

him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) **ADDITIONAL DEATH GRATUITY.**—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e) of title 10, United States Code, as added by section 1013(b) of Public Law 109–13, the eligible survivors of such decedent shall receive an additional death gratuity in the same amount and under the same conditions as provided under such section 1478(e).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 27, 2005, at 9:30 a.m., in open session to receive testimony on needed improvements to defense acquisition processes and organizations.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 27 at 10 a.m.

The purpose of this hearing is to receive testimony on S. 1701, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines; and S. 961, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to preauthorize and reform the abandoned mine reclamation program and for other purposes.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 27, 2005, at 9:30 a.m. to hold a hearing on nominations.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 27, 2005 at 2:30 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, September 27, 2005, at 2:30 p.m. for a hearing regarding “Housing-Related Programs for the Poor: Can We Be Sure That Federal Assistance Is Getting to Those Who Need It Most?”

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Tuesday, September 27, 2005, at 2:30 p.m. to hold a hearing on energy supplies in Eurasia and implications for U.S. energy security.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Tuesday, September 27, 2005 at 10 a.m. for a hearing entitled, “Alternative Personnel Systems: Assessing Progress in the Federal Government.”

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

PRIVILEGE OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jay Apperson for the duration of the debate on the nomination of Judge Roberts.

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

Mr. SESSIONS. I ask unanimous consent that my chief counsel on the Judiciary Committee, William Smith, be granted the privilege of the floor.

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

EXTENDING WAIVER AUTHORITY OF THE SECRETARY OF EDUCATION

Mr. COBURN. Mr. President, I ask unanimous consent that the HELP Committee be discharged and the Senate proceed to the immediate consideration of H.R. 2132.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2132) to extend the waiver authority of the Secretary of Education with respect to student financial assistance dur-

ing a war or other military operation or national emergency.

There being no objection, the Senate proceeded to consider the bill.

Mr. COBURN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 2132) was read the third time and passed.

POSTAGE STAMP FOR BREAST CANCER RESEARCH

Mr. COBURN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 221, S. 37.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 37) to extend the special postage stamp for breast cancer research for 2 years.

There being no objection, Senate proceeded to consider the bill.

Mr. COBURN. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 37) was read the third time and passed, as follows:

S. 37

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

SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(h) of title 39, United States Code, is amended by striking “2005” and inserting “2007”.

MEASURE PLACED ON THE CALENDAR—S. 1771

Mr. COBURN. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1771) to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

Mr. COBURN. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar under rule XIV.

DISCHARGE AND REFERRAL—H.R. 2107

Mr. COBURN. Mr. President, I ask unanimous consent that H.R. 2107 be

discharged from the Committee on the Judiciary and that it be referred to the Committee on Energy and Natural Resources.

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

ORDERS FOR WEDNESDAY,
SEPTEMBER 28, 2005

Mr. COBURN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, September 28; I further ask that following the morning prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to executive session to continue consideration of Calendar No. 317, John Roberts to be Chief Justice of the United States; I further ask consent that the time from 10 to 11 be under the control of the majority leader or his designee; the time from 11 to 12 be under the control of the Democratic leader or his designee; 12 to 1 under the majority control; 1 to 2 under Democratic control; 2 to 3 under majority control; 3 to 4 under Democratic control; 4 to 5 under majority control; 5 to 6 under Democratic control; 6 to 7 under majority control; 7 to 8 under Democratic control.

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

PROGRAM

Mr. COBURN. Mr. President, this week the Senate has been considering the nomination of Judge Roberts. Tomorrow we will continue making statements on this important nomination, with the vote on Mr. Roberts' nomination occurring at 11:30 a.m. Thursday. The majority leader is asking that all Senators be seated at their desk for this historic vote. As a reminder, the leader has announced that the Senate will turn to the Defense appropriations bill on Thursday, and votes are expected on Thursday and Friday of this week. The Senate will also need to act on a continuing resolution before the close of business this week.

ORDER FOR ADJOURNMENT

Mr. COBURN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the 60 minutes allocation of time for the other side which begins at 6:45 and that the Senate now resume executive session.

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

Mr. DURBIN. Mr. President, may I inquire, are we in a quorum call?

The PRESIDING OFFICER. We are in morning business.

Mr. DURBIN. May I inquire of the Chair, it is my understanding that the

remaining 60 minutes in executive session on Judge Roberts is allocated to the minority?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Could the Chair tell me when that 60-minute period begins?

The PRESIDING OFFICER. It begins at 6:45 p.m.

Mr. DURBIN. Until 6:45, if no other Senators are seeking recognition, may I speak in morning business?

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

Mr. DURBIN. I thank the Chair.

NOMINATION OF JOHN ROBERTS
TO BE CHIEF JUSTICE

Mr. DURBIN. Mr. President, the Senate is considering the nomination of John G. Roberts, Jr. to be Chief Justice of the United States. This is a rare occurrence, rare for us to even consider a Supreme Court vacancy, let alone a Chief Justice. I have been honored to be a member of the Senate Judiciary Committee and have spent the week before last, a major part of it, in hearings where Judge Roberts came and testified. They were historic in nature. I am surprised, as I go back home to Illinois, how many people followed them and listened, either over the radio or watched them on television, and followed the questions and answers so closely.

It has been a very difficult process for many. I can't think of a more challenging assignment than to try to measure a person and try to decide how a person will react to certain questions and challenges over the rest of their natural lifetime. But that is our responsibility. Filling this vacancy on the Supreme Court means choosing a person of Judge Roberts' age, for example, who could serve for 20 or 30 years. That is the reality of this decision-making process.

The greatest compliment one can pay a judge is not that he is smart or has great intelligence. The greatest compliment one can pay a judge is that he is wise, that in his work on the bench, he has shown the wisdom of Solomon.

In the Scriptures, Solomon was often described as the wisest man who ever lived. But in chapter 3 of First Book of Kings, we learn what Solomon wanted even more than wisdom. It is written:

In Gibeon, the Lord appeared to Solomon in a dream at night, and God said, "Ask what you wish me to give you." Then Solomon said, "So give your servant an understanding heart to judge your people, to discern between good and evil. For who is able to judge this great people of yours?"

Many questions were asked of John Roberts at his hearings. If there was any effort to determine whether he had a great legal mind or great intelligence, he certainly satisfied every question. But then if you look at the questions more carefully, more closely, you will find we were asking even more fundamental questions of John Roberts. We were asking and trying to de-

termine not his knowledge but his wisdom, whether he had, as Solomon wished, an understanding heart.

Some have argued that it is unfair for any Senator to raise that kind of a question. Senator LINDSEY GRAHAM of South Carolina is my friend. He said it was not fair to get into this whole line of questioning about what is in your heart. I disagree. I believe we are not being fair to the American people if we don't understand the values of people who serve on the Supreme Court, if we don't strive to understand their philosophies, and if we don't try to put ourselves inside the mind and heart of someone we are entrusting with a lifetime position to serve on the highest Court in the United States.

In 1991, at his confirmation hearing, Justice Souter said that judges must understand that since they are people who have the power to "affect the lives of other people and who are going to change their lives by what they do, we had better use every power of our minds and our hearts and our beings to get these rulings right."

Justice Breyer in 1994 said:

That is why I always think that law requires both a heart and a head. If you do not have a heart, it becomes a sterile set of rules removed from human problems and will not help. If you do not have a head, there is a risk that in trying to decide a particular person's problem in a case that may look fine for that person, but cause trouble for a lot of other people, making their lives worse. So it is a question of balance.

I asked John Roberts if he could meet the test that my mentor and predecessor, Illinois Senator Paul Simon, brought to the Judiciary Committee questioning years ago. Senator Simon asked of the judicial nominees: Is this nominee committed to expanding the freedom enjoyed by all Americans, or will he or she restrict it? I also asked Judge Roberts whether he had the courage of Frank Johnson, an Alabama Federal judge and a Republican appointee who stood up for civil rights in the 1960s at a time and place when it was very unpopular to do so. What did we learn? Regrettably, we learned very little about Judge Roberts during the 20 hours of testimony.

Senator FEINSTEIN and Senator BIDEN asked an important line of questions that I followed carefully. They asked of Judge Roberts what he would do, not as a judge, not as a lawyer, but as a father in a family circumstance where someone you love has left instructions to you that at the closing moments of their life, they do not want any extraordinary life support. This happens thousands of times every day. Families face this decision, and it is an important decision, not just on a personal and emotional basis but on the basis of our right of privacy in America. In the Terry Schiavo case—that tragedy in Florida—this sad woman was on a support system for some 15 years, if I am not mistaken. The case went through the courts year after year, and finally, when all the appeals in Florida had been exhausted, there was an effort