

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 2:47 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2818. An act to amend title 38, United States Code, to provide for the establishment of epilepsy center of excellence in the Veterans Health Administration of the Department of Veterans Affairs.

H.R. 4289. An act to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the "Euripides Rubio Department of Veterans Affairs Outpatient Clinic".

H.R. 5687. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes.

H.R. 6307. An act to amend parts B and E of title IV of the Social Security Act to assist children in foster care in developing or maintaining connections to family, community, support, health care, and school, and for other purposes.

H.R. 6312. An act to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

At 6:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4289. An act to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the "Euripides Rubio Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

H.R. 5687. An act to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6307. An act to amend parts B and E of title IV of the Social Security Act to as-

sist children in foster care in developing or maintaining connections to family, community, support, health care, and school, and for other purposes; to the Committee on Finance.

H.R. 6312. An act to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 3186. A bill to provide funding for the Low-Income Home Energy Assistance Program.

H.R. 6331. An act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2818. To amend title 38, United States Code, to provide for the establishment of epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-401. A resolution adopted by the Council of the City of Tehachapi, California, expressing its support for the original and historic view of the Second Amendment; to the Committee on the Judiciary.

POM-402. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to appropriate the United States Army Corps of Engineers the total amount of funds collected from the Harbor Maintenance Tax; to the Committee on Appropriations.

## HOUSE CONCURRENT RESOLUTION NO. 127

Whereas, Louisiana, more than most other states, is keenly aware of the importance of maintaining waterway channels clear for navigation with several major rivers, including the Mississippi River, flowing through the state and is also keenly aware that dredging navigation channels and letting the dredge material merely flow out to the Gulf of Mexico is, in essence, letting Louisiana merely flow out to the Gulf of Mexico; and

Whereas, if the total amount of funds collected from the Harbor Maintenance Tax is appropriated to the Corps of Engineers, those funds could be used to help fund the dredging necessary to maintain the navigation channels open for commerce; and

Whereas, an ancillary use of dredging activity that has become essential to the preservation of Louisiana's coastline is beneficial use of dredge material whereby the material dredged from waterways is then taken and "planted" where it can be used to preserve and grow land in the coastal areas where Louisiana is losing land at an alarming rate; and

Whereas, coastal Louisiana was formed by the depositional processes of the Mississippi River over the past seven thousand five hundred years; and

Whereas, the thick fluvial deposits that comprise the Mississippi River Delta are naturally prone to compaction under their own weight, but if sediment supplies are sufficient, the delta can build and maintain its surfaces as sea level rises; and

Whereas, the land building processes of the Mississippi River have been halted in South Louisiana by a combination of levees which prevent seasonal overbank flooding and sediment deposition, dredged waterways which channel freshwater and sediment to the Gulf of Mexico, and upstream dam construction which prevent sediment from naturally reaching the Louisiana coast; and

Whereas, over fifteen hundred square miles of Louisiana's coastal wetlands and barrier islands have been lost to open water since the early 1930s, and scientists project that another five hundred square miles will be lost by 2050, if current resource management practices continue; and

Whereas, more than one hundred twenty million tons of river sediment that could be used to sustain the Mississippi Delta will be lost to the Gulf of Mexico each year if nothing is done to restore the natural hydrology of the Mississippi River; and

Whereas, prevention of wetland loss in the Mississippi River Deltaic Plain, which comprises most of the southeastern Louisiana coastal zone, is dependent upon restoring flows of fresh water and sediment to the delta; and

Whereas, an international team of scientists convened for the express purpose of advising the state of Louisiana about its coastal land loss problem in 2006 concluded that, "The most fundamental and essential action needed to achieve a sustainable coast is to reduce, to the greatest extent possible, the amount of Mississippi River sediment and freshwater flowing directly into the deep waters of the Gulf. These valuable resources, which originally built coastal Louisiana, can only benefit the coast if they are redirected to inshore and nearshore waters. This would occur naturally if the river were not artificially maintained for navigation along its present course into deep water"; and

Whereas, fully appropriating to the Corps of Engineers the revenue received from the Harbor Maintenance Tax could provide the funds essential to both dredge rivers for navigation purposes as intended by the imposition of the tax and, to go a step further, as authorized by the tax, to use that dredge material for beneficial uses in restoring and preserving coastal Louisiana. Therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to appropriate to the United States Army Corps of Engineers the total amount of funds collected from the Harbor Maintenance Tax so that those funds can be used for dredging navigation channels and, where possible, the beneficial use of dredged material to protect, restore, and conserve wetlands along the coast of Louisiana. Be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-403. A resolution adopted by the House of Representatives of the State of South Carolina urging Congress to appoint an independent counsel to investigate unresolved matters pertaining to U.S. personnel unaccounted for from this Nation's wars and

conflicts beginning with World War II; to the Committee on Armed Services.

#### HOUSE RESOLUTION

Whereas, the Prisoner of War—Missing in Action (POW/MIA) issue has been a national dilemma since the end of World War II; and Whereas, there is a strong need for an independent investigation into all unresolved matters relating to any United States personnel unaccounted for from the Vietnam War, the Korean War, World War II, the Cold War, the Gulf Wars, and other conflicts including MIAs and POWs; and

Whereas, it is the responsibility and the duty of the United States government to bring home Americans missing in action from these conflicts; and

Whereas, as of July 2005, the Government Accountability Office listed over eighty-eight thousand service men and women unaccounted for from World War II, the Korean War, the Cold War, the Vietnam War, the Gulf Wars, and other conflicts; and

Whereas, American POWs and their missing comrades have demonstrated the true spirit of our nation and should never be forgotten; and

Whereas, the families of these inspiring Americans deserve to know what truly happened to their loved ones; and

Whereas, Americans from every generation have answered the call to duty with dedication and valor. These brave Americans deserve the respect and gratitude of our nation and all efforts should be made to resolve the Prisoner of War—Missing in Action issue in their honor. Now, therefore, be it

*Resolved by the House of Representatives*, That the members of the South Carolina House of Representatives, by this resolution, urge the United States Congress to appoint an independent counsel to investigate the Prisoner of War—Missing in Action issue regarding unresolved matters pertaining to United States personnel unaccounted for from this nation's wars and conflicts beginning with World War II. Be it further

*Resolved*, That a copy of this resolution be forwarded to the President of the United States, the United States Senate and House of Representatives, and the members of the South Carolina Congressional Delegation.

POM-404. A joint resolution adopted by the Senate of the State of Tennessee urging the adoption of a Veterans Remembered Flag; to the Committee on Armed Services.

#### SENATE JOINT RESOLUTION, NO. 901

Whereas, there are flags for all branches of the armed services, as well as flags for POWs and MIAs, but there is no flag to honor the millions of former military personnel who have served our nation; and

Whereas, a flag is the symbol of recognition for a group or an ideal; veterans compose a group and certainly represent an ideal, and surely deserve their own symbol; and

Whereas, it is estimated that 20,400,000 veterans have served in our nation's military, comprising a significant portion of our country's population; and

Whereas, a Veterans Remembered Flag would memorialize and honor all past, present, and future veterans and provide an enduring symbol to support tomorrow's veterans today; and

Whereas, displaying and flying this flag would honor the lives of millions of men and women who have served our country in times of war, peace, and national crisis; and

Whereas, the symbolism of this unique flag's design would be all-inclusive and would pay respect to the history of our nation, to all branches of the military, and would serve to honor those who have served or died in the service of our nation; and

Whereas, in memorializing America's veterans, the Veterans Remembered Flag includes specific symbolism and should be designed in substantially the following form:

(a) It depicts the founding of our nation through the thirteen stars that emanate from the hoist of the flag and march to the large red star, representing our nation and the five branches of our country's military that defend her: the Army, Navy, Air Force, Marines, and Coast Guard.

(b) The white star indicates a veteran's dedication to service.

(c) The blue star honors all men and women who have ever served in our country's military.

(d) The gold star memorializes those who fell defending our nation.

(e) The blue stripe which bears the title of the flag honors the loyalty of veterans to our nation, flag, and government.

(f) The green field represents the hallowed ground where all rest eternally; and

Whereas, the Veterans Remembered Flag would serve to honor all veterans who have served in our country's Armed Forces; now, therefore, be it

*Resolved by the senate of the One Hundred Fifth General Assembly of the State of Tennessee, the House of Representatives Concurring*, That this General Assembly hereby urges the Congress of the United States to act expeditiously to adopt a Veterans Remembered Flag as described herein. Be it further

*Resolved*, That an enrolled copy of this resolution be transmitted to the President of the United States, the Speaker and the Clerk of the U.S. House of Representatives, the President and the Secretary of the U.S. Senate, and each member of the Tennessee Congressional Delegation.

POM-405. A resolution adopted by the California State Lands Commission addressing the incidental taking of marine animals by once-through cooling power plants; to the Committee on Energy and Natural Resources.

#### RESOLUTION

Whereas, a cornerstone of the value and uniqueness of California's 1,100 mile coastline and adjacent coastal waters is the richness and diversity of marine life, including fish, marine mammals, birds and plants; and

Whereas, the California State Lands Commission has jurisdiction over the state-owned tide and submerged lands from the shoreline out three nautical miles into the Pacific Ocean, as well as the lands underlying California's bays, and navigable lakes and rivers; and

Whereas, the Commission is charged with managing these lands pursuant to the Public Trust Doctrine, a common law precept that requires these lands be protected for public use and needs including commerce, navigation, fisheries, water related recreation and ecological preservation; and

Whereas, the Commission has aggressively sought correction of adverse impacts on the biological productivity of its lands including litigation over contamination off the Palos Verdes Peninsula and at Iron Mountain, the adoption of best management practices for marinas, and litigation to restore flows to the Owens River; and

Whereas, California has a significant number of power plants that use once-through cooling (OTC), the majority of which are located on bays and estuaries where sensitive fish nurseries for many important species are located; and

Whereas, the environmental costs of persistent entrainment and impingement from once-through cooling to marine and coastal life and ecosystems are high; and

Whereas, OTC harms the environment by killing large numbers of wildlife, including fish, marine mammals, and sea turtles, as well as larvae and eggs, as they are drawn through fish screens and other parts of the power plant cooling system; and

Whereas, regulations adopted under Section 316(b) of the federal Clean Water Act recognize the adverse impacts of OTC by effectively prohibiting new power plants from using such systems and requiring existing power plants to reduce OTC impacts; and

Whereas, the Second Circuit U.S. Court of Appeals ruled that restoration measures do not minimize the impacts of once-through cooling and cannot be used to comply with Clean Water section 316(b); and

Whereas, the California State Water Resources Control Board is currently developing a state policy to implement Clean Water Act Section 316(b), which, in the draft released for public comment, will require the phase out of OTC technology at coastal power plants; and

Whereas, the National Marine Fisheries Service (NMFS) is evaluating applications, necessitated by the pernicious impacts of OTC, from thirteen power generating stations located in California requesting authority for incidental take of marine mammals and seven applications from power generating stations in California requesting permits for incidental take of sea turtles; and

Whereas, the Commission has imposed conditions on its leases to reduce the impact of OTC and is seriously concerned about the environmental consequences of the proposed incidental take of marine animals as a result of OTC; and

Whereas, alternative cooling methods such as repowering older power plants are readily available and used nationwide, and can eliminate OTC and its attendant environmental impacts and reduce the greenhouse gas emissions currently associated with fossil fuel power generation: Now, therefore, be it

*Resolved by the California State Lands Commission*, That it urges the NMFS to: (1) make any incidental take permit consistent with phasing out OTC, and at the minimum, include a clause requiring expiration of the permit if OTC is no longer permitted at the requesting facility or generally within the state; (2) deny any incidental take permit for power plants that have discontinued use of OTC; (3) require that information regarding historical and anticipated take be substantiated and made available to the Commission and the public prior to the issuance of any incidental take permit, and referenced in any draft and/or final permit; and (4) require, if an incidental take permit is issued, that stringent controls be implemented to eliminate or prevent to the maximum extent possible the take or harassment of marine wildlife; and be it further

*Resolved*, That the State Lands Commission supports OTC alternatives, such as repowering projects, that eliminate OTC, reduce greenhouse gas emissions and other environmental impacts, and are part of an overall plan that moves the state towards increased use of renewables and energy conservation; and be it further

*Resolved*, That the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the National Marine Fisheries Service, to the National Oceanic and Atmospheric Administration, to the United States Environmental Protection

Agency, to the United States Supreme Court, to the Chairs of the State Water Resources Control Board, to the California Energy Commission, to the Public Utilities Commission, to the California Coastal Commission, to the California Air Resources Board, to the California Independent Systems Operator, and to the California Ocean Protection Council, all grantees, and all current lessees of public trust lands that utilize OTC.

POM-406. A resolution adopted by the House of Representatives of the State of Hawaii approving the establishment of a state-province affiliation between the State of Hawaii and the Province of Negros Oriental of the Republic of the Philippines; to the Committee on Foreign Relations.

#### HOUSE OF RESOLUTION No. 85

Whereas, the State of Hawaii is actively seeking to expand its international ties and has an abiding interest in developing goodwill, friendship, and economic relations between the people of Hawaii and the people of Asian and Pacific countries; and

Whereas, as part of its effort to achieve this goal, Hawaii has established a number of sister-state agreements with provinces in the Pacific region; and

Whereas, because of the historical relationship between the United States of America and the Republic of the Philippines, there continue to exist valid reasons to promote international friendship and understanding for the mutual benefit of both countries to achieve lasting peace and prosperity as it serves the common interests of both countries; and

Whereas, there are historical precedents exemplifying the common desire to maintain a close cultural, commercial, and financial bridge between ethnic Filipinos living in Hawaii with their relatives, friends, and business counterparts in the Philippines, such as the previously established sister-city relationship between the City and County of Honolulu and the City of Cebu in the Province of Cebu; and

Whereas, similar state-province relationships exist between the State of Hawaii and the Provinces of Cebu, Ilocos Norte, Ilocos Sur, and Pangasinan, whereby cooperation and communication have served to establish exchanges in the areas of business, trade, agriculture and industry, tourism, sports, health care, social welfare, and other fields of human endeavor; and

Whereas, a similar state-province relationship would reinforce and cement this common bridge for understanding and mutual assistance between ethnic Filipinos of both the State of Hawaii and the Province of Negros Oriental; and

Whereas, with its vast fertile land resources, Negros Oriental's major industry is agriculture and lists its primary crops as sugarcane, corn, coconut, and rice, but the province is emerging as a technological center in the Central Philippines with its growing business process outsourcing and other technology-related industries, and is also becoming a notable tourist destination in the Visayas, making the province much like Hawaii; now, therefore, be it

*Resolved by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, That Governor Linda Lingle of the State of Hawaii, or her designee, be authorized and is requested to take all necessary actions to establish a state-province affiliation with the Province of Negros Oriental in the Republic of the Philippines; and be it further*

*Resolved, That the Governor or her designee is requested to keep the Legislature of the State of Hawaii fully informed of the*

process in establishing the affiliation and involved in its formalization to the extent practicable; and be it further

*Resolved, That the Province of Negros Oriental be afforded the privileges and honors that Hawaii extends to its sister states and provinces; and be it further*

*Resolved, That if by June 30, 2013, the state-province affiliation with the Province of Negros Oriental has not reached a sustainable basis by providing mutual economic benefits through local community support, the state-province affiliation shall be withdrawn; and be it further*

*Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional delegation, the Governor of the State of Hawaii, the President of the Republic of the Philippines through its Honolulu Consulate General, and the Governor and Provincial Board of the Province of Negros Oriental, Republic of the Philippines.*

POM-407. A resolution adopted by the House of Representatives of the State of Hawaii urging Congress to enact legislation to waive single state agency requirements with regard to the administration of funds under the Homeland Security Grant Program; to the Committee on Homeland Security and Governmental Affairs.

#### HOUSE RESOLUTION No. 209

Whereas, on March 12, 1987, the President of the United States directed all affected agencies to issue a grants management common rule to adopt government-wide terms and conditions for grants to state and local governments; and

Whereas, consistent with their legal obligations, all federal agencies administering programs that involve grants and cooperative agreements with state governments must follow the policies outlined in the federal Office of Management and Budget Circular A-102, as revised and amended; and

Whereas, the Office of Management and Budget is authorized to grant deviations from the requirements when permissible under existing law, however deviations are permitted only in exceptional circumstances; and

Whereas, according to a guidance document from the Department of Homeland Security, the governor of each state must designate a State Administrative Agency to apply for and administer the funds under the Homeland Security Grant Program; and

Whereas, Hawaii State Civil Defense is the State Administrative Agency for these purposes in Hawaii; and

Whereas, according to the Office for Domestic Preparedness Information Bulletin No. 112 (May 26, 2004), the State Administrative Agency is obligated to pass through no less than eighty per cent of its total grant award to local units of government within the State; and

Whereas, according to the Office for Domestic Preparedness Information Bulletin No. 120 (June 16, 2004), the remaining twenty per cent can be retained at the state level; and

Whereas, qualifying state and local government agencies in Hawaii can apply to Hawaii State Civil Defense for State Homeland Security Grant Program funds, and Hawaii State Civil Defense allocates funds based on investments and how well the program capabilities of the various state agencies tie together; and

Whereas, a single state agency requirement in the application and allocation of funds under the Homeland Security Grant Program is misplaced because it grants con-

siderable discretion to one state agency for the allocation of funds, with no oversight by the state legislature; and

Whereas, it is traditionally the role of the state legislature as the policy making branch of the government to determine how financial resources should be allocated; and

Whereas, state legislatures should have greater input and oversight regarding the allocation of funds under the Homeland Security Grant Program, now: Therefore, be it

*Resolved by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, That the United States Congress is requested to enact legislation to waive the single state agency requirement with regard to the administration of funds under the Homeland Security Grant Program and to provide state legislatures with authority to approve the allocation of funds under the Homeland Security Grant Program; and be it further*

*Resolved That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Hawaii congressional delegation, and the State Adjutant General.*

POM-408. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to take the actions necessary to expedite the reopening of the Arabi Branch of the United States Postal Service located in St. Bernard Parish; to the Committee on Homeland Security and Governmental Affairs.

#### SENATE CONCURRENT RESOLUTION No. 76

Whereas, it has been almost three years since hurricanes Katrina and Rita devastated this community, flooding the Arabi branch of the United States Postal Service; and

Whereas, the effects of hurricanes Katrina and Rita continue to effect the operations of government inclusive of operations of branches of the United States Postal Service in St. Bernard Parish; and

Whereas, one essential to the continued recovery of the citizens of Arabi, Louisiana, along with the full restoration of governmental services, is the reopening of the Arabi branch of the United States Postal Service; and

Whereas, this branch will be well used by the individuals in this community, particularly by the elderly, the disabled, and parents with young children who need a convenient location to conduct business with the postal service. Therefore, be it further

*Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to expedite the reopening of the Arabi branch of the United States Postal Service in St. Bernard Parish. Be it further*

*Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.*

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 27. A bill to authorize the implementation of the San Joaquin River Restoration Settlement (Rept. No. 110-400).

S. 1171. A bill to amend the Colorado River Storage Project Act and Public Law 87-483 to