Legislation: Issues and Implications" on Wednesday, July 20, 2005 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Panel I: The Honorable James Comey, Deputy Attorney General, U.S. Department of Justice, Washington, DC.

Panel II: Matthew Cooper, White House Correspondent, Time Magazine Inc., Washington, DC.

Norman Pearlstine, Editor-in-Chief, Time Inc., New York City, NY.

William Safire, Political Columnist, New York Times Company, New York City, NY.

Floyd Abrams, Partner, Cahill Gordon and Reindel LLP, New York City, NY.

Lee Levine, Esq., Levine, Sullivan, Koch & Schulz, LLP, Washington, DC.

Professor Geoffrey Stone, Harry Kalven, J. Distinguished Service Professor of Law, University of Chicago Law School, Chicago, IL.

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

#### SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 20, 2005 at 2:30 p.m. to hold a briefing.

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

#### SPECIAL COMMITTEE ON AGING

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Wednesday, July 20, 2005 at 2:30 p.m.-5 p.m. in Dirksen 106 for the purpose of conducting a hearing.

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

#### SUBCOMMITTEE ON CLIMATE CHANGE AND IMPACTS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Global Climate Change and Impacts be authorized to meet on Wednesday, July 20, 2005 at 10 a.m. on A Review of United States Climate Policy and the \$5 Billion Budget Request for Climate Related Science and Technology in fiscal year 2006.

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

#### SUBCOMMITTEE ON PUBLIC LANDS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, July 20, 2005 at 2 p.m.

The purpose of the hearing is to receive testimony on S. 703, to provide for the conveyance of certain Bureau of Land Management land in the State of Nevada to the Las Vegas Motor Speed-

way, and for other purposes; S. 997, to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge Forest, MT, to Jefferson County, MT, for use as a cemetery; S. 1131, to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes; S. 1170, to establish the Fort Stanton-Snowy River National Cave Conservation area; S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and other purposes; and H.R. 1101, to revoke a public land order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, CA.

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

#### PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Charles Kane, a legal intern on the committee staff, be granted floor privileges for the duration of today's proceedings.

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

Mr. WARNER. Mr. President, I ask unanimous consent that Senator McCAIN's legislative fellow, Navy CDR Shawn Grenier, be granted the privilege of the floor during consideration of S. 1042, the National Defense Authorization Act of 2006, which I hope will be brought up by the leadership shortly.

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

Mr. WARNER. Mr. President, I ask unanimous consent that Andrew Feinberg, a military Fellow in my office, be granted floor privileges for the duration of the debate on S. 1042.

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

Mr. WARNER. Mr. President, I ask unanimous consent, on behalf of Senator SNOWE, that Mr. Christopher Krafft, a State Department Fellow, have the privilege of the floor during the consideration of this bill, S. 1042.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator KENNEDY's Navy Fellow, Doug Thompson, be given floor privileges during consideration of this bill.

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

Mr. AKAKA. Mr. President, I ask unanimous consent Eileen Gross, my legislative fellow, be allowed floor privileges for the remainder of the debate on this bill.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that Alison Thompson, a marine fellow in Senator DOLE's office, be allowed floor privileges during consideration of S. 1042, the Defense authorization bill.

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

Mr. WARNER. Mr. President, I ask unanimous consent that privilege of the floor be granted to the staff members of the Armed Services Committee during consideration of S. 1042, as follows:

Judith A. Ansley, Richard D. DeBobes, Charles W. Alsup, June M. Borawski, Leah C. Brewer, Alison E. Brill, Jennifer D. Cave, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn R. Creedon, Marie Fabrizio Dickinson, Regina A. Dubey, Gabriella Eisen, Evelyn N. Farkas, Richard W. Fieldhouse, Creighton Greene, William C. Greenwalt, Bridget W. Higgins, Ambrose R. Hock, Gary J. Howard, Jennifer Key, Gregory T. Kiley, Jessica Kingston, Michael J. Kuiken, Gerald J. Leeling, Peter K. Levine, Sandra E. Luff, Thomas L. MacKenzie, Michael J. McCord, Elaine A. McCusker, William G.P. Monahan, David M. Morris, Lucian L. Niemeyer, Stan O'Connor, Cindy Pearson, Paula J. Philbin, Benjamin L. Rubin, Lynn F. Rusten, Catherine E. Sendak, Arun A. Seraphin, Joseph T. Sixeas, Robert M. Soofer, Scott W. Stucky, Kristine L. Svinicki, Diana G. Tabler, Mary Louise Wagner, Richard F. Walsh, Nicholas W. West, Pendred K. Wilson.

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

The PRESIDING OFFICER. The Senator from Utah is recognized.

#### NOMINATION OF JOHN ROBERTS

Mr. HATCH. Mr. President, yesterday, President Bush fulfilled his constitutional duty and nominated John Roberts to fill the vacancy left by Justice Sandra Day O'Connor on the Supreme Court of the United States. The spotlight is now on the Senate of the United States of America. The President has done his duty, and now we need to do ours.

Let me first pay tribute to Justice O'Connor who has been a real trailblazer in her own right. The first woman on the Supreme Court, a thoughtful and dedicated jurist, she has ably served on the highest Court for the past nearly 24 years. Her announced retirement creates the first vacancy in nearly 11 years. This has been the longest period with the same set of Justices in more than 175 years.

Article II, section 2 of the Constitution says that the President alone nominates, but he appoints only with the advice and consent of the Senate. One of the best shorthand ways of understanding the Senate's role is that by deciding whether to consent to the nomination, we give the President advice about whether to appoint the person he has nominated. Traditionally, we have done so by means of an up-or-down vote on the Senate floor.

I commend the President and his team of senior advisers for broadly soliciting the views of Senators and other interested parties. The President and his staff spoke with more than two-thirds of the Members of this body, over 70 Senators, an absolutely unprecedented level of interaction.

For some, though, it appears that even extensive consultation with all 100 Senators would not be enough if they did not like the President's nomi-

nee. On the other hand, if they did like the nominee, I suppose they would declare a 5-minute chat with a Senate staffer to have been a consultative triumph.

No President need consult at all with any Senator or with anyone else for that matter. The President does so because, in his judgment, it will help him fulfill his constitutional responsibility. President Bush has done that and has nominated John Roberts to be the 109th individual to serve on the Supreme Court in American history. The ball is now in our court.

Judge Roberts has served on the U.S. Court of Appeals for the District of Columbia Circuit ever since we confirmed him on May 8, 2003, without even a roll-call vote, I might add, one of the few people who have ever been confirmed by unanimous consent on the floor of the Senate.

Judge Roberts was so easily confirmed because he is so eminently qualified. He graduated summa cum laude from Harvard Law School and served as managing editor of the Harvard Law Review—no small achievement. In other words, No. 1 in his class. He clerked for Judge Henry Friendly, one of the alltime great judges on the U.S. Court of Appeals for the Second Circuit, and then for Chief Justice William Rehnquist on the U.S. Supreme Court, one of the alltime great Justices on the Supreme Court.

Judge Roberts served as Special Assistant to the Attorney General, Associate Counsel to President Ronald Reagan, and Principal Deputy Solicitor General under the first President Bush. And before his judicial appointment, he was head of the appellate practice group at the distinguished law firm, internationally recognized, of Hogan & Hartson.

He has been widely acknowledged as one of the most accomplished appellate attorneys in America, having argued nearly 40 cases before the Supreme Court on a wide range of issues from antitrust and the first amendment to Indian law, bankruptcy, and labor law.

Not surprisingly, the American Bar Association unanimously gave Judge Roberts its highest well-qualified rating for his appeals court appointment. This has been the Democrats' gold standard for evaluating judicial nominees, and he has met every aspect of that standard.

The question now is how we should evaluate Judge Roberts' nomination to the Supreme Court and what standards we should apply. There is more confusion about that than there should be. Yet I believe, like so many other endeavors, ending in the right place requires starting in the right place.

An effective process for hiring or selecting someone to fill a position, any position, must start with an accurate description of that position. I am reminded of a 1998 article by Judge Harry Edwards appointed in 1980 by President Jimmy Carter to the U.S. Court of Appeals for the DC Circuit. I was in this

body at the time. He was that court's chief judge from 1994 to 2001 and a colleague of Judge Roberts. Judge Edwards warned that giving the public a distorted view of what judges do is bad for both the judiciary and the rule of law.

The debate about judicial selection is a debate about what judges do, about their proper place in our system of representative government. Getting the judicial job description right is necessary for a legitimate and effective selection process. It defines the qualifications for the job. It identifies the criteria we should apply. It guides the questions that may properly be asked and answered and the conclusions that should be reached.

Judges take law that they did not make and cannot change, determine what it means, and apply it to the facts of a legal dispute. That is what judges do. That judicial job description applies across the board. It does not depend on the parties or the issues before the court. It does not depend on the law that is involved in a particular case. And it certainly does not depend on which side wins or should win.

I believe we must help our fellow citizens better understand what judges do so they can better evaluate what we will be doing in the weeks ahead as we consider this nomination now before us.

Without in any way trivializing the work of judges, I want to use a practical example because I believe it can be simple without being simplistic.

Judges are like umpires or referees. They are neutral officials who take rules they did not make and cannot change and apply those rules to a contest between two parties or multiple parties.

How would we evaluate the performance of an umpire or referee? Would we say he or she did a good job as long as our favorite team won the game? If we were hiring an umpire or referee, would we grill him or her about which side he or she were likely to favor in the upcoming matches? Of course not.

Desirable results neither justify an umpire or referee twisting the rules during the game nor are automatic proof that the umpire or referee is fair and impartial. Umpires and referees must be fair and impartial from beginning to end during the contest before them. They do not pick the winner before the game starts, nor do they manipulate the process along the way to produce the winner they want.

In the same way, we must not evaluate judges solely by whether we like their decisions or whether their decisions favor a particular political agenda. The political ends do not justify the judicial means.

This is a very important point, something we must keep in clear focus throughout the weeks ahead. That is why I wanted to raise it now at the beginning of the confirmation process.

One thing that is becoming increasingly clear is not everyone who says