

## TEXT OF AMENDMENTS

**SA 246.** Mr. THOMAS proposed an amendment to amend SA 61 proposed by Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. DORGAN, Mr. DURBIN, Mr. AKAKA, Mr. BINGAMAN, Mr. FEINGOLD, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, and Mrs. MURRAY) to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003 and for other purposes; as follows:

Strike all after the first word and insert the following:

While nothing in this section shall prevent any agency of the executive branch from subjecting work performed by Federal Government employees or private contractors to public-private competition or conversions, none of the funds made available in this Act may be used by an agency of the executive branch to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the executive agency to public-private competitions or for converting such employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy unless the goal, target, or quota is based on considered research and sound analysis of past activities and is consistent with the stated mission of the executive agency. Nothing in this section shall limit the use of such funds for the administration of the Government Performance and Results Act of 1993 or for the administration of any other provision of law.

**SA 247.** Ms. MIKULSKI (for herself and Mr. REID) proposed an amendment to amendment SA 61 proposed by Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. DORGAN, Mr. DURBIN, Mr. AKAKA, Mr. BINGAMAN, Mr. FEINGOLD, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, and Mrs. MURRAY) to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. \_\_\_\_ None of the funds made available in this Act may be used by an Executive agency to establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of the agency to public-private competitions or converting such employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A-76 or any other Administrative regulation, directive, or policy. This section shall take effect one day after the date of this bill's enactment.

**SA 248.** Ms. STABENOW proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE.**

It is the sense of the Senate that the conferees on the part of the Senate on the disagreeing votes of the two Houses on this joint resolution should insist that the committee of conference ensure that the joint resolution as reported from the committee includes section 102 of division L relating to Homeland Security Act of 2002 Amendments,

as passed by the Senate, (relating to amendments to sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107-296)).

**PRIVILEGE OF THE FLOOR**

Mr. REID. Mr. President, I ask unanimous consent that Rhonda Sinkfield of the Finance Committee staff be accorded floor privileges during the duration of debate on H.J. Res. 2.

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

Mrs. CLINTON. Mr. President, I ask unanimous consent that Murali Raju, a fellow from my office, be granted the privilege of the floor for the duration of the debate.

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

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 2 through 16, and 19.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

**ARMY**

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under the title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. George W. Casey, Jr., 1204

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. John P. Abizaid, 6229

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

Celeste Colgan, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Jewel Spears Brooker, of Florida, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Elizabeth Fox-Genovese, of Georgia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Stephen McKnight, of Florida, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Sidney McPhee, of Tennessee, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Lawrence Okamura, of Missouri, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Marguerite Sullivan, of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

Stephen Thernstrom, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2008.

David Hertz, of Indiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Terry L. Maple, of Georgia, to be a Member of National Museum Services Board for a term expiring December 6, 2005

**NATIONAL INSTITUTE FOR LITERACY**

Phyllis C. Hunter, of Texas, to be a Member of the National Institute for Literacy Advisory Board for a term of two years. (New Position)

Blanca E. Enriquez, of Texas, to be a Member of the National Institute for Literacy Advisory Board for a term of three years. (New Position)

Douglas Carnine, of Oregon, to be a Member of the National Council Institute for Literacy Advisory Board for a term of three years. (New Position)

**DEPARTMENT OF HOMELAND SECURITY**

Asa Hutchinson, of Arkansas, to be Under Secretary for Border and Transportation, Department of Homeland Security. (New Position)

Mr. MCCAIN. Mr. President, the Senate has just confirmed the appointment of Asa Hutchinson to serve as the Under Secretary for Border and Transportation Security at the Department of Homeland Security. This is a very important position within the newly created Department, and one that encompasses far-reaching responsibilities. Therefore, I am pleased the Senate was able to move expeditiously on this confirmation so that Congressman Hutchinson can be in his position when the new Department officially begins operation tomorrow, January 24.

The Under Secretary for Border and Transportation Security is charged with critical duties, including: preventing the entry of terrorists and the instruments of terrorism into the United States; securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States; administering U.S. customs laws; establishing national immigration enforcement policies and priorities; carrying out INS immigration enforcement functioning; and administering the granting of visas or other forms of permission to enter the United States.

With these duties will go jurisdiction over many existing government units, including the United States Customs Service of the Department of the Treasury, the Transportation Security Administration, TSA, of the Department of Transportation, the Federal Protective Service of the General Services Administration, the Federal Law Enforcement Training Center of the Department of the Treasury, and the Office for Domestic Preparedness of the Office of Justice Programs of the Department of Justice.

Security policies are intertwined with safety policies, and many of the Under Secretary's functions are closely linked to other agencies of the federal governmental, such as the modal administrations responsible for transportation safety at the Department of Transportation. Further, many duties overseen by the Under Secretary have been and will continue to be performed by the Coast Guard. All of these functions will have to be carefully coordinated under Congressman Hutchinson's leadership.

The Under Secretary will face many difficult challenges, including those associated with the very serious situation at our southern border. For example, Arizona has been a leading gateway for illegal immigrants into the U.S. since the mid-1990s. Illegal immigrants are dying along on our borders. The attrition rate for Border Patrol Agents and INS inspectors has reached alarming levels. We have reached the point where we now have private citizens taking up arms and forming militia groups to patrol the border because they feel the federal government has failed to protect them. Just yesterday, the Wall Street Journal reported about the death of a U.S. Park Ranger in Arizona who was killed last August along the border, the fourth ranger killed in the line of duty since 1990. Further, uncompensated emergency and medical care provided to undocumented immigrants has left many border hospitals on the verge of financial ruin. Leadership and attention must be paramount in any effort undertaken by the Under Secretary to adequately address the wide range of border security issues, including how to ensure adequate resources are deployed for enforcement purposes.

Yesterday, the Commerce, Science, and Transportation Committee held its hearing to consider Congressman Hutchinson's nomination. We unanimously approved his nomination earlier today. The new Under Secretary will certainly have our Committee's full support as he takes on the many great challenges that he will face in his new position. The American public is very fortunate to have such a fine, capable, hardworking citizen agree to take on the immense responsibilities associated with this public service position.

I urge my colleagues' swift confirmation of Congressman Hutchinson.

Mr. LEAHY. Mr. President, the Senate today considers the nomination of Asa Hutchinson to become the first Undersecretary of Border and Transportation Security for the Department of Homeland Security. I will vote for this nomination, but not without reservations.

In addition to his service as head of the Drug Enforcement Administration, most of us in the Senate also know Asa Hutchinson from the substantial amount of time he spent on the floor of the Senate a few years ago during the impeachment trial of President Clinton. He and I were both involved in the deposition phase of that trial, and although we reached opposite conclusions on the question of impeachment, I found him to be a skilled attorney and advocate for his position, and a very likable colleague.

Because of my respect for him, I expedited his 2001 nomination to head the DEA. I noticed a hearing only days after becoming chairman of the Judiciary Committee, held the hearing the following week, and scheduled a committee vote for the earliest possible time. I then worked with Senator DASCHLE to have the full Senate consider his nomination as quickly as possible.

In his role as administrator, I believe he has done many things well. I do, however, have two concerns I would like to express today.

At his confirmation hearing to head the DEA, I asked Mr. Hutchinson whether the Federal Government should make it a priority to prosecute people who distribute marijuana to ill people in States that have legalized marijuana for medicinal use. He said he wanted to work with the Attorney General and develop an appropriate policy to reflect the Federal-State tensions involved in the issue. If such a policy was developed, I am unaware of it. In practice, the DEA under Administrator Hutchinson's leadership took a very tough line against the use of marijuana for medical purposes, launching a number of raids in California against individuals and groups that were operating in compliance with California law.

In Vermont, we are experiencing severe and growing problems with heroin

abuse and our law enforcement officers face extraordinary burdens, it is problems like that that should be a priority for the DEA. Administrator Hutchinson's decision to use substantial Federal resources to crack down on the use of marijuana by ill people strikes me as setting the wrong priority, and certainly a different priority than he identified at his hearing.

I am also concerned by recent reports that Administrator Hutchinson made extensive use of Government planes at significant taxpayer expense for public appearances, while previous administrators flew commercially for similar events. If these reports are true, he would not be the first member of the Department of Justice to make questionable use of taxpayer dollars for travel. Similar questions were raised in 2001 about Attorney General Ashcroft's reliance on chartered planes. In addition, Hispanic agents have criticized Mr. Hutchinson for allowing the expiration of a committee that had been formed to brief the administrator on the concerns of Hispanic agents. I have not had the opportunity to discuss these accusations with him and his confirmation hearing for this post was not held before the Judiciary Committee. I would encourage Mr. Hutchinson to take affirmative steps to run an inclusive agency.

In his new position, Mr. Hutchinson will be responsible for ensuring that our borders are safe. I have worked extensively to strengthen our northern border, particularly since the terrorist attacks of September 11, 2001. I know that the personnel who protect our border are excellent, and I also know that they need more help. That is why I included provisions in the USA PATRIOT Act to triple INS and Customs personnel at the northern border, and to invest in improved technology and equipment to monitor the border. I look forward to working closely with Mr. Hutchinson to ensure that these provisions are finally and fully implemented and our borders are secure.

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#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.