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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The Senate will be led in prayer by our guest Chaplain, CPT Leroy Gilbert, Chaplain of the U.S. Coast Guard.

### PRAYER

Let us pray.

Eternal God, before the United States Senate begins its deliberation, we pause to give You thanks and invoke Your blessings and presence upon the Senators, their staffs, and all those who work in the Senate, as they transact the business of our Nation.

Lord, we are thankful for our system of government where opinions and divergent views are discussed and analyzed to form synergistic policies that are best for our country.

Dear God, may the words of the psalmist, "blessed is the nation whose God is the Lord" (Psalm 33:12), remind us that America has a divine calling to be a "nation under God." May we never forget the foundation upon which this Nation was built, sustained, and blessed, because Your word gives us wisdom to know that "all the nations that forget God return to the grave."—Psalm 9:17. We come before You today, dear God, as a nation that has not forgotten its allegiance and motto, "In God We Trust." May every decision made in the Senate bring honor to God and make of us a stronger, better, and safer Nation.

Lord, this Nation is faced with new and unexpected challenges that jeopardize the American way of life, our safety, and liberty. Many have said that after September 11, America will never be the same. If this great Nation has to change, then Lord, mold America and make it even greater. Change us to bring out the best in us for the good of humanity. Bless the Senators with spiritual wisdom and insight to make good decisions to keep America

united, strong, efficient, and equal to her tasks.

As we resolve to stand united as a country, dear Lord, we pray the prayer that is written in the hearts of every American: "God bless America, land that I love, stand beside her and guide her, through the night with the light from above. From the mountain to the prairies, to the ocean white with foam. God bless America our home sweet home." In Thy name we pray. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable HERB KOHL 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.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 5, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

### SCHEDULE

Mr. REID. Mr. President, this morning, after a brief period of morning business, at 10:15 a.m. the Senate will proceed to executive session to consider the nomination of Philip Martinez to be a United States district judge. Debate on the nomination is limited to 15 minutes equally divided. At 10:30 a.m., the Senate will vote on the confirmation of this nomination.

Following that vote, the Senate will resume debate on the economic recovery stimulus package. Other votes are expected today with respect to that bill. As a reminder to Members, cloture has been filed on the Daschle and others substitute amendment. All first-degree amendments must be filed by 12:30 p.m. today. In addition, the Senate will recess at 12:30 p.m. for the weekly party conferences.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Chair recognizes the Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the next 10 minutes be equally divided between the minority and majority.

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

Mr. REID. Mr. President, I ask the Chair to inform me when I have used the 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

• 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 BUDGET

Mr. REID. Mr. President, I think it is important to note, with the President having submitted to us his budget, that we have had a \$5 trillion surplus disappear in the last 8 months.

Earlier this month, the Congressional Budget Office confirmed that since passage of the tax cut in May, the surplus projected for the period of 2002 to 2011 declined by \$4 trillion. The President's new tax-and-spend proposals would consume another \$1.3 trillion or more over this period.

I acknowledge that some of this is as a result of the war being conducted, but that is just some of it. As all political scientists and economists have reported in the last few months, the majority of the problem is other economic problems that have developed since this administration took office. It is clear that the Republican fiscal management forces a \$1.5 trillion raid of the Social Security trust funds. There is also a raid on the Medicare trust funds of some \$300 billion.

So I think we must acknowledge we have some serious problems that are going to have to be talked about in the next month or so as we get ready to do a budget for this Congress.

We have what should be called deceptive bookkeeping. We have broken the bipartisan commitment to save Social Security trust fund surpluses. The administration has submitted to us an unbalanced budget. Clearly it is unbalanced. And they have used the Social Security surpluses to mask the unprecedented fiscal reversal seen in the last 8 months and to pay for exploding tax cuts that primarily benefit a wealthy few while jeopardizing retirement security for all Americans.

In addition to this deceptive accounting practice, the administration's budget breaks with a decade-long tradition by only providing details for the next 5 years, even as the administration offers new tax-and-spend proposals with enormous costs that are not felt until later years. The reason they are not doing the 10-year forecast is that the deficits explode in those outyears. This gimmick hides the full budgetary impact and irresponsibility of the administration's fiscal proposals.

The budget also resorts to other—for lack of a better description—gimmicks. Examples include unrealistic restraints on future nondefense discretionary spending, unspecified future Medicare cuts, and proposing budget cuts that have been repeatedly rejected.

Mr. President, I reserve the remainder of the majority's time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to make some comments in relation to the remarks the Senator from Nevada just made—not in disagreement with anything he said, but to supplement them and to put them in proper perspective.

In regard to tax cuts and the war on terrorism and their impact on the def-

icit, even after the tax cuts of last year, we are still going to have a level of taxation that is as high as we had in World War II. The war on terrorism is taking our resources because, obviously, we have to put every resource we can into winning the war or it might not be won. And we are still going to have a level of taxation that was similar to the times of other wars. The benchmark we use is World War II, when taxes were at about 20.6 percent of gross national product.

I ought to correct myself. At the end of 10 years, we would probably still have taxes a bit less than they were in World War II. But right now, they are at that level, even considering the tax cuts we passed.

The war on terrorism has been one of the reasons we are in deficit. Also, the tax cuts are a reason there will be deficits. There are deficits because of the recession we are in right now, most of which was caused by the war acts of September 11, but also remember that the downturn in the economy, as far as manufacturing is concerned, started 19 months ago, in March of the last year of President Clinton's administration. Also remember that 50 percent of the loss of the Nasdaq took place in the last year of the Clinton administration. As far as the economy is concerned, the downturn started before President Bush ever took office, before we ever knew that the dastardly acts which occurred on September 11 would ever happen to us.

I want to comment on a fact that is true, that this does affect Social Security. In a unified budget, Social Security is considered part of the deficit or part of the surplus, but it is wrong to refer to a situation for Social Security different now than a year ago when we anticipated a \$5.8 trillion surplus.

This is a historical fact about Social Security that has never changed since 1936: Whether we have a unified budget, which we have had since 1967 when President Johnson instituted it, or whether we have separate pots of money—some for Social Security, some for Medicare, some for disability, some for highways, some for airports—our different trust funds, the way Social Security has been accounted for has not changed since 1936. It is this simple: Since 1936, the Social Security payroll money has been paid into a trust fund. That trust fund has had some sort of a surplus since 1936 except for the years 1982 and 1983. My colleagues will remember, at that particular time when we did not have a surplus, we borrowed money from Medicare to keep Social Security checks going until we bailed it out.

Since 1936, Social Security moneys have always been handled the same way. They have been put in the Social Security trust fund and the surplus has been invested in non-marketable Government securities. That has not changed since 1936, whether we have had unified accounting or whatever the situation has been.

I yield the floor.

Mr. THOMAS. Mr. President, has the time for morning business expired?

The ACTING PRESIDENT pro tempore. Under morning business, the time for the minority has expired.

Mr. THOMAS. I thank the Chair.

Mrs. HUTCHISON. Mr. President, is it in order now to talk about Judge Phil Martinez?

## EXECUTIVE SESSION

## NOMINATION OF PHILIP R. MARTINEZ TO BE UNITED STATES DISTRICT JUDGE

The ACTING PRESIDENT pro tempore. The Senate will now proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Philip R. Martinez, of Texas, to be United States District Judge for the Western District of Texas.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 15 minutes evenly divided between the chairman and ranking member of the Judiciary Committee.

Who yields time?

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am sure the distinguished chairman of the committee will be here shortly. I am very pleased that I am the first person to speak on behalf of Judge Phil Martinez to be a United States District Judge for the Western District of Texas.

Of all the courts in the country that are desperate for judges, those on the United States-Mexico border have the most critical need. According to statistics from 2000, the Western District of Texas handles the most criminal cases in the country, 4,434 per year, while the Southern District of Texas, for which Randy Crane awaits confirmation, has the third highest level after California's Southern District.

Currently, the Western District of Texas is facing a criminal caseload of 1,983 pending cases and 2,758 defendants waiting for trial because we do not have these judgeships filled.

In El Paso, 884 cases are pending overall, more than any other region in the district. Each day, more cases are added, overwhelming an already overburdened Western District. Relief is needed.

Our war against terrorism is heating up as well as our war on drugs. Therefore, it is more crucial that we have highly qualified judges and law enforcement officials in charge of our justice system along the United States-Mexico border. This is a decisive time for our Nation and our borders.

Senator DIANNE FEINSTEIN and I have introduced a bill to expand the number of Federal courts along the border. While I encourage Senators to support