

Kerry	Murkowski	Snowe
Klobuchar	Murray	Specter
Kohl	Nelson (FL)	Stabenow
Kyl	Nelson (NE)	Stevens
Landrieu	Obama	Sununu
Lautenberg	Pryor	Tester
Leahy	Reed	Thomas
Levin	Reid	Thune
Lieberman	Roberts	Vitter
Lincoln	Rockefeller	Voinovich
Lott	Salazar	Warner
Lugar	Sanders	Webb
Martinez	Schumer	Whitehouse
McCaskill	Sessions	Wyden
McConnell	Shelby	
Menendez	Smith	

## NAYS—2

Bond Hagel

## NOT VOTING—4

Biden McCain  
Johnson Mikulski

The bill (S. 214), as amended, was passed, as follows:

## S. 214

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Preserving United States Attorney Independence Act of 2007”.

**SEC. 2. VACANCIES.**

Section 546 of title 28, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) A person appointed as United States attorney under this section may serve until the earlier of—

“(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

“(2) the expiration of 120 days after appointment by the Attorney General under this section.

“(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.”.

**SEC. 3. APPLICABILITY.**

(a) IN GENERAL.—The amendments made by this Act shall take effect on the date of enactment of this Act.

## (b) APPLICATION.—

(1) IN GENERAL.—Any person serving as a United States attorney on the day before the date of enactment of this Act who was appointed under section 546 of title 28, United States Code, may serve until the earlier of—

(A) the qualification of a United States attorney for such district appointed by the President under section 541 of that title; or

(B) 120 days after the date of enactment of this Act.

(2) EXPIRED APPOINTMENTS.—If an appointment expires under paragraph (1), the district court for that district may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act.

Mr. SALAZAR. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**ORDER OF PROCEDURE**

Mr. SALAZAR. Mr. President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to the consideration of calendar No. 82, S. Con. Res. 21, the concurrent budget resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I ask unanimous consent to be permitted to speak for up to 10 minutes as in morning business.

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

**PRESERVING UNITED STATES ATTORNEY INDEPENDENCE ACT**

Mr. SALAZAR. Mr. President, I am very proud to have supported the Preserving United States Attorney Independence Act we just passed in the Senate. This bill will go a long way toward restoring the independence of Federal prosecutors—an independence which has, unfortunately, been chipped away at in recent months and years.

I have been disappointed to watch the drama unfolding over the past few weeks regarding the politicization of our justice system. Every day, as the Judiciary Committee continues its investigation, we see more revelations of how the Department of Justice may have allowed portions of the U.S. attorney corps to become a vehicle for political patronage—this despite the fact that U.S. attorneys are among the most powerful public officials in our country, making virtually unreviewable decisions about life and death, about punishment and leniency. They make these kinds of decisions every single day all across this country.

The U.S. attorneys must be individuals who have integrity. They must be above reproach. They must be free from any kind of partisan political interference.

I am disappointed the Department of Justice may have blurred the line between the representation of President Bush as a client and the representation of the people of the United States. I understand that distinction very well, having served both as chief counsel to the Governor of my State as well as attorney general for the State of Colorado. Those are two very different positions. One requires—in the case of chief counsel to the Governor or chief counsel to the President—a lawyer-client relationship. The other—Attorney General—requires the representation of the people whom you represent. In the case of a State attorney general, you are the representative of the people of that State. In the case of the U.S. Attorney General, you are the representative of the people of the United States of America.

If Attorney General Gonzales has, indeed, crossed this line, then in my view he has forfeited his right to lead the Department of Justice.

On January 28, 2005, I received a letter from Attorney General Gonzales as part of his confirmation process in this U.S. Senate. In that letter he reflected upon his understanding of the independence of the Office of the Attorney General. I quote in part from that letter where he says the following:

If confirmed, I will lead the Department of Justice and act on behalf of agencies and officials of the United States. Nevertheless, my highest and most solemn obligation will be to represent the interests of the People. I know that you understand this solemn duty well from your prior service as Chief Counsel to the Governor and as Colorado Attorney General.

I would hope as the Senate Judiciary Committee moves forward in examining the facts related to the allegations that have been raised, the Judiciary Committee makes sure those facts are evaluated against the standard of independence which is at the core of the Department of Justice and the U.S. Attorney General. If, in fact, this standard has been violated, then it is my view that Attorney General Gonzales should, in fact, resign.

In the meantime, the Senate has a responsibility to ensure that Federal prosecutors are indeed independent of partisan politics, and the bill we passed today is a good first step. But I believe we must do more. Later this week, I will introduce a bill which I believe will take us another important step toward restoring the independence of Federal prosecutors. I am hopeful it will be legislation that will have broad bipartisan support. My bill would simply make it a crime to coerce or to pressure or to attempt to influence a U.S. attorney's decision whether to commence the investigation or prosecution of a person based on that person's race, religion, sex, national origin, political activity, or political beliefs.

The U.S. Attorneys Manual itself, which is given to every U.S. attorney as they come into office, already prohibits any Federal prosecutor from taking action against a person for any of those reasons. My bill would make sure that standard of the United States Attorneys Manual is included in the law of the United States. It would also extend the prohibitions that are set forth in that manual to individuals who try to influence or manipulate Federal prosecutors.

Some may ask, why is this bill necessary? In my view, the bill is necessary because over the past few weeks we have seen evidence that the White House has politicized the appointment and termination of U.S. attorneys. We have also had concerns raised that individuals have tried to inject politics into the administration of justice.

I do not need to rehash the particulars of this controversy right now, but suffice it to say many Senators on both sides of the aisle are concerned that the independence of our Federal prosecutors has, in fact, been threatened. Fixing the process for appointment of interim prosecutors is an important first step, no doubt. But that alone will not prevent individuals—whether from the Department of Justice or anywhere else—from attempting to influence the decisionmaking process of U.S. attorneys in an inappropriate manner. That is what my bill is designed to prevent.

In 1938, almost 70 years ago, the U.S. Supreme Court set forth, in what I believe is seminal language, a standard of conduct that should govern the actions and decisions of U.S. attorneys. In that decision, the U.S. Supreme Court said the following:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty

“but of a sovereignty”—

whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.

“guilt shall not escape or innocence suffer.”

He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

I believe these words the U.S. Supreme Court said in 1938 are equally as applicable today; that is, we are a nation of laws and we must understand that no person is above or below the law. If we are going to be a nation of laws, we must make sure those individuals in whom we repose the authority to prosecute and to enforce the laws of the United States do so in an appropriate way that meets the standards that were set forth by the U.S. Supreme Court in 1938, and also which meets the standards that are set forth in the manual that governs the conduct of the U.S. attorneys. For many of us who have watched what has happened in Iraq and other places around the world, what we see is a failure of nations to develop a rule of law. That is what sets America apart from many of these other countries that so struggle to create a safe and secure society: they do not have the rule of law which is so important to us in this country. Therefore, I believe the legislation I will be introducing will make sure that the Department of Justice and the U.S. attorneys within the Department of Justice are always in a position to uphold the rule of law for our Nation and make sure that their ability and their decisions are not compromised by any political influence.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will be in recess until 2:15 p.m.

#### RECESS

There being no objection, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. Con. Res. 21.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 21) setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I ask unanimous consent that during further consideration of the concurrent budget resolution today, the first 3 hours be for debate only, the time equally divided and controlled by the chairman and the ranking minority member of the Budget Committee, and that at the end of that time, the majority leader then be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is the majority leader being recognized for purpose of an amendment?

Mr. CONRAD. That is correct, Mr. President.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CONRAD. Mr. President, I repeat the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. CONRAD. Mr. President, let me begin, if I may, by thanking the ranking member, Senator GREGG, for the way in which he has conducted the work of the committee on the minority side and the fairness with which he has conducted it when he was in the majority. I wish to say to him that we will endeavor to approach this in the same way with him. There will not be surprises. We will try to organize this in a way that gives each side a fair opportunity to make their points and to offer their amendments. I wish to again thank Senator GREGG for his courtesy

and professionalism throughout both the times when he has been in the majority and the times he has been in the minority.

Mr. President, the budget resolution that has now passed the committee has these key elements:

It restores fiscal responsibility by balancing the budget by 2012, it reduces spending as a share of gross domestic product, it reduces debt as a share of gross domestic product after 2009, and it adopts new disciplines, spending caps, and restores a strong pay-go rule. At the same time, it meets the Nation's priorities by rejecting the President's cuts in key areas and provides increases for children's health care, for education, and for our Nation's veterans.

It also seeks to keep taxes low by protecting middle-class taxpayers with 2 years of alternative minimum tax relief, the old millionaire's tax that has rapidly become a middle-class tax trap. It also includes a deficit-neutral reserve fund for new tax relief and extensions of expiring tax provisions.

Our goal is to be fiscally responsible but to do it in a way that keeps tax rates low and addresses some of the other things we have seen that have been brought before the committee, things that are serious problems. We find abusive tax situations that have grown up around the country. We see the use of tax havens. We also see the tax gap growing geometrically—the difference between what is owed and what is paid—and that is not fair to the vast majority of American taxpayers who pay what they owe.

So we try to keep taxes low, and we include no assumption of a tax increase.

We also try to prepare for the long term by including a comparative effectiveness fund to address rising health care costs, looking at those procedures and those disciplines and those technologies that work to hold down health care costs in one part of the country and to adopt them in other parts of the country. We also adopt a new budget point of order against long-term deficit increases.

The budget resolution that came out of the committee and which we bring to the floor today starts with a \$249 billion deficit and reduces it each and every year. In fact, we almost balance in 2011 under this proposal. We do achieve balance in 2012 with \$132 billion to the plus side. One might say this is a surplus. I always hesitate to use that term because the only reason it is in surplus is because of Social Security. Nonetheless, in terms of the way deficits are calculated and reported by the press, there is a \$132 billion positive balance in 2012.

One of the most important things we have to stop is the growth of the debt. All the economists tell us the most important thing we have to do is to reverse the debt growing faster than the size of the economy. I am proud to report this budget does so. This shows