

S. 2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

### 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-516. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to Pennsylvania's Nutrition Education Program; to the Committee on Agriculture, Nutrition, and Forestry.

#### HOUSE RESOLUTION NO. 770

Whereas, poor nutrition is a serious problem within the Commonwealth of Pennsylvania due to a lack of understanding of the health impact of too much sugar, fat and salt in a persons diet; and

Whereas, the problem of poor nutrition is particularly acute among low-income households which often lack the resources for a balanced and nutritious diet; and

Whereas, PA NEP has developed an effective program of bringing nutrition education to community food pantries and other community partners and has impacted the dietary practices of low-income households that access food there; and

Whereas, this commendable and important result has been achieved with the support of the United States Department of Agriculture over the past six years, including recognition that a portion of the food provided by the Commonwealth of Pennsylvania through the State Food Purchase Program qualifies as "nutrition education" when that food is used to reinforce and/or replicate a nutrition lesson; and

Whereas, The United States Department of Agriculture has informed the Pennsylvania Department of Public Welfare that it will no longer permit State Food Purchase Program food to qualify as "nutrition education"; and

Whereas improvement, in the dietary practices of Pennsylvania residents is a matter of urgent public health; and

Whereas, the use of food provided by the State Food Purchase Program to reinforce and/or replicate nutrition lessons is a highly appropriate way to impact the dietary practices of low-income households and is fully consistent with legislative intent; and

Whereas, the decision of the United States Department of Agriculture to no longer consider the cost of food used in the manner as "nutrition education" will cause nutrition education in Pennsylvania's food distribution programs to largely cease: Therefore be it

*Resolved*, That the House of Representatives call upon the United States Department of Agriculture to recognize that food provided to low-income households through the State Food Purchased Program may be properly considered "nutrition education" when used to reinforce and/or replicate a nutrition lesson; and be it further

*Resolved*, That the United States Department of Agriculture reconsider its recent policy change and once again permit State Food Purchase Program food to qualify as "nutrition education" under Pennsylvania's Nutrition Education Program; and be it further

*Resolved*, That copies of this resolution be transmitted to the Secretary of the United States Department of Agriculture and to each member of Congress from Pennsylvania.

POM-517. A joint resolution adopted by the Senate of the Legislature of the State of

California relative to food marketing and advertising directed to children; to the Committee on Agriculture, Nutrition, and Forestry.

#### SENATE JOINT RESOLUTION NO. 29

Whereas, California is in the midst of a growing epidemic of overweight children and childhood obesity due to poor diet and physical inactivity, putting growing numbers of California children at increased risk for type II diabetes, hypertension, heart disease, and cancer, along with psychosocial problems including low self-esteem, poor body image, and symptoms of depression; and

Whereas, a recent study showed that 26.5 percent of California youth in grades 5, 7, and 9 are overweight, with rates being even higher for African-American children (28.6 percent) and Latino children (33.7 percent); and

Whereas, in California, annual obesity-attributable medical expenditures were estimated at \$7.7 billion in 2003, with approximately one-half of these expenditures financed by Medicare and Medi-Cal; and

Whereas, healthy eating and physical activity, including eating five or more servings of fruits and vegetables every day, are vital to preventing people from being overweight or suffering from heart disease, cancer, or diabetes, and ensuring children's health and well-being; and

Whereas, poor diet and physical inactivity are responsible for 400,000 deaths in the United States annually and may soon overtake tobacco as the leading cause of preventable death; and

Whereas, the growing epidemic of childhood obesity has brought renewed attention to the role that food and beverage advertising and marketing play in negatively influencing eating habits of youth; and

Whereas, the food, beverage, and restaurant industries recognize children as a major market force because of their spending power, purchasing influence, and anticipated brand loyalty as adult consumers, with children under 14 years of age purchasing \$24 billion in products and influencing \$190 billion in family purchases each year; and

Whereas, children are being exposed to increasing amounts of marketing and advertising, with \$15 billion spent marketing to children in the United States in 2002, double the amount spent in 1992; and

Whereas, the food, beverage, and restaurant industries utilize multiple strategies to market their products to children, including television advertising, in-school marketing, the Internet, product placements, toys, books, and clothes with food-brand logos, contests, celebrity and cartoon spokespeople, and child targeted in-store and restaurant promotions; and

Whereas, children view an estimated 40,000 commercials each year, 50 percent of which advertise food products—most often products that are high in calories, fats, sugars, and salt, with almost no references to fruits or vegetables. Children watch an average of one food commercial every five minutes of television viewing time, and as many as three hours of food commercials each week. Latino and African-American children are exposed to more television food advertising than other children; and

Whereas, in-school marketing of food and beverages has become increasingly prevalent in recent years and includes: (1) product sales, including sales through vending machines, a la carte, snack bars, soft drink "pouring-rights" agreements through exclusive contracts, branded fast food, and fundraisers; (2) direct advertising, such as food and beverage ads in schools; and (3) indirect advertising, such as corporate-sponsored educational programs, sports team sponsor-

ships, and incentive programs using contests and coupons; and

Whereas, the majority of the foods and beverages sold in school vending machines and school stores are calorically dense and low in nutrients, which promotes purchasing and consumption of these foods while children are away from their parents in a captive environment that is supposed to be dedicated to education; and

Whereas, studies show that food advertising and marketing result in more favorable attitudes, preferences, and behaviors among children towards the advertised products and that children's food preferences and food purchase requests for high sugar and high fat foods are influenced by television exposure to food advertising; and

Whereas, parents face increasing strain between their desire to feed their children well and the intense marketing of high calorie, low-nutrition food and beverages to their children; and

Whereas, in 2003, the World Health Organization concluded that the extensive marketing to children of fast food and high calorie, micronutrient-poor foods and beverages is a probable causal factor for the accelerating global trend in weight gain obesity; and

Whereas, children are particularly vulnerable to marketing of unhealthy foods and beverages because children under the age of 4 or 5 years cannot distinguish between television programming and advertisements, and children age 8 and under are unable to comprehend the persuasive intent and biased nature of advertising, making advertising to young children fundamentally unfair: Now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly*, That the Legislature of the State of California memorializes the Congress and the President of the United States to require the Federal Trade Commission to (1) develop and implement nutrition standards for foods and beverages that are acceptable to advertise or market to children, including foods and beverages that make a positive contribution to children's diets and health by being moderate in portion size, calories, saturated fat, trans fat, refined sugars, and sodium, and provide key nutrients and (2) prohibit advertising and marketing of foods and beverages that do not meet those standards through broadcast, print, Internet, or other marketing venues for which a significant portion of the audience is children; and be it further

*Resolved*, That the Legislature memorializes the Congress and the President of the United States to require the Federal Communications Commission to ensure that equal time is given during television programs that have a significant youth audience to encourage fruit and vegetable consumption and physical activity, and discourage consumption of low nutrient foods and beverages. These messages must be produced and delivered by individuals and organizations that have no financial interest in the message; and be it further

*Resolved*, That the Legislature memorializes the Congress and the President of the United States to fund new and existing media campaigns to promote healthy eating and physical activity, such as the Centers for Disease Control and Prevention's VERB campaign and the National 5 A Day program; and be it further

*Resolved*, That the Legislature memorializes the Centers for Disease Control and Prevention and the National Institutes of Health to fund research studies to further assess the effects of food and beverage advertising and marketing on the diets and health of children and adolescents; and be it further

*Resolved*, That the Legislature calls on food and beverage companies, restaurants, retail

stores, advertising agencies, sports and entertainment industries, and print, broadcast, and Web-based media operating in California to adhere to a voluntary code of practice, developed by experts, that would contain guidelines and standards for responsible food and beverage advertising and marketing aimed at children; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and each Senator and Representative from California in Congress.

POM-518. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii relative to property in the Waikane Valley, Hawaii; to the Committee on Armed Services.

SENATE CONCURRENT RESOLUTION NO. 212

Whereas, Waikane Valley contains undeveloped land in the ahupuaa of Waikane on Oahu's windward side; and

Whereas, 33 years ago, the United States Marine Corps obtained 187 acres in Waikane Valley, commonly referred to as the "Waikane Training Area," for military jungle and live ordnance training; and

Whereas, the United States Marine Corps has announced its intention to close the Waikane Training Area, but as recently as last year, the United States Marine Corps has sought to use Waikane Valley for more military jungle training; and

Whereas, ironically, Waikane Valley was abandoned as a training site by the United States Marine Corps because of safety concerns over the use of high explosive anti-tank and bazooka rounds used in the past and the insufficient data to determine the exact number of ammunition rounds fired in the valley; and

Whereas, the United States Marine Corps originally obtained the right to use the Waikane Training Area by a lease from the McCandless Estate and Waiahole Water Company in 1953 and subsequently by a lease from the same parties and the heirs of John Kamaka; and

Whereas, the Kamaka heirs acquired title to the Waikane Training Area by quitclaim deed in June of 1972 and terminated the lease with the United States Marine Corps in 1976; and

Whereas, between 1976 and 1993, the United States Marine Corps conducted several investigations and ordnance removal efforts on the property and concluded that the Waikane Training Area could never be certified as being clear of ordnance; and

Whereas, the United States Navy and Marine Corps acquired title to the Waikane Training Area in 1993 by condemnation as a means to address the problem of not being able to fulfill their lease obligations to return the property to the Kamaka heirs in an ordnance-free and safe condition; and

Whereas, land in Hawaii, and particularly agricultural and conservation land, is Hawaii's most precious and limited resource; and

Whereas, Waikane Valley has served historically as important agricultural area for the island of Oahu and contains precious archaeological and historic sites; and

Whereas, regardless of the 1993 condemnation, members of the Waikane community believe that the United States Marine Corps should live up to their commitment of cleaning up the land, and they have expressed their desire to have the Waikane Training Area restored to a condition that will permit them to return to the aina and engage in farming and other agricultural activities that would be appropriate based on the condition of the remediated property; and

Whereas, the federal government and military have previously demonstrated their will and capacity to honor their obligations to remediate and restore other equally or more severely contaminated installations upon closure under the Formerly Used Defense Site Program, Defense Environmental Restoration Program, Installation Restoration Program, other Department of Defense initiatives and programs, and with special appropriations from Congress; and

Whereas, the current official position of United States Department of Defense is that no ordnance-contaminated site can ever be certified as being clear of unexploded ordnance; and

Whereas, based on the inability to certify the Waikane Training Area as being clear of unexploded ordnance, the United States Navy and Marine Corps are considering permanent closure of the property to the general public by erecting a security fence around the area; and

Whereas, the permanent closure of the Waikane Training Area would be a devastating loss of precious agricultural, historical, cultural, and natural resources to Hawaii; and

Whereas, with sufficient funding from existing restoration programs or special appropriations from Congress, or both, the United States Navy and Marine Corps have the means to clean-up the Waikane Training Area to a condition that is reasonably safe for certain restricted uses, provided long-term monitoring and guidelines are established: Now, therefore, be it

*Resolved by the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, the House of Representatives concurring*, That the federal government is requested to conduct a thorough evaluation of the condition of the Waikane Training Area, particularly with regard to environmental and ordnance-related hazards that exist on the property; and be it further

*Resolved*, That the federal government is requested to plan for and conduct as thorough a clean-up of the Waikane Training Area as is technologically possible, including the remediation or removal of all environmental hazards and contamination and removal of all practice and live ordnance; and be it further

*Resolved*, That the federal government is requested to conduct a post-clean-up environmental assessment of the Waikane Training Area evaluating the potential risks to human health and safety, for the purpose of determining the types of uses and activities that could appropriately be conducted on the property with minimal risk to potential users and the community at large; and be it further

*Resolved*, That the federal government is requested to return the Waikane Training Area to the State of Hawaii upon completion of the clean-up; and be it further

*Resolved*, That the federal government is requested to appropriate sufficient funds to plan for, implement, and complete the rehabilitation and transfer of the Waikane Training Area; and be it further

*Resolved*, That the members of Hawaii's congressional delegation are requested to assist in seeking and obtaining the relief sought above; and be it further

*Resolved*, That certified copies of this Concurrent Resolution be transmitted to President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, members of Hawaii's congressional delegation, the Commandant of the Marine Corps, and the Secretary of the Navy.

POM-519. A resolution adopted by the House of Representatives of the General As-

sembly of the Commonwealth of Pennsylvania relative to passage of the defense appropriations bill; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 114

Whereas, the security of our nation and people is the first and foremost obligation of the Federal Government; and

Whereas, the men and women of our armed forces serving in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, National Guard and Reserves have shown great courage and self-sacrifice and deserve to be equipped with the best weapons and resources to protect our nation; and

Whereas, in past years politicians have delayed passing the defense appropriations bill until late in the budget year so that the defense appropriations bill was misused as a dumping ground for pork-barrel spending and as a political hostage to pork-barrel spending in other appropriations bills; and

Whereas, in the wake of the terrorist attacks on September 11, 2001, the President has asked that the Congress of the United States pass the defense appropriations bill before passing other spending bills; and

Whereas, Congress acted responsibly in Fiscal Years 2002 and 2003 when it passed the defense appropriations bill first, protecting the men and women of our armed forces from becoming political pawns for politicians' spending maneuvers: Therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania commend Congress for making our nation's defense its first priority in Fiscal Years 2002 and 2003 and request Congressmen and Senators from Pennsylvania to continue this policy by passing defense appropriations legislation before all other spending bills in 2004 and in the future; and be it further

*Resolved*, That copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM-520. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Congressional Medal of Honor; to the Committee on Armed Services.

Whereas, United States Army and Department of Defense officials are reviewing a recommendation to upgrade Major Winters' Distinguished Service Cross to the Congressional Medal of Honor; and

Whereas, Major Winters was originally nominated for the Medal of Honor by Colonel Robert F. Sink, commander of the 506th Regiment, for heroic actions on June 6, 1944, during the Allied invasion of Normandy, France, as 1st Lieutenant, Acting Commanding Officer of E Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, VII Corps; and

Whereas, Major Winters' extraordinary planning, fighting and commanding on that day 60 years ago in Nazi-occupied Normandy during his regiment's first combat operation saved countless lives and expedited the Allied inland advance; and

Whereas, with his company outnumbered by German soldiers, Major Winters destroyed German guns at Brecourt Manor and secured causeways for troops coming off Utah Beach; and

Whereas, Major Winters' battle plan for a small-unit assault on German artillery has been taught at the United States Military Academy at West Point; and

Whereas, Major Winters accomplished a hazardous mission with valor, inspired his service colleagues through example and effectively organized his company into support and assault teams on the day of invasion in the campaign for European liberation during World War II: Therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to award the Congressional Medal of Honor to Major Richard D. Winters without further delay; and be it further

*Resolved*, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-521. A joint resolution adopted by the Legislature of the State of California relative to the regulation of financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

#### SENATE JOINT RESOLUTION NO. 20

Whereas, the Senate and Assembly Banking Committees of the California Legislature have held an informational hearing on the doctrine of federal preemption of state laws and the impact on California and its financial regulators; and

Whereas, the California Constitution provides that an administrative agency of the state has no authority to declare a state law unenforceable unless an appellate court determines that the statute is prohibited by federal laws or regulations; and

Whereas, there are two areas where tension exists between federal and state law in the fields of regulation of financial institutions, which are the areas relating to the jurisdiction over the operating subsidiaries of national banks and consumer protection; and

Whereas, operating subsidiaries of national banks engage in various financial services such as mortgages, insurance, and securities-brokerage services that are beyond the scope of the business of banking as originally conceived in the National Bank Act of 1864; and

Whereas, operating subsidiaries of national banks are creatures of state law, not federal law, and are incorporated under state law and in the past have applied for licenses from state regulatory authorities to operate within California; and

Whereas, in August of 2001, and in January of 2004, the Office of the Comptroller of the Currency (OCC) promulgated a regulation that effectively stated that the OCC was the exclusive regulator of national banks and their operating subsidiaries and this regulation placed the OCC on a collision course with California regulators of financial institutions; and

Whereas, the OCC has appeared as amicus curiae in several recent federal court cases opposing consumer protection legislation that has been passed by the California Legislature, on the basis that the legislation interfered with the power of national banks and their operating subsidiaries to engage in the business of banking; and

Whereas, there has been a clear, consistent, and premeditated effort by the federal government, specifically on the part of the OCC, to exercise jurisdiction in financial regulation matters that were previously the jurisdictional domain of the states, and the exercise of the jurisdiction has been assisted by a complacent United States Congress and deferential court system; and

Whereas, certain interpretations of law by the OCC and the Office of Thrift Supervision have prevented the application of state consumer protections to federally-chartered financial institutions, and frustrate the efforts of state regulators and legislators to extend these protections to all citizens; Now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California, recognizing that the authority to resolve these issues rests with the federal courts and the United States Congress, respectfully requests that the United States Congress disapprove the rule submitted by the Office of Comptroller

of the Currency relating to bank activities and regulations published at 69 Federal Register 1895 (January 13, 2004), so the rule will have no force or effect, and if necessary, consider legislation that will prevent the unilateral expansion of jurisdiction over financial institutions by federal regulators without the specific endorsement of the elected representatives of the United States Congress; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States, to the Office of the Comptroller of the Currency, and to the Office of Thrift Supervision.

POM-522. A resolution adopted by the General Assembly of the State of New Jersey relative to federal Section 8 funding; to the Committee on Baking, Housing, and Urban Affairs.

#### ASSEMBLY RESOLUTION NO. 185

Whereas, since established in 1974, the Section 8 housing assistance program has been an integral part of one of our nation's most important social goals, that of providing housing opportunities for low-income families, the elderly and the disabled; and

Whereas, today, the Section 8 housing voucher program is the principal federal housing assistance program for low-income household, helping 2 million families across the country to secure modest, decent housing in the private housing market; and

Whereas, the 2005 federal budget proposes to reduce Section 8 voucher funding by \$1 billion below the 2004 level, and also proposes radical changes in the program's structure that would leave Section 8 vulnerable to further reductions in federal funding over time; and

Whereas, in 2005, the proposed cuts could reduce the number of families currently assisted nationwide by 250,000, and the funding currently projected by this Administration could eventually reduce the number of vouchers by 600,000 in 2009; and

Whereas, in New Jersey alone, the existing 64,160 Section 8 housing vouchers could be reduced by 7,780 in 2005, and by 18,660 in 2009; and

Whereas, given these circumstances, it is fitting and proper for this House to respectfully urge Congress and President George W. Bush not to reduce funding for the Section 8 program, as thousands of families in New Jersey and nationwide depend on Section 8 in order to secure affordable housing and avoid homelessness; Now, therefore, be it

*Resolved by the General Assembly of the State of New Jersey*:

1. This House urges Congress and President George W. Bush to fully fund the Section 8 housing voucher program, in recognition of the integral part this program plays in providing decent and affordable housing for thousands of our nation's low-income families, the elderly and the disabled.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall 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 Majority and Minority Leaders of the United States Senate and House of Representatives, and every member of the New Jersey Congressional Delegation.

This Assembly resolution urges Congress and President George W. Bush to fully fund the Section 8 housing assistance program.

The proposed 2005 federal budget reduces funding for this program by \$1 billion below 2004 levels. According to the Center on Budget and Policy Priorities and housing advocates across the country, this reduction could lead to a decrease of 250,000 vouchers

from the current 2 million in use nationwide. Furthermore, the budget proposes a transformation of the Section 8 program from a so-called "unit-based" to a "dollar-based" funding system, which would leave the program vulnerable to further reductions in federal funding over the years. It is estimated that these changes could further reduce the number of vouchers nationwide by 30% in 2009, a reduction of 600,000 vouchers below 2004 levels.

In New Jersey alone, the 2005 cuts could reduce the current 64,160 vouchers by 7,780, and further reductions could lead to an 18,660 decrease in 2009.

POM-523. A concurrent resolution adopted by the Legislature of the State of Michigan relative to the dredging of canals around the city of Gibraltar; to the Committee on Commerce, Science, and Transportation.

#### SENATE CONCURRENT RESOLUTION NO. 41

Whereas, the city of Gibraltar in Wayne County is a unique community, with more than five miles of canals bisecting the city and its four islands of residences. These public transportation routes include access to public and private facilities, including boat ramps and marinas. Thousands of people use the canals each year; and

Whereas, with no dredging of the Gibraltar canals since the late 1950s, the use of the canals is today significantly threatened by the buildup of sediment throughout the system. Boating traffic is hampered by the buildup. The task of dealing with the Gibraltar canals is made more complex by the results of testing that has identified contamination in the sediment. This fact will greatly increase the costs of dredging and disposal of the sediment; and

Whereas, the costs of dredging the canals is far beyond the resources available within the community of Gibraltar, and the canals are available to and used by many more people than residents of Gibraltar. This work clearly needs to be completed. The Gibraltar canals are notable components of the Detroit River system, and maintaining the quality of the canals is work that is strongly related to the quality of this vital part of our water transportation network. It is essential that necessary resources be directed to this task: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That we memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-524. A resolution adopted by the General Assembly of the State of New Jersey relative to competition in the cable television industry; to the Committee on Commerce, Science, and Transportation.

#### ASSEMBLY RESOLUTION NO. 156

Whereas, cable television is an important source of state and local news, public affairs programming, emergency information and other broadcast services critical to an informed and safe electorate; and

Whereas, the cable television industry has become highly concentrated in New Jersey with most areas having only one cable service provider and such concentration can be a barrier to entry for new programmers resulting in fewer choices of programming for New Jersey consumers; and

Whereas, the rates for cable service in New Jersey have increased by over 60 percent

since 1996 according to the New Jersey Board of Public Utilities and none of this increase is attributable to State legislation or regulation; and

Whereas, cable television companies are allowed to construct and maintain cables, conduits, poles, and other equipment upon, under or over highways and other public places and are permitted to use utility easements on private property; and

Whereas, there are significant societal benefits, especially the freedom of speech, in having multiple providers of programming services because a cable television provider controls much of the programming available to its subscribers; and

Whereas, competition in the cable television industry will encourage the availability of a wider array of ideas and information, better rates, and improved services for New Jersey consumers; and

Whereas, it is in the public interest to further competition in the cable television industry in New Jersey in order to promote the availability of diverse views and information, to ensure cable service providers expand their capacity and program offerings, to ensure cable service providers do not have undue market power or undue influence over the distribution of information and to protect the best interests of consumer: Now, therefore, be it

*Resolved by the General Assembly of the State of New Jersey:*

1. The General Assembly urges the President and Congress of the United States to allow the states to require that cable television companies shall not receive consent to operate in their municipalities or franchise territories, at issuance or renewal of that consent, until a cable television company has:

a. certified that there is another cable television company operating in the municipality; or

b. designated channels for commercial use as set forth in 47 U.S.C. s.532 and has leased two-thirds or more of the channels required to be set aside to persons unaffiliated with the cable television company; or

c. implemented an open video system in accordance with 47 U.S.C. s.573, where "open video system" means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming which is provided to multiple subscribers within a community and which has been certified by the Federal Communications Commission as being in compliance with Part 76 "Multichannel Video and Cable Television Service" of Title 47 of the Code of Federal Regulations.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested to by the Clerk thereof, shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives, and to each member of Congress elected from this State.

This Assembly resolution urges the President and Congress of the United States to allow the states to require that cable television companies shall not receive consent to operate in their municipalities or franchise territories at issuance or renewal of that consent until a cable television company has: certified that there is another cable television company operating in the municipality or territory; or designated channels for commercial use as set forth in 47 U.S.C. s.532 and has leased two-thirds or more of the channels required to be set aside to persons unaffiliated with the cable television company; or implemented an open video system in accordance with 47 U.S.C. s.573.

The leased commercial access provisions of 47 U.S.C. s.532 require a television cable company to designate channel capacity for commercial use by persons unaffiliated with the cable television company. Smaller companies must designate 10 percent of their channel capacity and larger companies must designate 15 percent of their channel capacity. Channels designated for public, educational, or governmental use may not satisfy the requirement for leased commercial access channels. If the designated channels are not leased, the television cable company may continue to use them for its own programming. Consumers do not receive a separate charge for the programming on leased commercial access channels. An example of leased commercial access channel use would be an "informercial" channel.

In an open access video system, as established in 47 U.S.C. s.573, the operator of an open video system is released from certain federal regulatory burdens in exchange for opening up one-third of its activated channel capacity to bidding by those who wish to contract for carriage of specific video programming on an open video system. Consumers would have the choice to receive and pay for this specific video programming.

The states' ability to regulate these aspects of the cable television industry will lead to greater competition and will encourage the availability of a wider array of ideas and information, better rates, and improved services for New Jersey consumers.

POM-525. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the Marshall Islands Nuclear Claims Tribunal; to the Committee on Energy and Natural Resources.

Whereas, fifty years ago on March 1, 1954, at 6:45 a.m., the United States of America tested the "Bravo" hydrogen bomb on Bikini Atoll in the Republic of the Marshall Islands, resulting in an explosion that is now acknowledged as by far the most destructive nuclear detonation ever; and

Whereas, scientists involved in the test known as "Bravo" have maintained that they expected a yield equivalent to five megatons; and

Whereas, the "Bravo" bomb actually yielded 15 megatons, or a thousand times more powerful than the Hiroshima bomb; and

Whereas, while U.S. servicemen on Rongerik Atoll were evacuated within hours of the blast, Marshallese residents of Utrik and Rongelap, all within the hazardous range of the explosion, were left on their contaminated islands for at least a day longer, resulting in their exposure to significant radiation; and

Whereas, the men, women, and children of these atolls were already suffering burns and loss of hair at the time of their removal from their homes; and

Whereas, 23 crewmembers of the Japanese fishing boat, Lucky Dragon, were also exposed to severe radiation from Bravo; and

Whereas, a total of 67 nuclear tests were conducted in Bikini and Enewetak between 1946 and 1958, exposing the people of the Marshall Islands to severe health problems and genetic anomalies during the tests and for generations to come; and

Whereas, if one were to calculate the net yield of all the tests conducted in the Marshall Islands, it would be equivalent to the detonation of 1.7 Hiroshima bombs every day for 12 years; and

Whereas, Enewetak Atoll served as ground zero for 43 tests including the first-ever hydrogen device, resulting in the loss of eight percent of their land, and even after a massive cleanup program by the United States, the Marshallese have no safe access to more than 57 percent of their land; and

Whereas, the people of Enewetak were exiled from their home for more than 33 years

in spite of assurances from U.S. officials that they would be repatriated in three to five years after their original removal in 1946; and

Whereas, similar promises made to Bikini residents forced the surrender of their land supposedly for the "betterment of mankind"; and

Whereas, on advice from the United States, the people of Bikini were repatriated in 1967 only to be evacuated seven years later when high levels of radionuclides were discovered in their bodies; and

Whereas, the people of Rongelap and Utrik were returned prematurely to their atolls and received additional exposure, causing many to believe that they were used to study the effects of radiation on human being as contemplated in the Atomic Energy Commission's now infamous Project 4.1; and

Whereas, recently declassified information contains strong indications that human experimentation using the people of the exposed atolls was indeed part of the nuclear testing program in the Marshall Islands; and

Whereas, in its Compact of Free Association (Compact), the United States of America accepts the responsibility for compensation owing to the citizens of the Marshall Islands . . . for loss or damage to property and person . . . resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946 and August 18, 1959"; and

Whereas, the pertinent provisions of the Compact were negotiated based on limited and misleading information provided by the United States Government to the Marshallese representatives, a fact exposed only recently in material declassified by the United States and acknowledged by their officials; and

Whereas, the funds provided under the Compact agreement are grossly inadequate to provide for health care and environmental monitoring, personal injury claims, or land and property damage; and

Whereas, the "changed circumstances" provision of section 177 of the Compact provides that if the agreement on nuclear matters is manifestly inadequate to meet the technological and financial requirements anticipated during the negotiations, or if new information emerges which renders those agreements insufficient for the purpose of concluding full and just compensation, the Congress of the United States would consider a request for proper compensation; and

Whereas, the Government of the Marshall Islands submitted such a petition on September 11, 2000; and

Whereas, just compensation and continued funding for promised medical and health programs for survivors of the atomic tests depend upon Congress' favorable consideration of this petition; and

Whereas, over the past 15 years Hawaii has provided medical, educational, and other supportive services to lawful nonimmigrants from the Republic of the Marshall Islands, without reimbursement from the United States: Now, therefore, be it

*Resolved by the Senate of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2004, the House of Representatives concurring.* That the United States Congress is respectfully requested to take appropriate measures to provide for the compensation of awards including property damage claims, to the fullest extent, as determined by the Marshall Islands Nuclear Claims Tribunal, and to provide for the costs of cleaning up nuclear sites in the Marshall Islands; and be it further

*Resolved.* That the Legislature expresses deep regret for the nuclear testing legacy which the people of the Marshall Islands

have inherited, and hereby requests the Governor to declare March 1 as a Day of Remembrance for the survivors of the United States nuclear tests in the Marshall Islands; and be it further

*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, Governor of Hawaii, Speaker of the Marshall Islands Nitijela, and Mayor of Bikini Atoll.

POM-526. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to gasoline types; to the Committee on Environment and Public Works.

#### HOUSE RESOLUTION NO. 272

Whereas, while there are many factors that are contributing to the recent swift rise in pump prices for gasoline, a significant element is the number of gasoline types refineries must produce to meet environmental standards of various metropolitan regions across the country. Over the years, federal mandates to improve air quality in areas with problems have resulted in a complicated patchwork of fuel requirements. The Large number of fuels is also the result of the strategies individual states have developed to meet federal standards; and

Whereas, while the goals of cleaner air are important challenges that must be met, it seems inefficient on many levels for refineries to have to develop, produce, and deliver so many different types of gasoline. In the Midwest alone, at least seven types of fuel must be made. The impact of these requirements is to raise costs, delay production, disrupt distribution, and reduce the supply. These problems, as Michigan has learned all too well, become far more severe when any unforeseen events, such as a gasoline pipeline accident or a refinery fire, take place; and

Whereas, although the ultimate goal of a single gasoline type for the entire country at any given time may not be attainable because of the enormous variations in geographical and climatic conditions across America, requiring the country to sharply reduce the number of gasoline types can bring great benefits. In addition, using cleaner fuels may enhance air quality not only in ozone nonattainment areas, but everywhere: Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to review the issue of the number of gasoline types refined across the country and to enact legislation that will sharply reduce the number of gasoline types required to meet local environmental standards; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-527. A joint resolution adopted by the General Assembly of the State of Rhode Island relative to the Medicare Prescription Drug, Improvement and Modernization Act of 2003; to the Committee on Finance.

#### JOINT RESOLUTION

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) will result in significant savings for only a minority of beneficiaries with extremely large drug bills and may cost some beneficiaries more in premiums, deductibles and co-pays than they will get back in benefits; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003

(MMA) provides no substantive drug benefits until 2006 other than a discount card that will provide minimal discounts on prescription drugs for most beneficiaries; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) creates a "doughnut hole" by suspending coverage for drug costs between \$2,250 and \$5,100 a year; and

Whereas, the average beneficiary is projected to spend \$3,155 on drugs when the program starts, placing many of them within this large gap in prescription drug coverage caused by the "doughnut hole"; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) specifically prohibits the federal government from directly negotiating with drug manufacturers to obtain lower prices for covered drugs; and

Whereas, low-income Medicaid beneficiaries will lose protections and benefits they currently enjoy under Medicaid and will be subject to higher co-payments and lose any wrap-around coverage under Medicaid; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires non-Medicaid eligible low-income beneficiaries to be subject to a rigorous assets test; and

Whereas, while states are being relieved of their responsibility of offering drug coverage to "dual eligibles," they will be required to reimburse the federal government for a significant percent of the cost of drug benefits for these beneficiaries and states will also lose this group in their own negotiating pool for Medicaid drugs; and

Whereas, the deductible beneficiaries pay for drug coverage will be indexed to growth in aggregate Part D (prescription drug) expenditures; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) reduces home health reimbursement rates by an estimated \$6.5 billion over 10 years and these lower reimbursement rates threaten beneficiaries' access to critical home health services: Now, therefore be it

*Resolved*, That this General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully urges the United States Congress to amend the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) to address the serious gaps and issues raised in this resolution including: eliminating the prohibition on the federal government negotiating lower prices for drugs, narrowing the gap in the "doughnut hole," liberalizing the restrictive asset test for persons with low incomes, changing the index for beneficiary contributions from drug price inflation to the consumer price index for beneficiary contributions from drug price inflation to the consumer price index, and restoring scheduled reductions in home care reimbursement; and be it further

*Resolved*, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the Honorable George W. Bush, President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Rhode Island Congressional Delegation

POM 528. A resolution adopted by the House of Representatives of the General Assembly of the State of Rhode Island relative to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; to the Committee on Finance.

#### HOUSE RESOLUTION

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003

(MMA) will result in significant savings for only a minority of beneficiaries with extremely large drug bills and may cost some beneficiaries more in premiums, deductibles and co-pays than they will get back in benefits; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) provides no substantive drug benefits until 2006 other than a discount card that will provide minimal discounts on prescription drugs for most beneficiaries; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) creates a "doughnut hole" by suspending coverage for drug costs between \$2,250 and \$5,100 a year; and

Whereas, the average beneficiary is projected to spend \$3,155 on drugs when the program starts, placing many of them within this large gap in prescription drug coverage caused by the "doughnut hole"; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) specifically prohibits the federal government from directly negotiating with drug manufacturers to obtain lower prices for covered drugs; and

Whereas, low-income Medicaid beneficiaries will lose protections and benefits they currently enjoy under Medicaid and will be subject to higher co-payments and lose any wrap-around coverage under Medicaid; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires non-Medicaid eligible low-income beneficiaries to be subject to a rigorous asset test; and

Whereas, while states are being relieved of their responsibility of offering drug coverage to "dual eligibles," they will be required to reimburse the federal government for a significant percent of the cost of drug benefits for these beneficiaries and states will also lose this group in their own negotiating pool for Medicaid drugs; and

Whereas, the deductible beneficiaries pay for drug coverage will be indexed to growth in aggregate Part D (prescription drug) expenditures; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) reduces home health reimbursement rates by an estimated \$6.5 billion over 10 years and these lower reimbursement rates threaten beneficiaries' access to critical home health services: Now, and therefore be it

*Resolved*, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby respectfully urges the United States Congress to amend the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) to address the serious gaps and issues raised in this resolution including: eliminating the prohibition on the federal government negotiating lower prices for drugs, narrowing the gap in the "doughnut hole", liberalizing the restrictive asset test for persons with low incomes, changing the index for beneficiary contributions from drug price inflation to the consumer price index, and restoring scheduled reductions in home care reimbursement; and be it further

*Resolved*, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the Honorable George W. Bush, President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Rhode Island Congressional Delegation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2550. A bill to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States (Rept. No. 108-386).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy (Rept. No. 108-387).

S. 2526. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program (Rept. No. 108-388).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2605. A bill to direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes (Rept. No. 108-389).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 423. A bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities (Rept. No. 108-390).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 2940. An original bill to amend the Older Americans Act of 1965 to assist States in preventing, detecting, treating, intervening in, and responding to elder abuse, neglect, and exploitation, and for other purposes (Rept. No. 108-391).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 2391. To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.

By Mr. JOHNSON, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1379. A bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2302. A bill to improve access to physicians in medically underserved areas.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2668. A bill for the relief of Griselda Lopez Negrete.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER from the Committee on Armed Services.

\*Francis J. Harvey, of California, to be Secretary of the Army.

\*Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy.

Air Force nominations beginning Brig. Gen. David A. Brubaker and ending Colonel Stephen M. Sischo, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Army nomination of Maj. Gen. Raymond T. Odierno.

Army nominations beginning Colonel Rodney O. Anderson and ending Colonel James C. Yarbrough, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Navy nomination of Capt. Edward T. Reidy III.

Navy nomination of Capt. Gregory A. Timberlake.

Navy nomination of Capt. Edward H. Deets III.

Navy nomination of Rear Adm. (1h) Andrew M. Singer.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning Lauren F. \*Aase and ending Susan E. \*Young, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Julia A. Adams and ending Janet L. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination of Graeme J. Boyett.

Navy nominations beginning Blaine E. Mowrey and ending Victoria A. Yoder, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Navy nominations beginning Jerris L. Bennett and ending Jesse J. Zimbauer, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

\*Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development.

By Mr. HATCH for the Committee on the Judiciary.

Robert Cramer Balfe III, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. DURBIN:

S. 2910. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food intended for human consumption, improving research on contami-

nants leading to food-borne illness, and improving security of food from intentional contamination; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM of Florida:

S. 2911. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare competitive acquisition programs for certain items and services; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 2912. A bill to award grants for the support of full-service community schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2913. A bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MIKULSKI:

S. 2914. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2915. A bill to reauthorize programs under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) through September 30, 2005; to the Committee on Small Business and Entrepreneurship.

By Mr. CORNYN (for himself, Mr. SCHUMER, and Mr. SPECTER):

S. 2916. A bill to combat unlawful commercial sex activities by targeting demand, to protect children from being exploited by such activities, to prohibit the operation of sex tours, to assist State and local governments to enforce laws dealing with commercial sex activities, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWBACK (for himself and Mr. MCCAIN):

S. 2917. A bill to amend the National Aeronautics and Space Act of 1958 to establish a centennial challenge program and establish a National Aeronautics and Space Foundation; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLEN:

S. 2918. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from an individual retirement plan, a section 401(k) plan, or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. DASCHLE):

S. 2919. A bill to amend the Internal Revenue Code of 1986 to provide funding for Indian tribal prison facilities, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN:

S. 2920. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel; to the Committee on Finance.

By Mr. CORNYN (for himself, Mr. BREAUX, Mrs. FEINSTEIN, Mrs. HUTCHISON, and Mr. SESSIONS):

S. 2921. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN:

S. 2922. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood