The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

NOMINATION OF SECRETARY GORDON ENGLAND

Ms. COLLINS. Mr. President, I rise tonight in strong support for the nomination of Secretary Gordon England to be the first Deputy Secretary of Homeland Security. I thank the majority leader, in cooperation with the Democratic leader, for promptly scheduling the Senate's consideration of this very important nomination.

President Bush nominated Secretary England on January 7. The Governmental Affairs Committee, which I am privileged to chair, held a hearing on his nomination last Friday, and today, I am pleased to report, the committee unanimously voted to discharge the nominee from consideration. The committee thoroughly considered the nomination at a hearing on Friday. In addition, Secretary England responded to extensive prehearing questions about a wide variety of issues.

I have no doubt, based on my review of the record, and my conducting of the hearing, that Secretary England is extraordinarily well qualified for this position. In fact, it is difficult for me to think of two more qualified Americans than Tom Ridge and Gordon England to head up this vital new Department.

Secretary England currently serves as Secretary of the Navy. As a member of the Senate Armed Services Committee, I have gotten to know him well in that capacity. I have enormous regard for his ability. He has held that position since May of 2001.

Prior to becoming our Secretary of the Navy, Gordon England had an impressive portfolio of management experience. He served as executive vice president of General Dynamics Corporation, and he previously served in various executive positions at a number of General Dynamics divisions. His experience in both the public and the private sectors will provide him with exactly the experience and expertise needed to oversee the merger of some 22 agencies and 170,000 Federal employees that will be transferred into this new Department.

As preparation for being Deputy Secretary of Homeland Security, it would be difficult to beat a tour as Secretary of the Navy. The Department of the Navy has a budget of over $100 billion. It consists of 372,000 active duty and 90,000 Reserve sailors, 172,000 active duty and 40,000 Reserve marines.

In addition, as Secretary of the Navy, Gordon England has overseen a civilian workforce of nearly 190,000 employees. That number, I note, exceeds the number in the workforce of the new Department. We often talk about what a management challenge it is going to be to the leaders of this new Department to oversee 170,000 civilian employees. As Secretary of the Navy, Gordon England has overseen a civilian workforce that exceeds that number, not to mention the sailors and marines under his jurisdiction.

Secretary England's extensive experience in managing large, complex operations in both the public and private sectors will serve him well in his new position. I have been very fortunate to have had the pleasure of working with him when he was Secretary of the Navy, and I look forward to continuing our partnership in his new capacity.

I urge my colleagues to support confirmation of this important nomination. The new Department of Homeland Security opened its doors officially last Friday, and it is critical that we get the top management positions filled as quickly as possible.

Mr. President, I do hope this nominee will be approved unanimously.

I yield the floor.

Mr. FRIST. Mr. President, I rise today to draw attention to an alarming issue—the growing number of premature births. According to data released by the National Center for Health Statistics, the percentage of babies born prematurely—birth at less than 37 completed weeks of gestation—has risen to nearly 12 percent, the highest level ever reported in the United States. In 2001 alone, more than 476,000 babies were born prematurely in the U.S. Unfortunately, in my own State of Tennessee, 14 percent of births are preterm. There cannot be a clearer wake-up call for us.

Today, the March of Dimes is launching a national, five-year prematurity awareness, education, and research effort aimed at preventing prematurity, the leading cause of infant death in the first month of life. I cannot imagine a better organization to take on this serious problem. Over its 63-year history, the March of Dimes has conducted two highly successful national campaigns—the first focused on preventing polio and the second involved educating the public and health providers on the role of folic acid in preventing neural tube defects. My friend, former Health and Human Services Secretary, Dr. Louis Sullivan, is the honorary chair of this campaign, and I salute him for his continued commitment to the public's health.

I'm pleased to be able to salute and encourage this new campaign which holds the promise of significantly reducing the incidence of premature birth throughout the country. Babies born prematurely are more likely to face serious multiple health problems following delivery: a tragedy for families but one which may be preventable.

Since coming to the Senate, I have focused on disparities in healthcare quality and access. Prematurity is one of the clearest indices of this problem. Rates of preterm birth vary significantly by race and ethnicity. In 2001, rates for black women were highest among all racial and ethnic subgroups—17.5 percent for black as compared to 11 percent for white Americans. We simply do not know why these numbers vary so dramatically. But without further research, our public policy options are limited.

Our great health research institutions also have an important role. I have fought for the five-year doubling of NIH's budget. With this significant increase in funding, the National Institute for Child Health and Human Development and the National Center on Minority Health and Health Disparities cab expand research in this area.

I ask all of my colleagues to join me today in congratulating the March of Dimes on its launch of this new national campaign to target the rising rate of premature births.

ERRONEOUS TIME MAGAZINE REPORT

Mr. REID. Mr. President, last week in recognition of Dr. Martin Luther King's birthday, I spoke about the importance of continuing his legacy and working to ensure that the civil rights of all Americans are protected. I discussed my concerns that some of the current administration's policies jeopardize the gains our Nation has made.

In prefacing my remarks last week, I criticized President Bush, based on a disturbing report that recently appeared in Time magazine declaring that this administration had reinstated the tradition of delivering a floral wreath to the Confederate Memorial at Arlington National Cemetery.

The information I referenced in my speech was inaccurate, as Time magazine has subsequently issued a correction clarifying that the wreath practice was not initiated by President Bush, but in fact had been done by previous administrations. I, therefore, apologize to President Bush, as my remarks regarding the floral arrangement were inaccurate.

I do think this exercise should be discontinued by President Bush, regardless of the past history of the practice.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 4, 2001 in Hendersonville, N.C. A man shot into the home of a Hispanic family. The assailant, Gene Autry Williams, 60, was heard to yell racial slurs at the family before shooting at them in their home. Williams was charged with assault for pointing and discharging a firearm, and for ethnic intimidation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CORPORATE WHISTLEBLOWER PROTECTIONS IN THE SARBANES-OXLEY ACT

Mr. LEAHY. Mr. President, I rise to note an important victory in the fight to protect whistleblowers and to praise my good friend Senator CHUCK GRASSLEY for his leadership in this fight.

The Washington Post reported yesterday that the Department of Labor has reversed its view on how it will interpret an important provision of the Sarbanes-Oxley Act on corporate misconduct. The provision we enacted provides a Federal law protecting corporate whistleblowers from retaliation for the first time. The law was designed to protect people like Sherron Watkins from Enron, who was recently named one of Time magazine's ''People of the Year,'' from retaliation when they report fraud to Federal investigators, regulators, or to any Member of Congress. The law was intentionally written to sweep broadly, protecting any employee of a publicly traded company who took such reasonable action to try to protect investors and the market.

The reason that Senator GRASSLEY and I know so much about the legislative intent behind this provision is that we crafted it together last year in the Judiciary Committee and worked to make it part of the Sarbanes-Oxley Act on the Senate floor. We had both seen enough cases where corporate employees who possessed the courage to stand up and 'do the right thing' found out the hard way that there is a severe penalty for breaking the 'corporate code of silence.' Indeed, in the Enron case itself we discovered an e-mail from outside counsel that noted that the Texas Supreme Court had twice refused to find a legal protection for corporate whistleblowers and that implicitly gave Enron the go ahead to fire Ms. Watkins for reporting accounting irregularities.

Senator GRASSLEY has always been a leader in protecting the rights of whistleblowers, and I was proud to work with him in the area of corporate reform to craft such a groundbreaking law.

Unfortunately, from the very day that President Bush signed the Sarbanes-Oxley Act into law, Senator GRASSLEY and I had to fight the administration to make sure that the law would not be gutted. On the same night that the law was signed, the White House issued an interpretation that incorrectly and narrowly interpreted our provision. Specifically, the White House stated that corporate whistleblower's disclosure to Congress would not be protected unless the whistleblower made the report to a congressional committee already conducting an authorized investigation. This interpretation was at odds with the legislative intent and the clear statutory language of the Act, which protected reasonable reports of fraud to ''any Member of Congress.''

Senator GRASSLEY and I had good reason to write the law with such broad coverage. Most corporate whistleblowers do not know the ins and outs of the jurisdiction of Congress's various committees, nor should they be expected to. Simply picking up the phone and calling your local Senator or Representative to report a case of securities fraud should be protected. In addition, by definition most ''whistleblowers'' are reporting fraud that is not widely known. They are blowing the whistle. Thus, their revelations do not come as part of already commenced investigations. They may lead to such investigations as well as contribute to them. The White House interpretation would have excluded among the most important revelations of corporate fraud made to Congress.

The administration's interpretation was reinforced the next day when the White House spokesman repeated that there were limits on the types of disclosures to Congress that would be protected. Finally, in addition to these White House interpretations, former Solicitor of Labor Eugene Scalia filed a troubling brief that adopted this narrow interpretation not only in the context of the Sarbanes-Oxley Act, but regarding the environmental whistleblower provisions, as well.

That is where Senator GRASSLEY stepped in. As he has done so many times before, under both Republican and Democratic administrations, he went to bat for the rights of the lone whistleblower against the huge bureaucracy. Once again, through his perseverance, he has proven that you can fight not only city hall but the executive branch of the Federal Government.

Working together, we wrote a series of letters to the administration protesting their narrow interpretations and making the legal case that they were at odds with the legislative intent and clear language of the provision that we wrote. Each and every time that the administration responded by stonewalling or giving half answers, Senator GRASSLEY was there to protect the law we had worked so hard to write.

Finally, on January 24, 2003, almost a half year after our first letter, the administration gave in. In a letter from the new Acting Solicitor of Labor to Senator GRASSLEY and to me he stated, ''It is the Department's view that under Sarbanes-Oxley, complaints to individual Members of Congress are protected, even if such Member is not conducting an ongoing Committee investigation within the jurisdiction of a particular Congressional committee.. .'' The letter promised that new rules and regulations effectuating this policy change would follow.

I am quite sure that when those regulations come out that Senator GRASSLEY will once again be paying close attention, as will I. Where the integrity of our financial markets and our Government are concerned, we can do no less. I look forward to working with Senator GRASSLEY to protect the rights of whistleblowers in the 108th Congress, as we did in the 107th Congress. It is an honor and a privilege to work with Senator GRASSLEY on these important matters.

I ask unanimous consent that the letters I have referenced above and the Washington Post story, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 31, 2002.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: As coauthors of the recent corporate whistleblower provision in the Corporate and Criminal Fraud Accountability Act, section 806 of the Sarbanes-Oxley Act, we are writing to express our shared concern about interpretive statements made by the White House staff only hours after you signed the Act into law.

According to media reports, the White House views this bipartisan provision, which was approved unanimously both by the Judiciary Committee and the full Senate, as protecting employees only if they report fraud to Congress ''in the course of an investigation.'' This narrow interpretation is at odds with the plain language of the statute and risks chilling corporate whistleblowers who wish to report securities fraud to Members of Congress.

The provision in question, codified at 18 U.S.C. §1514A, states that it applies to disclosures of fraud whenever ''*the information or assistance is provided to* or the investigation is conducted by . . . any Member of Congress or any committee of Congress.'' (emphasis added). By its plain terms, there is no limitation either to ongoing investigations of Congress or to matters within the jurisdiction of any Congressional Committee.

The reason for this is obvious. Few whistleblowers know, nor should they be expected to know, the jurisdiction of the various Committees of Congress or the matters currently under investigation. The most common situation, and one that the recent Administration's statement excludes from protection, is a citizen reporting misconduct to his or her own Representative or Senator, regardless of their committee assignments. Such disclosures are clearly covered by the terms of the statute.

We request that you review and reconsider the Administration's interpretation of section 806 of the Sarbanes-Oxley Act. It embodies a flawed interpretation of the clearly