

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

The amendment (No. 1646) was agreed to, as follows:

(Purpose: To specify that no Federal funds are to be used to establish, construct, or operate the National Women's History Museum)

At the end, add the following:

**SEC. 6. FEDERAL PARTICIPATION.**

The United States shall pay no expense incurred in the establishment, construction, or operation of the National Women's History Museum, which shall be operated and maintained by the Museum Sponsor after completion of construction.

The bill (S. 501), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

**REGULATION OF CONTACT LENSES AS MEDICAL DEVICES**

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 177, S. 172.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 172) to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

There being no objection, the Senate proceeded to consider the bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 172

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

[Congress finds as follows:

“(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.

“(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration (“FDA”).

“(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.

“(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.

**SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

[Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:

“Regulation of Contact Lens as Devices

“(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

“(2) Paragraph (1) shall not be construed as having any legal effect on any article that is not described in that paragraph.”.]

**SECTION 1. FINDINGS.**

*Congress finds as follows:*

(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.

(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration (“FDA”).

(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.

(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.

**SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:

“Regulation of Contact Lens as Devices

“(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

“(2) Paragraph (1) shall not be construed as having any legal effect on any article that is not subject to such paragraph.”.

Mr. FRIST. I ask unanimous consent that the DeWine amendment be agreed to, the committee-reported amendment, 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. 1647) was agreed to, as follows:

(Purpose: To provide a complete substitute)

In lieu of the matter to be inserted, insert the following:

**SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

“Regulation of Contact Lens as Devices

“(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

“(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).”.

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

The bill (S. 172), as amended, was passed.

**APPOINTMENT**

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following individuals as delegates of the Senate Delegation to the British-American Interparliamentary Group conference during the 109th Congress: the Honorable JUDD GREGG of New Hampshire; and the Honorable PAT ROBERTS of Kansas.

**AUTHORITY FOR COMMITTEES TO REPORT**

Mr. FRIST. I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Wednesday, August 31, from 10 a.m. to 12 noon.

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

**AUTHORITY TO MAKE APPOINTMENTS**

Mr. FRIST. I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

**ORDERS FOR TUESDAY, SEPTEMBER 6, 2005**

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of H. Con. Res. 225 until 12 noon on Tuesday, September 6.

I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period for morning business until 12:30, with Senators permitted to speak for up to 5 minutes each; provided further that the Senate stand in recess from 12:30 to 2:15 for weekly policy luncheons.

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

**UNANIMOUS CONSENT AGREEMENT—MOTION TO PROCEED TO S. 147**

Mr. FRIST. I ask unanimous consent that at 2:15, the Senate resume the motion to proceed to S. 147, the Native Hawaiians bill.

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

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PROGRAM

Mr. FRIST. We will return for business on Tuesday, September 6. We will be voting at 5:30. There could be two votes that evening on the previously filed cloture motion.

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THANKING STAFF AND SENATE PAGES

Mr. FRIST. Mr. President, I thank members and staff for their hard work. I also want to take this opportunity to thank the pages who have been with us over the last several weeks. It has been a real pleasure and a great opportunity for us to both work with them over the course of the summer and to also thank them for their tremendous work. I know several of the pages have gone back home over the course of the day, and we extend our appreciation to each and every one of them as well. This is their last day of their period here in the Senate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, we, at least the Democrats, on Tuesday will have a regular party caucus. So since I did not hear that, will we be recessing on Tuesday from 12:30 to 2:15?

Mr. FRIST. That is correct, we will be having our normal policy lunches that day and then we will have votes at 5:30 in the afternoon.

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UNANIMOUS CONSENT REQUEST—  
S. 667

Mr. REID. Mr. President, I know the hour is late. I will be as quick as possible on this very important issue.

Four months ago the Senate Finance Committee reported S. 667, the Personal Responsibility and Individual Development for Everyone Act, known as the PRIDE Act. This would reauthorize temporary assistance for needy families, which was due for reauthorization in 2002. It is a bipartisan bill and received virtually unanimous support in the committee, a compromise that demonstrates how things can work.

The PRIDE Act contains increased funding to help parents cover the costs of childcare, among other things, so that they can join the workforce. It contains critical transitional medical assistance so that parents who work do not immediately lose their health care benefits in the transition to work. In short, it will help tens of thousands of Americans who are simply trying to do the right thing by their families and their communities.

That is why our Governors and State legislatures, both Democrats and Republicans, have asked that we reauthorize the program and pass the PRIDE Act at the earliest possible date.

Unfortunately, instead of helping working families and listening to our Governors and legislatures by immediately taking up this important bipartisan legislation, Republicans have spent months fighting among themselves, delaying its consideration. In the meantime, these working families that I have described in our States have had to live with uncertainty about whether this program will continue and, if so, in what form and at what cost.

While we have been forced to wait several months for the majority to work out their intraparty squabbles, Congress has had to pass a series of stop-gap extensions to keep the program going. Just before the last recess we passed what was the tenth extension of this program. However, that extension will expire at the end of September if we do not act on permanent legislation before then.

Even more threatening, some of our Republican colleagues are interested in including TANF in reconciliation, which will mean serious cuts, not increases, in many of the important programs contained in the bipartisan legislation reported by the Finance Committee.

I commend Senators BAUCUS and GRASSLEY, the chairman and ranking member of that committee, for their efforts in behalf of this legislation and the American people. The chairman and ranking member of the Finance Committee have been working together for months in an effort to bring the committee-reported bill to the floor, but we must consider this measure soon. Therefore, I ask unanimous consent that no later than the close of business on September 9, the Senate begin consideration of Calendar No. 60, S. 667, the PRIDE Act, and that all amendments be relevant to the subject matter of the bill without the need for textual reference; and that the bill be completed before the Senate considers any reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I very much appreciate the Democratic leader's comments on the PRIDE Act, especially stressing the critical importance of this piece of legislation. It is a bipartisan bill. I do, too, want to thank the chairman and the ranking member, Senators GRASSLEY and BAUCUS, for their diligent work, their hard work in bringing this bill forward. I look forward to working with the Chair and ranking member in appropriate scheduling of this bill.

I do object.

The PRESIDING OFFICER. Objection is heard.

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A CIVIL WORKING RELATIONSHIP

Mr. REID. Mr. President, prior to our leaving the body for the day and for a

number of weeks, I want to express my appreciation for the pleasure it has been to work with the leader. I have enjoyed it. We have differences every day about what Members want to do in this body. We have tried, and I think we have accomplished civility. I have never to my knowledge raised my voice to the majority leader, nor has he raised his voice to me. We have distinct differences on occasion, but we have been able to work through those. I hope our ability to work together, in spite of the differences of the two political parties, has been good for the country.

We have spent time talking about what we need to do and how we are going to accomplish that. We have sometimes even disagreements on that. But the disagreements are not in any way unpleasant.

On behalf of the Democratic Senators, I express my appreciation for your always being able and willing to respond to my phone calls quickly. Mr. President, I say through you to the distinguished Senator from Tennessee, he is always a gentleman, for which I am very grateful.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I do have a longer statement I will make here shortly, but I think while the Democratic leader is here, what we have seen over the course of the last day, in the last week, in the last several weeks, does represent the very best of what this body is all about.

The American people, as the Democratic leader suggested, expect us to govern in a way working together with civility, and I think we have demonstrated that on some very tough and contentious issues. I look forward, as we enter into the post-recess session, to continuing that bipartisan civil spirit as we address, again, some very challenging issues.

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LOOKING AHEAD: ISSUES BEFORE  
THE SENATE

Mr. FRIST. Mr. President, in the last few minutes here, I do want to look back very briefly and look ahead and foreshadow some of the issues we will be looking at. Before we leave for this August recess, I would like to look at and review very quickly some of the big, important issues we will be tackling this fall.

First and foremost, we will focus on one of the most significant and historic constitutional responsibilities, and that is, as we all know, to provide advice and consent on the President's Supreme Court nomination. Our goal, as spelled out a little bit earlier is to have a fair debate and a dignified debate on Judge Roberts, and to confirm him before the Supreme Court begins its new term on October 3. We can do that. We will do that.

I have worked very closely with the Democratic leader and with the President and with Senators SPECTER and