

Transportation be authorized to meet during the session of the Senate on June 17, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled "Leveling the Playing Field: Protecting Workers and Businesses Affected by Misclassification" on June 17, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on June 17, 2010, at 3 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on June 17, 2010, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing entitled "Indian Education: Did the No Child Left Behind Act Leave Indian Students Behind?"

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

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on June 17, 2010, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND  
ENTREPRENEURSHIP

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on June 17, 2010, at 10 a.m. to conduct a hearing entitled "Harnessing Small Business Innovation: Navigating the Evaluation Process for Gulf Coast Oil Cleanup Proposals."

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 17, 2010 at 2:30 p.m.

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

SUBCOMMITTEE ON ENERGY, SCIENCE, AND  
TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Science, and Transportation of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate at 9:30 a.m. on June 17, 2010, in SR-328A.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Michaela Byrne and Jeremy Long, members of my staff, be granted floor privileges for the duration of the debate on H.R. 4213.

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

PROVIDING FOR RECONSIDERATION AND REVISION OF PROPOSED CONSTITUTION OF THE UNITED STATES VIRGIN ISLANDS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S.J. Res. 33, a joint resolution providing for the reconsideration and revision of the proposed Constitution of the U.S. Virgin Islands to correct provisions inconsistent with the Constitution and Federal law, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 33) to provide for the reconsideration and revision of the proposed constitution of the United States Virgin Islands to correct provisions inconsistent with the Constitution and Federal law.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BINGAMAN. Mr. President, the U.S. Virgin Islands is an unincorporated territory of the United States that was acquired from Denmark in 1917. It is one of only two United States territories which does not have a locally adopted constitution to provide for basic governmental organization and operations. Instead, the Virgin Islands government operates under the Revised Organic Act of 1954, as amended, a Federal law written by Congress (48 U.S.C. 1541-1645).

In 1976, to enhance local self-government, Congress enacted Public Law 94-584, which, as amended, authorizes the people of the Virgin Islands to convene a constitutional convention and draft a constitution. The law provides for two consecutive 60-day periods for Presidential and Congressional review. Upon receiving a proposed constitution from the President, Congress may approve, modify, or amend the document by joint resolution, but if Congress does not act within its 60 legislative day re-

view period, then the constitution is deemed approved by Congress. If Congress approves the proposed constitution, or passes modifications or amendments, it then goes before the Virgin Islands voters to be accepted or rejected in a referendum. Since 1964, the people of the Virgin Islands have attempted five times to write a constitution, but previous efforts have been unsuccessful.

On December 31, 2009, the Governor of the Virgin Islands submitted a proposed constitution drafted by the Fifth Constitutional Convention to President Obama, and it was transmitted to Congress with administration comments. The end of the 60 legislative day Congressional review period is June 30.

In his February 26, 2010, message to Congress, President Obama attached the proposed constitution and a memorandum of the Justice Department which noted that several features of the proposed constitution warranted comment: 1, the absence of an express recognition of United States sovereignty and the supremacy of Federal law; 2, provisions for a special election on the Virgin Islands territorial status; 3, provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry; 4, residence requirements for certain offices; 5, provisions guaranteeing legislative representation of certain geographic areas; 6, provisions addressing territorial waters and marine resources; 7, imprecise language on certain provisions of the proposed constitution's bill of rights; 8, the possible need to repeal of certain Federal laws if the proposed United States Virgin Islands constitution is adopted; and 9, the effect of congressional action or inaction on the proposed constitution. I refer you to the President's message and DOJ memorandum in the March 1, 2010, Congressional Record, page S856. Both in the memorandum and in testimony on May 19 before the Senate Committee on Energy and Natural Resources, the Justice Department recommended that "the provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry. . ." Item 3 above—be removed from the constitution and that consideration be given to shortening the residence requirements for certain officers—item 4—and to revising the provisions concerning territorial waters and marine resources—item 6.

I am pleased to join with the ranking member of the Committee on Energy and Natural Resources, Senator MURKOWSKI, in introducing this resolution to provide for the reconsideration and revision of the proposed constitution of the Virgin Islands to correct provisions that are inconsistent with the U.S. Constitution and Federal law. More specifically, the resolution would

amend P.L. 94-584, as amended, to provide that Congress may urge the convention to reconvene, but following reconsideration and revision of the proposed constitution, it would not be sent back to Congress for review. Instead, the U.S. President would have 60 calendar days to provide administration comments to the Governor and Congress, and to publish those comments in the Federal Register. Then, the revised proposed constitution would be submitted to the voters for approval or disapproval. If the Constitutional Convention fails to reconvene, or if the convention fails to make revisions, then there will be no referendum of approval or disapproval of the proposed constitution by the voters of the Virgin Islands, and this process ends.

It is challenging for Congress to act within the 60 legislative day review period as established by P.L. 94-584, as amended, ending June 30. The approach taken in this resolution to respond to the Federal concerns raised with the proposed constitution has been reached in consultation with counsel for the Virgin Islands Convention, and with the Delegate and Governor of the Virgin Islands. While there were differing views on how Congress should proceed, I appreciate the cooperation and commitment of all involved in working out this consensus approach.

There are few more solemn duties in government than that of developing and adopting a constitution. I commend the delegates to the Virgin Islands Constitutional Convention for their effort and their commitment to this solemn duty. I also urge them to carefully consider the issues raised by the President and Congress and to revise the proposed constitution by removing or amending those provisions that are in conflict with the U.S. Constitution.

For generations, the people of the Virgin Islands have been a part of the United States political family and together we share allegiance to our Nation and to the principles enshrined in the U.S. Constitution. Under this resolution, the delegates will have the choice of conforming the proposed constitution to these shared principles or of endorsing the conflicts between the proposed constitution and the U.S. Constitution. Endorsing these conflicts will most certainly result in either disapproval of the proposed constitution by the voters of the Virgin Islands, or years of litigation that will eventually strike down these provisions. I urge the delegates to take this rare opportunity to bring closure to the process—to make the needed revisions and to be remembered for their leadership in bringing a constitution to the people of the Virgin Islands.

Ms. MURKOWSKI. Mr. President, I am pleased to join with Senator JEFF BINGAMAN, the Chairman of the Senate Energy and Natural Resources Committee, in introducing this Joint Resolution to urge the Fifth Constitutional

Convention of the United States Virgin Islands to reconvene for the purpose of reconsidering and revising its proposed constitution. Let me first commend the delegates of the Virgin Islands Fifth Constitutional Convention for their hard work and efforts in drafting and putting forward this proposed constitution. Their commitment to resolving this issue and getting a constitution enacted for the people of the United States Virgin Islands should be applauded.

The Chairman has clearly laid out the historical and legislative background of the United States' relationship with the U.S. Virgin Islands and the process for Congress to consider a proposed constitution. He has also explained the concerns and issues expressed by the Administration about some provisions in the proposed constitution and that under Public Law 94-584, the only options available to Congress are to approve, amend, or revise the constitution. Disapproval is not an option. Because time is short, Congress only has 60 legislative days to take action, it is unlikely we will be able to reach an agreement on the proposed changes before June 30, 2010, which is the end of the 60 legislative days. If Congress does not act before then, the proposed constitution will be deemed approved with no changes.

As a result, the Chairman and I are introducing this Joint Resolution to amend P.L. 94-584 to allow Congress to urge the constitutional convention to reconvene. In accordance with this change to the law, the joint resolution urges the Fifth Constitutional Convention to reconvene for the purpose of reconsidering and revising the proposed constitution in response to the concerns outlined by the executive branch. It is my understanding that should Congress pass this joint resolution, the 60 legislative day clock will stop. It is also my understanding that should this Joint Resolution be enacted, there are three courses of action for the Fifth Constitutional Convention: do not reconvene; reconvene but do not revise the proposed constitution; or reconvene and revise the proposed constitution. If the convention were to choose not to reconvene, or to reconvene but not revise, then the process is dead, there is no further consideration of the proposed constitution, and it does not go to the people of the Virgin Islands for a vote.

If, however, the convention reconvenes and does revise the proposed constitution, then the revised proposed constitution would simultaneously be submitted to the Governor of the Virgin Islands and the President of the United States. The President would then have 60 calendar days to notify the Convention, the Governor, and Congress of the comments of the President on the revised proposed constitution, and publish the comments in the Federal Record. Once the comments have been published in the Federal Record, the revised proposed constitu-

tion would be submitted to the qualified voters of the U.S. Virgin Islands for acceptance or rejection.

The delegates to the convention have the choice to bring the proposed constitution in line with the U.S. Constitution and Federal statutes. It is my preference to see the Convention reconvene and make these changes themselves, rather than have the courts impose them through litigation. This is the fifth attempt to establish a constitution for the people of the U.S. Virgin Islands and I am hopeful that this attempt, with the necessary revisions, will be successful.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the joint resolution be read a third time, passed; that the preamble be agreed to, and the motions to reconsider be laid upon the table en bloc; and that any statements related to the joint resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 33) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 33

To provide for the reconsideration and revision of the proposed constitution of the United States Virgin Islands to correct provisions inconsistent with the Constitution and Federal law.

Whereas Congress, recognizing the basic democratic principle of government by the consent of the governed, enacted Public Law 94-584 (94 Stat. 2899) authorizing the people of the United States Virgin Islands to organize a government pursuant to a constitution of their own adoption;

Whereas a proposed constitution to provide for local self-government for the people of the United States Virgin Islands was submitted by the President to Congress on March 1, 2010, pursuant to Public Law 94-584;

Whereas Congress, pursuant to Public Law 94-584, after receiving a proposed United States Virgin Islands constitution from the President may approve, amend, or modify the constitution by joint resolution, but the constitution "shall be deemed to have been approved" if Congress takes no action within "sixty legislative days (not interrupted by an adjournment sine die of the Congress) after its submission by the President";

Whereas in carrying out Public Law 94-584, the President asked the Department of Justice, in consultation with the Department of the Interior, to provide views on the proposed constitution;

Whereas the Department of Justice concluded that several features of the proposed constitution warrant analysis and comment, including—

- (1) the absence of an express recognition of United States sovereignty and the supremacy of Federal law;
- (2) provisions for a special election on the territorial status of the United States Virgin Islands;
- (3) provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry;
- (4) residence requirements for certain offices;
- (5) provisions guaranteeing legislative representation of certain geographic areas;

(6) provisions addressing territorial waters and marine resources;

(7) imprecise language in certain provisions of the bill of rights of the proposed constitution;

(8) the possible need to repeal certain Federal laws if the proposed constitution of the United States Virgin Islands is adopted; and

(9) the effect of congressional action or inaction on the proposed constitution; and

Whereas Congress shares the concerns expressed by the executive branch of the Federal Government on certain features of the proposed constitution of the United States Virgin Islands and shares the view that consideration should be given to revising those features: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **SECTION 1. SENSE OF CONGRESS ON PROPOSED CONSTITUTION FOR UNITED STATES VIRGIN ISLANDS.**

It is the sense of Congress that Congress—

(1) recognizes the commitment and efforts of the Fifth Constitutional Convention of the United States Virgin Islands to develop a proposed constitution; and

(2) urges the Fifth Constitutional Convention of the United States Virgin Islands to reconvene for the purpose of reconsidering and revising the proposed constitution in response to the views of the executive branch of the Federal Government.

## **SEC. 2. REVISION OF PROPOSED CONSTITUTION.**

Section 5 of Public Law 94-584 (90 Stat. 2900) is amended—

(1) by designating the first, second, third, and fourth sentences as subsections (a), (b), (d), and (e), respectively;

(2) in subsection (b) (as so designated)—

(A) by striking “within” and all that follows through “after” and inserting “within 60 legislative days after”; and

(B) by inserting “or has urged the constitutional convention to reconvene,” after “in whole or in part,”;

(3) by inserting after subsection (b) (as so designated) the following:

“(c) REVISION OF PROPOSED CONSTITUTION.—

“(1) IN GENERAL.—If a convention reconvenes and revises the proposed constitution, the convention shall resubmit the revised proposed constitution simultaneously to the Governor of the Virgin Islands and the President.

“(2) COMMENTS OF PRESIDENT.—Not later than 60 calendar days after the date of receipt of the revised proposed constitution, the President shall—

“(A) notify the convention, the Governor, and Congress of the comments of the President on the revised proposed constitution; and

“(B) publish the comments in the Federal Register.”; and

(4) in subsection (d) (as so designated), by inserting “under subsection (b) (or, if revised pursuant to subsection (c), on publication of the comments of the President in the Federal Register)” after “or modified”.

Mr. BROWN of Ohio. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## **ORDERS FOR FRIDAY, JUNE 18, 2010**

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until 9:45 a.m. on Friday, June 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks

there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

## **PROGRAM**

Mr. BAUCUS. Mr. President, there will be no rollcall votes during Friday's session of the Senate.

## **ADJOURNMENT UNTIL 9:45 A.M. TOMORROW**

Mr. BAUCUS. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 8:38 p.m., adjourned until Friday, June 18, 2010, at 9:45 a.m.

## **NOMINATIONS**

Executive nominations received by the Senate:

### **THE JUDICIARY**

JAMES EMANUEL BOASBERG, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE THOMAS F. HOGAN, RETIRED.

AMY BERMAN JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE GLADYS KESSLER, RETIRED.

SUE E. MYERSCOUGH, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS, VICE JOE B. MCDADE, RETIRED.

### **DEPARTMENT OF JUSTICE**

JAMES THOMAS FOWLER, OF TENNESSEE, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE ARTHUR JEFFREY HEDDEN, RESIGNED.

CRAIG ELLIS THAYER, OF WASHINGTON, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS, VICE MICHAEL LEE KLINE, TERM EXPIRED.