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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, March 29, 2004, at 12:30 p.m.

Senate

FRIDAY, MARCH 26, 2004

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Lord, You are our strong shelter and hiding place. We praise You for Your love and Your wisdom. You are too wise to ever make a mistake, too loving to ever do anything unkind. When we are unfaithful, eternal God, You remain faithful. Our times are in Your hands.

Thank You that though human beings plan, You have the final word about what happens to our world. Forgive us when we lack the patience to wait for the unfolding of Your powerful providence. Help us to comprehend clearly the road You desire us to travel.

Bless our Senators as they lean upon Your wisdom. Give them the courage to choose the harder right and accomplish those things that will unite rather than divide. Keep them from falling and prepare them to stand before You with great joy.

We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business to allow Senators to make statements. No rollcall votes will occur today. I do not anticipate a lengthy session of the Senate today. As a reminder, we will begin the welfare reauthorization bill on Monday, and I will be laying out Monday's schedule at the close of today's business. But I would also remind Members that any votes ordered on Monday will be delayed to occur on Tuesday.

OBESITY

Mr. FRIST. Mr. President, I will be back a little later this morning, but I do want to take an opportunity, seeing our distinguished President pro tempore in the chair today, to comment on an issue I know he feels strongly about as well as I, and that is the issue of physical activity and nutrition and the growing obesity epidemic in the United States.

It is an issue that has, thank goodness, received increasing attention over the last several weeks and months; that is, obesity, the epidemic now in the United States, and its very direct impact on one's overall health, whether it is quality of life or how long one lives.

Despite tremendous gains in public health in this country and, indeed,

around the world, America remains the most overweight country on the globe. Indeed, it is taking its toll in a way that people are only now beginning to realize. But thank goodness they are.

In fact, earlier this year, the CDC, Centers for Disease Control and Prevention, released data showing that lack of physical activity and poor nutrition are the second leading causes of death in the United States of America. That is second only to smoking. In fact, if recent trends continue, obesity can soon overtake smoking as the leading cause of death in the United States. Looking at the recent trends, it is very likely that, indeed, will be the case.

The good news about that, and I would also say about smoking—although smoking is such a powerful addiction, it has been shown to be such a challenge—but the good news about the obesity epidemic we are seeing is, through education and a change in lifestyle alone we can prevent this epidemic from occurring. We can prevent this killing.

The trend has been over the last 30 years. It is one of these problems that has been around. We have always had obesity for whole different reasons. But for new reasons—lack of activity, poor nutrition, promotion of poor nutrition—we have had this trend of obesity skyrocketing over a 30-year period. I am very hopeful that by doing our part in the Senate, as elected representatives, as leaders, through the hearing process, through education, through serving as direct examples, we can help turn this tide and again reverse it over the next several years.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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The CDC, the American College of Sports Medicine, and the U.S. Surgeon General have come together to recommend that, for adults, 30 minutes of moderate-intensity activity 5 or more days a week will actually stabilize and reverse the trends we have seen. It is clear that additional physical activity will have even increased benefits on the part of the body that I specialized on, the heart, but also chronic diseases such as diabetes, probably some cancers, clearly lung disease as well. Again, if we can all concentrate on that 30 minutes.

In terms of weight gain, it is not clear yet. We can't accurately predict and say this is how much exercise you need to do to prevent weight gain or reverse weight gain because it is such an individual matter. But we all know physical activity plays a very prominent role in reversing weight gain. It is an important aspect of weight control. It helps promote caloric balance. It helps promote general well-being. In fact, it also helps control appetite.

I mention all this, and I am delighted you will see a lot of Senators and staff members wearing one of these little pedometers. I happen to have one on now. I am a little embarrassed to open up and read how many steps I have taken today. As of 9:30 this morning I have only taken 625 steps. That is too little because by the end of the day I need to have taken a recommended 8,000 or 10,000 steps.

In fact, yesterday I only took about 4,500 steps. So I need to reach my goal of 8,000 to 10,000 over the course of the day. What it does cause me to do is at least think about, instead of taking the elevator right outside the doors, to walk up those two flights of steps, or instead of riding in a car a block or two blocks or three blocks, go ahead and walk on the beautiful day that we have outside. The feedback one gets really helps you think, and then hopefully gives you sort of secondary reinforcement to incorporate that into your lifestyle.

The daily step goals can vary. What I encourage people to do is wear these little inexpensive pedometers. All they do is measure your steps. They do that fairly accurately. People's steps are different lengths, but they give you a way to monitor the activity you do each day, but then also how much you can improve by altering your lifestyle just a little bit. That feedback is very important in terms of changing lifestyle.

During last week—and we will see how long it lasts; I hope it will be for a while—all of my staff have gone out and gotten these little, tiny plastic devices which they are wearing. This week we are going to be measuring our baselines to see where we are, and then we will see in the future how much improvement there is. In fact, later today we will all go out and take a little jog around The Mall. All of us will try bringing our counts up. We try to do a lot within our own Senate community.

I encourage my colleagues to do the same. It is really a matter of raising awareness and changing our lifestyles, which will definitely improve health.

I thank the CDC Foundation and the America on the Move organization for supplying us with these devices. I should also mention for those of my colleagues and others who are listening today who wish to find out more about the pedometers and the importance of daily exercise, two Web sites. The one I highly recommend is the CDC Web site. I will give my colleagues both those addresses. The Web site for America on the Move is www.americaonthemove.org. The Web site for the CDC is www.cdc.gov.

You don't have to run. You can walk. You can use a pedometer doing that, and you can make great strides toward a healthier lifestyle.

A couple of key points:

The 30-minute minimum does not have to be done at one time in terms of the official recommendations. You can do it in three 10-minute intervals over the course of the day. You want to be walking at a fast enough intensity where it will make a difference enough to accelerate the heart rate modestly for each of those 10-minute periods.

Finally, I will close with the best part of all of this, which is that it is never too late. No matter what age you are, you can actually change your overall health status, your quality of life, and how long you live if you decide today to change your lifestyle. It will make a difference. It doesn't matter how old you are, how unfit your baseline is, or how inactive you are. Current research shows that starting a more active lifestyle through exercise can make you healthier and improve your quality of life.

That is my health tip for day. It is a little bit about what we do as physicians, as one who exercises regularly, and as one who believes it can make a difference. I know the distinguished occupant of the Chair, the distinguished President pro tempore, is a religious exerciser.

I wanted to make that very brief statement.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Who seeks recognition?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

POLITICIZATION OF THE NOMINATION PROCESS

Mr. DASCHLE. Mr. President, our Constitution has vested the Senate with the responsibility of advising and consenting on the President's nominations.

Throughout the full range of administration appointments—from top Cabinet officials, to Federal judges, to boards and commissions—the Senate's role is to speak for the American people and ensure the highest standards of public service are maintained throughout our Government.

We have exercised this oversight authority with extraordinary restraint. Democrats have sought to participate in the nomination process and work together with the administration and the majority in a bipartisan fashion to confirm public servants in the highest traditions of our Nation.

Regrettably, the administration has chosen to reject the course of bipartisanship, even though Democrats have tried to accommodate the President's goal of filling judicial vacancies. The Senate has confirmed a record 173 Federal judges, rejecting only 3.

These three judges were far outside the mainstream and had troubling records of judicial activism in service to extreme ideology. They were rejected for that reason.

In spite of the Senate's judgment, the President has chosen to take the unprecedented step of using recess appointments to bypass the Senate on two occasions. First, in order to appoint Charles Pickering to the Fifth Circuit Court of Appeals. And second, to appoint William Pryor to the Eleventh Circuit Court of Appeals.

At no point has a President ever used a recess appointment to install a rejected nominee on to the Federal bench. And there are intimations that there will be even more recess appointments in the coming months.

These actions not only poison the nomination process, but they strike at the heart of the principle of checks and balances that is one of the pillars of the American democracy.

This cannot continue. What is at stake here is not just a few nominations. What is at stake is the Senate's obligation to represent the American people and check unrestrained executive power.

This White House is insisting on a radical departure from historic and constitutional practices. They have broken the process and we want to fix it.

And we stand ready to fix it. I have spoken to the majority leader about my serious concerns.

Let us be clear: We will continue to cooperate in the confirmation of Federal judges, but only if the White

House gives us assurances that it will no longer abuse the process and that it will once again respect our Constitution's essential system of checks and balances.

Sadly, this is not the only area in which the administration has chosen to cast aside traditions of bipartisanship and cooperation.

One of the minority's less visible yet vital responsibilities is the naming of Democratic candidates to sit on government boards and commissions.

These boards span the entire range of government responsibilities, from engaging young people in community and national service, to overseeing financial markets, to supervising the security of America's nuclear facilities, to protecting Americans from illegal energy company price-gouging.

They may not get a lot of headlines, but the public servants who sit on these boards perform an extraordinary service to their Nation and have a direct influence on the security, prosperity, health, and well-being of the American people.

Once again, Democrats have tried to work in a bipartisan fashion. In the 108th congress alone, we have confirmed 419 of the President's non-judicial nominations.

Because of the importance of these boards, many have a statutory requirement of bipartisanship. Others have bipartisan participation by long-established practice.

Their purpose is not simply to serve one party or another, or the administration in power at the moment, but the entire Nation. In order to provide our Nation with responsible stewardship, these boards must resist political manipulation and partisan divisions.

For decades, the nomination and confirmation process has honored the unique and vital role of these boards and commissions. During the Clinton administration, for instance, Republican nominations were considered and approved, even when the nominees were outspoken opponents of administration policy.

The same was true during the administrations for Ronald Reagan and George H.W. Bush.

During the current administration, however, that standard has been cast aside. And a divisive form of political gamesmanship has been allowed to extend to the nomination process. Talented candidates are being prevented from serving their Nation. The views and communities they represent are not being heard. And the American people are losing out as a result.

Among the candidates rejected by the administration are potential nominees to the Commodity Futures Trading Commission, the Equal Employment Opportunity Commission, the Export-Import Bank, the Federal Energy Regulatory Commission, the Corporation for National and Community Service, and many more.

Let me give you a brief background on just a few of these rejected candidates.

For instance, Warren Stern. Early in 2003, Mr. Stern was recommended to serve in the Democratic position on the Defense Nuclear Facilities Board. Shortly afterward, he was rejected on the grounds that he did not have "enough scientific background."

The charge is absurd on its face. Mr. Stern has degrees in physics, nuclear engineering, and national security studies. He was selected as the State Department's Senior coordinator for Nuclear Safety, and he coordinates the work of the Department of Energy and the Nuclear Regulatory Commission in the field of international nuclear safety policy.

Last July, while his nomination was supposed to be under consideration at the White House, the State Department conferred upon him the Superior Honor Award, for "developing and implementing a diplomatic and technical strategy for the control of dangerous radioactive materials."

At a time when our intelligence community tells us that America's nuclear facilities are being targeted by terrorists, Mr. Stern brings an extraordinary range and depth of experience that will make America safer. But he is being denied the chance to serve for no reason.

Take Dr. Chon Noriega. Dr. Noriega was nominated in March of 2003 to the Corporation for Public Broadcasting. He was recommended because Democrats believe that Public Broadcasting can do much more to reach out to America's growing Hispanic community.

As the Nation's foremost academic authority on Hispanic media, Dr. Noriega is uniquely suited to help the Corporation for Public Broadcasting achieve this goal. Dr. Noriega is the Associate Director of UCLA's Chicano Studies Research Center and the author of eight books on the topic of Hispanic media.

America's Hispanic community could have no more passionate or effective advocate than Dr. Noriega. Yet the administration has once again refused to nominate a superbly qualified candidate, and the Nation's largest minority community has one less advocate as a result.

Finally, and perhaps most absurdly, is the administration's refusal to nominate Judge Patricia Wald to the Legal Services Corporation. Judge Wald served on the U.S. Circuit Court of Appeals for the District of Columbia for 20 years, the last 5 as its chief judge.

After her retirement from the circuit court, she was asked to serve as a judge on the International Criminal Tribunal for the Former Yugoslavia.

Judge Wald is a brilliant jurist, whose probity, integrity, and commitment to the American legal system are unassailable. So respected is she that just last month, President Bush asked her to sit on the commission investigating the collection and use of intelligence leading up to the Iraqi War.

If she can be trusted with the responsibility of restoring confidence in the

intelligence system on which America's security depends, surely she is qualified and trustworthy enough to help extend legal representation to Americans who cannot afford it.

Democrats have tried to work together with the administration to continue the bipartisan process of nominations, both for boards and for the Federal bench.

Repeatedly, we have asked the administration to conduct the nomination process in a bipartisan manner, and we have been denied.

The administration has crossed a line and it is time it pulls back. We can no longer stand by and watch this critical aspect of our responsibilities be undermined by the intrusion of partisan politics.

Whether it is a nomination to a board or a lifetime appointment to the Federal bench, we cannot allow the Senate's role to be disregarded.

Once we have confidence that the integrity of this process is restored, Democrats will be accommodating to the White House's nominations.

We hoped for a different result, but the administration has left us no choice. I ask my Republican colleagues to reach out to administration officials and urge them to return this process to its traditions of bipartisanship and cooperation.

I yield the floor.

The PRESIDENT pro tempore. The deputy Democratic leader is recognized.

Mr. REID. Before the Democratic leader leaves the floor, Mr. President, through you to the distinguished Senator from South Dakota, is it true we have approved 173 Federal judges during the time President Bush has been President?

Mr. DASCHLE. As of this day, March 26, I answer the Senator from Nevada, we have approved 173 judges and 419 nonjudicial nominations by this administration. I don't know whether the nontraditional nominations is some kind of record over 3 years, but we now know the judicial record of 173 has not been equaled.

So the answer is yes, we have cooperated as fully as any Congress has in accommodating an administration with regard to appointments it considers to be of value to the country. We are only asking for similar consideration of the nominations and a recognition of the importance of the constitutional process of advise and consent, which is why I expressed the concern this morning about the recess appointments of those judges who have not been confirmed in the Senate.

Mr. REID. I also ask, through the Chair to the distinguished Democratic leader, it is also true, is it not, that 173 judges have been approved; we have been, through your direction, very selective and turned down five, two of whom the President has done an unusual thing of making recess appointments. So right now, there are I believe three who have in effect been turned down.

Mr. DASCHLE. The Senator is correct. There have only been 3 out of 173 now that have not been given the authority to serve on the bench and, as I said, for good reason—either their unwillingness to cooperate with the nominating process or fulfill their obligation to provide information regarding their positions, or the fact that they have clearly demonstrated extreme positions on issues that fall way outside the mainstream of philosophical thinking and prevented their confirmation.

The Senator is correct: 173 is the accurate number today.

Mr. REID. Mr. President, I ask unanimous consent—and if I am out of line, the Chair in his capacity as the Senator from the State of Alaska can object—to speak for up to 15 minutes in morning business rather than 10.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ATTACKING THE MESSENGER

Mr. REID. Mr. President, when you cannot attack a man's ideas, attack the man. Sadly, that is what we have seen over the last few days in the case of Richard Clarke, a dedicated public servant.

Before this week, few Americans knew who Mr. Clarke was. But now, according to this morning's Washington Post, 9 out of 10 people in America know who Richard Clarke is.

Those who did know Mr. Clarke knew him as a person who has devoted his entire adult life to serving his country and keeping our country safe.

As a distinguished Senator, Bob Kerrey said yesterday—and he knows a thing or two about patriotism—Clarke did many things to keep this country safe, that none of us will ever know about. That is the nature of counterterrorism.

Mr. Clarke has served four Presidents—three Republicans and one Democrat. In fact, he called the first President Bush the best national security professional he had ever worked for. That goes to the very basic knowledge that President Bush, among his other assets, was also head of the Central Intelligence Agency.

Mr. Clarke worked in the State Department, and then led the counterterrorism effort in the White House for more than 10 years.

This is how important he was and how much confidence everyone had in his abilities: On the day of the tragedy of September 11, he was put in charge—I repeat, put in charge—of coordinating the White House response. Even today, after he retired from public service, Mr. Clarke continues to make a contribution to our national security.

Mr. Clarke has raised a few questions, important questions, such as: Was fighting terrorism a real priority for the Bush administration prior to September 11, or was it down the list of national security concerns, behind things such as missile defense?

According to an Associated Press story, President Bush's national security team met almost 100 times prior to September 11, but terrorism was the topic of only 2 of these sessions.

The next question: What actions were we taking to knock out Osama bin Laden and his henchmen, who had already successfully attacked several U.S. targets overseas?

Mr. Clarke says President Clinton was obsessed with this.

What were we doing in the first part of 2001, after President Clinton left office and was no longer there, obsessed in some way to get rid of Osama bin Laden? As you know, President Clinton ordered a missile launch in an attempt to get Osama bin Laden.

The next question deals with the Predators, unmanned aerial vehicles. These vehicles were developed 36 miles from Las Vegas in Indian Springs. These vehicles were and are an essential part of the weapons complex that is in Nevada. People do not realize that 40 percent of the airspace of this very large State of Nevada is restricted military airspace. One of the reasons is you can test the Predator, and what it can do and what it cannot do, because of the vast amount of airspace we have in Nevada. So I have a special interest in the Predator because of its basing in Nevada.

Question: Were we following Mr. Clarke's recommendations to utilize this tremendous tool more effectively in the fight against terror?

How much has the war in Iraq helped or hindered our war on terrorism?

Finally, one of the questions Richard Clarke asks: There were at least two of the September 11 hijackers in our country, if terrorism was a top priority, why weren't airport personnel on the lookout for these known terrorists?

These are questions Richard Clarke has asked, reasonable questions.

I refer to today's Washington Post, a front-page story, written by Mike Allen. Among other things, this newspaper article says—similar articles are being run all over America. After Clarke asked these questions, here is what Mike Allen said:

So this week, his aides—

President Bush's aides—

turned the full power of the executive branch on Richard A. Clarke, formerly the administration's top counterterrorism official, who charges in his new book that Bush responded lackadaisically in 2001 to repeated warnings on an impending terrorist attack.

When you cannot attack a man's ideas, or even his questions, you attack the man.

Allen goes on further to say:

They questioned the truthfulness of Clarke's claims, his competence as an employee, the motives behind the book's timing, and even the sincerity of the pleasant-ries in his resignation letter and [his] farewell photo session with Bush.

Just a few others things out of this long article:

James A. Thurber, director of the Center for Congressional and Presidential Studies of

American University, said he was stunned by the ferocity of the White House campaign [against] Clarke.

Thurber goes on also to say:

They are vulnerable, which is why they are attacking so hard. You have to go back to Vietnam or Watergate to get the same feel about the structure of argument coming out of the White House against Clarke's statements.

The article states:

A poll by the Pew Research Center for the People and the Press, conducted Monday through Wednesday, found significant public interest in Clarke's criticisms, with nearly nine in 10 . . . Americans surveyed saying they had heard of them [heard of his ideas]. Of those polled, 42 percent said they had heard "a lot" about his claims and 47 percent said they had heard "a little."

Ninety percent of the people in America are aware of what is going on with these ferocious attacks.

Are these legitimate questions? Is it a legitimate question to find out why the national security team met 100 times and only twice discussed terrorism? It is a legitimate question. It deserves a legitimate answer.

President Clinton was obsessed with taking out Osama bin Laden. Why wasn't the President of the United States, George W. Bush, obsessed with taking out Osama bin Laden? It is a valid question.

Why wasn't the Predator aircraft used to find and destroy Osama bin Laden and his operations? It is a question Richard Clarke raises. It deserves an answer.

Another question he raises—and America understands this; the people in Nevada understand this—how much has the war in Iraq helped or hindered the war on terrorism? That is a question that is running through the fiber of the American people.

Finally, Richard Clarke asks:

Why weren't we doing something to get rid of the terrorists who we already knew were here?

These are legitimate questions. I think there could be legitimate differences about the answers to these questions. We should be debating these issues and not whether Clarke's meeting with the President, when he left, was sincere, or attacking him personally about his not being a good employee. I do not think that is the right way to answer these questions.

When you cannot attack a man's ideas, you attack the man. That is wrong.

The questions that have been raised are legitimate, and they deserve answers. We should be debating these issues in a way that reflects the gravity and the seriousness of this challenge to our Nation. There is not a single one of these questions that has been asked that is not serious.

I think it is sad that, based on what we have seen in the past from this administration—I guess I should not be surprised. Any time this administration is faced with tough questions they do not want to answer, they respond by making personal attacks.

Here on the floor yesterday I talked about what they have tried to do to demonize and damage Senator TOM DASCHLE. He is the leader of the Democratic Senate. He has been the titular head of the Democratic Party, and there have been very personal attacks directed toward him, questioning his patriotism—a man who served in the U.S. military—attacking his family, attacking his religiosity—whether he is a proper member of his church. These are not proper responses.

Senator DASCHLE, as he did today, came to the floor and said he does not believe the White House is handling the nominations of statutory Democratic nominations; they are rejecting them, and they are rejecting them for no cause.

Why doesn't someone come and defend that, say we are rejecting all these 36 people because they are all bad people and not qualified? No, they are not willing to do that. They go after Senator DASCHLE. They did it to former Senator Max Cleland, one of the most courageous, inspirational, wonderful people I have ever met in my life.

Senator Cleland went to Vietnam, volunteered to go, a strapping man, 6 foot 4. You would never know it now because you never see him stand. He only has one leg. He has no arms. I am sorry. He has no legs, and he has one arm. For him to get dressed every morning is a 2-hour ordeal. A man with always a smile on his face, a man who, prior to his serious injury, was honored with the Silver Star in Vietnam for his gallantry. But that was not enough.

He was attacked personally for not being patriotic because he did not support the President's version of homeland security. With untold amounts of money, he was defeated in his reelection bid in Georgia.

He was the original cosponsor of the bill to create a Department of Homeland Security, long before President Bush supported such an idea. But this was not good enough. They attacked him, not his ideas.

When the President finally came around and agreed we needed a Department of Homeland Security, Mr. Cleland did not agree with him on all the details about how the employees should be classified. Fair enough. Debate the issues and discuss your differences. But this administration condoned campaign TV ads that compared Max Cleland, who lost three limbs, to Osama bin Laden and Saddam Hussein. Can you imagine that?

ZELL MILLER, my friend—I care a great deal about him—doesn't vote with us a lot on issues. He is a Democrat and has been his whole life. He doesn't vote with the Democrats as I think he should, but I respect his voting in a way that he believes is appropriate for his conscience. But ZELL MILLER, being the patriot he is and knowing the sacrifices Max Cleland has made for his country, said:

My friend Max deserves better than to be slandered like this.

Congratulations to ZELL MILLER. I have read his book, his second book. He has written one on the Marine Corps I have not read. I congratulate him. I have great respect for my friend ZELL MILLER. I appreciate very much his stepping out, doing his very best to protect and defend his friend Max Cleland. Every Member of the Senate agrees on this side of the aisle with what ZELL did.

Senator Cleland was not the only person. I talked about Senator DASCHLE. If you want to read an interesting book, read Paul O'Neill's "The Price of Loyalty." Paul O'Neill is one of America's great businessmen. He was chief executive officer of Alcoa Corporation.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator has used 15 minutes.

Mr. REID. I ask unanimous consent to speak for another 7½ minutes.

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

Mr. REID. No one would ever question his business acumen and his Republican Party credentials. He, as Secretary of the Treasury, didn't think the President conducted his office appropriately. He was asked to resign and left and wrote a book about his experiences in the White House as Secretary of the Treasury. Rather than trying to factually discount his book statements, they went after him. He questioned economic policies, foreign policy issues, and was denounced as a person who did not know what he was talking about or doing. It is a lot easier to attack a man personally than it is to defend the economic policies that have controlled our country. It is a lot easier to attack a man personally than it is to defend the economic policies that have contributed to the largest deficit in history, the worst record in jobs since Herbert Hoover. It is easier, but that doesn't mean it is right.

It wasn't right to leak the name of an undercover CIA agent because her husband said the President was mistaken about claiming Iraq had purchased uranium from Africa. Can you imagine that? An undercover CIA operative, someone who could be subject to be killed. Not only could that woman be subject to be harmed, but what about all the contacts she had. She was an undercover spy for America, and the White House, in an effort to disparage this man who disagreed with the administration on whether there was uranium that had come to Iraq from Africa, rather than questioning whether that was a fact, went after his wife.

It wasn't right to compare Senator Cleland to a murderer like Osama bin Laden, to attack Senator DASCHLE. These kinds of personal attacks are known as *ad hominem* arguments. That is Latin for "to the man." As a logical term, it means instead of refuting the point or argument being presented, you attack the person presenting it. In short, if you don't like the message, attack the messenger. Aristotle called *ad*

hominem arguments a fallacy of logic. They are the last recourse of those who can't debate an issue on its merits. The purpose of an *ad hominem* attack is to either convince your opponent to stop arguing or to convince the audience to stop listening. Sometimes it works, but it hasn't worked here. Nine out of every 10 Americans know of Richard Clarke's story. I don't think Richard Clarke is going to be intimidated.

I don't know him. To my knowledge, I have never spoken to him. I think the American people want an honest discussion of the questions this patriot is raising. This administration is attacking its critics. They are firing them, such as Larry Lindsey, or threatening to fire them, such as Mr. Foster, for telling the truth.

Larry Lindsey tried to tell the truth about how much the war was going to cost. He said it would cost \$100 billion. He got fired. But he was way short. Last year alone we appropriated over \$150 billion. General Shinseki, when he told the truth about how many troops we would need, got fired. It is a matter of record. Foster wanted last year to tell us how much Medicare would cost. He was told if he said a word, he would be fired, if he told the truth about the cost of Medicare.

This administration does not take questions well. It is too bad. In America we have a right to ask questions about what our Government is doing. Those questions deserve honest answers and debate, not threats and personal attacks.

I thank my colleagues. I am sorry they had to wait. I usually try not to speak very long. No one was here when I started. I certainly apologize for using more than my 10 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent to be allowed to speak for 15 minutes, and I may yield some time back.

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

MISSTATEMENTS ABOUT THE BUSH ADMINISTRATION

Mr. CORNYN. Mr. President, allow me to respond to some of the comments we have heard this morning, both from the minority leader and the minority whip. While it has been a rather broad attack on the administration on a number of different fronts, there are a couple of things I would like to direct my comments to by way of response.

I only wish that when we had differences of policy, we would confine our disagreements to policy and not make egregious errors of fact. While everybody has a right to their opinion, no one has a right to be wrong about the facts, or to misstate them in such a patently inaccurate way. My intention is to try to correct some of these misstatements that have been made by the minority leader, as well as the minority whip.

Really, they relate to two different areas. As I said, the attack has been rather broad and varied, but I have chosen to talk about the issue of nominations and the minority whip's comments with regard to Mr. Richard Clarke.

Let me first talk about Mr. Richard Clarke. I had the pleasure of meeting Mr. Clarke several years ago when I was attorney general of the State of Texas. We had him come down to the State and consult with us on the issue of cyber-terrorism, an area that most people in this country probably haven't thought a lot about but which is very important to our national security. Indeed, Mr. Clarke brought with him tremendous credentials in terms of his experience in counterterrorism working, as he did, during the Clinton administration, and then for a while under the administration of President George W. Bush.

Mr. President, I think it is blatantly unfair of Mr. Clarke, notwithstanding his credentials in counterterrorism, which I admire, to suggest that this President who was in office roughly 8 months before the attacks of September 11 was responsible for the 9/11 incident, when in fact the administration of President Bill Clinton, in which Mr. Clark worked, stood by and did not respond adequately to ever-escalating attacks against this country by Osama bin Laden and by al-Qaida.

It was in 1993 that Osama bin Laden directed al-Qaida's first successful attack on American soil, blowing up a car bomb in the basement garage of the World Trade Center, killing 6 and wounding 1,000. And then, in 1996, there was another attack against the United States Air Force's Khobar Towers barracks in Saudi Arabia, killing 19 Americans and wounding 515 Americans and Saudis. Then, in 1998, U.S. embassies in Kenya and Tanzania were attacked by al-Qaida suicide bombers who killed 234 people and wounded more than 5,000. And then, in 2000, al-Qaida attacked USS *Cole*, killing 17 American sailors and wounding 39.

Mr. President, I think it is only fair to ask where Mr. Clarke was during these ever-escalating attacks by al-Qaida and Osama bin Laden against Americans. The truth is, he was working in the Clinton White House in counterterrorism. I am confident he was doing everything he thought he could do. But if you have read some of his remarks, apparently he felt he was not getting a good response out of the President and others; indeed, he was prevented from briefing President Clinton on some of these attacks. The Director of the Central Intelligence Agency himself was not allowed to give daily briefings to President Clinton, as he currently does and as he has done since the beginning of the Bush administration.

So I would say Mr. Clarke's motives for making these reckless allegations against President Bush and the Bush administration just don't ring true. In-

deed, perhaps they are a diversion from his responsibility and the responsibility of the previous administration when it came to never adequately responding to Osama bin Laden and al-Qaida attacks until, of course, the terrible day of September 11.

Indeed, if you listen to some of President Bush's critics and the comments made by the minority whip and others on this very floor and in the press, you would say they are complaining that the President didn't do enough when it comes to fighting the war on terror. Of course, just a few short days ago, before Mr. Clarke's book came out, these same critics were saying the President had done too much, and that his policy and the Nation's policy of preemptive attack against our enemies—that is, not waiting until we are attacked and more Americans are killed, but going after the sleeper cells and the terrorists where they live before they can attack and thus protecting American citizens and American property in that way.

So really I don't see how they can have it both ways. By saying on one hand, if you believe Mr. Clarke, the administration didn't do enough, but then if you listen to other critics, just a few short days ago they were saying this President, this administration, did too much—you cannot have it both ways. I think the American people understand that. They also understand what is happening in the Senate and elsewhere, when this administration is attacked for leading the war on terror.

The truth is—and I think the American people recognize this—that no one has demonstrated greater leadership and greater commitment to protecting Americans and America's national interests on the war on terror than President George W. Bush—no one. The American people know that. It is just not right to try to suggest otherwise. It certainly contradicts those assertions and contradicts all of the facts I have only spoken about. If necessary, we can revisit this at a later time.

I also want to respond to some of the comments made by the minority leader about the nominations process and his claim that Democrats have extended an open hand of bipartisanship in an attempt to confirm nominees to various boards and commissions and to the Federal bench.

The truth is, again, Mr. President, we are all entitled to our opinions and our policy differences. Indeed, I think the American people expect us to fight on this floor, rhetorically speaking, for those positions we believe in and which we believe are in the best interest of the American people. What they should also expect is that we would not come here and make such inaccurate statements of fact about this supposed bipartisanship when it comes to our Democratic colleagues on the nominations issue.

I have the honor of serving on the Senate Judiciary Committee, where we have seen unprecedented obstruction of

President Bush's judicial nominees. Indeed, never before in the history of the United States of America have a handful of Democrats—handful of any party—been able to successfully block a bipartisan majority from confirming President Bush's highly qualified judicial nominees.

I heard the minority leader talk about a highly qualified Hispanic nominee who he believes should be confirmed to a position. I was reminded of the terrible treatment that Miguel Estrada received at the hands of this same leadership on the Democratic side.

This immigrant from Honduras came to the United States when he was 17 years old. He could barely speak English. He taught himself the English language, went on to graduate from two of America's most prestigious institutions of higher learning, and went on to rise to the top of the legal profession. He represented the U.S. Government in 15 arguments before the United States Supreme Court. Arguing a case before the United States Supreme Court is the Super Bowl when it comes to the legal profession.

Notwithstanding the fact that Miguel Estrada was a highly qualified, very successful appellate lawyer, someone enormously qualified to serve on the District of Columbia Court of Appeals, he was denied the courtesy of an up-or-down vote. No one suggests that any Senator who thinks they should vote against a nominee should not do so.

Certainly, we should all vote our own conscience, and we will be held accountable by the voters at the next election, but what has happened is a bipartisan majority was simply obstructed by the gamesmanship and the unprecedented way in which this President's judicial nominees have been treated, such as Miguel Estrada, who represents the manifestation of the American dream.

Miguel Estrada's dream came to a crashing halt when he hit the glass ceiling imposed by the Democratic minority in the Senate. There is no nice way to put it. It is ugly, it is partisan, and it is unworthy of the Members of this body and those of us who are sworn to protect the public interest rather than special interests.

While sitting in my office listening, I was also astonished to hear the minority leader talk about the President's use of recess appointments when it comes to Charles Pickering, whom he appointed to serve on the Fifth Circuit Court of Appeals, and Bill Pryor, who was appointed during a recess by the President to the Eleventh Circuit Court of Appeals. What they did not tell the American people is, the only reason the President had to use the power that is very clearly conferred upon him in the U.S. Constitution is because of this unprecedented obstruction by the Democratic minority in the Senate, which denied these two highly qualified nominees, Charles Pickering,

now Judge Pickering of the Fifth Circuit Court of Appeals, and Judge Bill Pryor, an up-or-down vote.

The only reason they resorted again to this unprecedented obstruction, denying them even the courtesy of an up-or-down vote, is because they knew if allowed to vote, a bipartisan majority of the Senate would confirm those appointments.

Here again, we are entitled to have policy differences and, indeed, we will, but the suggestion that somehow President Bush used these recess appointments in some sort of unauthorized or inappropriate way is false. The fact is, during the course of this country's history, recess appointment power has been used more than 300 times. To suggest that President Bush has somehow gone outside the power conferred upon him under the U.S. Constitution is not true.

Sometimes I am amazed that people can say things with a straight face. I expect them to wink or otherwise indicate they know they are trying to pull a fast one, but the fact is the suggestion, the inference that those speakers would ask the American people to draw from their comments are just not true.

President Clinton used recess appointments. Frequently, former Presidents used recess appointments of one kind or another when they were not able to get their nominees confirmed on the timetable they wanted for whatever reason, but that is a power clearly conferred upon the President under the U.S. Constitution.

Can I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has used his 15 minutes.

Mr. CORNYN. I ask unanimous consent for 3 additional minutes.

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

Mr. CORNYN. Thank you. I thank my colleague from Minnesota for his courtesy.

Finally, I will say that serving on the Judiciary Committee has been a startling experience for this Senator, a new member of the Senate coming, as I did, to this body expecting that all Senators would want to try to work through our differences in a way that reaches consensus and in a way that allows us to do our job.

Unfortunately, the Judiciary Committee has spiraled down into partisan dysfunction in a way that is, frankly, not very pleasant, and it is not doing the best job we can and should be doing for the American people.

The truth is, what we see happening is a handful of special interest groups that seem to be calling the tune, and Senators, unfortunately, responding to that and blocking President Bush's nominees. We saw during the revelation of a number of memos that came to light that, indeed, some of these interest groups were trying to manipulate the outcome in lawsuits that were pending on the court of appeals.

One very sensitive case affecting our entire Nation was an affirmative ac-

tion case. That case involved the University of Michigan's affirmative action policies. The memos reveal that nominees were being blocked and slowpeddled in an effort to have an impact on that litigation. It is not right.

Now I know my colleagues, all of us on the Judiciary Committee, have decried the way in which some of these memos came to light. The truth is, an overzealous, misguided staffer accessed computer files of both Republican and Democrat members of the Senate Judiciary Committee and released those publicly. We have had the Sergeant at Arms conduct an investigation. Indeed, a number of us have asked the appropriate prosecutor to investigate it to see if criminal charges should be brought concerning the way in which these memos came to light. But just as the Pentagon Papers, years ago, were accessed unlawfully, they demonstrate a very real public policy concern that I do not think we can ignore.

There are two things that have happened. One is the taking of the memos, and the other is the inappropriateness the conduct revealed.

As I close my remarks, I again thank my colleague from Minnesota for his courtesy by allowing me to speak first.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

THE REPUBLICAN ADMINISTRATION

Mr. DAYTON. Mr. President, I ask unanimous consent that I be allowed 20 minutes to make my remarks. I do not believe I will need all that time, but I would ask to have that available.

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

Mr. DAYTON. Mr. President, I say to my good friend from Texas, with whom I shared a very instructive tour of Iraq last July—we sweltered together in 115 degrees—I have the greatest regard for him in working with him on these various matters. I do respectfully say in response to his comment about the 9/11 questions that have been raised, and supposedly my colleagues wanting to have things both ways, his words, I cannot for the life of me figure out how he and others on that side of the aisle could suggest that President Clinton is to blame for something that occurred over 8½ months after he left office, but President Bush is not to blame for something that happened 8½ months after he took office and is not blamed for anything related to it since. I don't understand how that is anything other than trying to have it both ways and also not making much sense at all.

I think both of us would be well served to let the Commission make its determinations and recognize that our most important task is to make sure it never happens again. We share that desire here, for all 100 of us are Americans first and partisans second or third or somewhere else. Let's hope the truth all comes forth so that, most impor-

tantly, we can understand what we need to do to make sure this country is safe every day and night for the rest of my lifetime and yours and all the rest of our children to follow.

I want to shift to another subject. Yesterday's Washington Post had an article about the famous magician, Henry Houdini, and the dispute whether or not his magic tricks should be disclosed to the public. It made me think, as I was looking back on the events that occurred in the Senate this last week, that we have our own magic tricks. One of them is this disappearing legislation trick. Unfortunately, it is one of too many, too clever sleight of hand tricks that are employed in this body. I think, in fact, we need more of a return to reality if we are going to serve the vital interests of the people I represent in Minnesota, and others around the country.

At the start of the week, for those who may not have been following this moment by moment, we were considering a bill that was entitled a JOBS Act. If ever there was a situation facing America and the over 8 million Americans who do not have jobs right now that needs a serious dose of reality, that is at the top of the list. Senator TOM HARKIN, my colleague from Iowa, was offering an amendment that would either have this body choose to support or oppose the Department of Labor's taking overtime pay, the 1½ times an hourly pay required for those working overtime. In this case, this group would be over 8 million Americans workers—police officers, other law enforcement officials, firefighters, teachers, middle-class working Americans. These are hard-working Americans working overtime to earn extra money to improve their lives or just to try to make ends meet; to raise their families, send their kids to college, or just get them through junior high school; take care of an aging or sick parent, help pay for the prescription drugs for those elderly parents or nursing homes for them, which costs about the same these days.

We had an agreement reached before the bill came to the floor between the Republican and Democratic leaders that there would be a vote on the Harkin amendment. That was the promise that was made to all of us. But suddenly here was this Senate's disappearing act, this sleight-of-hand trick that even the famous Harry Houdini could not have matched. That bill just disappeared from the Senate floor and was replaced by another bill which was voted upon and passed last night.

Monday, now, we are told we will be taking up another bill but not the JOBS Act. Where did it go? When will it come back? Will it come back at all? Actually, that pretty well describes the Republican job record under President Bush. Millions of jobs disappear. No one knows when they are coming back. No one knows if they are coming back. Secretary of Treasury John Snow, testifying before a congressional committee just 2 weeks ago, said the lack

of job recovery in this country was "a mystery."

Vice President CHENEY doesn't even seem to know the jobs are leaving. He said earlier this month:

If the Democratic policies had been pursued over the last 2 or 3 years, we would have not had the kind of job growth we have had.

At the time he offered that compelling insight, the country officially had 2¼ million fewer jobs than when he and President Bush took office just over 3 years ago. So I would have to agree with the Vice President on that point; if the Democratic policies had been pursued over the last 2 or 3 years, we would not have had the kind of job growth we have had. Perhaps he was confused and was referring to the kind of job growth Halliburton has had instead of the United States.

The Vice President, by the way, has shown his own disappearing magic tricks. Just before he became Vice President, in the 5 years preceding that time, he was the chief executive officer of Halliburton Corporation, which is the world's largest oil and gas services company. It is also now the largest contractor for American forces in Iraq having received contracts worth over \$11 billion in the last year, most of them without any competitive bidding.

Vice President CHENEY reported earnings of \$44 million during his 5 years there. He claims he has "severed all my ties" with that company. Yet he continues to receive deferred compensation worth approximately \$150,000 a year, and he has stock options worth more than \$18 million. That is the executive version of overtime pay. He gets paid for hours he hasn't worked after he has left the company.

The Vice President has announced he will donate the proceeds from his sale of the stock options at some point in the future to charity, and that is a good disappearing taxes trick because that charitable deduction eliminates taxes on that amount of future income, \$18 million, which is presumably why he is waiting to give that money to deserving charities until he can make even more of that money again.

But the even more curious magic trick, according to an article in *New Yorker* magazine by Jane Mayer last month, on the Vice President's own official biography posted on his White House Web site, he has been a "businessman," but any mention of his 5 years as chief executive officer of Halliburton Corporation just before he became Vice President has disappeared. He got paid over \$44 million, he has over \$18 million more still to come, and it is not even worth mentioning? I guess that is what "severing all my ties with the company" means with the Vice President. He keeps getting paid but stops mentioning it.

President Bush has his own missing jobs magic tricks. He tries to make more jobs appear than really exist. Last month, he released a report called the Economic Report of the President. It forecast 900,000 more jobs for that

month than actually existed. That slight discrepancy was perhaps while the Secretary of Labor, Elaine Chao, whose agency publishes the Economic Report of the President, tried to make President Bush's signature on the report disappear. She said 3 weeks ago, after the report was made public: "He doesn't sign the report."

She is going to have to make a lot of page 4's disappear where the signature, "George W. Bush," or some version of that name, certainly looks to exist. But maybe the signature, like the 900,000 jobs, are just illusions.

Secretary Chao, who has done some very good things on behalf of Minnesota, for which I am very grateful to her, was also reportedly one of the people who wanted the Senate's vote on the Harkin amendment to disappear. After all, it is her rule, by administrative fiat, that is the one revoking those overtime protections for 8 million of her fellow Americans.

There is no magic in that trick, for those are real Americans and their families. It is a mean trick. It is an unfair trick. It is being performed by one unelected Cabinet official, although I suspect there are some elected officials behind her. And we, the elected representatives of those 8 million Americans, are told we will not be allowed to vote on that matter. Who claims to have that right to tell us that we can't vote, after we have been promised that we would have that opportunity to do so? Whoever it is may have the power under Senate rules, but they don't have the right. And they are wrong to do it.

Meanwhile, the President is out looking, himself, for those 900,000 missing jobs that weren't there. Last month, at a carefully staged and scripted meeting with some business owners that was designed to show how the President's big tax cuts for the rich and super rich, which the majority of colleagues here passed—how they are fueling economic recovery and job creation across America, one business owner proudly disclosed that as a result of the President's tax cuts worth an undisclosed amount of money to him personally, he might be able to hire two or three people.

The President, according to the report, seized that comment like a drowning man grabbing a floating leaf. The President said:

When he [the businessman] says he's going to hire two more, that's really good news. A lot of people are feeling confident and optimistic about our future, so they can say I am going to hire two more.

They can sit here and tell the President in front of all the cameras, I am going to hire two more people. That is confidence. That is pretty confident, inspiring stuff, isn't it? Of course, the President has an undergraduate degree from Yale and an MBA from Harvard, and presumably knows math himself. But I will still point out it takes a lot more than a business owner feeling optimistic about hiring two people to make his job forecast for the last

month reality. At two jobs per televised Presidential meeting—bear with me, I only have one Yale undergraduate degree, but it was cum laude—it will take 450,000 televised Presidential meetings to make up for the missing 900,000 jobs. That is the last month. That is only part of the over 2¼ million jobs that have disappeared since the President started his job in January of 2001, which partly explains why he is applying for 4 more years of overtime. It also explains why, in the view of this American, he should not get it.

This part of the act is a little confusing, even for a magic show. Bear with me and follow closely. For all of those lost jobs in our economy, we are not yet able to bring them back. Yet the Senate JOBS bill disappeared without being voted on. So the American people should be concerned. Right? The answer is no, because it is really not a jobs bill. It is called a "jobs" bill, but it is not really about creating jobs. It is about giving tax breaks to the corporations—\$114 billion worth of tax breaks which they might or might not use to create jobs which might or might not be in the United States. It was given the title of the JOBS Act even though it was primarily not about restoring those missing American jobs.

In fact, it was given that title probably because it is not a jobs bill, but its sponsors wanted the American people to believe it is a jobs bill. They will think, Wow, that is a good Congress. They just passed a JOBS Act, although we didn't pass the JOBS Act. It disappeared. But not to worry, because again it won't do that much to add jobs, anyway—at least not the way it is drafted.

How is that for a sleight-of-hand trick? Masters of illusion right here in Washington. Houdini and David Copperfield would have to be amazed.

But, unfortunately, all this hocus-pocus—now you see it, now you don't—leads us to believe one thing, but it is really something else. All of those deceptions do not deal with reality. As my colleagues know, each lost job is some American's very real nightmare. Being unemployed for so long they are using up their unemployment compensation, have little or no income and still can't find a decent job is no illusion.

The average length of time for America's 8 million unemployed citizens who have been out of work is now the longest in 20 years. The number of manufacturing jobs and good, decent-paying jobs in this country is the lowest in 53 years.

That is real. The hardships, the pain and suffering of those lost jobs have caused the real Americans, good people in Minnesota—and I am quite sure everywhere else in this country—people who want to work, who do not want a handout, who want jobs. They want the chance to work and earn their American dreams, and to work overtime and get paid for it.

By the way, our colleagues should recall that overtime—the 1½ times or more requirement of additional pay for those additional hours worked—provides an incentive for expanding companies, to add new jobs, to replace old ones they have taken away, rather than paying the 1½ times for that additional work they need. Employers have a choice. They can choose to pay overtime instead of adding additional jobs. Overtime is good pay for those workers who want to earn more money. It is good for the economy because those additional dollars they earn are almost always going immediately right into spending for needed products and services. But it is also a good inducement for creation of new jobs to increase production.

But even my Republican colleagues and evidently the Bush administration don't want us to even have a vote on this amendment on what they are calling a JOBS bill. They are also complaining to my colleagues and me on this side of the aisle that we want to offer some other amendments to change this bill. Yes, we do. They say our amendments are not germane. That is legislative language for not being relevant, not related to the content of the bill we are considering. Overtime pay is certainly relevant to the people in Minnesota I represent—police officers, firefighters, laborers, and nurses.

Another amendment which Republicans say is not germane would extend unemployment benefits. During the last 2 months alone 760,000 Americans have exhausted their unemployment benefits. That is no illusion. That is real-life hardship and pain for real Americans and for their families.

I think the sponsors of this so-called JOBS Act should explain to those 760,000 of their fellow citizens why restoring their unemployment benefits is not germane or is not relevant to their bill. I think those 760,000 Americans would then see clearly this so-called JOBS Act is not relevant to jobs—not to their jobs, not to restoring jobs, not to replacing jobs, not to preventing more jobs from being sent overseas.

In fact, one of my amendments, which I think is highly germane, would eliminate the \$36 billion for tax breaks for U.S. corporations for their overseas operations. Why in the world would we want to provide more tax incentives for U.S. corporations to create more jobs in other countries? We can't prevent it, but we certainly shouldn't encourage it. We shouldn't use more American tax incentives to put more Americans out of work and add to budget deficits their children will have to pay for, if they are lucky enough to have jobs.

My amendment would eliminate that lunacy. It will demand every dollar in this \$114 billion of corporate tax cuts be justified according to one clear measure: How will it result in more jobs, new jobs, and restore jobs in the United States for our citizens now? Not maybe, not probably, not next month, but definitely and provably and now.

That is the kind of JOBS Act America needs. That is the JOBS Act Americans need, and they need it done now. People losing overtime need this bill now. People who have lost their unemployment benefits need this bill now. People who are losing jobs still at this time in America overseas need this bill now—not the JOBS bill, but the one we want to amend to make a real jobs bill for America.

I am for the majority leader bringing this bill back to the floor next Monday. We are scheduled to bring up welfare reform. That is an important subject. But the experts would tell me the No. 1 key to the successful welfare program is a job at the end of the program.

Let us bring the JOBS Act, so-called, back first and scrutinize every single dollar it proposes to spend for its job effect for Americans now. No more magic tricks. This is the time for honest, truthful reality. Let us get to work starting next Monday in the Senate putting America back to work—all Americans. That would be real bipartisanship.

Thank you, Mr. President. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

OUTRAGEOUS CHARGES BY RICHARD CLARKE

Mr. FRIST. Madam President, in about 30 minutes or so, we will be closing. Before doing that, I want to spend a few minutes talking about an occurrence and a series of events over the course of the past week stemming from comments and testimony by a former State Department civil servant named Richard Clarke.

In a book that is scheduled to be released for sale by the parent company of the CBS network, Mr. Clarke makes the outrageous charge that the Bush administration, in its first 7 months in office, failed to adequately address the threat of Osama bin Laden. There has been a fulminating in the media and by some Senators about this book. I want to take this opportunity to reflect a bit on this, because I am deeply disturbed by the charges that have been made by Mr. Clarke. I am disturbed, in part, by the way it has been handled by some of our colleagues and by the media itself.

I am troubled by the charges. I am equally troubled someone would sell a book that trades on their former service as a Government insider with access to classified information, our Nation's most valuable intelligence, in order to profit from the suffering surrounding what this Nation endured on September 11, 2001.

I am troubled that Senators on the other side of the aisle are so quick to

accept such claims. I am troubled that Mr. Clarke has had a hard time keeping his own story straight. I don't personally know Mr. Clarke—I have met him—although I take it from press accounts that he has been involved in the fight against terrorism for the past decade.

As 9/11 demonstrates, that decade was a period of growing peril, a period of unanswered attacks against the United States. It is self-serving, I believe, that Mr. Clarke asserts that the United States could have stopped terrorism if only the three Presidents he served had listened to Mr. Clarke. In fact, when Mr. Clarke was at the height of his influence as the terrorism czar for President Clinton, the United States saw the first attack on the World Trade Center, saw the attack on the U.S. Air Force barracks in Saudi Arabia, the attacks on the two U.S. embassies in Africa, the attack on the USS *Cole*, and the planning and implementation for the 9/11 attacks.

The only common denominator throughout those 10 years of unanswered attacks was Mr. Clarke himself, a consideration that is clearly driving his effort to point fingers and to shift blame. He was the only common denominator throughout that period.

This pointing fingers, this shifting blame I will come back to because if we look at all the data and all the evidence, it becomes the common theme.

While the reasons may be open to debate and discussion, the previous administration's response to these repeated attacks by al-Qaida was clearly inadequate—a few cruise missiles lobbed at some, at best, questionable targets. Al-Qaida could only have been encouraged by their record of success in the absence of a serious and a sustained response by the United States during that period.

After 10 years of policies that failed to decisively confront and to eliminate that threat from al-Qaida, Clarke now suggests that those first 7 months of the Bush administration is where the blame should lie. Again, after 10 years of attack after attack with an inadequate response, with Mr. Clarke being the common denominator, to put the blame almost entirely on the first 7 months of the Bush administration to me is shifting blame and finger-pointing.

What is interesting is that what we heard this week has not always been Mr. Clarke's view of the events leading up to September 11. This week, a transcript was released of a press interview that Mr. Clarke gave in August of 2002, not that long ago. I will submit for the RECORD the full transcript, but I do want to cite a portion of this interview reviewing in glowing terms the policies of the Bush administration in fighting terrorism. I will be quoting exactly from the interview:

Richard Clarke:

Actually, I've got about seven points. Let me just go through them quickly.

Again, these are Mr. Clarke's words:

The first point, I think the overall point is, there was no plan on Al Qaeda that was passed from the Clinton administration to the Bush administration.

No plan.

Mr. Clarke's words:

Second point is that the Clinton administration had a strategy in place, effectively dating from 1998. And there were a number of issues on the table since 1998. And they remained on the table when that administration went out of office—issues like aiding the Northern Alliance in Afghanistan, changing our Pakistan policy, changing our policy towards Uzbekistan. And in January 2001, the incoming Bush administration was briefed on the existing strategy. They were also briefed on these series of issues that had not been decided on in a couple of years.

Mr. Clarke continues, using his exact words:

And the third point is the Bush administration decided then, you know, mid-January, to do two things. One, vigorously pursue the existing policy, including all of the lethal covert action findings, which we've now made public to some extent.

And the point is, while this big review was going on, there were still in effect, the lethal findings were still in effect. The second thing the administration decided to do is to initiate a process to look at those issues which had been on the table for a couple of years and get them decided.

So, point five, that process which was initiated in the first week in February, decided in principle, in the spring to add to the existing Clinton strategy and to increase CIA resources, for example, for covert action, five-fold, to go after Al Qaeda.

The sixth point, the newly-appointed deputies—and you had to remember, the deputies didn't get into office until late March, early April. The deputies then tasked the development of the implementation details of these new decisions that they were endorsing, and sending out to the principals.

I am still reading verbatim through the interview. His words:

Over the course of the summer—last point—they developed implementation details, the principals met at the end of the summer, approved them in their first meeting, changed the strategy by authorizing the increase in funding five-fold, changing the policy on Pakistan, changing the policy on Uzbekistan, changing the policy on the Northern Alliance assistance.

And then changed the strategy from one of rollback with Al Qaeda over the course [of] five years, which it had been, to a new strategy that called for the rapid elimination of Al Qaeda. This is in fact the time line.

Those are the words of Richard Clarke during a series of questions I will make a part of the RECORD. I will take the final question, in the interest of time, to Mr. Clarke. Question:

You're saying that the Bush administration did not stop anything that the Clinton administration was doing while it was making the decisions, and by the end of the summer had increased money for covert action five-fold. Is that correct?

Mr. Clarke's answer:

All of that's correct.

Madam President, I went through the interview in detail like that because you can see clearly how out of sync it is. It is almost just the opposite of what he said this week, and it is important for us to understand, if we are going to look at Mr. Clarke's credi-

bility, this juxtaposition, this contrast, how dissimilar to what comes out of his mouth it actually is.

Madam President, I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FRIST. This is not the only account in which Mr. Clarke changes his story. In lengthy testimony before the congressional joint inquiry that reviewed the events surrounding the September 11 attacks, Mr. Clarke is equally effusive in his praise for his actions of the Bush administration. It is my hope we will be able to get that testimony declassified. That request has been made so all Senators may review it and discuss it as well. But it is effusive praise under oath.

I do not know what Mr. Clarke's motive is. I have no earthly idea what his motive for these charges is. Is it personal gain? Is it partisan gain? Is it in some way personal profit? Is it animus because of his failure to win a promotion with the Bush administration? I just do not know. None of us is going to ever know. But one thing is clear, and that is his motive could not possibly be to bring clarity or true understanding of how we avoid future September 11 attacks.

There are five points I would like to make, five points that I find absolutely inexplicable about Mr. Clarke's performance this past week. I have waited to come to the floor until the end of the week because I couldn't really believe what Mr. Clarke was saying, based on what we know of his past performance and his participation in the former administration. I wanted to have time, and I will make these five points in a quick fashion.

Point No. 1: In an e-mail to the National Security Adviser 4 days after the September 11 attacks, Mr. Clarke expressed alarm that "when the era of national unity begins to crack" an effort to assign responsibility for the 9/11 attacks will begin.

Mr. Clarke, in the e-mail, then proceeds to lay out in detail a defense of his own personal actions before the attack and those of the entire administration, all of that spelled out in the e-mail.

Mr. Clarke clearly, when we look at his e-mail, was consumed by the desire to dodge any blame for the 9/11 attacks; while at the very same moment rescuers were still searching the rubble at the site of the World Trade Center looking for survivors, he was looking for some way to dodge blame for himself. In my mind, this offers some insight, maybe even perfect insight, as to what drove him to write his book.

The second point, in August 2002, the interview I read, Mr. Clarke gave a thorough account of the Bush administration's very proactive policy against al-Qaida. When presented with that interview, Mr. Clarke tries to explain

away that media performance, the interview itself, by suggesting, well, I just gave the interview in that way as a loyal servant to the administration.

A loyal administration official? Does Mr. Clarke understand the gravity of the issues this body, we in the Congress, the United States, is facing as we review through that 9/11 Commission the gravity of the charges that have been made by him?

If in the summer of 2001 he saw the threat from al-Qaida as grave as he now says it was, and if he found the response of the administration so inadequate, as he now says it was, why did he wait until Sunday, March 21 of 2004 to make his concerns known? It simply does not make sense.

There is not a single public record of Mr. Clarke making any objection whatsoever in the period leading up to or following the 9/11 attacks. There is nothing in the public record. There is no threat from him to resign. There is no public protest. There is no plea to the President, to the Congress, to the public to heed the advice he now says was ignored.

If Mr. Clarke held his tongue because he was loyal, then shame on him for putting policies above principle, but if he is manufacturing these charges for some sort of personal profit or some sort of political gain, he is a shame to this Government. Fortunately, I have not had the opportunity to work with such an individual who would write solicitous and self-defending e-mails to his supervisor, the national security adviser, and then by his own admission lie to the press out of some self-conceived notion of loyalty, to reverse himself on all accounts for the sale of a book, a book which obviously is very popular. It is selling now as I speak.

The third point I would like to make is Mr. Clarke told two entirely different stories under oath. In July 2002, in front of the congressional joint inquiry on the September 11 attacks, Mr. Clarke said under oath the administration actively sought to address the threat posed by al-Qaida during its first 7 months in office.

It is one thing for Mr. Clarke to dissemble in front of the media, in front of the press, but if he lied under oath to the Congress, it is a far more serious matter. As I mentioned, the Intelligence Committee is seeking to have Mr. Clarke's previous testimony declassified so as to permit an examination of Mr. Clarke on the two differing accounts. Loyalty to any administration will be no defense if it is found he has lied before Congress.

Fourth, notwithstanding Mr. Clarke's efforts to use his book first and foremost to redirect, to shift blame, to shift attention from himself, it is also clear Mr. Clarke and his publisher did adjust the release date of his book in order to make maximum gain from the publicity around the 9/11 hearings.

Assuming the controversy around this series of events does, in fact, drive

the sales of his book, Mr. Clarke will make a lot of money for exactly what he has done.

I personally find this to be an appalling act of profiteering, of trading on insider access to highly classified information and capitalizing upon the tragedy that befell this Nation on September 11, 2001.

Mr. Clarke must renounce any plan to personally profit from this book.

Finally, it is understandable why some of the families who lost loved ones on that tragic and horrible day, September 11, find Mr. Clarke's performance this week appealing. The simple answers to a terrible tragedy, to the very human desire to find an answer of why, to help explain why on that beautiful fall day 2½ years ago a series of events shattered their lives forever.

In his appearance before the 9/11 Commission, Mr. Clarke's theatrical apology on behalf of the Nation was not his right, was not his privilege, and was not his responsibility. In my view, it was not an act of humility but it was an act of arrogance and manipulation.

Mr. Clarke can and will answer for his own conduct, but that is all. Regardless of Mr. Clarke's motive or what he says or implies in his new book, the fact remains this terrible attack was not caused by the Government of the United States of America. No administration was responsible for the attack. Our Nation did not invite the attack. The attack on 9/11 was the evil design of a determined and hate-filled few who slipped through the defenses of a nation, a nation that treasures its freedoms, that treasures its openness, that treasures its convenience. That our defenses failed is cause enough to review the sequence of events leading up to that awful day, and we must and will understand how to do better, balancing our determination to protect our Nation with that equal resolve to protect our liberties.

The answer to Mr. Clarke's—and I clearly feel they are self-serving—charges is that, in fact, we all bear that responsibility, and we recognize that. Every one of us who served in Government before and at the time of the 9/11 attacks also has the responsibility to do our best to avoid such tragedy in the future. If we are to learn lasting lessons from the examination of the 9/11 attacks, it must be toward this end, not an exercise in finger pointing, not an exercise in blame shifting, not an exercise in political score settling.

EXHIBIT 1

TRANSCRIPT: CLARKE PRAISES BUSH TEAM IN '02

(WASHINGTON.—The following transcript documents a background briefing in early August 2002 by President Bush's former counterterrorism coordinator Richard A. Clarke to a handful of reporters, including Fox News' Jim Angle. In the conversation, cleared by the White House on Wednesday for distribution, Clarke describes the handover of intelligence from the Clinton administration to the Bush administration and the latter's decision to revise the U.S. ap-

proach to Al Qaeda. Clarke was named special adviser to the president for cyberspace security in October 2001. He resigned from his post in January 2003.)

RICHARD CLARKE. Actually, I've got about seven points, let me just go through them quickly. Um, the first point, I think the overall point is, there was no plan on Al Qaeda that was passed from the Clinton administration to the Bush Administration.

Second point is that the Clinton administration had a strategy in place, effectively dating from 1998. And there were a number of issues on the table since 1998. And they remained on the table when that administration went out of office—issues like aiding the Northern Alliance in Afghanistan, changing our Pakistan policy—uh, changing our policy toward Uzbekistan. And in January 2001, the incoming Bush administration was briefed on the existing strategy. They were also briefed on these series of issues that had not been decided on in a couple of years.

And the third point is the Bush administration decided then, you know, in late January, to do two things. One, vigorously pursue the existing policy, including all of the lethal covert action findings, which we've now made public to some extent.

And the point is, while this big review was going on, there were still in effect, the lethal findings were still in effect. The second thing the administration decided to do is to initiate a process to look at those issues which had been on the table for a couple of years and get them decided.

So, point five, that process which was initiated in the first week in February, uh, decided in principle, uh in the spring to add to the existing Clinton strategy and to increase CIA resources, for example, for covert action, five-fold, to go after Al Qaeda.

The sixth point, the newly-appointed deputies—and you had to remember, the deputies didn't get into office until late March, early April. The deputies then tasked the development of the implementation details, uh, of these new decisions that they were endorsing, and sending out to the principals.

Over the course of the summer—last point—they developed implementation details, the principals met at the end of the summer, approved them in their first meeting, changed the strategy by authorizing the increase in funding five-fold, changing the policy on Pakistan, changing the policy on Uzbekistan, changing the policy on the Northern Alliance assistance.

And then changed the strategy from one of rollback with Al Qaeda over the course of five years, which it had been, to a new strategy that called for the rapid elimination of Al Qaeda. That is in fact the timeline.

QUESTION. When was that presented to the president?

CLARKE. Well, the president was briefed throughout this process.

QUESTION. But when was the final September 4 document? (Interrupted.) Was that presented to the president?

CLARKE. The document went to the president on September 10, I think.

QUESTION. What is your response to the suggestion in the [Aug. 12, 2002] Time [magazine] article that the Bush administration was unwilling to take on board the suggestion made in the Clinton administration because of animus against the—general animus against the foreign policy?

CLARKE. I think if there was a general animus that clouded their vision, they might not have kept the same guy dealing with terrorism issue. This is the one issue where the National Security Council leadership decided continuity was important and kept the same guy around, the same team in place. That doesn't sound like animus against uh the previous team to me.

JIM ANGLE. You're saying that the Bush administration did not stop anything that the Clinton administration was doing while it was making these decisions, and by the end of the summer had increased money for covert action five-fold. Is that correct?

CLARKE. All of that's correct.

ANGLE. OK.

QUESTION. Are you saying now that there was not only a plan per se, presented by the transition team, but that it was nothing proactive that they had suggested?

CLARKE. Well, what I'm saying is, there are two things presented. One, what the existing strategy had been. And two, a series of issues—like aiding the Northern Alliance, changing Pakistan policy, changing Uzbek policy—that they had been unable to come to um, any new conclusions, um, from '98 on.

QUESTION. Was all of that from '98 on or was some of it—

CLARKE. All of those issues were on the table from '98 on.

ANGLE. When in '98 were those presented?

CLARKE. In October of '98.

QUESTION. In response to the Embassy bombing?

CLARKE. Right, which was in September.

QUESTION. Were all of those issues part of alleged plan that was late December and the Clinton team decided not to pursue because it was too close to—

CLARKE. There was never a plan, Andrea. What there was was these two things: One, a description of the existing strategy, which included a description of the threat. And two, those things which had been looked at over the course of two years, and which were still on the table.

QUESTION. So there was nothing that developed, no documents or new plan of any sort?

CLARKE. There was no new plan.

QUESTION. No new strategy—I mean, I don't want to get into a semantics—

CLARKE. Plan, strategy—there was no, nothing new.

QUESTION. 'Til late December, developing—

CLARKE. What happened at the end of December was that the Clinton administration NSC principles committee met and once again looked at the strategy, and once again looked at the issues that they had brought, decided in the past to add to the strategy. But they did not at that point make any recommendations.

QUESTION. Had those issues evolved at all from October of '98 'til December of 2000?

CLARKE. Had they evolved? Um, not appreciably.

ANGLE. What was the problem? Why was it so difficult for the Clinton administration to make decisions on those issues?

CLARKE. Because they were tough issues. You know, take, for example, aiding the Northern Alliance. Um, people in the Northern Alliance had a, sort of bad track record. There were questions about the government, there were questions about drug-running, there was questions about whether or not in fact they would use the additional aid to go after Al Qaeda or not. Uh, and how would you stage a major new push in Uzbekistan or somebody else or Pakistan to cooperate?

One of the big problems was that Pakistan at the time was aiding the other side, was aiding the Taliban. And so, this would put, if we started aiding the Northern Alliance against the Taliban, this would have put us directly in opposition to the Pakistani government. These are not easy decisions.

ANGLE. And none of that really changed until we were attacked and then it was—

CLARKE. No, that's not true. In the spring, the Bush administration changed—began to change Pakistani policy, um, by a dialogue that said we would be willing to lift sanctions. So we began to offer carrots, which

made it possible for the Pakistanis, I think, to begin to realize that they could go down another path, which was to join us and to break away from the Taliban. So that's really how it started.

QUESTION. Had the Clinton administration in any of its work on this issue, in any of the findings or anything else, prepared for a call for the use of ground forces, special operations forces in any way? What did the Bush administration do with that if they had?

CLARKE. There was never a plan in the Clinton administration to use ground forces. The military was asked at a couple of points in the Clinton administration to think about it. Um, and they always came back and said it was not a good idea. There was never a plan to do that.

(Break in briefing details as reporters and Clarke go back and forth on how to source quotes from this backgrounder.)

ANGLE. So, just to finish up if we could then, so what you're saying is that there was no—one, there was no plan; two, there was no delay; and that actually the first changes since October of '98 were made in the spring months just after the administration came into office?

CLARKE. You got it. That's right.

QUESTION. It was not put into an action plan until September 4, signed off by the principals?

CLARKE. That's right.

QUESTION. I want to add though, that NSPD—the actual work on it began in early April.

CLARKE. There was a lot of in the first three NSPDs that were being worked in parallel.

ANGLE. Now the five-fold increase for the money in covert operations against Al Qaeda—did that actually go into effect when it was decided or was that a decision that happened in the next budget year or something?

CLARKE. Well, it was gonna go into effect in October, which was the next budget year, so it was a month away.

QUESTION. That actually got into the intelligence budget?

CLARKE. Yes it did.

QUESTION. Just to clarify, did that come up in April or later?

CLARKE. No, it came up in April and it was approved in principle and then went through the summer. And you know, the other thing to bear in mind is the shift from the rollback strategy to the elimination strategy. When President Bush told us in March to stop swatting at flies and just solve this problem, then that was the strategic direction that changed the NSPD from one of rollback to one of elimination.

QUESTION. Well can you clarify something? I've been told that he gave that direction at the end of May. Is that not correct?

CLARKE. No, it was March.

QUESTION. The elimination of Al Qaeda, get back to ground troops—now we haven't completely done that even with a substantial number of ground troops in Afghanistan. Was there, was the Bush administration contemplating without the provocation of September 11th moving troops into Afghanistan prior to that to go after Al Qaeda?

CLARKE. I can not try to speculate on that point. I don't know what we would have done.

QUESTION. In your judgment, is it possible to eliminate Al Qaeda without putting troops on the ground?

CLARKE. Uh, yeah, I think it was. If we'd had Pakistani, Uzbek and Northern Alliance assistance.

ADDITIONAL STATEMENTS

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

• Mr. LUGAR. Mr. President, today I wish to share with my colleagues the winners of the 2003–2004 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for 8th grade students in my home state. The purpose of this contest was to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently, craft an essay responding to the assigned theme. I, along with my friends at the Indiana Farm Bureau and Farm Bureau Insurance Companies, am pleased with the annual response to this contest and the quality of the essays received over the years.

I congratulate Elizabeth A. Mercer, of Boone County, and Eric Webb, of Johnson County, as winners of this year's contest, and I ask that the complete text of their respective essays for the RECORD. Likewise, I ask that the names of all of the district and county winners of the 2003–2004 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

The material follows:

GROCERY SHOPPING STARTS ON HOOSIER FARMS

(By Elizabeth A. Mercer—Boone County)

Indiana farms have a part in many food items around the world. Without farmers our country, even our world, would be starving. In the past, I knew that farmers were a big part of the "Food Chain." Being a daughter of a farmer, I have learned that farmers begin the "Food Chain."

Starting my journey through the grocery store, I realize Hoosier farms are in all parts of the store. In the produce section, Hoosier farms raise celery, carrots, broccoli, cabbage, green beans, lettuce, peas, squash, cucumbers, zucchini, sweet corn, apples, potatoes, watermelons, cantaloupe, strawberries, tomatoes, and pumpkins. Produce grown by Indiana farmers is a crop, which adds value and income to their farming operation.

Another section of the grocery store is the meat section. Meats produced in Indiana are beef, pork, chicken, turkey, elk, buffalo, sheep, fish, and duck. Indiana is the number one state in the USA for duck production.

In the baking aisle corn syrup, corn meal, and corn oil are produced from corn of Indiana farmers. Half of Indiana's corn is raised for animal feed. A large portion of the remainder is used to produce high fructose corn syrup. Corn syrup is used in soft drinks, fruit juices, sport drinks, and canned fruits.

Indiana soybeans are processed into soybean oil. Soybean oil is used in many baked goods such as breads, cakes, snack cakes, chips, and cookies.

Wheat grown in Indiana is soft red winter wheat. Contrary to popular belief, bread is not made from Indiana wheat. Indiana wheat is used to produce pastas.

From now on, when I walk through the grocery store I will know Hoosier farms have made a difference in the food supply for our country and our world. I am proud to say, "My dad is a Hoosier farmer."

GROCERY SHOPPING STARTS ON HOOSIER FARMS

(By Eric Webb—Johnson County)

Mom was planning the usual week's meals, which meant the dreaded trip to the grocery. I went with mom and we started down the aisles. As we were putting the items in the cart, I noticed that several of the items were from Indiana farms. This surprised me a lot. I thought all of the items that may family got were imported.

You could almost group these items by meal. For breakfast, you could have Walker eggs from the Johnson County area. You can add some Emege ham for an omelette. For lunch, you can enjoy Perdue chicken with homegrown tomatoes on two slices of Wonder bread. You can then wash it down with some Maplehurst milk. For dinner, you can have steak, corn, fresh green beans and wonderful seedless watermelons or cantaloupe. Let us not forget the late night snack of Orville Redenbacher popcorn while watching a movie. These items represent some of Johnson County's, as well as other Indiana county's products.

Other Indiana farm products that can be found in local groceries include Roseacre Farm eggs, the world's largest producer, and Adrian Orchard apples. With Halloween and Thanksgiving approaching, do not forget about Waterman's Market pumpkins and hot apple cider, Brown County apple butter and special fresh turkey from Jasper's Sager Turkey farm.

In conclusion, I have only skimmed the surface of the products available from Indiana farmers. Indiana has more to offer than corn and soybeans. The next time you are shopping, look around and see how easy it is to buy Indiana products and enjoy an old fashion Hoosier meal.

2003–04 DISTRICT ESSAY WINNERS

District 1: Zachariah Surfus (Starke Co.) and Amy Ver Wey (Lake Co.).

District 2: Daniel Pepler (Allen Co.) and Lindsay Shutt (Allen Co.).

District 3: Sean Smith (Cass Co.) and Autumn Cooper (Newton Co.).

District 4: Patrick Ritchie (Wells Co.) and Cindy Muhlenkamp (Jay Co.).

District 5: Keith Trusty (Morgan Co.) and Elizabeth Mercer (Boone Co.)* (State Winner).

District 6: Kyle Jacobs (Hancock Co.) and April Schelle (Henry Co.).

District 7: Bradley Otero (Martin Co.) and Audrey Maddox (Lawrence Co.).

District 8: Eric Webb (Johnson Co.)* (State Winner) and Vanessa Small (Bartholomew Co.).

District 9: Braxton Williams (Posey Co.) and Jamie Frank (Spencer Co.).

District 10: Ethan Wilson (Jackson Co.) and Samantha LaMaster (Scott Co.).

2003–2004 COUNTY ESSAY WINNERS

Allen: Daniel Pepler and Lindsay Shutt.
Bartholomew: Steven Day and Vanessa Small.

Benton: Scott Williams.

Boone: Bailey Keith and Elizabeth Mercer.

Cass: Sean Smith and Kimberly Champ.

Clay: Brandon Blackburn and Kayla Baumgartner.

Clinton: Eric Myers.

Dearborn: Joe Bischoff and Amber Shumate.

Decatur: Cody Sanders.

DeKalb: Stephen Boviall and Shannon O'Rear.

Dubois: Jake Whitsitt and Kelsey Vonderheide.

Fayette: Matt Sterling and Jerica Moore.

Franklin: Tyler Ripperger and Michelle Willhelm.

Floyd: Amanda Hawkins.
 Hamilton: Blake Koness and Alexander Robinson.
 Hancock: Kyle Jacobs.
 Hendricks: Chelsei Reynolds.
 Henry: Justin Stevens and Aprill Schelle.
 Jackson: Ethan Wilson and Kimmi Miller.
 Jasper: Travis Brandenburg and Kayla Culp.
 Jay: Dillon Carpenter and Cindy Muhlenkamp.
 Jennings: John Paul Hyden and Hannah Biehle.
 Johnson: Eric Webb and Katelyn Bird.
 LaGrange: Sarah Miller.
 Lake: Adam Becerra and Amy VerWey.
 Lawrence: Audrey Maddox.
 Madison: Kyle Carter and Nika McCloud.
 Marion: Grant Feldhake and Alexandra Cooper.
 Martin: Bradley Otero and Alysia Potts.
 Miami: Devin Zimmerman and Dreana Sparks.
 Monroe: Brian Morrison and Kristen Bornhorst.
 Morgan: Keith Trusty.
 Newton: Trace Myers and Autumn Cooper.
 Pike: Trent Barrett and Katie Hill.
 Porter: Jennifer Evan.
 Posey: Braxton Williams and Kayla Brenton.
 Pulaski: Weston Bonczek and Linsey Foerg.
 Rush: Scott Moore and Patty Walke.
 St. Joseph: Chris Wheeler and Ellen Schoenle.
 Scott: Connor Caudill and Samantha LeMaster.
 Shelby: Derek Turner and Emily Burgett.
 Spencer: Joey Tempel and Jamie Frank.
 Starke: Zachariah Surfus and Simona Crisam.
 Switzerland: Courtney Cole.
 Tipton: Craig Upstill and Natalie White.
 Vermillion: Austin Boling and Amber Yoder.
 Vigo: Thomas Kinnebrew and Karen Groth.
 Wabash: Joshua Dillon and Cami Givens.
 Warrick: Samuel Schnur and Erika Katterjohn.
 Washington: Brooke Agan.
 Wayne: Chris Kolger and Carrie Burkhardt.
 Wells: Patrick Ritchie and Lauren Schumm.
 White: Luke Evans and Abby Tetzlaff.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

MURRAY AMENDMENT ON DOMESTIC VIOLENCE

● Ms. LANDRIEU. Mr. President, let me begin my remarks this afternoon by thanking my friend and colleague, the Senator from Washington, for her leadership in this very important area. Because of her work, and the work of a man whose leadership we all miss dearly, Senator Paul Wellstone, victims of domestic violence have access to programs designed to protect them from what many would agree is the worst type of violence there is. Currently, the Federal Government provides a little under \$500 million in domestic violence prevention and treatment programs. The amendment offered by Senator MURRAY proposes to take our commitment to put an end to domestic abuse to the next level by filling in the gaps left by current law and programs.

As you well know, the goal of the underlying bill offered by my friend and

colleague, Senator DEWINE, is a simple, but important one, to prevent murder. What it says is that the murder of woman and her unborn, viable child is morally wrong and should be illegal. There is no disagreement on that point. The majority of yesterday's debate has been how best to draft a Federal law narrowly tailored to accomplish that goal. What this amendment attempts to remind us is that there are two ways to prevent the murder of a woman who is pregnant. One, you can put in place laws that recognize the loss of life of the mother and the viable fetus and impose the stiffest of penalties on those found guilty of committing such a murder. But equally important, you can put in place protections and programs that prevent this type of murder before it takes place.

The sponsors and supporters of this underlying bill claim that their objective is to protect the life of a woman and her unborn child, but their actions indicate otherwise. A few Members have come to the floor to raise legitimate concerns about some of the provisions of this bill, but for the most part, the arguments offered by my Republican colleagues are nothing more than excuses. I would like to take a moment to address a few of these so-called reasons to not support this amendment and offer a rebuttal.

The first reason given by groups, such as the U.S. Chamber of Commerce and the National Right to Life, for their opposition to this amendment is that the underlying bill is "clearly an inappropriate vehicle for this amendment as the issues are completely unrelated." If I understand this position correctly, it appears that the opponents of the amendment believe that domestic violence is unrelated to murder of pregnant women. This position is misguided at best. Let me tell you what the facts are:

In the United States, a woman is more likely to be assaulted, injured, raped, or killed by an intimate partner than any other type of assailant.

Every day, 4 women are murdered by boyfriends or husbands.

This year alone, 240,000 pregnant women were physically abused by their intimate partners.

Sixty percent of all battered women are beaten while they are pregnant.

Women are most likely to be killed while attempting to leave their abuser. In fact, women who attempt to escape are at a 75 percent higher risk of being murdered than their peers. The No. 1 reason women leave abusers is to protect their children, born and unborn.

Homicide is the leading cause of death for pregnant women and evidence suggests that a significant portion of all female homicide victims are killed by their intimate partners.

Let me read for you a quote from an ABC News article dated April 25, 2003:

"Most pregnant women are killed by people they know, like husbands or boyfriends," said Pat Brown, a criminal profiler and CEO of the Sexual Homicide Exchange . . .

"Sometimes it depends on how far along the woman is in the pregnancy . . . If it's a serial killer, they normally go after women who may be three months pregnant and are not showing very much . . . With husbands and boyfriends, the women tend to be eight months pregnant . . . they can see the woman and the unborn child as something in the way, keeps them from living the lifestyle they want."

In fact, one of the stories told by my colleague from Kansas was of Tracy Marciniak, whose unborn child was murdered by his abusive father a week before he was due to be born. The Senator from Kansas was right, it would be unfair for anyone to say that there was no murder victim in that case. But it is equally unfair for him and others on the other side of the aisle to claim that there was not a victim of domestic violence in that case.

Another argument that has been made is that this amendment cannot be passed because if it did it would kill this bill. That is simply not true. With the Murray amendment attached, there is nothing to prevent the House of Representatives from taking up and passing the amended version as soon as tomorrow. If they did, the bill could be signed by the President sometime next week and could become law within a week. The reason that is "not possible" is not a matter of Senate procedure or rules. It is not possible because the House Republicans' mode of leadership is "our way or the highway." It is not possible because they refuse to fund programs that help stop a murder before it happens. It is not possible because they are more interested in making a political point than making a difference.

Finally, my colleagues on the other side of the aisle have claimed that they cannot support this because it calls for additional resources, and being in a deficit, we cannot afford to bring additional resources to bear on this issue. Senator MURRAY's amendment calls for an additional \$400 million over 5 years to help fill in the gaps left by current domestic violence programs. With less than \$100 million a year, we can make a difference in the lives of the 4 million who have been or will be abused by an intimate partner this year alone, save the fact that domestic violence results in a net loss of \$18.4 billion a year for business owners and taxpayers.

Here is what the truth is. When something is a priority for this administration, we have the resources, and when it is not, we are broke. The recently passed budget included \$27 billion in tax cuts for people whose income is over \$1 million a year. How is it we can find money for this and then claim the deficit as an excuse for opposing an amendment that uses less than one-tenth of 1 percent of that funding to save lives? President Bush claims that the purpose of this bill is to protect women, but at the same time his budget cuts funding for violence against women programs by \$10 million, rape prevention funding by \$29 million, and freezes funding for the domestic violence hot line and domestic

abuse shelters. I think that is out of line with what the American people thinks, and it is certainly out of line with what I think.

As I said earlier, if my colleagues have legitimate reasons to oppose this amendment, we are happy to listen. In fact, we are willing to do what is necessary to get past any partisan difference and to move this issue forward. Unfortunately, our colleagues are not. I think you have to ask yourselves, then, what is this debate really all about?•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 3717. To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmissions of obscene, indecent, and profane material, and for other purposes.

H.R. 339. To prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.

S. 2236. A bill to enhance the reliability of the electric system.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6792. A communication from the Acting General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Amendments to the Privacy Act and Freedom of Information Act; Implementation" (RIN3069-AB07) received on March 25, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6793. A communication from the Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, a report relative to the Office's standard of reasonable assurance pertaining to the effectiveness of its internal management controls during Fiscal Year 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-6794. A communication from the Chairman and Chief Executive Officer, Farm Cred-

it Administration, transmitting, the Administration's proposed budget for Fiscal Year 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-6795. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the Commission's Report relative to the Fair Debt Collection Practices Act; to the Committee on Commerce, Science, and Transportation.

EC-6796. A communication from the Administrator, National Aeronautics and Space Administration (NASA), transmitting, pursuant to law, a report relative to NASA's annual inventory of commercial activities performed by federal government sources; to the Committee on Commerce, Science, and Transportation.

EC-6797. A communication from the Secretary of Commerce, transmitting the Department of Commerce's Annual Report for Fiscal Year 2003 of the Department's Bureau of Industry and Security; to the Committee on Commerce, Science, and Transportation.

EC-6798. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report relative to actions taken in respect to the New England fishing capacity reduction initiative; to the Committee on Commerce, Science, and Transportation.

EC-6799. A communication from the Associate Chief, Competition Policy Division, Wireline Competition Division, transmitting, pursuant to law, the report of a rule entitled "Section 272(b)'s 'Operate Independently' Requirement for Section 272 Affiliates; WC Docket No. 03-228; FCC 04-54" (WC Doc. 03-228) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6800. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Brazil and Spencer, Indiana)" (MB Doc. No. 03-192) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6801. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Florence, Quinby, Greeleyville, and Wedgefield, SC and Savannah GA)" (MB Doc. No. 03-35) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6802. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations; Albany, NY" (MB Doc. No. 02-92) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6803. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, DTV Broadcast Stations, Saranac Lake, NY" (MB Doc. No. 03-213) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6804. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Sec-

tion 73.606(b), Table of Allotments, TV Broadcast Stations, Bend, OR" (MM Doc. No. 01-82) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6805. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations; Osage Beach, MO" (MB Doc. No. 03-207) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6806. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Caledonia and Upper Sandusky, Ohio)" (MB Doc. No. 03-7) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6807. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Services" (FCC03-238) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6808. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Suspension of Effective Date in 47 CFR 90.209(b)(6)" (FCC03-306) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6809. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications. Petition for Rule Making Filed by Globe Wireless. Amendment of the Commission's Rules Concerning Maritime Communications" (FCC04-3) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6810. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Commission's Rules Concerning Maritime Communications. Petition for Rule Making Filed by Regionet Wireless License, LLC" (FCC03-270) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6811. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Compatibility With Enhanced 911 Emergency Calling Systems; PSAP E911 Service Readiness" (FCC02-318) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6812. A communication from the Attorney Advisor, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 2 of the Commission's Rules to Realign the 76-81 GHz Band and the Frequency Range Above 95 GHz Consistent with International Allocation Changes (Report and Order)" (FCC04-20) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6813. A communication from the Division Chief, Wireline Competition Bureau,

Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service" (FCC04-31) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6814. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Allowing Alternatives to Incandescent Lights, and Establishing Standards for New Lights, in Private Aids to Navigation [USCG-2000-7466]" (RIN1625-AA66) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6815. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: New Tacoma Narrows Bridge Construction [CGD 13-03-025]" (RIN1625-AA00) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6816. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 3 Regulations): [CGD05-04-040], [CGD01-04-020], [CGD01-04-016]" (RIN1625-AA09) received on March 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6817. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska" received on March 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6818. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Modification of Closure Date for Atka Mackerel in the First HLA Fishery in Statistical Area 543" received on March 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6819. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska" received on March 23, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6820. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Trip Limit Increase in the Commercial Hook-and-Line Fishery for King Mackerel in the Florida East Coast Subzone from 50-75 Fish per day or From the Exclusive Economic Zone (EEZ)" received on March 23, 2004; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 107-7 The Protocol to the Agreement of the International Atomic Energy Agency Regarding Safeguards in the United States (Exec. Rept. No. 108-12)]

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND UNDERSTANDINGS.

The Senate advises and consents to the ratification of the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107-7) subject to the conditions in section 2 and the understandings in section 3.

SEC. 2. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions, which shall be binding upon the President:

(1) CERTIFICATIONS REGARDING THE NATIONAL SECURITY EXCLUSION, MANAGED ACCESS, AND DECLARED LOCATIONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that, not later than 180 days after the deposit of the United States instrument of ratification—

(A) all necessary regulations will be promulgated and will be in force regarding the use of the National Security Exclusion under Article 1.b of the Additional Protocol, and that such regulations shall be made in accordance with the principles developed for the application of the National Security Exclusion;

(B) the managed access provisions of Articles 7 and 1.c of the Additional Protocol shall be implemented in accordance with the appropriate and necessary inter-agency guidance and regulation regarding such access; and

(C) the necessary security and counter-intelligence training and preparation will have been completed for any declared locations of direct national security significance.

(2) CERTIFICATION REGARDING SITE VULNERABILITY ASSESSMENTS. Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that the necessary site vulnerability assessments regarding activities, locations, and information of direct national security significance to the United States will be completed not later than 180 days after the deposit of the United States instrument of ratification for the initial United States declaration to the International Atomic Energy Agency (in this resolution referred to as the "Agency") under the Additional Protocol.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings:

(1) IMPLEMENTATION OF ADDITIONAL PROTOCOL. Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

(2) NOTIFICATION TO CONGRESS OF ADDED AND DELETED LOCATIONS.—

(A) ADDED LOCATIONS. The President shall notify the appropriate congressional Committees in advance of declaring to the Agency any addition to the lists of locations within the United States pursuant to Article 2.a.(i), Article 2.a.(iv), Article 2.a.(v), Article 2.a.(vi)(a), Article 2.a.(vii), Article 2.a.(viii),

and Article 2.b.(i) of the Additional Protocol, together with a certification that such addition will not adversely affect the national security of the United States. During the ensuing 60 days, Congress may disapprove an addition to the lists by joint resolution for reasons of direct national security significance, under procedures identical to those provided for the consideration of resolutions under section 130 of the Atomic Energy Act of 1954 (42 U.S.C. 2159).

(B) DELETED LOCATIONS. The President shall notify the appropriate congressional Committees of any deletion from the lists of locations within the United States previously declared to the Agency pursuant to Article 2.a.(i), Article 2.a.(iv), Article 2.a.(v), Article 2.a.(vi)(a), Article 2.a.(vii), Article 2.a.(viii), and Article 2.b.(i) of the Additional Protocol that is due to such location having a direct national security significance, together with an explanation of such deletion, as soon as possible prior to providing the Agency information regarding such deletion.

(3) PROTECTION OF CLASSIFIED INFORMATION.—The Additional Protocol will not be construed to require the provision, in any manner, to the Agency of "Restricted Data" controlled by the provisions of the Atomic Energy Act of 1954.

(4) PROTECTION OF CONFIDENTIAL INFORMATION.—Should the President make a determination that persuasive information is available indicating that—

(A) an officer or employee of the Agency has willfully published, divulged, disclosed, or made known in any manner or to any extent contrary to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America and the Additional Protocol, any United States confidential business information coming to him or her in the course of his or her official duties relating to the implementation of the Additional Protocol, or by reason of any examination or investigation of any return, report, or record made to or filed with the Agency, or any officer or employee thereof, in relation to the Additional Protocol; and

(B) such practice or disclosure has resulted in financial losses or damages to a United States person;

the President shall, not later than 30 days after the receipt of such information by the executive branch of the United States Government, notify the appropriate congressional Committees in writing of such determination.

(5) REPORT ON CONSULTATIONS ON ADOPTION OF ADDITIONAL PROTOCOLS IN NON-NUCLEAR WEAPON STATES.—Not later than 180 days after entry into force of the Additional Protocol, and annually thereafter, the President shall submit to the appropriate congressional Committees a report on measures that have been taken or ought to be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear weapon states party to the Nuclear Non-Proliferation Treaty.

(6) REPORT ON UNITED STATES ASSISTANCE TO THE AGENCY FOR THE PURPOSE OF ADDITIONAL PROTOCOL IMPLEMENTATION AND VERIFICATION OF THE OBLIGATIONS OF NON-NUCLEAR WEAPON STATES.—Not later than 180 days after the entry into force of the Additional Protocol, and annually thereafter, the President shall submit to the appropriate congressional Committees a report detailing the assistance provided by the United States to the Agency in order to promote the effective implementation of additional protocols to safeguards agreements signed by non-nuclear weapon states party to the Nuclear Non-Proliferation Treaty and the

verification of the compliance of such parties with Agency obligations.

(7) **SUBSIDIARY ARRANGEMENTS AND AMENDMENTS.**—

(A) **THE SUBSIDIARY ARRANGEMENT.**—The Subsidiary Arrangement to the Additional Protocol between the United States and the Agency, signed at Vienna on June 12, 1998 contains an illustrative, rather than exhaustive, list of accepted United States managed access measures.

(B) **NOTIFICATION OF ADDITIONAL SUBSIDIARY ARRANGEMENTS AND AMENDMENTS.**—The President shall notify the appropriate congressional Committees not later than 30 days after—

(i) agreeing to any subsidiary arrangement with the Agency under Article 13 of the Additional Protocol; and

(ii) the adoption by the Agency Board of Governors of any amendment to its Annexes under Article 16.b.

(8) **AMENDMENTS.**—Amendments to the Additional Protocol will take effect for the United States in accordance with the requirements of the United States Constitution as the United States determines them.

SEC. 4. DEFINITIONS.

In this resolution:

(1) **ADDITIONAL PROTOCOL.**—The term "Additional Protocol" means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes and a Subsidiary Agreement, signed at Vienna June 12, 1998 (T. Doc. 107-7).

(2) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on International Relations and the Committee on Armed Services of the House of Representatives.

(3) **NUCLEAR NON-PROLIFERATION TREATY.**—The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970.

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. COCHRAN (for himself and Mr. HARKIN):

S. 2241. A bill to reauthorize certain school lunch and child nutrition programs through June 30, 2004; considered and passed.

By Mr. BIDEN (for himself and Mr. NELSON of Nebraska):

S. 2242. A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI:

S. 2243. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2244. A bill to protect the public's ability to fish for sport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 2245. A bill to amend the Internal Revenue Code of 1986 to provide a small business

health tax credit; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 529

At the request of Ms. CANTWELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 529, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act.

S. 1703

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 2236, *supra*.

AMENDMENT NO. 2663

At the request of Ms. CANTWELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 2663 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2244. A bill to protect the public's ability to fish for sport, and for other

purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I rise today to introduce the Freedom to Fish Act. This legislation, cosponsored by Senator BREAUX, addresses an unsettling situation arising over access to our Nation's public coastal resources. There is a growing movement to limit the use and enjoyment of America's coastal and ocean waters. This restriction of public access is occurring under the guise of the establishment of marine protected areas. The bill I am introducing today aims to correct a system that would unfairly penalize our Nation's marine recreational anglers. I support the goal of healthy marine fisheries, but I disagree strongly with any method that unnecessarily limits our citizens' access to public waters.

I believe that my record clearly indicates my dedication to defending and improving the health of our oceans and coasts. Recreational anglers are among America's most proactive conservationists and their contributions need to be recognized.

The Act would establish guidelines and safeguards by which the public's right to use and enjoy these resources are preserved in all but the most serious cases. It provides assurances that the public who enjoy recreational fishing will have a place at the table when decisions are made regarding their use of the resource. Secondly, the Freedom to Fish Act will ensure that measurable scientific criteria is used to determine the cause and impact of damage to fishery resources.

Restricting public access to our coastal waters should not be our first course of action, but rather our last resort. Open access to fishing is the single most important element of recreational fishing. We must defend public access against those that would try to restrict it under the cloak of marine resource protection.

I am proud to offer this legislation to bring attention to this important issue and I urge my colleagues to support the Freedom to Fish Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2244

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

SECTION 1. SHORT TITLE.

This bill may be cited as the "Freedom to Fish Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Recreational fishing is traditionally the most popular outdoor sport with more than 50,000,000 participants of all ages, in all regions of the country.

(2) Recreational anglers makes a substantial contribution to local, State, and national economies and infuse \$116,000,000,000 annually into the national economy.

(3) In the United States, more than 1,200,000 jobs are related to recreational fishing, a number that is approximately 1 percent of the entire civilian workforce in the

United States. In communities that rely on seasonal tourism, the expenditures of recreational anglers result in substantial benefits to the local economies and small businesses in those communities.

(4) Recreational anglers have long demonstrated a conservation ethic. In addition to payment of Federal excise taxes on fishing equipment, motorboats and fuel, as well as license fees, recreational anglers contribute more than \$500,000,000 annually to State fisheries conservation management programs and projects.

(5) It is a long standing policy of the Federal Government to allow public access to public lands and waters for recreational purposes in a manner that is consistent with principals of sound conservation. This policy is reflected in the National Forest Management Act of 1976, the Wilderness Act, the Wild and Scenic Rivers Act, and the National Parks and Recreation Act of 1978.

(6) In most instances, recreational fishery resources can be maintained without restricting public access to fishing areas through a variety of management measures including take limits, minimum size requirements, catch and release requirements, gear adaptations, and closed seasons.

(7) A clear policy is required to demonstrate to recreational anglers that recreational fishing can be managed without unnecessarily prohibiting such fishing.

(8) A comprehensive policy on the implementation, use, and monitoring of marine protected areas is required to maintain the optimum balance between recreational fishing and sustaining recreational fishery resources.

SEC. 3. POLICY.

It is the policy of the United States to promote sound conservation of fishery resources by ensuring that—

(1) Federal regulations promote access to fishing areas by recreational anglers to the maximum extent practicable;

(2) recreational anglers are actively involved in the formulation of any regulatory procedure that contemplates imposing restrictions on access to a fishing area; and

(3) limitations on access to fishing areas by recreational anglers are not imposed unless such limitations are scientifically necessary to provide for the conservation of a fishery resource.

SEC. 4. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS.

(a) LIMITATION ON CLOSURES.—Section 303(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended by adding at the end the following:

“(15) not establish geographic areas where recreational fishing is prohibited unless—

“(A) clear indication exists that recreational fishing in such area is the cause of a specific conservation problem in the fishery;

“(B) no alternative conservation measures related to recreational fishing, such as gear restrictions, quotas, or closed seasons will adequately provide for conservation and management of the fishery;

“(C) the management plan—

“(i) provides for specific measurable criteria to assess whether the prohibition provides conservation benefits to the fishery; and

“(ii) requires a periodic review to assess the continued need for the prohibition not less than once every 3 years;

“(D) the best available scientific information supports the need to close the area to recreational fishing; and

“(E) the prohibition is terminated as soon as the condition in subparagraph (A) that

was the basis of the prohibition no longer exists.”.

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in paragraph (13), by striking “and” after the semicolon; and

(2) in paragraph (14), by striking “fishery.” and inserting “fishery; and”.

SEC. 5. NATIONAL MARINE SANCTUARIES ACT AMENDMENT.

Section 304(a)(5) of the National Marine Sanctuaries Act (16 U.S.C. 1434(a)(5)) is amended to read as follows:

“(5) FISHING REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare, and to revise from time to time, draft regulations for fishing within the exclusive economic zone as the Council may deem necessary to implement the proposed designation.

“(B) RELATIONSHIP TO MAGNUSON.—Draft regulations prepared by the Council under subparagraph (A) shall be made in accordance with the standards and procedures of the Magnuson Act.

“(C) REGULATION WITHIN A STATE.—Such regulations may regulate a fishery within the boundaries of a State (other than the State's internal waters) if—

“(i) the Governor of the State approves such regulation; or

“(ii) the Secretary determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that the State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the fulfillment of the purposes and policies of this Act and the goals and objectives of the proposed designation.

“(D) NOTIFICATION AND HEARING.—If the Secretary makes a determination under subparagraph (C)(ii) to regulate a fishery within the boundaries of such State (other than State's internal waters)—

“(i) the Secretary shall promptly notify the State and the appropriate Council of such determination;

“(ii) the State may request that a hearing be held pursuant to section 554 of title 5, United States Code; and

“(iii) the Secretary shall conduct a hearing requested under clause (ii) prior to taking any action to regulate a fishery within the boundaries of such State (other than the State's internal waters) under subparagraph (C)(ii).

“(E) TERMINATION OF REGULATION WITHIN A STATE.—If the Secretary, pursuant to a determination under subparagraph (C)(ii), assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which the Secretary assumed such regulation no longer prevail, the Secretary shall promptly terminate such regulation.”.

By Mr. DASCHLE:

S. 2245. A bill to amend the Internal Revenue Code of 1986 to provide a small business health tax credit; to the Committee on Finance.

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide relief to small businesses struggling with the high cost of health care.

Rising health care costs are a serious problem for most Americans. The average premium offered by an employer rose last year by 13.9 percent, 4 times faster than wages. This was the third straight year of double-digit increases.

The cost of health care for small businesses is even higher. Health care costs for businesses with 25 to 50 employees rose by 14.3 percent. For firms with 10 to 24 employees, premiums rose by 15.2 percent, and for firms with 3 to 9 workers, they increased by 16.6 percent. In many cases, the increases faced by individual small businesses is significantly larger. I've heard from businesses in my State about premium increases as high as 40 percent in one year.

For many small business owners, increases of this size force them to make tough decisions regarding whether to continue offering coverage, whether to scale back coverage, and whether they can improve wages and make other improvements to their business. At a time when the number of uninsured Americans is growing, our economy is struggling, jobs are scarce, and financial uncertainty affects many too many Americans, the cost of health care is a tremendous problem. Skyrocketing health care costs could pose the single greatest obstacle to entrepreneurship and growth in our economy today.

And many small businesses don't offer coverage at all, not because they don't want to, but because they simply cannot afford it. Both nationally and in South Dakota, only about 55 percent of businesses with 3 to 9 employees offer coverage to their employees, as compared to almost all large businesses—those with over 50 employees.

Why don't small businesses offer coverage? The number one reason they cite is cost. A study by the Kaiser Family Foundation found that about 72 percent of small businesses cite the high cost of insurance premiums as a major reason they don't offer coverage. And a study of South Dakota business owners found that 79 percent said they would be more likely to offer coverage if the costs weren't so high.

Clearly small business owners are desperate for relief. The stories I hear from South Dakota business owners underscore the need.

Last summer, Kathleen Perkins, the owner of Great Plains Coffee Roasting Company in Sioux Falls, wrote to me about the cost of health insurance. In her letter, she wrote, “I recently lost two great employees because as a small business, I cannot afford to offer comprehensive health care to my full time employees.”

Earlier this year, I heard from the owner of South Dakota Magazine, in Yankton. He shared with me the notification from his insurer informing him that premiums would rise 27 percent. The owner expressed his frustration that he faces these increases, even after experiencing past double-digit increases and benefit reductions.

Yet another small business owner in Mitchell wrote to me about yearly rate increases of 10 to 30 percent. She used to pay 100 percent of her employees' cost, but she has had to shift more of the cost onto her employees. And still

she struggles. She said, "I'm not sure how many more increases we can tolerate before we will discontinue this company benefit."

Small employers need relief. That's why the bill I'm introducing today would provide up to a 50-percent tax credit to help small employers pay for insurance for their employees. The legislation would provide a 50-percent credit for businesses with 25 or fewer employees, a 40-percent credit for businesses with between 26 and 35 employees, and a 30-percent credit for businesses with between 36 and 50 employees.

We must take additional steps to address the high cost of health care, the administrative waste in the system, and the growing number of uninsured. This tax credit is a first, important step in that process.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2245

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Health Tax Credit Act".

SEC. 2. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

"(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

"(1) 50 percent in the case of an employer with less than 26 qualified employees,

"(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

"(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

"(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

"(B) SMALL EMPLOYER.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

"(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

"(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

"(A) a health plan of the employee's spouse,

"(B) title XVIII, XIX, or XXI of the Social Security Act,

"(C) chapter 17 of title 38, United States Code,

"(D) chapter 55 of title 10, United States Code,

"(E) chapter 89 of title 5, United States Code, or

"(F) any other provision of law.

"(4) EMPLOYEE.—The term 'employee'—

"(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least \$5,000 of compensation from the employer during such year,

"(B) does not include an employee within the meaning of section 401(c)(1), and

"(C) includes a leased employee within the meaning of section 414(n).

"(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

"(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a)."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting " , plus", and by adding at the end the following:

"(16) the employee health insurance expenses credit determined under section 45G."

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

"(A) IN GENERAL.—In the case of the employee health insurance credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

"(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a)."

(2) CONFORMING AMENDMENTS.—

(A) Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting "or the employee health insurance credit" after "employee credit".

(B) Subclause (II) of section 38(c)(3)(A)(ii) of such Code is amended by inserting "or the employee health insurance credit" after "employee credit".

(d) NO CARRYBACKS.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(1) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45G. Employee health insurance expenses."

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT AMENDMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2241, which was introduced earlier today by Senators COCHRAN and HARKIN.

The PRESIDING OFFICER (Mr. SMITH). The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (S. 2241) to reauthorize certain school lunch and child nutrition programs through June 30, 2004.

There being no objection, the Senate proceeded to the consideration of the bill.

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

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

The bill (S. 2241) was read the third time and passed, as follows:

S. 2241

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

SECTION 1. EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.

Section 9(b)(7) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(7)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 2. CHILD AND ADULT CARE FOOD PROGRAM.

Section 17(a)(2)(B)(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)(B)(i)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 3. REIMBURSEMENT TO STATES UNDER COMMODITY DISTRIBUTION PROGRAMS.

Section 15(e) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended by striking "April 1, 2004" and inserting "July 1, 2004".

SEC. 4. FUNDING MAINTENANCE OF COMMODITY DISTRIBUTION PROGRAMS.

Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SEC. 5. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

(b) PILOT PROJECTS.—Section 18(f)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(2)) is amended by striking "March 31, 2004" and inserting "June 30, 2004".

SENATE ACCOMPLISHMENTS

Mr. FRIST. Mr. President, we had a very busy week. The Senate continued consideration of S. 1637, the FSC/ETI bill earlier in the week. Unfortunately, our colleagues on the other side of the aisle insisted on offering nongermane amendments to this very important

manufacturing bill, this JOBS bill. In an effort to move the bill forward, we did file cloture with respect to the bill earlier in the week. Despite the importance and critical nature of this legislation to our economy, addressing those sanctions imposed by the European Union on us that are in effect now, we were unable to invoke cloture to finish this bill.

We turned yesterday to the Unborn Victims of Violence Act of 2004. In an overwhelming vote of 61 to 38, the Senate passed S. 1637, the Unborn Victims of Violence Act of 2004. I thank all my colleagues for their handling of the bill. Senator DEWINE did a superb job managing the bill, supported by Senator LINDSEY GRAHAM. Again, they did a tremendous job ushering this bill through.

This legislation does so much to help protect women and their unborn children by establishing, for the first time at the Federal level, a separate crime for the injury or death of a fetus resulting from an attack on the mother. The concept is very simple. If someone attacks a woman who is pregnant, there are two victims and not one. Senator DEWINE was able to hold off any amendments which would have changed the underlying legislation. That was important to do. We accomplished that and the bill will be sent shortly to the President for his signature.

This week we also passed welfare reform extension. It was S. 2231. It is a 3-month extension of welfare reform programs.

We will begin consideration of H.R. 4, the welfare reform reauthorization bill, on Monday. I hope we can consider important and relevant amendments to this bill. I know Members on both sides of the aisle do have amendments to improve the bill. We look forward to addressing those that are germane, that are important to the bill. However, once again, I urge Members to allow us to stay focused on the measure before us and not to slow down the process with political posturing or, what now we have begun to see a lot of, so-called message amendments on the floor of the Senate unrelated to the bill itself.

I do respect all Members' rights to amend the bills, but with that we also have a responsibility, and the responsibility is to legislate.

Last night I had the privilege of obtaining unanimous consent by which we passed the Organ Donation and Recovery Improvement Act, H.R. 3926. The bill promotes organ donation, promotes organ procurement, recovery, preservation, and transportation, all of which is critically vital if we are to address the fact we have 83,000 people right now as I speak waiting for an organ transplant, yet we have too few organs. The supply is too small, it is too few, because we are not capturing all the potential organs. This addresses that disconnect and that disparity.

We also passed the Oceans and Human Health Act this week, S. 1218,

reported by Chairman MCCAIN and the Commerce Committee. This particular bill provides for the coordination and support of Federal interagency ocean science programs, including research on the role of oceans in human health.

We passed H.R. 2584, the international fisheries reauthorization under Chairman MCCAIN.

We also addressed treaties. We ratified two treaties this week, the protocol amending the tax convention with Sri Lanka under Chairman LUGAR, the income tax convention with Sri Lanka with Chairman LUGAR, and moments ago we passed the Child Nutrition Act extension, introduced today by Chairman COCHRAN and the ranking member.

MEASURES PLACED ON THE CALENDAR—S. 2236, H.R. 3717, H.R. 339

Mr. FRIST. Mr. President, I understand there are three bills at the desk due a second reading. I ask unanimous consent that the clerk read the titles of the bills for a second time en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills en bloc.

The assistant legislative clerk read as follows:

A bill (H.R. 339) to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.

A bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmissions of obscene, indecent, and profane material, and for other purposes.

A bill (S. 2236) to enhance the liability of the electric system.

Mr. FRIST. I object to further proceeding, en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be placed on the calendar.

ORDERS FOR MONDAY, MARCH 29, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, March 29. I further ask, following the 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 for their use later in the day, and the Senate then begin consideration of H.R. 4, the welfare reform reauthorization bill as provided under the previous order.

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

PROGRAM

Mr. FRIST. On Monday, the Senate will begin consideration of the welfare reauthorization bill. It is my expectation that amendments will be offered

and debated on Monday, and the chairman and ranking member will be here to begin working through any of those amendments.

As I mentioned yesterday, we will not be having rollcall votes on Monday. Thus, any votes that are ordered on Monday will be stacked for Tuesday.

With that said, I inform my colleagues we have a lot of work to do over the next 2 weeks prior to the Easter recess, and I encourage Senators who want to speak on the bill or

to offer an amendment to come to the floor during Monday's session.

ADJOURNMENT UNTIL MONDAY,
MARCH 29, 2004, AT 1 P.M.

Mr. FRIST. Mr. President, 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.

There being no objection, the Senate, at 12:07 p.m., adjourned until Monday, March 29, 2004, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate March 26, 2004:

DEPARTMENT OF STATE

MICHELE J. SISON, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

THOMAS CHARLES KRAJESKI, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.