



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 152

WASHINGTON, MONDAY, APRIL 24, 2006

No. 45

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 25, 2006, at 2 p.m.

## Senate

MONDAY, APRIL 24, 2006

The Senate met at 2 p.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:

Lord of life, our refuge and fortress, we place our trust in You. You are our strength, our shield, and our salvation. We dedicate ourselves today to do Your will and to be instruments for Your glory.

Use our lawmakers as forces for good. May what they declare with their lips be proven by their deeds.

Increase our love for You that we may experience more of Your transforming presence. Help us all to enrich our faith with knowledge, self-control, perseverance, godliness, kindness, and love. We pray in Your holy 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.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. McCONNELL. Mr. President, today we return to our legislative business following the Easter/Passover adjournment. This afternoon, we will be in a period of morning business so that Senators can come to the floor to make statements.

There will be no rollcall votes during today's session. Tomorrow we will begin work on the supplemental appropriations bill. Chairman COCHRAN will be managing that bill, and we encourage Senators who have amendments to contact Senator COCHRAN and the ranking member.

We are now in a 5-week legislative period, which we anticipate will be a busy stretch of work. We have a lot of important issues to address during this time. The majority leader will have more to say on the schedule tomorrow.

Having said that, I welcome everybody back and hope everybody is rested and ready for the weeks ahead.

### RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

### ORDER OF BUSINESS

Mr. REID. Mr. President, it is my understanding that the majority leader

wants to have a judge vote at 10:30 tomorrow morning.

Mr. McCONNELL. We would like to have a vote in the morning on a district judge, if that would be possible.

Mr. REID. I think we should alert all Members that we will have a vote in the morning.

Mr. McCONNELL. I thank my friend from Nevada.

### 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 therein for up to 10 minutes each.

The Democratic leader is recognized.

### COMPLIMENTING THE SENATE CHAPLAIN

Mr. REID. Mr. President, I first would like to acknowledge the prayer of Admiral Black, our good Chaplain. I hope that all those who heard his prayer, as I did, will take it to heart. Certainly, I am going to try to. I try to get here every day—and I am not able to do it every day—to hear his prayer. He is a remarkable man, and we are fortunate to have him as our Chaplain.

### THE SENATE SCHEDULE

Mr. REID. Mr. President, I spent the recess traveling in Nevada—Las Vegas, North Las Vegas, Boulder City, Henderson, my hometown of Searchlight, and I also traveled to Pahrump, Reno,

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



Printed on recycled paper.

S3405

Fernley, Yerington, Fallon, and Hawthorne. These are all very different places, but not once in any of these cities where I met with people during the days, and in the evenings on occasion, not once did anyone talk to me about eliminating the estate tax, flag burning, or gay marriage.

Instead, throughout Nevada I was constantly asked about skyrocketing gas prices. My daughter-in-law, Amber, lives in Reno with my son with their four children. She has never talked to me about anything political in the many years we have known one another. But at dinner on Easter Sunday, she wanted everybody to hear, including me, how fed up she was with gas prices. She said that this is wrong and something has to be done about it.

She was speaking for millions of Americans. Even though she is the one who mouthed the words to me, this conversation could have taken place anywhere in America, at any dinner table, rich or poor. So not once did anyone in any of these Nevada cities talk to me about the estate tax, flag burning, and gay marriage. Instead, throughout Nevada I was constantly asked about these skyrocketing gas prices, the intractable war in Iraq, taxes, immigration, education, health care and, of course, homeland security.

I share this short report of my trip home because I am concerned about the Senate schedule in the coming months, and certainly in the next 5 weeks. All of us in the Senate, Democrats and Republicans, spent the last 2 weeks listening to what our constituents wanted to talk about, issues they care about. Now that we are back in Washington, when we look for these issues on the Senate calendar, they are nonexistent.

According to what I have read in the press in the last week, the majority leader is clearing time on the Senate schedule for what I describe as pet issues of the rightwing, issues such as a constitutional amendment to ban flag desecration—Mr. President, I agree with that; I have voted for that—a constitutional amendment to establish a Federal definition of marriage, and the estate tax reduction.

Each of these controversial issues has merit. There is no question about that. Each issue has a lot of merit. But do they trump gas prices? I don't think so. Do they trump homeland security? I don't think so. Do they trump a full, complete discussion on the Iraq war? By the way, that war, in a few short months, will have taken longer than World War II, in which the Presiding Officer flew airplanes. That American cause took about 3½ years. We are approaching that time with this war—a war that has already cost our country more than the Second World War. It is now costing us about \$120 billion a year, \$10 billion a month.

Do these issues have precedence over public education? I don't think so; over our polluted skies, where asthma for children is becoming endemic? I don't

think it does trump that. How about our country's shaky economy? Should we have a complete discussion on that? Do these issues trump our having raised the debt ceiling to \$9 trillion? I don't think so. Does a constitutional amendment to ban same sex marriage have a higher priority than a debate on high gas prices? No. Does a constitutional amendment on flag burning have more precedence than immigration? No. Does a constitutional discussion on the estate tax, legislating a reduction in the estate tax, have more precedence, more importance than a discussion on health care? I don't think so.

We have only about 15 very short weeks left in this session of Congress. Regardless of your position, the majority leader's constitutional amendments and his saying he will bring the estate tax matter to the floor, there are serious issues of importance to millions of Americans. Surely we can all agree that they are not among the most pressing problems facing America today and the Senate's attention in these few remaining weeks that we have is best focused on the needs of the American people.

This morning, in a letter, I asked the majority leader to drop his plan to bring these partisan issues before the Senate and to commit to bringing the people's priorities to the floor instead. That is not an outrageous request. I guarantee you that if we could put this issue before a jury of the American people, overwhelmingly Democrats and Republicans would agree with my suggestion to the majority leader that we work on these real issues rather than these three issues that I have discussed.

We need to approach these last few weeks in a bipartisan way, and we are reaching out to the majority to let us tackle the urgent issues facing our country, and there are urgent issues facing our country. Americans are frustrated with the direction in which America is headed. We are frustrated equally with the performance of the Bush White House and the Republican Congress.

With just a few months remaining before we adjourn, the 109th Congress is going into the history books as the country's least productive Congress in the more than 200 years we have been a country. In fact, the 109th Congress is on track to exceed the famous do-nothing Congress of 1948, and there have been articles written on that. I am not making it up.

This Congress has worked on class action and bankruptcy, legislation that benefits big business. I have helped with that, but we need to do something to help the vast majority of the American people. To check these off as being great accomplishments, I don't think that is right.

The Senate, thanks to Democrats, did pass lobbying ethics reform legislation, known as the Honest Leadership and Open Government Act. But as yet we have not heard a single word from

the House on this issue. And passing important legislation such as the Honest Government Act has proved to be the exception and not the rule.

Congress has not passed a budget. We haven't completed last year's budget, as a matter of fact, and, I might add, the ethics legislation we passed in the Senate has yet to be considered in the House.

America can do better. America can do much better.

This week the supplemental appropriations bill will be on the floor. It is important legislation, especially since President Bush refused to put the cost of the war of Iraq or the cost of helping the Katrina victims in his budget. Why? Can you imagine that, we are doing a supplemental appropriations bill on matters that should have been in the budget that was brought before the Congress some time ago. Why is it done this way? It is done this way to try to disguise the staggering deficits this administration has run up.

The best example I can give to the American people is what would happen if they did their budgeting the way the White House does its budgeting. We make so much money in our household, but to make our budget complete, what we are going to do is eliminate our car payments and our house payments. That, in fact, is what the President has done. He had a budget, but he eliminated the cost of the war in Iraq and the cost of the Gulf catastrophe, and now we are coming up here in the last few weeks before the Pentagon runs out of money to say we have to do it, it is an emergency. It is not an emergency. We had a bill. We should have taken it up as part of our ordinary cost of Government. Just as I explained, how can a person who has a household budget eliminate car payments or house payments or any other example? That is what this White House has done, and it is wrong.

But in spite of the President's budget gimmicks, Democrats look forward to the debate on the supplemental. We have a number of what we believe are tough and very smart amendments that we will offer to protect the American people, address the situation in Iraq, and provide relief from the energy crisis here at home.

When the Senate is finished with this supplemental, Democrats will insist the majority leader put his partisan agenda on the back burner and continue to focus the Senate on issues of urgent national importance.

I believe we as a Senate owe it to the American people to focus on their needs and not waste a single day working on partisan needs. We are asking in a bipartisan manner to reach out to the American people and say: We have something that will help you.

What this would mean, though, is setting aside issues such as the marriage amendment and tackling an issue such as gas prices. The price of gas has increased 100 percent—100 percent—during this President's last 5 years in

office—35 cents to 50 cents in the last month, and over the weekend 10 or 15 cents.

In San Diego, I heard this morning, the highest price as of yesterday was about \$3.10 a gallon. Nevada is not far behind. There are places in Nevada charging over 3 bucks a gallon for gasoline.

Today many families are paying \$100 to fill their gas tanks, only to drive to work, pick up the kids, and whatever they have to do to get to and from work—\$100. People say: Why don't they buy a car that doesn't use so much gas? That is for them to decide, and they are getting no help from this administration to establish CAFE standards so that cars are more fuel efficient.

It takes \$100 to fill many of the vehicles in America today. These prices are taking an enormous toll on the pocketbooks of hard-working Americans. They are even more difficult for families to swallow given the headlines that Exxon sent their chief executive officer into retirement with a more than \$400-million golden parachute. That is about a half billion dollars to retire. Golden parachute is what you get upon retirement, about a half a billion dollars.

There is nothing wrong with corporate profits. I am all for Americans having retirement security. But does anyone think it is fair to have consumers pay \$100 a week to fill their fuel tanks and the big energy bosses fill their bank tanks with hundreds of millions of dollars?

We on a bipartisan basis need to work to provide consumers relief at the gas pump. It is much more important than measures to appease a few. We ask, on behalf of America, that the majority move to legislation that allows us to pass a Federal law with teeth and resources to go after price gougers regarding fuel, the profiteers, the energy market speculators.

We ask the Republican majority to debate a windfall profits tax. With a windfall profits tax, we can take big oil's excess profits and give them right back to consumers in rebates or use them to build alternative and renewable fuel facilities.

If the greedy oil companies won't invest their billions in profits in delivering affordable domestic fuels for America, then maybe America needs to take some of the windfall profits and put them to better use.

I worked a lot putting myself through school. I worked for Standard stations. I worked for Chevron Oil. I worked in all kinds of gas stations pumping gas, changing oil, lube jobs, and tires. My brother ran a service station for many years. Back then, oil companies made about 4 or 5 cents a gallon on gasoline. Gasoline then was cheap. Now with gas \$3 a gallon or more, they still make the same amount of money. The service station operator still makes the same amount of money on \$3 a gallon. He makes 3 or 4 cents a gallon. So when you fill up the car with

gasoline, don't be mad with that corner service station because Exxon and all these other big oil companies are the greedy ones taking all the obscene profits. They are not going to the guy you are going to ask to wash your windows or to fill up at tank No. 6 and you pump it yourself.

We ask the Republican majority to bring before the Senate legislation that will secure America's energy future so we can put an end to the cycle of higher and higher gasoline prices. If the majority so moved, the Senate could develop a more aggressive national energy policy that would deliver affordable, clean energy from domestic sources now, not in 30 years or whenever the oil company CEOs decide the time is right. We cannot produce our way out of the oil problems we have. We in America, including the oil they say is in Alaska, have less than 3 percent of the reserves in the world. We can't produce our way out of our problems. We have to look to alternative energy sources.

It is terrible to think that American consumers are sending billions and billions of dollars overseas to pay for oil and some of that money, I am told, may be getting into the hands of violent anti-United States groups.

Even if that is not true, wouldn't it be better if we were like Brazil, a country that is areawise bigger than the United States with lots of people? Brazil is energy independent. They produce oil, but they also have determined that they are not going to import oil. And as of this coming June, just a few weeks from now, they will be totally energy independent. They started a number of years ago an alternative energy program, and it worked.

Brazil, this huge country, heavily populated, large in area, is energy independent. Think what America would be if we did not have to use 21 million barrels of oil a day, over 60 percent of which we import. Brazil is an example. It can be done.

National security is another issue that deserves considerable time on the floor in the remaining months. I am confident we will ultimately pass the supplemental for our troops, and the majority has pledged to bring the Defense authorization bill to the floor. I heard that earlier. That was the plan before we left for our recess. I hope that is true. Bring it to the floor, when? Do we want to wait, as we did last year, until the fall, leaving our troops, veterans, and families without the resources they need? I hope not.

Unlike last year, I hope the Defense authorization bill will not be pushed aside for other less important business. The troops are depending on us. It is so important. It was wrong to wait as long as we did last year. It sets up pay for the troops and what new equipment they need. It authorizes what the appropriators must come forward with to help our brave men and women.

I also hope we can pass last year's intelligence authorization bill. Inter-

esting. Now, more than any other time, we are dependent on our intelligence for our security. What does that mean? It means our spies, our satellites, the other activities we do to make America safe. But because of the majority, we have not brought an intelligence bill before the Senate. Why? Because they are afraid amendments will be offered on prison abuse scandals and on how intelligence was manipulated prior to going to war. We have not even had an intelligence authorization bill. Right now we are in danger of not passing that important bill for the first time in 28 years because Republicans have been unwilling to hold the Bush White House accountable for its conduct in the war in Iraq and the war on terror.

For the first time in 28 years, we are not going to take up this most important bill dealing with the safety and security of our Nation. I ask: Is it important we do that? Is it more important we do that or talk about same-sex marriage or the estate tax which will affect a fraction of a percent of the American people, a tiny fraction of the American people? I think it is more important we deal with intelligence, the intelligence authorization bill.

Health care: Shouldn't we dive into health care and talk about it? That is something when you go home—and home can be anyplace in our 50 States—whether you are a big company, a little company, a rich man, a poor woman, it doesn't matter, people are concerned with the cost of health care. Surely we can agree that health care problems in our country are far more important than a handful of amendments to please the rightwing.

We need a real health care debate, not a 2- or 3-day minidebate. The majority leader said he will bring to the Senate floor a health care bill, the Enzi bill. He said we are going to do it during this work period.

The Enzi bill threatens existing coverage for everyone who has State-regulated health insurance. It is touted as a cure for the problems small businesses have in providing coverage to their employees, but it would actually expose small businesses to fraud and leave self-employed individuals with the same, if not more, problems than they have right now.

We all agree small businesses need health care relief. All businesses need health care relief. But the Enzi approach is not the way to move forward. Senator DURBIN has a bill in committee that will provide small businesses with the same kind of options Senators have. Why don't we bring them to the floor and debate them together and find out what is the best of the two or what is the best mix of the two. With the Enzi and Durbin bills we can, and we can also consider other problems facing our health care system, such as lowering drug prices, health care costs, expanding coverage, and fixing the President's botched Medicare drug program.

And if we are going to talk about health care, isn't it about time—isn't it about time—we got to stem cell research? We are approaching May 24, the 1-year anniversary of the House passing their stem cell bill, and we still haven't seen it in the Senate. Ask any of the Nevadans with whom I visited if they are more interested in seeing the Senate spend its time on issues of stem cells, an issue that offers hope to millions and millions of Americans suffering from heart disease, Parkinson's, Alzheimer's, Lou Gehrig disease, diabetes, or if they would rather see the Senate spend its remaining days debating same-sex marriage? The answer is obvious. I hope the majority leader, who said he supports stem cell research, will allow us to move forward with the House bill. Stem cell research offers hope to millions of Americans, and the Senate must not stand in its way.

Immigration. President Bush likes to point fingers on immigration and many other issues. I repeat: President Bush likes to point his finger on immigration and many other issues. Isn't it about time we move beyond that? Isn't it about time we pass comprehensive immigration reform that will secure our borders and secure our country?

Before we left for our 2-week break, we had a bipartisan immigration deal that was blocked by a handful of Republican Senators. That arrangement would have sealed our porous borders, given 12 million undocumented workers a reason to come out of the shadows, and provided personnel to enforce our laws, so existing "employer sanctions" would be more than just words. It also had a very important provision to take care of guest workers.

The Senate can move forward on immigration if the President will stand up to those in his party who are filibustering reform and tell them to quit standing in the way of America's security.

It is my understanding that the President gave a speech in Orange County, CA today. By the way, that is where San Diego is, where the highest gas prices are in the country, and maybe he should have spent a few minutes talking about that. Speaking about immigration, the President said he wants to do something about security. We all want to do something about securing our borders; everybody does. Is that a stand of integrity and courage? No. Everybody wants to do something about protecting our porous borders. The President says he wants to do something about a guest worker program. What? What does he want to do? It is easy for him to criticize. What does he want to do? Let us know what he wants to do. He is the leader of his party. He never got involved in the immigration debate until the two votes had taken place, and then he was a great finger pointer.

It is interesting. In all that I have heard when the President talks about immigration, what does he say about

the 12 million who are here who are undocumented? What does he want to do? His party is split. What does the President of the United States want to do? What does he want to do on security? He wants to protect our borders. So do we. What does he want to do with guest workers? Rather than just words, tell us what his program is. He has a staff of thousands. Have a few of them come up and tell us what the President wants on a guest worker program. It appears he doesn't want anything. But does he want us to do anything with the 12 million? Let him take a stand on that.

The Martinez bill that came before the Senate was not supported by any of the Republicans. The Martinez bill had a provision for 7,000 new workers via Immigration and Naturalization, and their sole function would be employer sanction enforcement. I thought that was a step in the right direction. Does the President want that? Does he want stronger employer sanctions? I repeat: What does he want regarding immigration? I think he has to move beyond security, because all 100 Senators want that.

Finally, if we are going to do taxes, let's do something that will make a difference for those who need it. Talk to any economist and they will tell you that in America today, the rich are getting richer, the poor are getting poorer, and the middle class is being squeezed. Could we spend a little bit of time here on the Senate floor talking about tax relief for the middle class, this vanishing breed we have in America? It is not much of a distinction anymore to be a millionaire; it is whether you are a multibillionaire. That is what gets some attention. A millionaire is not much anymore; there are lot more of them. The poor are getting poorer and poorer, the rich are getting richer and richer, and the middle class is being squeezed.

We could start this tax debate by fixing the AMT, the alternative minimum tax. AMT was originally established to ensure that millionaires paid their fair share. But because AMT income levels were not indexed for inflation, it has essentially become a tax increase for millions of middle-class families. That was never its purpose, and we should fix it and fix it quickly.

Tax fairness should be the Senate's focus, not immoral, unfair tax breaks that will benefit a privileged few, which is further exacerbating the problem we have in America today where the rich are getting richer, the poor are getting poorer, and the middle class is getting squeezed, squeezed, squeezed.

So in the weeks ahead, we are ready—the Democrats are ready—to work with the majority on the real issues facing our country. Let's spend some time here debating these issues, legislating high gas prices and immigration and improving our Nation's security. We want to put politics aside and take up the real work facing our country.

With the right priorities and the right commitment from the majority, we can move America in the right direction and give the people the real solutions they need. America can do better, and we can do it together. That is what we need: bipartisanship, working together on America's problems.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from West Virginia.

#### THE SENATE AS A SAUCER

Mr. BYRD. Mr. President, an oft-repeated metaphor compares the U.S. Senate to a saucer in which a hot liquid is poured to cool. The earliest known written version of this story appears in an 1871 letter from constitutional law professor Francis Lieber to Ohio Representative and later President James A. Garfield. Lieber recounted a story he had heard about Thomas Jefferson's visit to Mount Vernon where Jefferson disagreed with Gen. George Washington over the need for a bicameral legislature, and Washington's response:

"You, yourself," said the General, "have proved the excellence of two houses this very moment."

"I," said Jefferson. "How is that, General?"

"You have," replied the heroic sage, "turned your hot tea from the cup into the saucer, to get it cool. It is the same thing we desire of the two houses."

The Washington-Jefferson dialogue drew further attention in the writings of the late 19th century American historian Moncure D. Conway, who altered the language and the beverage:

There is a tradition that on his return from France, Jefferson called Washington to account at the breakfast table for having agreed to a second chamber.

"Why," asked Washington, "did you pour that coffee into the saucer? Why did you do that?"

"To cool it," answered Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

Francis Lieber never discovered the source of this delicious anecdote, but whether or not the incident really occurred, the story has been widely embraced because it conveys the essence—the essence—yes, the essence—of the U.S. Senate. What is the essence? It is a deliberative body. It is a deliberative body sheltered from shifting public opinion by longer and staggered terms, and originally by being elected via the State legislatures. It serves as a counterbalance to the U.S. House of Representatives.

The saucer story explains, in simple terms, the significance of the Senate, from its origins through its evolution into the most powerful upper body of any national legislature in the world. Do you get that? Think about that.

Senators and other close observers of the institution have grappled with their own ideas about the Senate seeking to highlight its unique and enduring attributes, and to explain its role