

I am sorry that the Republican whip has objected to bringing up this bill. But every day that we are here, I intend to ask unanimous consent to bring up the education funding bill.

This is our ticket out of the recession. It is our ticket to a better future. It is a ticket to a stronger America. We can't back off of our support for education.

I am sorry that we have gotten this objection on the Republican side. But, as I said, every day that we are here I will try to bring it up to get our education funding bill through.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

THE SENATE SCHEDULE

Mr. NICKLES. Mr. President, the Senate is not working. The Senator from Iowa is correct. The Senate is almost being dysfunctional when it comes to appropriations bills and the budget process. We haven't passed a budget. I could ask unanimous consent to bring up the budget.

This is the first time since 1974 that the Senate has not passed a budget. The Senate has not passed any appropriations bills and sent them to the President. I can't remember any time that at the beginning of the fiscal year we haven't sent one appropriations bill to the President. I fault the Senate because we haven't passed a budget. Therefore, we haven't worked out an agreement with the House on the total amount of money we are going to spend. The House has passed some appropriations bills because they have a budget, and we don't have a budget. So the Senate passes bills that are much higher than the House. They don't want to go to conference when the two numbers are not the same. Usually, if you have a budget, both the House and the Senate will at least be working with the same figures and it is much easier to reconcile and actually have a bill that would pass.

Also, I might mention that the President has already said he would veto a bill that would be in excess of what the House passed. We would be wasting our time in that respect.

I would love to take up more appropriations bills, but we haven't finished the appropriations bill that is pending before the Senate. Since we came back on, I believe, September 3, the day after Labor Day, the majority leader said we would do a dual track. We would take up the Interior appropriations bill in the morning and then we would take up the Department of Homeland Security in the afternoon. We would double track those. We didn't object. It took unanimous consent to do that. One would have thought we would have rapidly finished both bills. Unfortunately, we haven't finished one in the entire month of September when we usually do a lot of appropriations bills. We have not done one appropriations bill.

The Department of the Interior appropriations bill is still pending before the Senate. It is not up to the individual chairman of the subcommittee to advance this bill on the floor. It is up to the majority leader to move to consideration of the appropriations bill, and the majority leader did not do so—I would guess because we still had other items on the floor. The Department of the Interior appropriations bill should have taken 2 days. We have been on it for 4 weeks.

We have been stuck on an issue dealing with fire management. The State of South Dakota has an exemption. They have fire management that the majority leader was able to pass earlier to deal with cleaning up their forests so they do not have such a volatile fire situation in their forests. Many Senators wanted to do the same thing for their States. They have offered amendments to do so, and they have yet to get a vote on their amendments. I have stated repeatedly that they are entitled to a vote. That is on the Department of the Interior appropriations bill. Hopefully, we can vote on those amendments and finish the bill. We should be able to do that in no time. It should not take too long.

People should be able to offer amendments. If people don't like the amendment, they can object. It doesn't take too long to finish appropriations bills if the managers and the leaders are willing to vote to table the amendments and find out where the votes are. If you win, you win. If you lose, you lose. We are willing to do that.

We haven't finished the Department of the Interior appropriations bill, nor the homeland defense bill.

People say, let us add another bill to the equation. I disagree. We just voted on a cloture motion. We have had several cloture votes. I happen to disagree. Every time we turn around we are voting on cloture. I disagree with that.

I think we are trivializing the rules of the Senate. Cloture should be used to break a filibuster. There was no filibuster on the Department of Justice authorization bill. We had a cloture vote.

Some of us were hoping we could get some agreement on when we would have more votes on judges. We are disappointed in the fact that we have a lot of judges who were nominated a long time ago and who have yet to get a vote, and in many cases even a hearing in the Judiciary Committee. I spoke to that yesterday. I don't need to repeat it. But several outstanding nominees have not been voted on and in some cases have not even had a hearing before the Judiciary Committee. That bothers me because we are going to finish this Congress and these people have been waiting in some cases 1½ years and they are not going to get a vote.

John Roberts comes to mind. He was nominated on May 9. He has argued 35 cases before the Supreme Court and he didn't even get a hearing this year. He is eminently qualified. He is a former

assistant solicitor general and he didn't even get a hearing this year.

I have been pushing and I hope maybe we will be successful in getting a vote on Michael McConnell this year. At least the committee has had a hearing on him. He is from Utah. He is from Senator HATCH's State. He was nominated by President Bush and is supported by Senator HATCH. The tradition of the Senate is that surely the ranking minority member of the Judiciary Committee is entitled to get a vote on his judge.

I have asked for the Judiciary Committee—and I hope it is not too late—to put Michael McConnell on the docket to be voted on next week. I hope they will. I understand he is not on it yet. I am going to encourage our colleagues to include him, as well as Dennis Shedd and others.

There is a lot of work to be done. Now we have a whole succession of people coming in asking to take up their bills. The majority leader has the right to move to whatever item is on the floor of the Senate. That is his prerogative. That is the prerogative of the majority leader, and I support maintaining that tradition. Obviously, we have others who are saying: Wait a minute. I want to take up my bill.

Labor-HHS has not passed because we haven't passed a budget. Other bills haven't passed because the Senate didn't pass a budget. Unfortunately, the majority leader never called the budget up to put it on the floor for a vote. It may well have been because he didn't have the votes.

But I know when Senator DOMENICI was chairman of the Budget Committee he had a difficult time. And every once in a while we went to the floor and fought lots of battles. We won some and we lost some. But we ended up with a budget resolution that we were able to work out with the House. We would pass a budget resolution, and it would be identical figures, total spending figures, between the House and the Senate. That enabled us to move forward on the appropriations bills. We did not get it done this year, so we have not passed appropriations bills.

I would also like to say I heard: Well, all these education accounts, they are being cut, cut, cut. That is not actually correct. I believe the correct statement would be: We are continuing appropriations. We just passed a continuing resolution for funding until next week, and that continues at last year's level—not an increase, not a decrease.

So I just mention that. I think people should understand we may be on a continuing resolution, unfortunately—because we have not done our work, because we have not passed a budget, because we have not passed appropriations bills—we may be on a continuing resolution for months, but that will not be a cut for anybody. It is basically going to be a continuation of funding levels at last month's, last year's level. I say that just for people's information,

so they will not be saying: Well, this group is being cut or this group is being hurt, and so on. There may be some groups for which there would be pluses or minuses as to what they would have received compared to last year, but basically a continuing resolution says: Continue at last year's level. So I want to make sure that is noted as well.

IRAQ

Mr. NICKLES. Mr. President, the majority leader filed a cloture motion on the motion to proceed to the resolution dealing with Iraq. I happen to be proud of the fact the Senate has bipartisan support for this resolution.

The President has worked hard on it, as well as Senator LIEBERMAN, Senator WARNER, Senator MCCAIN, Senator BAYH, and others. I compliment them for that. I look forward to the debate. I think we can have a good debate.

We can pass a positive resolution that will reaffirm the United States in saying we believe the resolutions we supported and passed in the United Nations should be enforced. This body and the United Nations have passed several resolutions telling Iraq they must comply, and then not enforcing them, and we have done it year after year.

In 1998, we passed a resolution unanimously saying we should enforce the existing resolutions requiring Iraq to disarm. Unfortunately, that resolution was good on paper, but it was not enforced.

Now we have an administration that says they are willing to enforce it. I believe this Congress will stand behind President Bush in saying: Yes, we will give you the authorization to enforce it.

These resolutions mean something. We don't think it is acceptable to have a person with Saddam Hussein's known history of using weapons of mass destruction against his own people, and also invading his neighbors, and lobbing missiles against Israel and Saudi Arabia—it is not acceptable for him to be developing further these weapons of mass destruction. That is against the United Nations resolutions.

We are saying these resolutions mean something. Let's enforce them. We said that unanimously in 1998. It is going to be interesting to see if people want to weaken what we passed in 1998.

I hope our colleagues read President Clinton's statement he made in 1998 to the Pentagon that talked about the need for strong enforcement. That is not the same speech President Clinton made yesterday in London, unfortunately. And I am very disappointed in President Clinton's speech.

Former Presidents usually have a tradition to not undermine current administrations in foreign policy, certainly in foreign lands, and that is not what President Clinton did. President Clinton, in London, I think, made a speech that very much undermines the current administration, including the

administration in London, in trying to develop an international coalition to stand up to Iraq and Saddam Hussein.

I mention that. I don't really like being critical of anyone or any administration, but for the former administration, which did not enforce the existing U.N. resolutions during their tenure, during their 8 years in office, did not pursue terrorists, including terrorists that were al-Qaida, who were directly responsible for blowing up two U.S. Embassies in Africa in 1998, and the USS *Cole* in the year 2000—when they did not go after the terrorists aggressively after those two terrorist attacks, did not enforce the U.N. resolutions, then to have President Clinton being critical of President Bush in Great Britain I think is very demeaning to the office, and I am very regretful a former President would make such a statement.

Mr. President, I yield the floor and 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business.

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

CONFIRMATION OF RONALD CLARK

Mr. LEAHY. Mr. President, last night, the Senate confirmed its 79th and 80th judicial nominees, and its 65th and 66th nominees to the Federal district courts since the change in Senate majority and reorganization of the Judiciary Committee less than 15 months ago. In so doing, we have confirmed more judicial nominees than were confirmed in the first 15 months of any of the past three Presidents, and more nominees than were confirmed in the last 30 months that a Republican majority controlled the Senate. We have done more in half the time. We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated.

Since the summer of 2001, we have held more hearings for more judicial nominees and more hearings for circuit court nominees than in any 15-month period of the six and one-half years in which Republicans last controlled the Committee. With our hearing last week, the Democratic-led Judiciary Committee has not held 25 hearings for 96 district and circuit court nominees. This is approximately double the pace at which the Republican majority con-

sidered President Clinton's nominees. The Judiciary Committee has likewise voted on more judicial nominees, 83, and on more circuit court nominees, 17, than in any comparable 15-month period of prior Republican control. In fact, Democrats have given votes to more judicial nominees and, in particular, to nominees to the Courts of Appeals, than in 1996 and 1997 combined, and than in 1999 and 2000 combined.

Last night, the Senate voted on the nomination of Ronald Clark to the United States District Court for the Eastern District of Texas. I was troubled by a number of aspects of Mr. Clark's background. Since 1997, Mr. Clark has been a Representative in the Texas State Legislature. His record as a State legislator is controversial, as he has taken positions that would, among other things, limit civil rights, consumer rights and women's reproductive rights. But he has never served as a judge, and he assured us that, as a judge, he would follow precedent and apply the law as written, without partisanship. I am hopeful that Mr. Clark will be a person of his word: that he will follow the law and not seek out opportunities to decide cases in accord with his private beliefs rather than his obligations as a judge.

The confirmation of Mr. Clark last night made the 28th nominee that we have confirmed to fill a judicial emergency vacancy since the change in Senate majority last year, and the 21st judicial emergency vacancy that we have filled this year. Despite Republican claims about a crisis in the courts, this Administration has failed to nominate people to ten seats that have been declared judicial emergencies, seven vacancies on the Courts of Appeals and three vacancies on the District Courts.

I would note that President Bush has nominated nine people to fill district court vacancies in Texas, and with yesterday's vote, we have already considered seven of them and confirmed six of them. Mr. Clark's confirmation made the 13th Texas nominee that we have confirmed and the second nominee that we confirmed to the District Court for the Eastern District. With his confirmation, there are no longer any vacancies on the district court for the Eastern District of Texas. With our confirmations earlier this year of Randy Crane and Andrew Hanen to the District Court for the Southern District of Texas, we filled the remaining vacancies in that court as well. We have provided much needed help to the courts in Texas, which are facing large caseloads and some of the highest number of filings of criminal cases in the country.

Under Republican control of the Senate, three Texas judicial nominees never received hearings or votes. The Republican-led Senate failed to provide any hearings on nominees to the Court of Appeals for the Fifth Circuit, which includes Texas, in the six years of their majority during the Clinton Administration. Moreover, they delayed action