

## AUTHORITY FOR COMMITTEES TO MEET

### SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Monday, March 22, 2004, from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

## PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that David Sinsky of my staff be granted floor privileges for the duration of today's and tomorrow's debate.

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

## RECOGNITION OF THE 91ST MEETING OF THE GARDEN CLUB OF AMERICA

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 97, and the Senate then proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The assistant journal clerk read as follows:

A concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, I further ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 97) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

### S. CON. RES. 97

Whereas The Garden Club of America is holding its 91st annual meeting in Washington, DC April 24 through 27, 2004;

Whereas The Garden Club of America has 195 member clubs in 40 States and the District of Columbia, representing more than 17,000 members;

Whereas since its founding in 1913, The Garden Club of America has become a recognized leader in the fields of horticulture, conservation, historic preservation, and civic improvement, and an influential organization in the protection of America's environment; and

Whereas in our Nation's Capital, The Garden Club of America was instrumental in the founding of the National Arboretum, the development of the Archives of American Gardens at the Smithsonian Institution, and the

creation and installation of the Butterfly Habitat Garden which now graces The National Mall at the National Museum of Natural History: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress commends The Garden Club of America for the many contributions it has made in our Nation's Capital and in communities across the United States, and sends its best wishes on the occasion of its 91st annual meeting in Washington, DC, April 24 through 27, 2004.*

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–199, appoints the following individuals to serve as members of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Leo J. Hindery, Jr. of New York and Gayle E. Smith of Washington, DC.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 108–199, Section 104(c), 1(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: Ms. Christine Vick of Washington, DC.

## ORDERS FOR TUESDAY, MARCH 23, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. tomorrow, Tuesday, March 23. I further ask unanimous consent that 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 a period of morning business until 11 a.m. with the majority leader or his designee in control of the first half of the time and the Democratic leader or his designee in control of the remaining time; provided that at 11 a.m. the Senate resume consideration of S. 1637, the JOBS bill; provided further that Senator GRASSLEY be recognized at that time.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, on this side we believe we are entitled to an up-or-down vote regarding the most important issue facing many Americans; that is, overtime. I just returned from our recess when I met with the fire and police personnel in the State of Nevada. They all brought this up. We know there is an effort not to have a vote, the reason being this amendment will pass. When the Harkin amendment is offered and there is a vote on it, it will pass. The majority doesn't want to vote on this because it is embarrassing to the President who has no support from the American people on this overtime issue.

Also, we have other amendments—not many but a few amendments—one dealing with China. Senator SCHUMER has wanted to offer an amendment for a long time on this bill dealing with international trade, among other things.

Also, there is an amendment my friend, the distinguished senior Senator from Illinois, is going to speak on dealing with a tax credit for insurance premiums and medical malpractice. I support my friend from Illinois on this issue. It would not solve the medical malpractice issue, but it is something the physicians in this country approved, and it is the right thing to do. It would help alleviate some of the medical malpractice pressure we have around the country.

I say to my friend through the Chair, I can't guarantee cloture will not be invoked, but I think it is very doubtful cloture will be invoked.

I want the RECORD to reflect that on this side we are not trying to amend this bill to death. We have a handful of amendments, and we will agree to a list of finite amendments. That has been explained to the two managers.

The way things are headed, this bill is going to go down, and it is not good for the country.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

Mr. MCCONNELL. Mr. President, let me say in response to my good friend from Nevada, as he knows full well, we have already voted on this once. We voted on it last year. Having continuing votes on the same subject strikes some Members in the Senate, on this side of the aisle, as not exactly the best way to move forward. But even if it is insisted by the other side that we have repetitious votes on the same issue, I say to my friend from Nevada there will be other authorizing bills coming along shortly after the JOBS bill which will be open to such amendments, and this underlying bill happens to be one I believe Senators on both sides of the aisle think needs to pass. In fact, the imposition of penalties against U.S. companies has already begun—my understanding is March 1.

I think we all understand the need to pass this bill to prevent the escalation of those penalties against U.S. business here in the coming months.

If there were not another opportunity, I say to my good friend from Nevada, to have further repetitious votes on the same issue, I might understand it. But there will be other authorizing bills coming up shortly that will give the other side an opportunity to offer and insist on more votes on the very same subject.

I hope cloture will be invoked. The right of the minority is still there to offer these nongermane or irrelevant amendments on other authorizing bills that will be coming along very shortly.

## PROGRAM

Mr. McCONNELL. Mr. President, a short while ago I filed a cloture motion relative to the JOBS bill. That cloture vote will occur on Wednesday of this week. The chairman will be back tomorrow to discuss the importance of this legislation, and we hope to finish the bill this week. Amendments may still be considered prior to the cloture vote, and we will continue to look for an opportunity to consider amendments that are relevant to the underlying bill. Rollcall votes are, therefore, possible during tomorrow's session. Senators will be notified when the first vote is scheduled.

Mr. REID. Mr. President, if my friend will allow me to make one brief statement, we understand the importance of the underlying bill. That is the reason we have agreed to have a list of finite amendments. It is not often we have tax bills come across the floor. This is a tax bill. We have been told on many occasions: do the overtime vote later. This bill is important. As I explained earlier today, the Senator from Iowa has withheld on a number of important pieces of legislation in an effort to move them through the Senate. But that time has come to an end. He is not agreeable to doing it at a later time anymore. We are going to have a vote on this legislation.

If this legislation is important to the administration—which I am hopeful and confident it is—we should have a vote on this overtime issue.

I repeat: The reason the administration doesn't want a vote on this overtime issue is it will pass. There is no question about it. Members in the majority and virtually everyone in the minority will vote for this most important amendment.

I hope this legislation is allowed to go forward. If it isn't, it will be directed back to the President of the United States for doing what he has done affecting the rights of millions of Americans, which is the overtime issue.

Mr. McCONNELL. Mr. President, at the risk of repeating myself, we have had this vote once. I am sure there will be other opportunities in the very near future for repetitious votes on the same issue. I know our good friends on the other side will insist on an opportunity to do that. The question is whether we should move the underlying bill now and terminate these sanctions being imposed on American businesses which cost us jobs. Jobs is an important issue here in America. We want to get this bill passed because it will preserve existing jobs and offer the opportunity for more jobs. The overtime issue, to the extent our good friends on the other side of the aisle think is a good issue, is already out there. A move is on by spending millions of dollars of George Soros' money running soft-money issue ads on this subject. I am sure those ads are not going to go away, whether or not we have this vote on this particular bill

which, of course, would be our second vote on this issue without further debating the issue.

## ORDER FOR ADJOURNMENT

Mr. McCONNELL. 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 following the remarks of our friend from Illinois, Senator DURBIN, for up to 20 minutes.

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

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

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

Mr. DURBIN. Mr. President, I know I have been given permission to speak in morning business. I have two separate issues totally unrelated, and I would like to address each of them.

The PRESIDING OFFICER. The Senator from Illinois.

## MEDICAL MALPRACTICE

Mr. DURBIN. Mr. President, we face a serious medical malpractice problem in Illinois. I have had meetings in the area where I was born with doctors and most recently with hospital administrators. The recent medical malpractice insurance premium increases for this year were only—I underline “only”—7½ percent through the Illinois State Medical Society, but adjustments will follow for specialties and for experience, and for some of these doctors that rate could be increased dramatically. I have come away from the meetings convinced now more than ever that we need to do something about the medical malpractice crisis that faces America.

I understand, and I think those who follow it understand, that in my State of Illinois and in other States around the Nation medical malpractice premiums have gone up so dramatically that good doctors who have no experience of having ever been sued successfully for medical malpractice see their premiums go up by 30, 40 percent, and more. These doctors, frankly, cannot continue to practice under those circumstances and are forced into early retirement or have to transfer their practices to adjoining States with different malpractice laws.

Hospital administrators talked to me about what it means for them. When you do not have a neurosurgeon on staff at a hospital, how can you open an emergency room or give trauma care? It is a legitimate, real concern. These doctors and hospitals are facing an increased cost for malpractice pre-

miums that must be addressed as quickly as possible by either the States where these are occurring or by the Federal Government.

Most people point toward a solution that involves tort reform. I am one of them. I believe tort reform has to be part of the solution to the medical malpractice challenge we face. I also believe we have to include elements in this whole issue that address the number of medical errors committed each year. Some 98,000 Americans, it is estimated, die each year from medical malpractice—not from their disease or the illness that brought them to the doctor but simply because they were treated improperly and incorrectly.

It is an epidemic, according to some medical sources. Medical errors and medical negligence have to be reduced so the universe of bad results is reduced, as well. That will lead, of course, to fewer cases being filed and less litigation.

When it comes to malpractice itself in the courtroom, we have to find ways to make certain that only worthy, good, deserving suits go forward, to make certain those that should not be filed that may be frivolous or unnecessary are stopped early in the process before they cost both the doctors, hospitals, and their insurance companies the precious resources they are paying each year in premiums. We have to figure out a reasonable way to approach this. We can. We can do it on a bipartisan basis.

I reject the idea of caps, which is the only proposal that has been brought consistently to the Senate. To say we will sit as a jury for medical malpractice cases across America is to take away the jury system, which is basic to American government. Instead of 12 people in your neighborhood and community making the decision, we will make the decision, and we will decide the maximum amount one can recover, regardless of the injury which you, as an innocent patient, suffered.

We need to address tort reform that does not include caps on noneconomic losses. We can. I hope we can. I have said to the doctors and hospitals, I have reached out across the aisle to my friends on the Republican side to find common ground. Be prepared to make concessions on both sides, but let's address it now. We cannot allow this to continue.

The one thing we all agree on is even if tort reform is passed tomorrow, it will be years before it has any impact in reducing medical malpractice premiums. Why? Because the doctors in practice today who performed surgeries or dispensed medical services in years gone by are liable for years under statutes of limitations for what they have done in the past, and those years could be extended to a period when the actual injury is discovered which could be many years after the act was committed. Even if we change the law today, all of that past conduct and exposure to liability will be there, and