

GRENADA NATIONAL MUSEUM BILL, 2017

EXPLANATORY NOTES

This Bill seeks to establish the Grenada National Museum as a body corporate with a Board to manage and preserve the National Collection of objects, records and other historical and cultural material that provide evidence of the history of the people of Grenada, Carriacou and Petite Martinique. This Bill contains 5 parts and 24 clauses.

Part I provides for the preliminary provisions, and contains **Clauses 1 and 2**.

Clause 1 provides for the short title and **Clause 2** provides for interpretation provisions and the definitions of terms used in the Act for which this is the Bill.

Part II provides for the establishment of the National Museum as a body corporate and statutory body, and contains **Clauses 3 to 11**.

Clause 3 provides for establishment the National Museum and **Clause 4** provides for the functions of the National Museum as an entity.

Clause 5 provides for the Governor-General to vest a legal interest in real property to the National Museum by Order subject to affirmative resolution.

Clause 6 provides for the establishment of a Board to manage the National Museum. **Clauses 7 and 8** provide respectively for the functions and powers of the Board.

Clauses 9 and 10 provide respectively for the appointment of a Director of the National Museum by the Minister with responsibility for Culture and the appointment of a Secretary of the National Museum by the Board.

Clause 11 provides for the composition and expertise of individuals who should compose the Board.

Part III provides for the financial provisions of the National Museum in accordance with the *Public Finance Management Act, 2015*, and contains **Clauses 12 to 20**.

Clauses 12, 13 and 14 provide for the assets of the National Museum, the manner in which funds of the National Museum must be kept and the manner in which the funds must be used.

Clause 15 provides for the National Museum to borrow money in a manner that is consistent with the *Public Finance Management Act, 2015*.

Clause 16 provides for the National Museum to keep proper accounts which must be audited, in accordance with the *Public Finance Management Act, 2015*.

Clause 17 provides generally for the application of Part XII of the *Public Finance Management Act, 2015*, and that, in the event of any conflict, the Part shall prevail over any provision of the Act.

Clauses 18 and 19 provide for the National Museum to be exempted from stamp duties, import duties and other charges by Government.

Clause 20 provides for the National Museum to prepare and submit to the Minister with responsibility for Culture an annual budget and quarterly reports. The Minister is empowered to give policy directions to the Board in respect of the performance of the National Museum.

Part IV provides for the ownership and management of antiquities before the antiquities are taken into custody by the National Museum, and contains **Clauses 21 and 22**.

Clause 21 provides for the ownerships and rights of the State in respect of every artefact in the State of Grenada. The Government is entitled to exercise a right over any artefact in Grenada immediately upon commencement of the Act for which this is the Bill. A person who resists the Government's exercise of such a right commits a summary offence, punishable by a fine of \$10,000.00. However, in the case of an artefact discovered after the commencement of the Act, the Government has ownership of the artefact and excavation or removal of the artefact would constitute a summary offence under **Clause 22 (3)** punishable by a fine of \$10,000. **Clause 21** also provides for the Minister with responsibility for Culture to waive Government's rights over an artefact, including ownership of the artefact.

Clause 22 primarily provides for the procedure for mandatory reporting of discovery of antiquities, which includes artefacts, and prohibition of excavation or removal of any antiquity after the commencement of the Act for which this is the Bill.

Part V provides for the miscellaneous provisions, and contains **Clauses 23 and 24**. **Clause 23** provides for the Minister with responsibility for Culture to make regulations to effect the provisions of the Act for which this is the Bill. **Clause 24** provides for the repeal of the National Heritage Protection Act Chapter 204.

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Cajeton A. K. Hood
ATTORNEY GENERAL

GRENADA NATIONAL MUSEUM BILL, 2017

ARRANGEMENT OF CLAUSES

PART I PRELIMINARY

1. Short title
2. Interpretation

PART II ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NATIONAL MUSEUM

3. Establishment of National Museum
4. Functions of the National Museum
5. Vesting of property
6. Establishment of the Board
7. Functions of the Board
8. Powers of the Board
9. Director of the National Museum
10. Secretary of the National Museum
11. Qualifications of the Board

PART III FINANCIAL PROVISIONS

12. Funds and resources of the National Museum
13. Fund deposited to General Account
14. Application of funds
15. Borrowing power
16. Accounts and audit
17. Application of Public Finance Management Act
18. Exemption from stamp duty and other charges
19. Exemption from import duties
20. Reporting to and directions by Minister

PART IV ANTIQUITIES

21. Ownership by Government
22. Discovery of antiquities

PART V
MISCELLANEOUS PROVISIONS

- 23. Regulations
- 24. Repeal

SCHEDULE - **CONSTITUTION AND PROCEDURE OF THE BOARD**

NATIONAL MUSEUM BILL, 2017

GRENADA

ACT NO. OF 2017

AN ACT for the purpose of establishing the Grenada National Museum, to provide for preservation of the National Collection of artefacts, specimens and other historical and cultural material and for matters incidental thereto.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives, and by the authority of same as follows—

**PART I
PRELIMINARY**

Short title

1. This Act may be cited as the

GRENADA NATIONAL MUSEUM ACT, 2017.

Interpretation

2. In this Act—

“antiquity” means—

- (a) an artefact; or
- (b) a place, building, site or structure erected, formed or built by human agency which is at least fifty years old and the ruins or remains of any such place, building, site or structure, whether or not the same has been modified, added to or restored at any time;

“artefact” means—

- (a) a movable object made, shaped, painted, carved, inscribed, or otherwise created, manufactured, produced, used or modified by human agency which is at least fifty years old, whether or not it has been modified, added to or restored at any time; or
- (b) fossil remains or impressions;

“Board” means the Board of the National Museum established under section 6;

“Chairperson” means the Chairperson of the Board;

“Director” means the Director of the National Museum appointed in accordance with section 9;

“historical and cultural material” means material in whatever form, pertaining to the “historical, geological, biological, cultural or artistic heritage” of Grenada;

“Minister” means the Minister with responsibility for cultural preservation;

“monument” means a place, building, site or structure, which the Minister considers to be of public interest by reason of its historical, anthropological, archaeological or palaeontological significance;

“National Collection” means the national collection of objects, records and other historical and cultural material that provide evidence of the history of the people of Grenada, Carriacou and Petite Martinique, and is in the sole ownership of the National Museum;

“National Museum” means the Grenada National Museum established by section 3;

“records” means papers, documents, records, registers, printed materials, books, maps, plans, drawings, photographs, microfilms, digital disks, cinematograph films, audio and video recordings of any kind whatsoever;

“Secretary” means the Secretary of the National Museum appointed by virtue of section 10;

“specimen” means an animal or plant or part of an animal or plant preserved for scientific use.

PART II

ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NATIONAL MUSEUM

Establishment of National Museum

3. (1) There is hereby established a body corporate, to be called the Grenada National Museum.

- (2) The National Museum—
- (a) shall have perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name;
 - (c) may acquire, hold and dispose of movable and immovable property in accordance with section 5; and
 - (d) may do all other things necessary for or incidental to the purposes for which it is constituted or established, unless such or any other written law expressly otherwise provides.
- (3) The design of the seal of the National Museum shall be as determined by the National Museum.
- (4) The seal of the National Museum shall be kept in such custody as the National Museum directs and shall not be used except as authorised by the National Museum.
- (5) All persons acting judicially shall take judicial notice of the seal of the National Museum and shall presume that the seal was duly affixed.
- (6) Where there is a requirement for a document to be executed by the National Museum, affixation of the seal of the National Museum by the National Museum shall constitute due execution of the document.

Functions of the National Museum

4. (1) The functions of the National Museum shall be—
- (a) to establish, operate, administer and oversee museums in the State of Grenada;
 - (b) to secure, receive, preserve, hold and display specimens, artefacts, and other materials that illustrate the natural or human history of Grenada;
 - (c) to maintain and provide access to the National Collection in accordance with the National Collections Policy;
 - (d) to increase and communicate knowledge of the natural and human history of Grenada by research, exhibits, publications and other means;
 - (e) to serve as an educational organisation;

- (f) to develop exhibits that are of interest to the public;
- (g) to perform all other functions usually performed by a museum.

(2) Without prejudice to subsection (1), the National Museum may secure, receive, preserve, hold and display records and archival materials, that the Director determines to be enduring national or historical value or both.

Vesting of property

5. (1) The Governor-General may from time to time by Order, subject to affirmative resolution, vest real property in the National Museum so as to enable it to carry out its functions under this Act.

(2) All property transferred to or vested in the National Museum, under this Act or however otherwise acquired by the National Museum, shall be held in trust for the State of Grenada.

Establishment of the Board

6. There shall be a Board of the National Museum in which management, control and administration of the National Museum shall be vested.

Functions of the Board

7. (1) The Board shall make policy directives for the manner in which the functions of the National Museum are to be performed.

(2) Without limiting the generality of subsection (1), this shall include policy directives for the following—

- (a) establishment of a National Collections Policy and all other policies required for the facilitation of the operations of the National Museum;
- (b) research and excavation of historical and cultural material relevant to the national collection;
- (c) collection and dissemination of information relating to the national collection, and to the museum and its functions;
- (d) delivery, receipt, declassification, withdrawal, disposal, review of and access to public records;
- (e) exhibiting Grenada's historical and cultural material in Grenada and abroad; and
- (f) proper keeping and control of the finances of the National Museum.

Powers of the Board

8. (1) Subject to this Act, the Board has power to do all things that are necessary to enable it to perform its functions.

(2) Without limiting the generality of subsection (1), the powers of the Board shall include—

- (a) controlling and superintending the property of the National Museum;
- (b) establishing committees of the Board to assist the Board;
- (c) forming one or more bodies corporate to further the purposes of the National Museum;
- (d) receiving on behalf of the National Museum gifts, grants or other moneys;
- (e) acquiring or accept historical and cultural material, on loan or as a gift;
- (f) purchasing or taking on hire, or accepting as a gift or loan, and disposing of or otherwise dealing with furnishing, equipment and other goods.

(3) All acts and things done in the name of, or on behalf of, the Board by the members shall be deemed to have been done by the Board.

(4) The provisions of the Schedule shall have effect with respect to the Constitution of the Board and otherwise in relation thereto.

Director of the National Museum

9. (1) There shall be a Director of the National Museum who shall be appointed by the Minister on such terms and conditions (including salaries, allowances and other remuneration) as the Minister may determine.

(2) The Director shall, subject to the directions of and in accordance with the policies determined by the Board, be responsible generally for the management of the affairs of the National Museum.

(3) Without prejudice to the generality of subsection (2), the Director shall supervise and direct the work of the National Museum, the administrative and other staff of the National Museum and also perform such other functions as may from time to time be assigned to him or her by the Board.

Secretary of the National Museum

10. The Board may appoint a suitably qualified person to be Secretary on such terms and conditions as it thinks fit.

Qualifications of the Board

11. Members of the Board shall be selected based on the following expertise—

- (a) technical or scholarly expertise relevant to the collection and interpretation of historical, natural and cultural material;
- (b) public law, company law or intellectual property law;
- (c) qualifications or adequate knowledge in history, the natural sciences, pedagogy or heritage management;
- (d) technical knowledge in the field of the visual and performing arts;
- (e) qualifications in accounting or marketing and fundraising experience;
or
- (f) qualifications or experience relating to the functions, operations and management of museums, archives and analogous institutions.

PART III FINANCIAL PROVISIONS

Funds and resources of the National Museum

12. The funds and resources of the National Museum shall consist of—

- (a) money allocated by Parliament and such amounts as the Government may advance from general revenues by way of subvention or otherwise;
- (b) property vested in or granted to the National Museum;
- (c) funds and donations given by way of gifts, grant or otherwise, in accordance with section 62 of the Public Finance Management Act;
- (d) funds accruing from operations;
- (e) sums borrowed from time to time for the purpose of meeting any of its obligations or discharging any of its functions; and

- (f) all other sums or property which may be payable or vested in the Museum in respect of any matter incidental to its powers and duties.

Fund deposited to General Account

13. (1) All funds received by the National Museum shall be deposited into an account (to be known as “the General Account”) to be maintained by the National Museum with such bank or banks as the Board may determine.

(2) The National Museum shall keep in respect of the General Account, two separate accounts—

- (a) an account to be known as “the General Current Account” in which shall be recorded all deposits into and withdrawals from the General Account for applications towards defraying current expenses; and
- (b) an account to be known as “the General Capital Account” in which shall be recorded all deposits into and withdrawals from the General Account for applications towards defraying capital expenses.

(3) The accounts of the National Museum shall be maintained in accordance with the generally accepted accounting principles.

Application of funds

14. Funds may be applied in defraying the following expenses—

- (a) acquisition and care of historical and cultural material for the National Collection;
- (b) the remuneration, fees and allowances of members of the Board or of any committee of the National Museum, as required;
- (c) the salaries, fees, remuneration and gratuities of its officers, agents and servants, and technical and other advisers, where appropriate;
- (d) maintenance, upgrading and protection of the property belonging to the National Museum;
- (e) attendance of members of the Board or the appropriate members of staff at conferences, seminars, training programmes that may benefit museum operations; and
- (f) any other expenditure authorised by the Board and properly chargeable to the revenue account.

Borrowing power

15. (1) Subject to subsection (2), the National Museum may borrow money for the purpose of discharging any of its functions and for meeting any of its obligations under this Act.

(2) The power of the National Museum to borrow shall be exercisable only with the approval of the Minister and the Minister with responsibility for Finance in accordance with the Public Finance Management Act as to the amount, as to the source of the borrowing, and as to the terms on which the borrowing is to be effected.

(3) The Minister with responsibility for Finance may, after approval by resolution of the House of Representatives, advance for the use of the National Museum out of the Consolidated Fund such sums as may be required for the performance of its functions under this Act or any other Act.

(4) The National Museum shall make to the Accountant-General, at such times and in such manner as the Minister with responsibility for Finance may direct, payments of such amounts as may be so directed in or towards—

- (a) repayments of such amounts as have been advanced under subsection (3); and
- (b) payments of interest on what is outstanding for the time being (in respect of any sums so advanced) at such rates as the Minister with responsibility for finance may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

Accounts and audit

16. (1) The National Museum shall, in accordance with section 74 of the Public Finance Management Act—

- (a) keep proper books of accounts in such form which would conform to generally accepted accounting standards;
- (b) record its transactions to the satisfaction of the Minister; and
- (c) prepare and retain financial statements in respect of each financial year,

and, in accordance with section 74 of the Public Finance Management Act, submit the annual financial accounts to the Director of Audit.

(2) Not later than three months after receipt of the financial statements and annual report from the National Museum, the Director of Audit shall audit the financial statements in accordance with the Audit Act, Chapter 22A.

(3) Without delay after the completion of his or her audit of the National Museum, the Director of Audit shall submit a copy of his or her report together with the financial statements and annual report to the Minister with responsibility for finance, the Minister and the National Museum.

(4) The Director of Audit is entitled, on being required by the Minister or the Minister with responsibility for Finance, to carry out at any time an investigation into, or special audit of, the accounts of the National Museum in accordance with section 76 of the Public Finance Management Act.

Application of Public Finance Management Act

17. (1) In this Part, “**Public Finance Management Act**” means the Public Finance Management Act No. 17 of 2015.

(2) Part XII of the Public Finance Management Act shall apply to the National Museum and, this Act shall be read in conformity with Part XII of the Public Finance Management Act.

Exemption from stamp duty and other charges

18. Notwithstanding the provisions of any law providing for the registration of documents or the payment of stamp duty, no certificate, receipt, instrument, or other document issued by the National Museum shall be subject to stamp duty, registration fee for charges of a similar nature, nor shall the National Museum be liable for the payment of any search or inspection fee in any registration office.

Exemption from import duties

19. Notwithstanding the provisions of any law providing for the payment of customs duties, all equipment, software, advertising and promotional material, stationery and ticket supplies imported by the National Museum for the conduct of its activities shall not be liable to customs duty.

Reporting to and directions by Minister

20. (1) Without prejudice to sections 71 and 72 of the Public Finance Management Act, the Board shall, no later than four months before the beginning of the financial year, prepare an annual budget that shall be submitted to the Minister for approval.

(2) Without prejudice to section 72 of the Public Finance Management Act, the Board shall submit quarterly reports to the Minister, no later than fourteen days after the beginning of the following quarter.

(3) The Minister may, in consultation with the Chairperson, give to the Board, directions of a general nature as to the policy to be followed in the performance of its functions and in relation to matters appearing to the Minister to be of public interest and the Board shall give effect to directions by the Minister.

PART IV ANTIQUITIES

Ownership by Government

21. (1) The Government shall have a right over every artefact in the State of Grenada and no person shall seek to exercise any right over any artefact, if the Minister, on the behalf of Government, makes a request in writing to the person for the surrender of any artefact in his or her possession.

(2) A person who refuses or fails to surrender an artefact that has been requested in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars, unless the artefact is the subject of a disclaimer under subsection (4).

(3) The ownership of every artefact in the State of Grenada, is vested in the Government and shall be subject to section 22, unless—

- (a) the artefact was discovered before the commencement of this Act; or
- (b) the artefact is the subject matter of a disclaimer under subsection (4).

(4) The Minister may, on behalf of the Government, disclaim in writing the ownership of and rights over an artefact, and upon such written disclaimer—

- (a) the ownership of the Government in the artefact shall be extinguished; and
- (b) the ownership of the artefact shall vest in the person who, but for the enactment of this Act, would otherwise have been the owner of the artefact.

Discovery of antiquities

22. (1) Any person who discovers, or knows of the discovery of an antiquity shall forthwith—

- (a) report the discovery to the Director, or to a designated person; and
- (b) take all reasonable measures to protect it.

(2) A person who makes a report under subsection (1) shall, if so requested by the Director or the designated person, identify the antiquity and its exact location.

(3) A person, other than the Minister and a designated person authorised by the Minister, who—

(a) excavates or searches for antiquity;

(b) removes any undiscovered artefact from a monument or collects any object which he or she supposes to be an artefact from the site of discovery, otherwise than for the purpose of protecting the same,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) The Minister, after consultation with the Board, may award to a person who makes a report under subsection (1) such sum by way of a reward as the Minister thinks fit.

(5) Where a report under subsection (1) is made to a designated person, that person receiving the report shall, forthwith and in writing, inform the Director of the report.

(6) Subject to subsection (7), the Director, on the advice of the Minister, and any designated person authorised by the Director in writing, may enter upon and inspect the site of the discovery of an artefact.

(7) The Director, or a designated person, shall not enter any premises in the exercise of powers conferred under subsection (6) without first notifying the owner or occupier of the premises of the intention to do so, unless the Minister considers it necessary to dispense with the notification.

PART V MISCELLANEOUS PROVISIONS

Regulations

23. (1) The Minister may, in consultation with the Board, make regulations for the carrying out of the provisions of the Act.

(2) Without prejudice to the generality of subsection (2), the Minister may, in consultation with the Board, make regulations—

(a) regulating the conduct of excavations and searches for antiquities;

- (b) providing for the preservation, conservation, restoration, analysis, documentation and presentation of antiquities;
 - (c) providing for the management and control of antiquities and monuments;
 - (d) providing for the prohibition and control of access to excavations, monuments and sites, and for the payment, restriction and regulation of entrance fees thereto;
 - (e) providing for the establishment, operation and administration of the National Museum;
 - (f) providing for the regulation of the entry of persons onto or into any relevant area that is owned by or under the control of the National Museum;
 - (g) prescribing the fees for entering any relevant area that is vested in or under the control of the National Museum, including charges or additional charges that relate to special exhibitions or other special events;
 - (h) providing for the restriction or regulation of the making, using, printing, publishing, exhibiting, selling or offering for sale of replicas, photographs, representations or copies of material in the ownership or possession of the National Museum;
 - (i) for the purpose of giving effect to the objects of this Act, prohibiting conduct in relation to antiquities and specimen and prescribing appropriate fines not exceeding one thousand dollars for contravention; and
 - (j) anything necessary or convenient for carrying out or giving effect to this Act.
- (2) No regulations made under this Act shall—
- (a) prohibit or restrict access to a monument of the owner or lawful occupier of the monument or of any person beneficially interested therein, or of any person authorised by the owner, occupier or person beneficially interested; or
 - (b) confer upon a person any right which he or she would not otherwise have had to enter upon private land.

Repeal

24. The National Heritage Protection Act, Chapter 204 is hereby repealed.

SCHEDULE

CONSTITUTION AND PROCEDURE OF THE BOARD

(section 8 (9))

1. (1) Subject to the provisions of this paragraph, the Board may regulate its own procedure.
- (2) The Board may make arrangements for any of its functions, other than the power to acquire or dispose of land, to be discharged by committees.
- (3) Any such committee shall be appointed, and may be dissolved, by the Board.
- (4) A committee may include as members, persons who are not trustees, but at least one of the members must be a trustee.
- (5) A committee shall act in accordance with such directions as the Board may give from time to time.
- (6) Anything done by a committee under the arrangements shall, if the arrangements so provide, have effect as if done by the Board.
2. (1) The Board shall consists of nine members of whom—
 - (a) one shall be the Director of the National Museum *ex officio*;
 - (b) one shall be a representative of the Ministry with responsibility for Culture;
 - (c) one shall be a representative of the Grenada National Trust appointed by the Minister;
 - (d) one shall be a representative of the Grenada Cultural Foundation appointed by the Minister; and
 - (e) five shall be appointed by the Minister after consultation with the Director, academia, civil society and other relevant bodies or associations from which the Minister considers that such members should be selected.

(2) In exercise of his or her powers of appointment under this paragraph, the Minister shall ensure that, after the initial constitution of the Board, the members of the Board shall not consist entirely of persons previously appointed to membership of the Board at the same time.

3. A member of the Board other than the persons referred to in paragraph 1 (1) (a) to (f) shall hold office for a period not exceeding three years, and shall be eligible for re-appointment.

4. The Minister shall appoint a Chairperson and a Deputy Chairperson from amongst the persons appointed pursuant to subsection (2).

5. (1) Any member of the Board, other than the Chairperson, may at anytime resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairperson, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(2) The Chairperson may at any time resign his or her office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

6. The Minister may at any time revoke the appointment of any member of the Board.

7. If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

8. The names of all members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*.

9. All documents, other than those required to be under seal, made by, and all decisions of, the Board may be signified under the hands of the Chairperson, or any other member authorised to act in that behalf, and the Secretary.

10. (1) The Board shall meet at least once every three months and at such other times as may be necessary or expedient for transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The Chairperson shall preside at all meetings of the Board at which he or she is present and, in the case of the absence of the Chairperson and Deputy Chairperson from any meeting, the members present and constituting a quorum shall elect a Chairperson from among their number to preside at that meeting.

(3) A quorum of the Board shall consist of five members.

(4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote the Chairperson or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(5) Minutes in proper form of each meeting of the Board shall be kept by the Secretary of the Board and a copy of the minutes of every meeting shall be submitted to the Minister as soon as possible thereafter.

11. There shall be paid from the funds of the National Museum to the Chairperson, other members of the Board and members of any committee such remuneration, if any, whether by way of honorarium, salary or fees such allowances, if any, as the Minister may determine.

Passed by the House of Representatives this day of , 2017.

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Clerk to the House of Representatives.

Passed by the Senate this day of , 2017.

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Clerk to the Senate.