

SCHEDULE

Mr. FRIST. Mr. President, today I do not anticipate a lengthy session, but we are here for important work. We need to pass a short-term continuing resolution, and we are waiting for the House to send us a joint resolution. We expect to clear a package of nominations this afternoon, and we will do that block of executive nominations by voice vote. We will also continue to process some of the other legislative items that have been cleared and are ready to move.

Final discussions continue on the remaining must-do items, and I am hopeful that we will be soon able to take action on these items over the next couple of days. Members will be asking about the schedule, and I will make further announcements shortly on tomorrow's lineup. I want to confer with the chairmen and principals involved in the negotiation and then say more at the close of business today. Again, we will wrap up our work today in as quick a time as possible, and Members should stay tuned as everything is finalized.

There is a lot of work going on in the Capitol today—until late last night and until the early hours of the morning. Just last night and over the last several days we passed very important pieces of legislation. If we look back on Friday, last night, we passed cord blood legislation, which opens up critical new research opportunities and clearinghouses for safe, ethically sound transplantation. That is going to save lives.

We passed the Gulf Opportunity Zone Act of 2005, which will provide a second major round of critical tax relief to our brothers and sisters in the gulf coast region.

We extended the Terrorism Risk Insurance Act, which takes another step toward reducing taxpayers' risk and minimizing the Government's interference with the private market.

We passed an important new provision in the Violence Against Women Act, which will protect rape survivors who have already been victimized once by sexual assault.

We passed the Bahrain Free Trade Agreement this past week, which enhances our bilateral relationship with a strategic friend and ally.

I mention all of these because a lot of them we do actually in what we call wrap-up or by unanimous consent but all are major pieces of legislation. We now have, over the next several days—and I hope it is as few as possible—very important legislation on Defense, both appropriations and authorization, as well as the deficit reconciliation package and nominations that I mentioned. So we have a lot of work to do over the next several days.

 RECOGNITION OF THE
DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

DEFENSE AUTHORIZATION

Mr. REID. Through the Chair to the distinguished majority leader, there is some confusion over here because at one time last night, on the conference report on defense authorization—it was signed by everybody. Does the leader have the latest word on that? Senator WARNER and Senator LEVIN, because they were trying to stick other stuff in the bill, were going to withdraw their signatures. Do we know if that happened?

Mr. FRIST. Mr. President, through the Chair, I know it has not passed the House yet. I will have to check and see what the current status is on the Department of Defense authorization. I will have to check and see what the current status of that is. It was my understanding that would be ready at some point—or as of late last night they would be ready sometime today. The House has not yet acted on that.

Mr. REID. We hope to have the Defense appropriations bill tonight or tomorrow? When is that expected?

Mr. FRIST. Defense appropriations will likely be tomorrow. There are several items that remain to be wrapped up. Most of the meetings over the course of last night and today have been with the objective of having that wrapped up as soon as possible, but that will much more likely be tomorrow. It will not be tonight.

Mr. REID. Does the leader have some indication as to what the schedule will be Monday? The leader has indicated that there will be no votes today or tomorrow. Are we going to have votes Monday?

Mr. FRIST. We know we are not going to have rollcall votes today. We will be in a very short period of time today. I would think tomorrow, depending on how things go over the next couple of hours, we would come in fairly late waiting on action from the House of Representatives. Once we have a better feel when they are going to act tonight or in the morning, we will set a time to open tomorrow.

We have not said no rollcall votes tomorrow, but we will be able to say that for sure in just a bit, in all likelihood. Then I expect we will need to come in early Monday and vote early Monday because at that point in time we should have legislation coming from the House. So Monday is going to be a very full day. For right now—we can talk shortly if something else indicates otherwise—we would plan on voting Monday morning.

Mr. REID. I told my Senators on call that they should be ready to go Monday morning, by 10 or so. Is that a fair statement?

Mr. FRIST. I think that is a perfect goal and that we mutually share that, that we could start voting as early as Monday morning. Since we will be in tomorrow, if we can update that because most of our—many of our Senators are out around the country, we will do just that.

AVIAN FLU

Mr. FRIST. Mr. President, I want to make a very brief statement on an issue that I believe requires action before we leave. It is something we have addressed on the floor of the Senate, actually in several different capacities, but I want to restate the importance of that. It has to do with a potential pandemic of an avian or bird influenza—the so-called bird flu. In the 20th century, we have had three influenza pandemics. Remember, about 30,000 people in this country die every year from the seasonal flu. But superimposed on this seasonal flu, on three occasions in the last 100 years, there have been these pandemics. What our public health officials and what our scientists say is, for sure, we are going to have another pandemic. The time is in the near future, and a pandemic is going to occur, but we don't know exactly when. The worst of the three pandemics in the last 100 years was in 1918, the so-called Spanish flu—although it was called the Spanish flu, it probably started actually in Kansas—but that flu went through our population in a period of weeks and killed about half a million people; worldwide it killed somewhere around 40 million people.

The Secretary of Health and Human Services, Secretary Leavitt, warns if past is prologue, the world is overdue for another flu pandemic. I agree with that assessment. The pandemic will occur. We do not know exactly when. But we know we are drastically underprepared; not unprepared but underprepared. If we act with action now, we will be prepared. Preparation means much less destruction or potential destruction by such a pandemic.

The avian flu over the last couple of years has spread from East Asia, to Romania, to Turkey. It looks and acts more similar to the virus of 1918 than either of the other two pandemics, the one in 1957 and the one in 1968. If it achieves the final step in what becomes a pandemic, that is, human-to-human transmission—the first couple of steps are that it is a novel virus, a new virus, and that it spreads to other species, multiple species, and the third big step is transmission, human-to-human transmission. In that case, the consequences could be catastrophic both in loss of human life as well as in economic meltdown in many ways.

Recently, in the last several weeks, the Congressional Budget Office released a study which I had requested specifically on the economic impact of a serious and a mild pandemic of avian flu. Their report demonstrated—much higher than I expected—a 5-percent decline in our gross domestic product over the course of a year. That is about a \$675 billion hit if we were to have a severe pandemic of this avian flu. The clock is ticking. If a pandemic occurs and we are underprepared, if it were to occur today and it were severe, the Congressional Budget Office predicts, with their best economists and access

to public health officials, that is what would occur.

We need to put the wheels in motion, so when and if that avian flu hits, we are prepared. If we are prepared, we diminish the economic impact dramatically. If we do not act and that avian flu pandemic comes to our shores, we in this Senate will be rightly blamed for failing to do our best to protect the American people, given what our scientists and public health officials say today. That finger will be pointing straight at the Congress if we do not act. The good news is we will act. We plan to act in the bills that have come before the Senate in the next couple of days. We need a six-prong approach. We need to address communications, we need to address surveillance, we need to address the appropriate research, we need to address the whole issue of antiviral agents, the Tamiflu, we need to address vaccines. Right now we do not have any vaccines specific to a virus that would be transmitted human to human. That has to be created after we identify the virus. And the sixth component is what we call surge capacity, the stockpiling of antiviral agents and vaccines.

It may sound like a lot of moving parts, but between our researchers and public health officials, our entrepreneurs, our private sector, we do have the intellect, the ingenuity, and the knowledge to get the job done.

Our job as elected officials, my job as an elected official and my job as a physician is to see this thing through to make sure we are adequately prepared, and we can look our constituents in the eyes and say we have done everything possible to see that we are prepared for such a pandemic. Our economy, our country, and our lives may depend on whether we take action.

The President has laid out a comprehensive plan. It is our job to set aside the appropriate resources but also to give the appropriate incentives to tackle this looming threat.

I refer to our colleagues to put aside partisan differences, to hold together, to protect the American people. The flu virus does not know who is a Republican and does not know who is a Democrat. The people who suffer will know who did not get the job done.

We do not need to panic. What we do need is to prepare ourselves. Preparation means action, action in the Congress. The American people are counting on it. That is exactly what we will do over the next several days.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Texas.

Mr. CORNYN. I ask unanimous consent to speak for up to 20 minutes as in morning business.

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

USA PATRIOT ACT

Mr. CORNYN. Mr. President, unless the Congress acts, on December 31,

2005, 16 different provisions in the USA PATRIOT Act will expire.

Two days ago we had a vote to determine whether a minority in the Senate would allow a bipartisan majority the chance to have an up-or-down vote on the reauthorization of the PATRIOT Act. As everyone knows, that vote failed. Fifty-two senators voted to close off debate. There being a requirement of 60 votes to cut off debate, that threshold was not met so we did not reauthorize the PATRIOT Act.

So here we are with the clock ticking, with America's security at risk. We find ourselves in the incredible position of seeing certain ordinary law enforcement tools that are used everyday in State and Federal courts all across this country will, in about 2 weeks, no longer be available in the case of international terrorists or spies or cases involving the Foreign Intelligence Surveillance Act.

Perhaps the one provision of the PATRIOT Act that will expire that causes most concern is the so called wall. That, of course, is the term used to describe what previously—before October of 2001—was a wall that separated the sharing of information between our law enforcement personnel and our intelligence authorities. It is clear, as the 9/11 Commission demonstrated, that this wall made us less safe. It was not required by the Constitution. It was not required by any provisions passed by this Senate and signed by the President. It was simply a choice made by the Department of Justice to prevent the sharing of information.

We learned from the bombing of the World Trade Center in 1993 and its investigation, as well as from by the terrible events of September 11, the 9/11 Commission concluded this wall, which was not constitutionally required, prevented the sharing of information between law enforcement and intelligence authorities and this prohibition contributed to the terrible events on September 11.

It was imperative the Congress act as quickly and as carefully as possible to remove any impediments that were not otherwise mandated by the Constitution from investigating and preventing future terrorist attacks against this country.

Those who have opposed this up-or-down vote in the Senate with regard to the reauthorization of the PATRIOT Act are asking us to make a false choice. In other words, they are saying if the PATRIOT Act is reauthorized, somehow Americans' civil liberties will be in jeopardy. They are asking us—telling us—that we have to choose between our national security and our civil liberties. That, to repeat, is a false choice.

The fact is, we can have a balanced reauthorization of the PATRIOT Act that will protect America from future terrorist attacks. We can continue to disrupt the terrorist cells both here at home and abroad that endanger us and protect our civil liberties at the same time.

This country was founded upon a belief in individual freedom and the protection of individuals against the overwhelming power of the Government. And we have, for more than 200 years, written into our laws—not to mention the Constitution—various protections to make sure our civil liberties and our individual freedoms are protected.

But the No. 1 responsibility of the Federal Government is to keep us safe. There is no other responsibility that comes anywhere close to that imperative. That is why I believe the PATRIOT Act must be reauthorized, and if we fail to act before these provisions expire on December 31, 2005, we will not have met our responsibilities. Indeed, we will have contributed to making this country much more dangerous than it would otherwise be.

Now, as we recall, after the terrible events of September 11, Congress, for 6 weeks, debated the original passage of the PATRIOT Act and, in a vote of 98 to 1, passed the PATRIOT Act. It provided that these 16 provisions would expire at the end of this year. The vote to enact this legislation was 98 to 1 in the Senate, after 6 weeks of debate. In the House, the vote was 365 to 66, again not quite as overwhelming as in the Senate, but it was a lopsided vote in favor of passing the PATRIOT Act. And it was signed into law on October 26, 2001.

Now, I have been surprised at how much misunderstanding there is surrounding the PATRIOT Act, how much outright mythology and disinformation there has been by those who are not just concerned about civil liberties, but those who are actually engaging in almost paranoid delusions about what it is that the PATRIOT Act provides in terms of the authorities to combat and to break up terrorist activities.

The fact is, anyone who has been involved with or even remotely acquainted with our criminal justice system knows and will recognize that the provisions of the PATRIOT Act merely extended to national security cases many of the tools that are used every day in courts all across the Nation and throughout the States. So this breathlessness, this sense of the existence of conspiracy theories, about the Federal Government deciding to suspend the civil liberties of the American people in pursuit of terrorists, is pure fantasy.

I want to talk about the provisions that are being discussed so I think at least those who are listening can understand there has been careful thought and careful negotiations between the House and the Senate and there has been an awful lot of effort put into trying to strike the right balance.

But what the critics are asking us to do is engage in a willing suspension of disbelief. It is almost unthinkable to me that here we are, some 4 years after the terrible events of September 11th, debating these common sense tools almost as if some have forgotten the lessons we learned and lessons we should remember for the rest of our lives.