

contract to Showtime. These two media companies signed an agreement to promote the Lewis/Tyson fight and a possible rematch. However, neither HBO nor Showtime was required to file their agreements with the two fighters or with a State athletic commission since they are not technically "promoters" under the Ali Act. Instead, they hired a local promoter to "stage" the fight, and because the local promoter was not a party to the master agreements for the fight, those agreements may have never been filed with the commission. Furthermore, the disclosures under the Ali Act which require a promoter to inform the fighters how much revenue is to be earned by it from the event may not necessarily have been provided since the "promoter" was only being paid a fee to stage the fight. Oftentimes, the "multi-fight" agreements which these broadcasters have with their fighters may contain terms beyond those permitted by law to promoters.

The second scenario the commission should examine is where the broadcaster contracts directly with the boxer or with the boxer's representative. By "boxer's representative" I am talking about any entity or company that employs the boxer or to whom the boxer has transferred the rights to his boxing services. Even if a broadcaster only obtains rights to the boxer through this entity, the broadcaster should still be deemed a promoter and be subject to the Ali Act because in essence, they are contracting with the boxer. Here is an example. When Tyson and Lewis fought, HBO contracted with Lion Promotions. Lion Promotions is—for all practical purposes—Lewis's company, yet legally, Lewis may or may not own or be employed by Lion Promotions. However, when HBO contracted with Lyon, they effectively contracted with Lewis directly. Thus, the contractual protections given the boxer in the Ali Act should apply in this type of situation.

In determining whether a broadcaster is acting as a de facto promoter, the USBC must study the contracts between broadcasters and such entities and any attached ratifications by the boxer him/herself; the contracts with local promoters; the contracts between the local promoters and the boxer; and the contracts between any involved broadcasters. The USBC is also directed to look at the sources of income received from the broadcast of a fight and examine the amounts received from each of these sources. Effectively defining the role of a promoter requires looking at who is contracting with a boxer for the rights to the boxer's service. These rights include the rights to sell, grant, convey, distribute, exhibit, and license the match or matches.

Conventional promoters control the rights to a fighter's boxing career and the right to exploit the boxer's name and image in connection with his/her boxing matches. By determining who is circumventing the requirements placed

on a promoter under the Ali Act and thereafter including them within the definition of a promoter, the USBC will protect the fighter from exploitive business practices, regardless of the source.

It is envisioned that the commission created under this legislation, the USBC, will monitor the boxing world, creating an environment that will enable both the sport and its participants to thrive. I am proud of the work that Senator MCCAIN and I have done to help in the reform of this great sport.

Mr. FRIST. Mr. President, I ask unanimous consent that the McCain substitute be agreed to; the committee substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3006) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 275), as amended, was read the third time and passed.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 596, 598, 599, 600, 601, 602, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed are as follows:

#### NOMINATIONS

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Alphonso R. Jackson, of Texas, to be Secretary of Housing and Urban Development.

##### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

##### *To be major general*

Brig. Gen. Charles C. Baldwin, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

##### *To be brigadier general*

Col. Cecil R. Richardson, 0000

##### IN THE ARMY

The following Army National Guard of the United States officers for appointment in the

Reserve of the Army to the grades indicated under title 10, U.S.C., Section 12203:

##### *To be major general*

Brigadier General James J. Bisson, 0000  
Brigadier General Ronald G. Crowder, 0000  
Brigadier General William W. Goodwin, 0000  
Brigadier General Michael A. Gorman, 0000  
Brigadier General Robert G.F. Lee, 0000

##### NOMINATIONS PLACED ON THE SECRETARY'S DESK

##### IN THE AIR FORCE

PN1395 Air Force nomination of Arthur R. Homer, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1396 Air Force nomination of William R. Kent, III, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1397 Air Force nomination of Lori J. Fink, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1398 Air Force nominations (2) beginning PATRICIA K. COLLINS, and ending JEFFREY E. SHERWOOD, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1399 Air Force nominations (2) beginning CHRISTOPHER D. BOYER, and ending MATTHEW E. COOMBS, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1400 Air Force nomination of Richard G. Hutchison, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1401 Air Force nomination of Jeffery C. Sims, which was received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1408 Air Force nominations (53) beginning DOUGLAS R. ALFAR, and ending FI A. YI, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1425 Air Force nomination of Christine R. Gundel, which was received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1426 Air Force nominations (3) beginning BOIKAI B. BRAGGS, and ending CHARLES W. FOX, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1435 Air Force nomination of David W. Puvogel, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1436 Air Force nomination of Terrance J. Wohlfel, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

##### IN THE ARMY

PN1166 Army nominations (338) beginning DALE A. ADAMS, and ending NICHOLAS E. ZOELLER, which nominations were received by the Senate and appeared in the Congressional Record of November 21, 2003.

PN1248 Army nominations (56) beginning THOMAS M. BESCH, and ending ALBERT M. ZACCOR, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1249 Army nominations (26) beginning KENNETH L. ALFORD, and ending JAMES R. YONTS, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1250 Army nominations (46) beginning THOMAS E. BAILEY, and ending DANIEL S. ZUPAN, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1251 Army nominations (315) beginning EILEEN M. AHEARN, and ending x4578, which nominations were received by the Senate and appeared in the Congressional Record of January 22, 2004.

PN1382 Army nomination of Gary W. Stinnett, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1383 Army nomination of James M. Ives, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1384 Army nomination of Paul Swicord, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1385 Army nomination of Stephen A. Bernstein, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1386 Army nomination James R. Hudson, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1387 Army nomination of Gary J. Garay, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1388 Army nomination of John W. Ervin, which was received by the Senate and appeared in the Congressional Record of February 23, 2004.

PN1402 Army nominations (8) beginning FLOYD T. CURRY, and ending JEFFREY B. WHEELER, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1403 Army nominations (19) beginning JOHN E. ARMITSTEAD, and ending EUGENE R. WOOLRIDGE, which nominations were received by the Senate and appeared in the Congressional Record of February 26, 2004.

PN1409 Army nomination Randall J. Vance, which was received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1410 Army nomination of Craig M. Doane, which was received by the Senate and appeared in the Congressional Record of March 1, 2004.

PN1441 Army nomination of Carol A. Cullinan, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1442 Army nomination of Christopher B. Soltis, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1443 Army nominations (2) beginning JEFFREY A. TONG, and ending TIMOTHY M. WARD, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1444 Army nominations (2) beginning JAMES M. GAUDIO, and ending BEVERLY A. HERARD, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1445 Army nominations (2) beginning MICHAEL J. HARRIS, and ending ROBERT L. LEGG, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1446 Army nominations (2) beginning DAVID N. AYCOCK, and ending DAVID E. LINDBERG, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1447 Army nomination of Michael T. Lawhorn, which was received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1448 Army nominations (20) beginning DERRON A. ALVES, and ending ALISA R. WILMA, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1449 Army nominations (27) beginning JOEL R. BACHMAN, and ending SHERRY L. WOMACK, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1450 Army nominations (106) beginning CURTIS J. \*ABERLE, and ending PAMELA M. \*WULF, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1451 Army nominations (129) beginning GINA M. \*AGRON, and ending JEFFREY V. ZOTTOLA, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

PN1453 Army nominations (4) beginning BRUCE M. FREDERICKSON, and ending WILLIAM A. PETTY, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

#### IN THE NAVY

PN1427 Navy nomination of David R. Agle, which was received by the Senate and appeared in the Congressional Record of March 11, 2004.

PN1452 Navy nominations (10) beginning HUGH B. BURKE, and ending JEANINE B. WOMBLE, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2004.

#### PROTOCOL TO THE AGREEMENT OF THE INTERNATIONAL ATOMIC ENERGY AGENCY REGARDING SAFEGUARDS IN THE UNITED STATES—TREATY DOCUMENT 107-7

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 16, Treaty Document No. 107-7, on today's Executive Calendar.

I further ask that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; further, that the committee conditions and understandings be agreed to, that any statements be printed in the CONGRESSIONAL RECORD as if read, and that the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The treaty will be considered to have passed through the various parliamentary stages up to and including the presentation of the resolution of ratification.

The resolution of ratification reads as follows:

[(Treaty Doc. 107-7) The Protocol to the Agreement of the International Atomic Energy Agency Regarding Safeguards in the United States, with 2 conditions and 8 understandings;]

*Resolved (two-thirds of the Senators present concurring therein),*

#### SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND UNDERSTANDINGS.

The Senate advises and consents to the ratification of the Protocol Additional to the

Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107-7) subject to the conditions in section 2 and the understandings in section 3.

#### SEC. 2. CONDITIONS

The advice and consent of the Senate under section 1 is subject to the following conditions, which shall be binding upon the President:

(1) CERTIFICATIONS REGARDING THE NATIONAL SECURITY EXCLUSION, MANAGED ACCESS, AND DECLARED LOCATIONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that, not later than 180 days after the deposit of the United States instrument of ratification—

(A) all necessary regulations will be promulgated and will be in force regarding the use of the National Security Exclusion under Article 1.b of the Additional Protocol, and that such regulations shall be made in accordance with the principles developed for the application of the National Security Exclusion;

(B) the managed access provisions of Articles 7 and 1.c of the Additional Protocol shall be implemented in accordance with the appropriate and necessary inter-agency guidance and regulation regarding such access; and

(C) the necessary security and counter-intelligence training and preparation will have been completed for any declared locations of direct national security significance.

(2) CERTIFICATION REGARDING SITE VULNERABILITY ASSESSMENTS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the appropriate congressional Committees that the necessary site vulnerability assessments regarding activities, locations, and information of direct national security significance to the United States will be completed not later than 180 days after the deposit of the United States instrument of ratification for the initial United States declaration to the International Atomic Energy Agency (in this resolution referred to as the "Agency") under the Additional Protocol.

#### SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings:

(1) IMPLEMENTATION OF ADDITIONAL PROTOCOL.—Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representatives to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

(2) NOTIFICATION TO CONGRESS OF ADDED AND DELETED LOCATIONS.—

(A) ADDED LOCATIONS.—The President shall notify the appropriate congressional Committees in advance of declaring to the Agency any addition to the lists of locations within the United States pursuant to Article 2.a(i), Article 2.a.(iv), Article 2.a.(v), Article 2.a.(vi)(a), Article 2.a.(vii), Article 2.a.(viii), and Article 2.b.(i) of the Additional Protocol, together with a certification that such addition will not adversely affect the national security of the United States. During the ensuing 60 days, Congress may disapprove an addition to the lists by joint resolution for reasons of direct national security significance, under procedures identical to those provided for the consideration of resolutions under section 130 of the Atomic Energy Act of 1954 (42 U.S.C. 2159).