

amended complaint, or, if the case stated by the initial pleading is not subject to Federal jurisdiction, as of the date of service by plaintiffs of an amended pleading, motion, or other paper, indicating the existence of Federal jurisdiction.

“(8) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

“(9) Paragraph (2) shall not apply to any class action that solely involves a claim—

“(A) concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

“(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

“(10) For purposes of this subsection and section 1453, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

“(11)(A) For purposes of this subsection and section 1453, a mass action shall be deemed to be a class action removable under paragraphs (2) through (10) if it otherwise meets the provisions of those paragraphs.

“(B)(i) As used in subparagraph (A), the term ‘mass action’ means any civil action (except a civil action within the scope of section 1711(2)) in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs’ claims involve common questions of law or fact, except that jurisdiction shall exist only over those plaintiffs whose claims in a mass action satisfy the jurisdictional amount requirements under subsection (a).

“(ii) As used in subparagraph (A), the term ‘mass action’ shall not include any civil action in which—

“(I) all of the claims in the action arise from an event or occurrence in the State in which the action was filed, and that allegedly resulted in injuries in that State or in States contiguous to that State;

“(II) the claims are joined upon motion of a defendant;

“(III) all of the claims in the action are asserted on behalf of the general public (and not on behalf of individual claimants or members of a purported class) pursuant to a State statute specifically authorizing such action; or

“(IV) the claims have been consolidated or coordinated solely for pretrial proceedings.

“(C)(i) Any action(s) removed to Federal court pursuant to this subsection shall not thereafter be transferred to any other court pursuant to section 1407, or the rules promulgated thereunder, unless a majority of the plaintiffs in the action request transfer pursuant to section 1407.

“(ii) This subparagraph will not apply—

“(I) to cases certified pursuant to rule 23 of the Federal Rules of Civil Procedure; or

“(II) if plaintiffs propose that the action proceed as a class action pursuant to rule 23 of the Federal Rules of Civil Procedure.

“(D) The limitations periods on any claims asserted in a mass action that is removed to Federal court pursuant to this subsection shall be deemed tolled during the period that the action is pending in Federal court.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting “(a) or (d)” after “1332”.

(2) Section 1603(b)(3) is amended by striking “(d)” and inserting “(e)”.

**SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.**

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

**“§ 1453. Removal of class actions**

“(a) DEFINITIONS.—In this section, the terms ‘class’, ‘class action’, ‘class certification order’, and ‘class member’ shall have the meanings given such terms under section 1332(d)(1).

“(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with section 1446 (except that the 1-year limitation under section 1446(b) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

“(c) REVIEW OF REMAND ORDERS.—

“(1) IN GENERAL.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

“(2) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under paragraph (3).

“(3) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

“(A) all parties to the proceeding agree to such extension, for any period of time; or

“(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

“(4) DENIAL OF APPEAL.—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

“(d) EXCEPTION.—This section shall not apply to any class action that solely involves—

“(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

“(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

**SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.**

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to

the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys’ fees.

**SEC. 7. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.**

Notwithstanding any other provision of law, the amendments to rule 23 of the Federal Rules of Civil Procedure, which are set forth in the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

**SEC. 8. RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE.**

Nothing in this Act shall restrict in any way the authority of the Judicial Conference and the Supreme Court to propose and prescribe general rules of practice and procedure under chapter 131 of title 28, United States Code.

**SEC. 9. EFFECTIVE DATE.**

The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

**APPOINTMENTS**

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106-398, as amended by Public Law 108-7, in accordance with the qualifications specified under section 1237(E) of Public Law 106-398, and upon the recommendation of the Democratic Leader, in consultation with the ranking members of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individual to the United States-China Economic Security Review Commission:

William A. Reinsch, of Maryland, for a term expiring Dec. 31, 2005.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 4355(a), appoints the Senator from Rhode Island, Mr. REED, from the Armed Services Committee, to the Board of Visitors of the U.S. Military Academy.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 6968(a), appoints the Senator from Arizona, Mr. MCCAIN, from the Armed Services Committee, to the Board of Visitors of the U.S. Naval Academy.

The Chair, on behalf of the Majority Leader, pursuant to 10 U.S.C. 9355(a), appoints the Senator from Colorado, Mr. ALLARD, from the Armed Services Committee, to the Board of Visitors of the U.S. Air Force Academy.

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#### ORDER FOR RECESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess until 8:40 p.m., at which time the Senate will proceed as a body to the House Chamber for the President's State of the Union Address.

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

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#### ORDERS FOR TOMORROW

Mr. FRIST. Mr. President, I further ask unanimous consent that upon conclusion of the joint session, the Senate adjourn until 10 a.m., Wednesday, January 21. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the conference report to accompany H.R. 2673, the Omnibus Appropriations measure, for debate only, with the time until 6 p.m. equally divided between the chairman and ranking member of the Appropriations Committee or their designees.

I further ask that Senator BYRD be recognized at noon for up to 2 hours, that Senator MCCAIN be recognized at 2 p.m. for up to 1 hour, and his remarks be charged against the chairman's time.

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

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#### PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the conference report to accompany H.R. 2673, the Omnibus Appropriations measure.

I was disappointed by the outcome of today's cloture vote, but we will continue to push forward in our efforts to get a vote on final passage for this vital piece of legislation, this funding measure.

As a reminder, I entered a motion to reconsider the failed cloture vote. I will alert Senators as to when that vote will occur this week. In the meantime, I will continue to work with my Democratic colleagues in an effort to bring this final appropriations package to a close.

Mr. REID. Mr. President, I indicated to the leader that I had nothing, but I have been given a rule XIV matter.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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#### MEASURE READ THE FIRST TIME—S. 2006

Mr. REID. Mr. President, it is my understanding that S. 2006, which was introduced earlier today by Senators KENNEDY and others, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2006) to extend and expand the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

Mr. REID. Mr. President, I ask for its second reading, but I object to my own request on behalf of a number of Senators.

The PRESIDING OFFICER. Objection is heard.

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#### RECESS

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess until 8:40 this evening; I further ask that when the Senate adjourns later this evening, it do so under the provisions of S. Res. 284 as a mark of further respect for our former colleague, Senator Bill Roth.

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

Thereupon, the Senate, at 4:53 p.m., recessed until 8:40 p.m. and reassembled when called to order by the Presiding Officer (Mr. SESSIONS).

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#### JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 144)

The PRESIDING OFFICER. The Senate will now proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Assistant Sergeant at Arms, Keith J. Kennedy, and the Vice President of the United States, DICK CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George W. Bush.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Representatives in today's RECORD.)

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#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:13 p.m., the Senate adjourned until Wednesday, January 21, 2004, at 10 a.m.

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#### NOMINATIONS

Executive nominations received by the Senate January 20, 2004:

##### THE JUDICIARY

CLAUDE A. ALLEN, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE FRANCIS D. MURNAGHAN, JR., DECEASED.  
 PAUL S. DIAMOND, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE HERBERT J. HUTTON, RETIRED.  
 ROBERT BRYAN HARWELL, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE C. WESTON HOUCK, RETIRING.  
 GEORGE P. SCHIAVELLI, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE LOURDES G. BAIRD, RETIRING.